BY-LAW No. 2021-086

OF THE

CORPORATION OF THE TOWN OF COLLINGWOOD

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BY-LAW No. 2021-086

OF THE

CORPORATION OF THE TOWN OF COLLINGWOOD

Being a By-law to repeal and replace By-law No. 2017-008, being a by-law to provide for the procurement of goods and services.

WHEREAS Section 270 of the *Municipal Act 2001,* S.O. requires all municipalities and local boards to adopt and maintain policies with respect to its procurement of goods and services;

AND WHEREAS the Corporation of the Town of Collingwood is committed to ensuring its procurement decisions are fair, open and transparent;

AND WHEREAS purchases made by the Town of Collingwood should reflect best value for the taxpayer, protect the Corporation's financial interests and encourage competitive bidding;

AND WHEREAS the Corporation of the Town of Collingwood must be prepared to manage extraordinary circumstances from time to time, and that such circumstances may require immediate procurement decisions that are necessary to prevent or alleviate serious delay, a threat to public health, safety or welfare, the disruption of essential services or damage to public property or to respond to any emergency of the Corporation or as required under the provincial *Emergency Management and Civil Protection Act,* as amended;

AND WHEREAS effective planning, monitoring and control of public sector procurement are essential for maintaining public trust and confidence;

AND WHEREAS it is deemed expedient that the Council of the Corporation of the Town of Collingwood repeal By-law No. 2017-008, being a by-law to provide for the procurement of goods and services.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF COLLINGWOOD HEREBY ENACTS AS FOLLOWS:

1. Purpose

The purposes of this By-law are:

1.1. To strengthen the Town's goals and objectives for accountable local government;

1.2. To describe the roles, responsibilities and authorities of the Town's employees, officers and elected officials in carrying out the Town's procurement operations;

1.3. To extend authority to the Clerk for the approval of detailed procurement procedures and protocols that are consistent with the intent of this By-law and, to supplement and amend those procedures and protocols as and when deemed necessary, to meet the present and future needs of the Town; and

1.4. To comply with the requirements of Section 270 of the Municipal Act, S.O., 2001, as amended from time to time.

2. Procurement Goals and Objectives

The goals and objectives of the Town's procurement operations are:

2.1. To obtain the best value for the Town when procuring goods and service(s) and construction;

2.2. To encourage competitive procurement and ensure the principles of fairness, objectivity, transparency and accountability are reflected in the Town's procurement processes;

2.3. To support effective business planning such that goods, services and construction will only be acquired after consideration of need, alternatives, timing and appropriate life cycle management issues;

2.4. To adhere to the highest standards of ethical conduct and to avoid conflicts between the interests of the Town and those of the Town's employees, officers and elected officials;

2.5. To ensure compliance with all applicable trade agreements, laws and regulations;

2.6. To practice reciprocal non-discrimination and geographic neutrality with respect to Ontario's trading partners and avoid preferential treatment of local suppliers;

2.7. To encourage the procurement of goods, services and construction with due regard to the preservation of the natural environment and the promotion of human rights and fair labour practices;

2.8. To avoid creating situations or relationships which may result in a continuous reliance on a particular supplier.

2.9. To align Town procurement with its existing sustainability practices, initiatives and plans, thereby advancing a culture at the Town that recognizes and places a priority on Economic Sustainability, Environmental Sustainability and Social Sustainability.

3.Application of this By-Law

3.1. This By-law applies to all departments and committees of the Town and is applicable to all boards and commissions unless the board or commission approves their own by-law which meets or exceeds this by-law.

3.2. This By-law applies to the procurement of all goods, service(s) or construction except for those items set out in Schedule “A”. This By-law also applies to the disposal of the Town’s personal property.

3.3. In addition to the items set out in Schedule “A”, this By-law does not apply to the acquisition or disposal of real property.

3.4. In addition to this By-law, the Town has procedures, protocols, templates and forms for use during the procurement cycle. All tools for engaging in procurement activity will be maintained and updated by Finance as required and stored within the Town’s network directory.

4.Contract Splitting

4.1. Subdividing, splitting or otherwise structuring procurement requirements or contracts in order to reduce the procurement value or in any way circumvent the requirements or intent of this By-law is not permissible. In the absence of a vendor supply agreement multiple orders for the same or similar commodity (good, service, construction) would be considered Contract Splitting.

4.2. When considering and planning purchases the annual aggregate requirement spend is to be considered.

5.Definitions

5.1. In this By-law,

a. **"Associate"** means any partner of an employee; any trust or estate in which the employee has a substantial beneficial interest or as to which the employee serves as trustee or in a similar capacity; any relative of the employee; any body corporate of which the officer or employee beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than ten (10) percent of the voting rights attached to all equity shares of the corporation for the time being outstanding;

b. **"Best value"** means the optimal balance of performance and cost determined in accordance with pre-defined evaluation criteria;

c. **"Bid"** means a submission in response to a solicitation document;

d. **"Bidder"** means a supplier that submits a bid;

e. **"CAO"** means the Chief Administrative Officer of the Town or designate;

f. **"Competitive Process"** means either an Open Competition or an Invitational Competition;

g. **"Construction"** means the process of using labour to build, alter, repair, improve or demolish any structure, building or public improvement, and generally does not apply to routine maintenance, repair or operations of existing real property;

h. **"Consulting Services"** means the provision of expertise or strategic advice that is presented for consideration and decision-making, and includes services provided by architects, engineers, designers, surveyors, geo-technical consultants, planners and technology consultants;

i. **"Contract"** means a commitment by the Town for the procurement of goods, services or construction from a supplier, which may be evidenced by an agreement executed by the supplier and the Town, or a purchase order issued to the supplier by a duly authorized employee of the Town, including revenue generating contracts;

