



The Corporation of the City of Peterborough

By-Law Number 14-127

Being a By-law governing Purchasing Policies

Whereas the Council of the Corporation of the City of Peterborough deems it desirable to provide for fair, transparent and accountable purchasing policies;

And Whereas Section 271 of **The Municipal Act, 2001**, as amended, states that a municipality and a local board shall adopt policies with respect to its procurement of goods and services, including policies with respect to:

- a) The types of procurement processes that shall be used;
- b) The goals to be achieved by using each type of procurement process;
- c) The circumstances under which each type of procurement process shall be used;
- d) The circumstances under which a tendering process is not required;
- e) The circumstances under which in-house bids will be encouraged as part of a tendering process;
- f) How the integrity of each procurement process will be maintained;
- g) How the interests of the municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;
- h) How and when the procurement processes will be reviewed to evaluate their effectiveness; and
- i) Any other prescribed matter;

Now Therefore, The Corporation of the City of Peterborough by the Council thereof hereby enacts as follows:

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Part 1: Purposes, Goals and Objectives

The purpose of Part 1 of this By-law is to set out the purposes, goals and objectives of the City's Purchasing By-law as follows:

- 1.1 To ensure openness, accountability and transparency while protecting the financial best interests of the City of Peterborough;
 - 1.2 To maximize savings for taxpayers;
 - 1.3 To ensure service and product delivery, quality, efficiency and effectiveness;
 - 1.4 To encourage competitive bidding for the acquisition and disposal of goods and services where practicable;
 - 1.5 To ensure fairness among bidders;
 - 1.6 To encourage the procurement of goods and services with due regard to the preservation of the natural environment; to this end, a Supplier may be selected to supply goods made by methods that are environmentally friendly and sustainable and where practicable, incorporating recycled materials; and
 - 1.7 To provide City staff, which have purchasing responsibilities, clear direction on the policy to be followed.
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Part 2: Definitions

The purpose of Part 2 of this By-law is to set out the meaning of words and phrases used in this By-law, as follows:

“Administrative Staff Committee” means a committee comprised of the Chief Administrative Officer and the Directors of the City Departments, which has authority to award competitive bids as set out in this By-law.

“Agreement” means a binding contract between the City and one or more other parties, which has been duly authorized and executed in accordance with this By-law.

“Alternate Work Force Roster” means a list of persons who have either worked for the City of Peterborough, other municipalities or in related fields, who are interested in and capable of, undertaking short-term assignments for the City on an as-required basis either as an employee or a consultant and as approved by the Chief Administrative Officer.

“Approval Authority” means the specific authorization to proceed with procurement.

“Approved Budget” means a budget approved by Council in a budget document and/or by specific Council resolution to acquire a good or service, including pre-commitments and any subsequent change to the budget approved either by Council or by delegated authority as set out in this by-law including operating expenditures to be approved in future budgets assuming the same level of service as that of the current year.

“Award” means the acceptance of a Bid Solicitation, or approval based on a single or sole source, in accordance with this By-law.

“Bid” means an offer or submission from a bidder in response to a Bid Solicitation that is subject to acceptance or rejection.

“Bidder” means the person or Company who responds to a Bid Solicitation and includes their heirs, successors and permitted assigns.

“Bid Deposit” means currency, certified cheque, bank draft, bond surety issued by a surety company or other form of negotiable instrument submitted by a bidder as evidence of their commitment to enter into an Agreement to do the work outlined in the Bid Solicitation.

“Bid Solicitation” means a formal competitive procurement process which is a Request for Proposals, a Request for Formal Quotations or a Request for Tenders.

“Canadian Construction Documents Contract” or “CCDC” means a standard Canadian construction contract, prepared by the Canadian Construction Documents Committee, which provides standardization for bidding and contracting procedures.

“Chief Administrative Officer” means the most senior staff position in the administrative structure and includes other employees that may be designated to act in this capacity.

“City” means The Corporation of the City of Peterborough.

“Clerk” means the City Clerk, or Deputy Clerk as appointed by City Council.

“Coat-tailing” means a prohibited practice where an employee negotiates with a supplier, or accepts an offer from a supplier, to purchase a good or service for personal use at the same price that is being offered by the supplier to the City.