j. **"Contractor"** means the successful bidder award a contract;

k. **"Group Buy Purchasing"** means a variety of arrangements whereby two or more public procurement entities combine their requirements in a single procurement process to obtain advantages of volume purchases from the same supplier(s) or contractor(s);

l. **"Council"** means the Council of the Town;

m. **"Department"** means a department of the Town;

n. **"Department Head"** means Treasurer, Clerk, Fire Chief, Director Parks Recreation Culture, Director Planning and Building, Director Public Works Engineering Environmental Services, Executive Director Customer and Corporate Services or otherwise designated by the CAO for specific procurement;

o. **"Designate"** means a person authorized by the CAO or Department Head to act on his/her behalf, for the purpose of this By-law;

p. **"Disposal"** means an act through which the Town gives up title to the property;

q. **"Formal Invitational Competition"** means a competitive process in which a formal invitation to submit bids is issued to at minimum three suppliers;

r. **"Goods"** means moveable property including services that are incidental to the provision of the moveable property, such as manufacturing, delivery, installation or maintenance, and any necessary raw materials, products, supplies, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a construction contract;

s. **"Informal Invitational Competition"** means the procurements of goods or services in an amount greater than $7,500 and less than $25,000, may be purchased using an Informal Invitational Competition by obtaining multiple informal telephone, written and or internet quotes. Solicitation of bids through a publicly posted solicitation document is not required;

t. **"Invoice Exception"** means an invoice that is received by accounts payable that is not compliant with this By-law;

u. **"Lobbying"** means to solicit or attempt to influence the votes of members of Council, boards, committees, commissions and Town employees;

v. **"Local Supplier"** means a supplier that has a place of business in the Town of Collingwood;

w. **"Low Cost Purchase**" (LCP) means a purchase for goods, service(s) or construction, as per the thresholds stated in Schedule "B" of this By-law that are not covered by an existing supply agreement or qualified supplier roster or available through the Town's existing materials inventory;

x. **"Non-Standard Procurement"**, means the acquisition of goods, services or construction through a process or method other than the process and method normally required for the type and value of the goods, services or construction, as identified and described under Schedule "B" of the Town's Procurement By-law. Non-standard procurement, as per Schedule C, processes include:

   i. A **"Non-Competitive Procurement"**, where the goods, services or construction are acquired directly from a particular supplier without conducting a competitive process when an Invitational Competition or an Open Competition would normally be required; or

   ii. A **"Limited Competition"**, where bids are solicited from a limited number of suppliers when an Open Competition would normally be required.

y. **"Open Competition"** means the solicitation of bids through a publicly posted solicitation document;

z. **"Personal Property"** means tangible or intangible property, other than real property. Movable property subject to ownership, with exchange value;

aa. **“Procurement”** or **“Purchasing”** means the acquisition by any means, including by purchase, rental, construction, lease or conditional sale, of goods or services;

bb. **“Procurement Review Committee”** or **“PRC”** means the committee established pursuant to Section 10 of this By-law;

cc. **“Procurement Value”** means the total value of the goods, services or construction being procured, and must include all costs to the Town, including, as applicable, acquisition, maintenance, replacement, disposal, and training, delivery, installation and extension options, less applicable rebates or discounts and exclusive of sales taxes, including full term and optional years;

dd. **“Profit Sharing Contracts”** means contracts whereby the Town receives a portion of revenue sales or profits earned by a third party under contract with The Town;

ee. **“Protest”** means to make a formal declaration of the non-acceptance;

ff. **“Purchase Order”** or **“PO”** means the Town’s written document issued by a duly authorized employee of the Town to a supplier formalizing all the terms and conditions of the purchase and supply of the goods, services or construction identified on the face of the Purchase Order;

gg. **“Purchasing Card”** or **“PCard”** means a credit card provided by the Town to duly authorized employees of the Town for use as a payment method to purchase directly from suppliers where permitted under this By-law and in accordance with a written card holder agreement and applicable procedures. PCard is an alternative payment method to a Purchase Order;

hh. **“Purchasing Officer”** means the Purchasing Officer of the Town within Clerks Department or designate;

ii. **“Qualified Supplier Roster”** means a list of suppliers that have participated in and successfully met the requirements of a Request for Supplier Qualifications (RFSQ) and have been pre-qualified to perform

discrete work assignments involving the delivery of a particular type of goods or services;

jj. **"Qualified Supplier Roster Competition"** means an expedited, invitational competition between suppliers that have been included on a Qualified Supplier Roster for the selection of a supplier to perform a discrete work assignment during the term of the roster;

kk. **"Real Property"** means land and its permanently affixed buildings or structures. Any property that is not personal property;

ll. **"Relative"** means a parent, spouse, child, sister, brother, sister-in-law, brother-in-law, father-in-law, mother-in-law as well as step-relationships and half-relationships; this definition shall also include any other person(s) that are living with the employee on a full-time basis whom the employee has demonstrated a settled intention to treat as an immediate relative;

mm. **"Service"** means the furnishing of labour, time or effort by a supplier, which may involve the delivery or supply of products incidental to the provision of the services and includes consulting and non-consulting services;

nn. **"Signing Officer"** means a person authorized through this by-law to execute procurement documents on behalf of the Town;

oo. **"Solicitation Document"** means the document issued by the Town to solicit bids from bidders;

pp. **"Spouse"** means the person to whom a person is married or with whom the person is living in a conjugal relationship outside of marriage;

qq. **"Supplier"** means a person carrying on the business of providing goods, services or construction;

rr. **"Supply Agreement"** means a standing offer from a pre-approved supplier to the Town to supply goods and services, as requested, through the use of an ordering process during a particular period of time, at a predetermined price or discount, generally within a pre-defined dollar limit;

ss. **"Tied Bid"** means the identical result that occurs when each bidder has received the same score;

tt. **"Town"** means the Corporation of the Town of Collingwood;

uu. **"Vendor"** means a person carrying on the business of providing goods, services or construction;

6.Town's Conduct and Conflicts of Interest

6.1. The Town's procurement activities must be conducted with integrity so as to maintain the public's trust. All procurement activities undertaken by the Town must be conducted in accordance with:

a. the Town's Council and Local Boards member Code of Conduct By-law, as applicable;

b. the Town's Employee Code of Ethical Conduct, as applicable;

c. the Town's Accountability and Transparency Policy, as applicable;

d. the Statement of Ethics for Public Purchasers in Schedule "D" of this By-law; and

e. the Municipal Conflict of Interest Act, R.S.O. 1990, c.M.50, as applicable.

6.2. All participants in a procurement process, including any external consultants or other service providers acting on the Town's behalf, must declare any perceived, possible or actual conflicts of interest.

6.3. No purchase will be processed for personal items of direct benefit to officers or employees of the Town or any member of Council except where permitted by policy, or under the auspices of a Town-sponsored employee program or with the prior approval of the CAO.

6.4. No goods, services or construction will be purchased from an officer or employee of the Town, or any associate of an officer or employee, unless the extent of the interest of such individual has been fully disclosed to the Purchasing Officer and the purchase has been subsequently approved by the Clerk.

7.Supplier's Conduct and Conflicts of Interest

7.1. The Town expects its suppliers to act with integrity and conduct business in an ethical manner.

7.2. The Town may refuse to do business with any supplier that:

a. has engaged in illegal or unethical bidding practices;

b. has an actual or potential conflict of interest;

c. has an unfair advantage in the procurement process; or

d. fails to adhere to ethical business practices.

7.3. All suppliers participating in a procurement process must declare any perceived, possible or actual conflicts of interest. Examples include:

a. engaging family members, friends, or business associates of any public office holder at the Town which may have, or appear to have, any influence on the procurement process, or subsequent performance of the contract;

b. communicating with any person to obtain preferred treatment in the procurement process;

c. engaging current staff or public office holders at the Town to take part in the preparation of the bid or the performance of the contract, if awarded

d. engaging former Town staff or former public office holders to take any part in the development of the bid or the performance of the contract, if awarded, any time within one year of such person having left the employ or public office at the Town;

e. prior involvement by the supplier or affiliated persons in developing the specifications or other evaluative criteria for the solicitation;

f. access to related confidential information by the supplier, or affiliated persons that is not readily available to other prospective suppliers;

g. conduct that compromises, or could be seen to compromise, the integrity of the procurement process.

7.4. The use of potential vendors to create specifications is not an accepted practice.

7.5. Illegal or unethical bidding practices include:

a. bid-rigging, price-fixing, bribery or collusion or other behavior’s or practices prohibited by federal or provincial statutes;

b. attempting to gain favour or advantage by offering gifts or incentives to Town officers and employees, members of Council or any other representative of the Town;

c. lobbying members of Council or Town officers and employees or engaging in any prohibited communications during a procurement process;

d. submitting inaccurate or misleading information in response to a procurement opportunity; and

e. engaging in any other activity that compromises the Town's ability to run a fair procurement process.

7.6. The Town will report any suspected cases of collusion or other bid-rigging offenses under the Competition Act R.S.C., 1985, c. C-34, to the Competition Bureau or to other relevant authorities.

7.7. In providing goods, services or construction to the Town, suppliers are expected to adhere to ethical business practices, including:

a. performing all Town contracts in a professional and competent manner and in accordance with the terms and conditions of the contract;

b. complying with all applicable laws, including safety and labour codes (both domestic and international as may be applicable);

c. ensuring that fair wages are paid to suppliers' employees; and

d. providing workplaces that are free from harassment or discrimination of any kind.

8.Separation of Roles and the Role of Council

8.1. In accordance with best practices in municipal procurement, Council recognizes the need for a clear separation of political and administrative functions in relation to the Town's procurement operations. It is the role of Council to establish policy and to approve expenditures through the Town's budget approval process. Through this By-law, Council delegates to the Town's officers and employees the authority to incur expenditures in accordance with approved budgets through the procurement of goods, services and construction in accordance with the rules and processes set out in this By-law.

8.2. To facilitate Council's oversight role in respect of significant projects, Council may require Departments to obtain Council's authority to initiate specific procurements by identifying procurement projects of interest, such as

procurements that are of a high value or involve significant risk, security concerns or significant community interest.

8.3. To avoid the potential appearance of bias or political influence in procurement contract award decisions, members of Council will have no involvement in competitive procurement processes from the time those procurement process have been initiated through the advertisement or issuance of the solicitation document until a contract has been executed and awarded to the successful bidder, except where Council is required to approve the contract award in accordance with Section 15 of this By-law.

9.Roles, Responsibilities and Authorities

9.1. Specific responsibilities pertaining to all stages of a procurement process, from the initial identification of requirements through to the management of contracts with suppliers, are detailed in this By-law and the Town's procurement policies and procedures. In addition to those specific responsibilities, the general roles and responsibilities delegated to the Town's officers and employees are set out below.