“Consultant” means the provider of a Service who, by virtue of their professional expertise, is contracted by the City to undertake a specific task or assignment. Examples include a planner completing a specific study; an architect or engineer drawing plans and managing construction for a particular building or project; an appraiser providing an opinion of value on an asset; etc.

“Company” means a corporation, sole proprietorship or partnership.

“Compliant Bid” means the bid of a responsive and responsible bidder who has fully complied with all of the call for bid requirements and whose past performance, reputation and financial capability is deemed acceptable.

“Cooperative Purchasing” means coordination of City purchases with purchases from other institutional organizations such as other municipalities, utility companies, school boards, hospitals, universities and the taking advantage of Public Sector Pricing available through the Federal or Provincial Government.

“Council” means the Council of the City of Peterborough duly elected.

“Cost” means the actual price of acquisition, including term discounts and freight charges, and excluding applicable taxes.

“Director” means the head of a Department within the Corporation of the City of Peterborough.

“Designate” means the authorized designate of a person identified in this by-law who has specific approval or signing authority. Authorization to become a designate is effective only when made in writing by the person delegating the authority and must be approved by the Director of Corporate Services or the Chief Administrative Officer.

“Disposal” means an act through which the City gives up title to real or personal property, and includes a sale, a gift, or the discarding of an item.

“Emergency” means a situation, or the threat of an impending situation, which may affect the environment, the life, safety, health, welfare and/or property of the general public, and which requires actions to be taken to prevent serious damage, disruption of work, or to restore or maintain essential service to a minimum level. It includes, but is not limited to, a situation where, under the **Emergency Management Act**, as amended, and the City’s Emergency Plan By-law 05-240, the Mayor has declared that a State of Emergency exists in the City or in any part thereof, and may take such action and make such orders as he or she considers necessary and are not contrary to law to implement the emergency plan of the municipality and to protect property and the health, safety and welfare of the inhabitants of the emergency area.

“Evaluation Criteria” means the criteria to be used in a Request for Proposals to determine which Proposal best meets the City’s needs, and which may include, but are not limited to: company background, project team and manager, related experience, availability for duration of works, comprehension, understanding and approach, planning and resources required, innovation, schedule of fees, quality of service, compatibility, product reliability, operating efficiency and other factors deemed appropriate for the project.

“Evaluation Committee” means a committee of staff and/or consultants established to evaluate the Proposal submissions according to the Evaluation Criteria, and is comprised of staff from the originating department and, where practical, at least one member from another department and, at the discretion of the Director of Corporate Services, may include the Purchasing Administrator.

“Goods and/or Services” means any one or more of supplies, personal property, construction materials, construction services, insurance, employee benefits, construction of assets, and maintenance and service contracts.

“Immediate Family” means the spouse, common-law spouse, children, parents and brothers and sisters of an employee.

“Indebted” means owing the City money. Examples include but are not limited to unpaid taxes, unpaid fines, outstanding claims, judgments, executions, arrears or rent and interest and penalty thereon.

“In-House Bidding” means a process whereby internal staff compete with external entities for procurement opportunities.

“Manager” means the Manager of a Division within the City of Peterborough.

“Mayor” means the duly elected Mayor of the City of Peterborough or the person(s) appointed by Council to act in the Mayor’s stead.

“Municipal Councillor” means the individual elected as a Councillor or Mayor for the City.

“Ontario Association of Architects contract document” or **“OAA contract document”** – a standard form of contract for Architectural Services.

“Procurement” means the obtaining of Goods and/or Services for use, whether on a permanent or on a temporary basis.

“Proponent” means a person or Company that submits a Proposal.

“Proposal” means an offer received from a supplier for the supply of Goods and/or Services, in response to a Request for Proposals, acceptance of which may be subject to further negotiation.

“Purchase Order” means a written acceptance by the City of an offer to procure goods and/or services.

“Purchase Requisition” means an internal written or online request for procuring goods and/or services.

“Purchasing Card” means a credit card that may be used by authorized employees of the City to purchase goods and/or services within limits as set out in this By-law.

“Purchasing Card Administrator” means the Manager of Financial Services, or designate, responsible for the administration of the Purchasing Card program.

“Purchasing Section” means the administrative unit within the City’s Financial Services Division that is responsible for administering the City’s purchasing policies.

“Quotation” means an offer received from a selected supplier for the supply of specific goods and/or services, in response to a Request for Formal Quotations.