9.2. Chief Administrative Officer

It is the role of the CAO to implement and promote this By-law and oversee the conduct and activities of the Town's employees in carrying out the Town's procurement operations. In fulfilling this role, the CAO is responsible for:

a. providing support and guidance on the purchasing function and the Bid Review Committee, as required;

b. fostering compliance with this By-law and reporting serious or repetitive incidents of non-compliance to Council in accordance with Procurement Policy;

c. submitting recommendations and reports to Council in consultation with the appropriate Department Head, as required under this By-law; and

d. where necessary, the CAO is authorized to approve the contracts normally subject to Council approval, as set out in Section 15.1, during the time that regular Council meetings are suspended, provided that a report is submitted

to Council, as soon as reasonably possible, setting out the details of any contract approved pursuant to this authority.

9.3. Treasurer

a. The Treasurer and the Finance Department is responsible for establishing the Town's budget and shall be consulted regarding any variance in the budget for a specific project or budgetary item.

b. Responsible for the management of the Town's P-Card Program.

9.4. Clerk

a. The Clerk is responsible for overseeing the procurement function and providing support and guidance to the Accountability, Procurement and Risk Manager and Purchasing Officer as required.

b. Approving procurement policies and procedures, as developed and recommended by the Clerk;

9.5. Accountability, Procurement and Risk Manager

The Accountability, Procurement and Risk (APR) Manager is responsible for overseeing the Purchasing Team and maintaining the Town's procurement process. In fulfilling this role, the APR Manager or designate is responsible for:

a. developing and maintaining the necessary forms, contracts, and solicitation document templates, for the purposes of fulfilling the procurement needs of the Town.

b. addressing and, where possible, resolving issues or concerns that arise in respect of a procurement process or the application and interpretation of this By-law and the Town's procurement policies and procedures and seeking guidance and advice from the Treasurer, the CAO and the Clerk, as required;

c. referring unresolved issues or concerns raised by the Town's officers or employees to the CAO, as necessary;

d. referring unresolved complaints from bidders or suppliers to the Bid Review Committee, as necessary, or where required in accordance with applicable procedures and protocols;

e. auditing compliance with this By-law and reporting non-compliance, in writing, to the appropriate Department Head, Treasurer and/or the CAO where warranted;

f. Liaison and coordinator or the Fairness Monitor and Lobbyist Registrar engagements in procurement process.

9.6. Purchasing Officer

It is the role of the Purchasing Officer to facilitate the Town's procurement operations. In fulfilling this role, the Purchasing Officer or designate is responsible for:

a. researching developments in Canadian public procurement requirements and best practices and recommending updates to this By-law and the Town's procurement policies and procedures to reflect such developments and support the Town's procurement goals and objectives;

b. providing procurement advice and related services, including;

c. developing procurement strategies and continually analyzing Town's business requirements and spending patterns to identify opportunities for more strategic sourcing with the assistance and support of the APR Manager, including:

i. the standardization of goods and service(s) in conjunction with departments, where appropriate and feasible; and

ii. the consolidation of all similar goods and service(s) where appropriate and possible;

d. ensuring the consistent application of procurement policies and procedures, providing procurement services in an efficient and diligent manner;

e. providing appropriate orientation, training and tools to Town employees involved in procurement activities; and

f. serving as the Town's representative as a member of Group Buy Purchasing opportunities.

9.7. Department Heads

It is the role of the Town Administration and Staff to ensure that their requirements for goods, services and construction are met in accordance with

the goals and objectives of this By-law. In fulfilling this role, Department Heads, or their designates, are responsible for:

a. exercising their authority for all procurement activity within the prescribed limits of this By-law;

b. delegating authority approval limits to staff in compliance with this By-law and all applicable procedures and protocols.

c. ensuring that all procurement activities and decisions are authorized by this By-law and are carried out in accordance with the Town's procurement procedures and protocols;

d. ensuring procurement projects remain within the designated approved or amended budget.

e. monitoring all contract expenditures to ensure compliance with financial limits;

f. identifying and addressing non-compliance with this By-law and applicable procedures and protocols within their Departments;

g. upon discovery of instances of non-compliance, notifying the Clerk and seeking advice, if necessary, with respect to mitigating potential risks to the Town arising from the non-compliance; and

h. shall ensure a copy of all legally executed contracts relating to the procurement of goods, services and construction are retained in accordance with the records retention by-law and an original copy is provided to Clerks Services.

9.8. Department Employees

Employees of all Departments are responsible for complying with this By-law. Department employees involved in procurement activities must clearly understand their obligations and responsibilities under this By-law and all applicable procedures and protocols, and should consult with the Purchasing Division in respect of any questions regarding the application or interpretation of this By-law or the procurement procedures and protocols.

Department employees involved in procurement activities are required to work with their colleagues in the Purchasing Division.

9.9. Purchasing Employees

Employees of the Purchasing Division are responsible for complying with this By-law and ensuring all procurement procedures and protocols are applied consistently. Purchasing Division employees must clearly understand their obligations and responsibilities under this By-law and all applicable procedures and protocols and should consult with the Purchasing Officer in respect of any questions regarding the application or interpretation of this By-law or the procurement procedures and protocols.

Purchasing Division employees are expected to provide purchasing services to Departments in an efficient and diligent manner.

Purchasing Division employees are expected to remain current with new and emerging trends within the marketplace and legislative changes.

9.10. Fairness Monitor

The Fairness Monitor is an independent third party whose role is to observe all or part of a procurement process, to provide related feedback on fairness issues to the project team and to Purchasing Team, and to provide an unbiased and impartial opinion on the fairness of the observed procurement process.

Use of the Fairness Monitor services will be at the discretion of CAO and/or Department Head.

10.Procurement Review Committee

10.1. The Clerk is responsible for establishing a Procurement Review Committee (PRC) for the purpose of making determinations in respect of matters referred to it by the Purchasing Officer.

10.2. Where irregularities occur or complaints or challenges are made by bidders or suppliers in respect of a procurement process, that are unable to be resolved by the Purchasing Officer, the Purchasing Officer will provide notice to the Clerk to initiate the Bid Review Committee process. The PRC will review the matter with the objective of presenting a solution, recommendation or otherwise resolving an issue.

10.3. If the PRC cannot reach agreement on the resolution of a matter referred to it, or otherwise considers it advisable, a report of the findings of the PRC must be

prepared and submitted to the CAO for consideration and determination of the matter and legal advice sought if necessary.

11.Standard Procurement

11.1. A standard procurement is the acquisition of goods, services or construction through the applicable process and method identified and described in Schedule "B" of this By-law. Depending on the type and value of the goods, services or construction required, standard procurement processes include:

a. placing an order under an existing Supply Agreement;

b. conducting a Qualified Supplier Roster Competition to solicit bids from suppliers on an existing Qualified Supplier Roster;

c. making Low Cost Purchases using petty cash, a corporate purchasing card or the issuance of a purchase order;

d. conducting an Informal Invitational Competition by obtaining multiple informal telephone, written and or internet quotes. A minimum of three (3) written quotes is always recommended

e. conducting an Invitational Competition by soliciting bids from a minimum of three (3) suppliers; or

f. conducting an Open Competition by publicly advertising and posting the solicitation document.

11.2. All standard procurement processes must be approved, conducted and reported in accordance with this By-law and all applicable procedures and protocols.

12.Non-Standard Procurement

12.1. A non-standard procurement is the acquisition of goods, services or construction through a process or method other than the process and method normally required for the type and value of the required goods, services or construction, as identified and described under Schedule "B" of this By-law. Non-standard procurement processes include:

a. A Non-Competitive Process, where the goods, services or construction are acquired directly from a particular supplier without conducting a competitive

process when an Invitational Competition or an Open Competition would normally be required; or

b. A Limited Competition, where bids are solicited from a limited number of suppliers when an Open Competition would normally be required.

12.2. The use of a non-standard procurement process is only permitted under the specific circumstances set out in Schedule “C” of this By-law.

12.3. All non-standard procurement process must be approved and conducted in accordance with this By-law and all applicable procedures and protocols.

13.Emergency Purchases

13.1. Notwithstanding any other provisions of this By-law, goods, services or construction may be purchased on an emergency basis where they are required as a result of an unforeseeable situation or event occurs that is a potential threat to any of the following:

a. Public health and/or safety;

b. The maintenance of essential Town services or to prevent the disruption of essential Town services;

c. The welfare of persons or of public property; or

d. The security of the Town’s interests, financial or non-financial; and time does not permit the use of a standard procurement process.

13.2. All emergency purchases must be reported to the APR Manager and the CAO as soon as reasonably possible under the circumstances and as deemed appropriate, and members of Council be advised.

14.Delegated Procurement Authorities

14.1. Delegated Procurement Authorities

Delegated authorities to award a contract and execute a legal agreement or issue a purchase order evidencing a contract are set out in the table in Schedule “B” of this Bylaw. A contract must be established by the execution of a legal agreement or the issuance of a purchase order before the delivery of goods, services or construction commences.

14.2. Conditions of Delegated Procurement Authority

The delegated procurement authorities are subject to the following conditions:

a. No contract award may be approved unless approved funding in an amount sufficient to cover the procurement value is available and the procurement process was conducted in accordance with this By-law and all applicable procedures and protocols;

b. No contract may be entered into, either through the issuance of a purchase order or the execution of a legal agreement, unless approved funding in an amount sufficient to cover the procurement value is available and the procurement process was conducted in accordance with this By-law and all applicable procedures and protocols;

c. No legal agreement may be executed unless the agreement and any ancillary documents have been prepared in a form satisfactory to the CAO/Department Head and reviewed by the APR Manager and/or Purchasing Officer;

d. A financing lease is to be approved and entered into in accordance with the Town's policies and procedures.

e. The delegation of authority to approve a contract does not apply to a contract requiring Council approval under Section 15 of this By-law.

15.Council Approval

15.1. The following contracts require Council approval, unless approved in accordance with Section 9.2.(e):

a. any contract requiring approval from the Ontario Land Tribunals;

b. any contract prescribed by statute to be made by Council;

c. where the Procurement By-law is being waived;

d. where there is an irregularity or unresolved challenge in connection with the procurement process and, in the opinion of the CAO, Clerk and/or Treasurer and in consultation with the Purchasing Officer, the award of the contract is highly likely to expose the Town to legal, financial or reputational risk;

e. where Council has indicated a particular interest in a project and at time of budget approval has specified that award will be made by Council approved.

f. Where the approved budget is insufficient for the award, the Department Head shall request addition budget from Council prior to approval as recommended by the CAO, Clerk or Treasurer.

g. the contract is not being awarded to the lowest bid that has met the specifications and terms and conditions of the quotation, tender, or proposal.

h. the award is for a single source contract" or other contract in a non-competitive procurement process in which the total value "of the contract exceeds $100,000.

i. the term of the contract exceeds five years; or

16.No Acceptable Bid or Equal Bids Received

16.1. Where bids are received in response to a bid solicitation but exceed budget, are not responsive to the requirement or do not represent fair market value, a revised solicitation shall be issued in an effort to obtain an acceptable bid otherwise provided.

16.2. The Director and Clerk Services jointly may waive the need for a revised bid solicitation and enter negotiations with the lowest responsive bidder or the highest responsive bidder for a revenue-driven bid selection emanating from a bid solicitation under the following circumstances:

a. the total cost of the lowest responsive bid is in excess of the funds appropriated by Council for the project or the Departmental highest responsive bid revenue is less than that made in appropriate accounts in the Council approved Departmental estimates, and

b. the Director and Clerk Services agree that the changes required to achieve an acceptable bid will not change the general nature of the requirement described in the bid solicitation.