“Responsive and Responsible Bidder” means a bidder who complies with the provisions of a Bid Solicitation, including specifications, and contractual terms and conditions, and who can reasonably be expected to provide satisfactory performance on the proposed Agreement based on, in part, reputation, references, performance on previous Agreements, and sufficiency of financial and other resources.

“Request for Information” or **“RFI”** means a non-binding solicitation of input from interested parties with respect to a possible future procurement process. This is a common procurement practice used to obtain product/service details, comments, feedback or reactions from potential suppliers/contractors prior to the issuing of a call for bid. A firm price or cost information is not required. Feedback may include best practices, industry standards, technology issues, etc.

“Request for Prequalification’s” or “RFPQ” means a request for the detailed submission of the experience, financial strength, education, background and personnel from individuals, firms or Corporations who may, from time to time, qualify to supply a good(s) or service(s) to the Corporation, but which does not create any contractual obligation between the respondent submitting the pre-qualification submission and the Corporation, but which may be a pre-condition to a further procurement contract(s) with the Corporation.

“Request for Proposals” or “RFP” means a form of Bid Solicitation whereby the City invites potential suppliers to submit proposals with respect to a particular project, or the supply of Goods and/or Services, without supplying detailed specifications and/or terms and/or conditions of the Agreement that might ultimately be entered into and the cost is expected to be greater than \$25,000.

“Request for Formal Quotations” or “RFQ” means a form of Bid Solicitation whereby the City publishes the specifications, terms, conditions and details concerning the proposed Agreement, and invites selected suppliers, as opposed to open advertisement, to submit sealed Bids in response to detailed specifications, and the cost is expected to be greater than \$25,000 and less than or equal to \$50,000.

“Request for Tenders” or “RFT” means a form of Bid Solicitation whereby the City publishes the specifications, terms, conditions and details concerning the proposed Agreement, and advertises for, or invites suppliers to submit sealed Bids in response to detailed specifications, and the cost is expected to be greater than \$25,000.

“Director of Corporate Services” means the person who is charged with the responsibility of directing the affairs of the Corporate Services Department including the Treasurer’s responsibilities as set out in the **Municipal Act, 2001**.

“Single Source” means a situation where there is more than one potential supplier, but a supplier is selected without a Bid Solicitation.

“Sole Source” means a situation where there is only one known supplier of the particular goods and/or services.

“Splitting up of Purchases” means the separation of a procurement into two or more invoices, with the effect of circumventing the provisions of this By-law.

“Sub-contractor” means a person or company who is awarded a portion of an existing contract by a principal or general contractor.

“Successful Bidder” means the Bidder that has been successful in the award of a Bid Solicitation and who has agreed to supply the goods/services under the terms of the Bid Solicitation and is undertaking the Work as identified in the Contract.

“Supplier” means a person or company from whom the City may purchase or lease goods and/or services.

“Surety” means a specified dollar amount in the form of cash, certified cheque, bid bond, performance bond, labour and materials payment bond, letter of credit or any other form as deemed necessary and stated in the Bid Solicitations.

“Tender” means an offer received from a supplier for the supply of goods and/or services, in response to a Request for Tenders, the acceptance of which will result in the formation of a formal Agreement and/or a purchase order.

“Vendor” means the person or Company actually performing services(s) or manufacturing, producing, or providing goods to the City.

Part 3: Purchasing Principles

The purpose of Part 3 of this By-law is to set out the purchasing principles of the City of Peterborough, as follows:

3.1 Efficient/Effective Purchasing

All Procurement shall be completed to obtain the required quality and quantity of Goods and/or Services in the most efficient and cost-effective manner possible in the circumstances.

3.2 In-House Bids

In-house bids may compete with external sources, in certain circumstances as outlined in this By-law.

3.3 De-centralized Purchasing

The City uses a de-centralized purchasing methodology whereby Purchasing Section staff provide oversight to the procurement process, but with the exception of goods purchased and distributed through Central Stores, City departments are delegated the authority to procure low value goods and services through informal procurement methods in accordance with this By-law.

3.4 Total Costs Considered

The City will consider all costs, including, but not limited to, acquisition, operating, training, maintenance, quality, warranty, payment terms, disposal value and disposal costs in evaluating bid submissions from, responsive and responsible bidders. Where costs are submitted for more than one year, the net present value of the annual costs will be used to evaluate the costs.