16.3. The method of negotiation shall be those accepted as standard negotiating procedures that employ ethical practices.

16.4. In the case of building construction contracts, where the total cost of the lowest responsive bid is in excess of the appropriation made by Council, negotiations shall be made in accordance with the guidelines established by the Canadian Construction Documents Committee.

16.5. If two equal bids are received, a means of breaking the tie consistent with the provisions of the solicitation shall be employed.

16.6. Factors to be considered in breaking the tie include:

a. prompt payment discount,

b. when delivery is an important factor, the bidder offering the best delivery date be given preference,

c. a bidder in a position to better after sales service, with a good record in this regard, be given preference,

d. a bidder with an overall satisfactory performance record be given preference over a bidder known to have an unsatisfactory performance record,

e. a local bidder be given preference over a non-local bidder.

17.. Bidder Debriefings

17.1. Where the Town has conducted a competitive procurement process, unsuccessful bidders may request a debriefing. Debriefings must be conducted in accordance with the Town's policies and procedures.

18.Procurement Protest

18.1. Suppliers may formally object the outcome of a procurement process. Formal protests must be made by suppliers and responded to the Town in accordance with the Town's policies and procedures.

19.Contract Management and Supplier Performance

19.1. All contracts must be managed by the respective Department Head in accordance with this By-law and all applicable procedures and protocols to ensure that both the Town and the supplier fulfil the requirements of the contract. Department Heads must involve the purchasing officer in the management of contract disputes, as required by applicable policy and procedures.

19.2. The respective Department Head is responsible for monitoring and documenting supplier performance and compliance with procurement contracts in accordance with any Town's policies and procedures.

20.Supplier Disqualification

20.1. The Town may disqualify suppliers from participating in future procurement opportunities in accordance with any Town's policies and procedures.

21.Bringing A Contracted Service In-House

When a department would like to submit an in-house bid a contracted service in-house a costed business case will be required to demonstrate that this action will provide the best value to the Town.

22.Records Retention and Access to Information

22.1. All procurement activities must be supported by appropriate documentation and all records relating to a procurement process must be retained in accordance with the Town's Contract Management Protocol and the Town's Records Retention By-law and any associated records management policies and procedures

22.2. Disclosure of information related to the Town's procurement processes must be made in accordance with the Town's policies with respect to disclosure and protection of information in accordance with the Municipal Freedom of Information and Protection of Privacy Act and the Personal Health Information Protection Act, as amended.

23.Unsolicited Proposals

23.1. All unsolicited proposals submitted to the Town with the expectation on the part of the proponent of obtaining consideration for an ensuing contract or purchase by the Town, must be directed to the CAO, Treasurer and Clerk for review and approval for acceptance in accordance with the unsolicited proposal procedure.

23.2. If accepted and applicable, the person or group that submitted the proposal will be directed to the Lobbyist Registry.

23.3. Any procurement resulting from the receipt of an unsolicited bid must comply with the provisions of this Procurement By-law and applicable procedures. Before an unsolicited proposal is accepted, the Town should consider notifying the marketplace that it plans to proceed with the unsolicited proposal in a way

that allows suppliers to compete and enable the Town to determine if another supplier has a superior proposal.

23.4. In the absence of a competitive process, a contract may only be awarded in respect of an unsolicited proposal if a Non-Standard Procurement is permitted in accordance with this By-law and all applicable procedures and protocols.

24.Co-Operative Purchasing

24.1. The Town may participate in co-operative purchasing initiatives with other government or broader public sector entities where it is in the best interests of the Town to do so.

24.2. The co-operative purchasing process may be conducted in accordance with the procurement policies and procedures of the entity that is responsible for co-ordinating and leading the process, provided that those policies and procedures are consistent with the Town's obligations under applicable trade agreements and the Town's procurement goals and objectives set out in this By-law.

25.Occupational Health and Safety

The Town will require and incorporate the requirements of the Occupational Health and safety Act, R.S.O. 1990, C. O.1, in procurement activities of the Town.

26.Accessibility For Ontarians with Disabilities

26.1. In accordance with the requirements of the Ontarians with Disabilities Act, 2001 (ODA), the Accessibility for Ontarians with Disabilities Act, 2005 (AODA), and specifically, Ontario Regulation 413/12, s. 4 (1) and Ontario Regulation 191-11, s. 5 (1) made under the Accessibility for Ontarians with Disabilities Act, 2005, the Town shall incorporate accessibility design, criteria and features when procuring or acquiring goods, services or facilities, except where it is not practicable to do so.

26.2. If the Town determines that it is not practicable to incorporate accessibility design, criteria and features when procuring or acquiring goods, services or facilities, it shall provide, upon request, an explanation.

27.Environmentally Sustainable Procurement

All departments are responsible to seek additional ways of achieving the goal of being environmentally sustainable and responsible by thorough review of each

procurement process to ensure that, wherever possible and economically feasible, the Town's solicitation document includes specifications that reflect the environmental and climate change impacts of the goods and services solicited. The Climate Change Specialist will be consulted on determining appropriate considerations

28. Disposal Of Town Physical Property

28.1. Departmental staff may recommend that items including material, equipment, furnishings, supplies, vehicles and other goods and which are deemed surplus or which have become obsolete, worn out, or otherwise incapable of use and have a cash value or are refuse items (exclusion real estate);

28.2. The manager of the Departmental operating area may declare such items to be surplus and shall then advise the APR Manager of any items including materials, equipment, furnishings and vehicles owned by the Town which in his or her opinion are surplus and have a cash value;

28.3. The Clerks Department in consultation with the Finance Department must first offer the surplus physical property to other Departments;

28.4. Items declared surplus and having a cash value may be disposed of by the most advantageous means, which may include:

a. redistribution throughout the Town; or

b. a recognized charitable organization in Collingwood registered as such with the Canada Revenue Agency (Charities Directorate); or

c. public auction; or

d. the issuance of a Bid Request;

e. trade in at fair market value as part of the Acquisition of other similar items or items required by the Town; or

f. as Council may otherwise authorize.

28.5. Refuse items shall be disposed.

28.6. Funds received from the disposal of surplus items shall be credited to the appropriate accounts, as determined by the Finance Department

28.7. No Town employees, officers or elected officials, or any member of a Town Board will personally obtain any personal property that has been declared surplus unless it is obtained through a public process.

29.Annual Report to Council

29.1. The APR Manager and Purchasing Officer must submit an annual procurement information report to Council to provide the following information about the Town's procurement activities;

a. The circumstances and details of any emergency purchase with a procurement value equal to or greater than $25,000; and

b. The circumstances and details of all non-standard procurements with a procurement value equal to or greater than $25,000.

30.By-Law Review

30.1. This Procurement By-law will be reviewed at minimum every five (5) years, or such earlier date as the Purchasing Officer or Council may deem it appropriate to evaluate its effectiveness.

31.Short Title

31.1. The short title of this By-law is the "Procurement By-law".

32.Schedules

32.1. Schedule "A" to this Bylaw – Exempt Procurements forms an integral part of this By-law

32.2. Schedule "B" to this Bylaw – Delegated Procurement Authorities forms an integral part of this By-law

32.3. Schedule "C" to this Bylaw – Non-Standard Procurements forms an integral part of this By-law

32.4. Schedule "D" to this Bylaw – Statement of Ethics for Public Purchasers forms an integral part of this By-law

33.Interpretation of By-Law

33.1. This By-law shall be interpreted in accordance with the following:

a. the part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this By-law;

b. this By-law shall be construed with all changes in number and gender as may be required by the context;

c. references in this By-law to any legislation or any provision thereof include such legislation or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor legislation thereto.

34.Repeal – Enactment

34.1. By-law No. 2017-008 and any amendments thereto, are repealed upon this By-law coming into effect.

34.2. This By-law shall come into full force and effect on the date of final passage hereof at which time all by-laws and/or resolutions that are inconsistent with the provisions of this By-law and the same are hereby repealed or rescinded insofar as it is necessary to give effect to the provisions of this By-law.

ENACTED AND PASSED this 13th day of December, 2021.

_____

Mayor's Signature

_____

Clerk's Signature

SCHEDULE ‘A’ EXEMPT PROCUREMENTS

PART A: This By-law does not apply to the acquisition of the following goods or services:

1. Goods or services the supply of which is controlled by a statutory monopoly.

2. Work to be performed on property under the provisions of a lease, warranty or guarantee held in respect of the property or the original work.

3. Goods purchased on a commodity market.

4. The following goods and services related to training and education:

- Computer software for educational purposes
- Conferences, conventions
- Courses, seminars and workshops
- Memberships
- Newspapers, magazines, books and periodicals
- Delivery of training

5. Services provided by the following licensed professionals:

- Dentists
- Medical doctors
- Notaries
- Nurses
- Pharmacists

6. Goods and services related to cultural or artistic fields, such as:

- A contract to be awarded to the winner of a design contest
- Events supporting local non-profit organizations
- Entertainers for theatre or special events
- Original works of art

7. The following special services

- Arbitrators
- Expert witnesses

- Financial services respecting the management of financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution
- Health services and social services
- Honorariums
- Municipal Tax Equity (MTE) as approved in annual budgets
- Recreation program facilitators and/or hosts
- Services of financial analysts or the management of investments by organizations who have such functions as a primary purpose
- Staff recruitment services
- Utility relocates by Public Utility

PART B: This By-law does not apply to payment of the Town's general expenses, such as:

- Arbitration awards
- Charges to and from other government bodies
- Council approved grants
- Damage claims
- Debenture payments
- Insurance premiums when a licensed broker is retained
- Refundable employee expenses (advances, meal allowances, travel, miscellaneous)
- Payroll deduction remittances
- Health benefits
- Legal settlements
- Licensing fees
- Petty cash replenishment
- Refunds (such as property tax refunds, building permit refunds and refunds for cancelled services, programs or events)
- Sinking fund payments
- Tax remittances
- Utility bills (such as water and sewer, hydro, natural gas, telecommunications and cable television)
- Workers Safety Insurance Board payment

SCHEDULE "B" DELEGATED PROCUREMENT AUTHORITIES

Requirement	Procurement Value	Procurement Process	Method (Note 1)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)
				Issue PO or PCard	**Accountability to Procurement Policies**	**Execute Agreement**
Establish Supply Agreement or Qualified Supplier Roster	Any value	Open Competition	Solicitation document publicly posted by the Clerk Services.	Not applicable	Clerk Department	Department Head and Procurement
Goods, Services and Construction from existing Qualified Supplier Roster	In accordance with Roster limits	Qualified Supplier Roster Competition	In accordance with the Roster engagement rules identified in the Roster document.	Clerk Department	Department Head	Department Head (up to $50,000) Procurement (over $50,000)

Requirement	Procurement Value	Procurement Process	Method (Note 1)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)
Low-cost procurement (LCP) any goods, services, or construction	Up to $7,500	Non-Competitive	Purchase made through petty cash, corporate purchasing card or issuance of purchase order.	Department Head	Department Head	optional
Consulting Services	Up to $15,000	Non-Competitive	Purchase made through, corporate purchasing card or issuance of purchase order.	Department Head	Department Head	Department Head (above $5,000)

Requirement	Procurement Value	Procurement Process	Method (Note 1)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)
Goods, Services and Construction	$7,500 - $25,000	Informal Invitational Competition	3 suppliers are to be contacted directly in writing, written quotes and supported documents are required	Department Head	Department Head	Department Head
Consulting Services	$15,001 to $25,000	Informal Invitational Competition	3 suppliers are to be contacted directly in writing, written quotes and supported documents are required	Department Head	Department Head	Department Head

Requirement	Procurement Value	Procurement Process	Method (Note 1)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)
Goods, Services and Construction	$25,001 - $50,000	Formal Invitational Competition	Formal invitational solicitation document issued to a minimum of 3 suppliers	Department Head	Department Head	Department Head
Consulting Services	$25,001 to $50,000	Formal Invitational Competition	Formal invitational solicitation document issued to a minimum of 3 suppliers	Department Head	Department Head	Department Head
Goods, Services, Construction	$50,001 or more	Open Competition	Solicitation document publicly posted by Clerk Services	Clerk Department	Clerk Department	Department Head & Procurement

Requirement	Procurement Value	Procurement Process	Method (Note 1)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)
Consulting Services	$50,001 or more	Open Competition	Solicitation document publicly posted.	Clerk Department	Clerk Department	Department Head & Procurement
Goods, Services or Construction under the circumstances included in Schedule “C”.	$7,500 or more	Non-Standard: a) Non-Competitive or b) Limited Competition	Contract awarded directly to a supplier without competition or bids solicited from a limited number of suppliers in place of an Open Competition.	Clerk Department	Clerk Department	Department Head & Procurement

Requirement	Procurement Value	Procurement Process	Method (Note 1)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)	Authority to Execute Agreement or Issue a Purchase Order (Note 2, Note 3, Note 4)
Consulting under the circumstances included in Schedule “C”.	$15,001 or more	Non-Standard: a) Non-Competitive or c) Limited Competition	Contract awarded directly to a supplier without competition or bids solicited from a limited number of suppliers in place of an Open Competition.	Clerk Department	Clerk Department	Department Head & Procurement

Note 1: All described methods must be conducted in accordance with applicable procurement policies, procedures and protocols.

Note 2: The authority to approve the award of a contract and execute an agreement are based on the Department Head's level of spending authority. If the procurement value exceeds the Department Head's spending authority the CAO would become responsible.

Note 3: Department Heads also has the authority to delegate the authority to Execute Agreement or Issue a Purchasing

Order.

Note 4: The need for an executed agreement, in addition to the issuance of a PO, is determined in accordance with the Town's procurement policies and procedures. If a contract is for goods or services that will be provided to more that one Department, the CAO would be responsible for executing the agreement.

SCHEDULE “C” NON-STANDARD PROCUREMENTS

Lack of planning or insufficient time to conduct a competitive procurement, except in an emergency, should not be an allowable exception.

Goods, services and construction may only be acquired through a non-standard procurement process under the following circumstances:

1. If submission:
    a. no tenders were submitted or no suppliers requested participation;
    b. no tenders that conform to the essential requirements of the tender documentation were submitted;
    c. no suppliers satisfied the conditions for participation;
    d. the submitted tenders were collusive, provided that the requirements of the tender documentation are not substantially modified;
2. if the goods or services can be supplied only by a particular supplier and no reasonable alternative or substitute goods or services exist for any of the following reasons:
    a. the protection of patents, copyrights, or other exclusive rights;
    b. due to an absence of competition for technical reasons;
    c. the supply of goods or services is controlled by a supplier that is a statutory monopoly;
    d. to ensure compatibility with existing goods, or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative;
    e. work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;
    f. work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor; or 46
3. 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:

a. 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
b. would cause significant inconvenience or substantial duplication of costs for the procuring entity;

4. if strictly necessary, and for reasons of urgency brought about by events unforeseeable by the procuring entity, the goods or services could not be obtained in time using open tendering;
5. for goods purchased on a commodity market;
6. if a procuring entity procures a prototype or a first good or service that is developed in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first good or service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the good or service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity production or supply to establish commercial viability or to recover research and development costs;
7. for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers;
8. if a contract is awarded to a winner of a design contest provided that
    a. the contest has been organized in a manner that is consistent with the principles of this Chapter, in particular relating to the publication of a tender notice; and
    b. the participants are judged by an independent jury with a view to a design contract being awarded to a winner; or
9. if goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise government

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

SCHEDULE “D” STATEMENT OF ETHICS FOR PUBLIC PURCHASERS

Statement of Ethics for Procurement

Goal: To ensure ethical, professional and accountable procurement.

All employees authorized to purchase Goods, Services and/or Construction on behalf of the Town must adhere to the following principles.

a. Open and Honest Dealings with Everyone who is Involved in the Purchasing Process. Procurement activities must be open and accountable. This includes all businesses with which this Town contracts or from which it purchases Goods, Services and/or Construction, as well as all members of our staff and of the public who utilize the services of the Purchasing.
b. Fair and Impartial Award Recommendations for All Contracts and Tenders. Contracting and purchasing activities must be fair, transparent and conducted with a view to obtaining the best value for public money. This means that Town Staff do not extend preferential treatment to any vendor, including local companies. Not only is it against the law, it is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar.
c. An Irreproachable Standard of Personal Integrity on the Part of All Those Designated as Purchasing Representatives for This Town. Individuals involved with procurement activities must act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence must be integral to all procurement activities within and between the organization, suppliers and other stakeholders. Respect must be demonstrated for each other and for the environment. Confidential information must be safeguarded. Participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.