3.5 Before Tax Amounts

Prices and authority levels stated in this by-law do not include any applicable taxes.

3.6 Co-operative Purchasing

Where the best interests of the City will be served, the City may participate in Co-operative Purchasing.

3.7 External Approvals

Where a procurement requires further approvals external to the City, the report recommending award shall so indicate and such external approvals shall be obtained, where possible, prior to the Agreement being executed and proceeding with the proposed procurement.

3.8 Document Retention

Responses to Bid Solicitations received shall be retained for inspection by the City's auditors and appropriate City officials, in accordance with the City's Document Retention By-law # 12-156 or successor by-law.

3.9 Confidentiality and Access to Information

- 3.9.1 The disclosure of information, contained in a Bid, or Agreements emanating from Bid Solicitations, shall be made by the appropriate officers of the City in accordance with the provisions of the **Municipal Freedom of Information and Protection of Privacy Act**, as amended and any other applicable legislation.
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3.9.2 If a Bidder considers any part of their Bid proprietary, the Bidder shall clearly mark such page or section of the Bid as confidential. This procedure will not automatically protect the information from release, but will assist the City in making a determination on release if a request is made under **the Municipal Freedom of Information and Protection of Privacy Act**, as amended.

3.10 Accessibility

Accessibility criteria and features shall be incorporated when procuring goods, services and/or facilities in accordance with the **Accessibility for Ontarians with Disabilities Act, 2005** (AODA), where practicable. Where it is not practicable to incorporate accessibility an explanation shall be provided, if requested.

Part 4: Defining the Responsibilities of Procuring Goods and Services

The purpose of Part 4 of this By-law is to define the general role and responsibility of staff involved with procurement, and specifically the roles of the Director of Corporate Services and Department Directors when administering this By-law.

4.1 General Responsibilities

4.1.1 All City staff with procurement authority shall follow the guidelines set out in Part 12 of this by-law.

4.1.2 Procurement shall be subject to all applicable City policies and by-laws, any specific provisions of the **Municipal Act, 2001**, as amended, and all other relevant Federal and Provincial legislation.

4.2 Responsibilities of the Director of Corporate Services

4.2.1 The Director of Corporate Services shall coordinate a purchasing methodology, on behalf of the City in accordance with the provisions of this By-law. In carrying out this responsibility, the Director of Corporate Services may appoint designated persons to act on his/her behalf.

4.2.2 The Director of Corporate Services or designate(s) will have the following specific responsibilities:

- a. Be responsible for the administration of this By-law, including the development and implementation of guidelines and procedures.
 - b. Be responsible for the preparation of all Bid Solicitations (excluding Request for Tenders prepared by staff of the Engineering and Construction Division or the Infrastructure Planning Division within the Utility Services Department); prepare, in consultation with the originating department's staff, the document, advertise, issue the document, prepare and circulate addendums, post the document on the City's website, oversee public openings and ensure the purchasing policies as set out in this By-law are followed.
 - c. For the Request for Tenders prepared by staff of the Engineering and Construction Division or the Infrastructure Planning Division within the Utility Services Department, issue the document, prepare and circulate addendums, oversee public openings and ensure the purchasing policies as set out in this By-law are followed.
 - d. Advise on the suitability of specifications to ensure a maximum number of competitive Bids, and to ensure a Supplier's ability to supply.
 - e. In acquiring goods and services for the City, employees shall consider whether it is feasible to incorporate environmental considerations in solicitations for goods and services. The Director of Corporate Services shall keep himself/herself apprised of best purchasing practices for responsible environmental procurement and shall bring same to the attention of operating departments where applicable.
 - f. Review the corporate use of goods and/or services to ensure the City is receiving the best quality, quantity, service and price.
 - g. Ensure that business transactions are conducted ethically and professionally.
 - h. Process Purchase Orders.
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- i. Be responsible for establishing and maintaining a Central Stores operation for the provision of items that must be readily available, and:
 - i. Require a long lead-time for ordering, or
 - ii. Are required for repair of vehicles or equipment on a 24-hour basis, or
 - iii. Are bulk items for which economies are realized by purchasing in large quantities.
- j. Assist the originating department and the City Solicitor in the preparation of Agreements when requested.
- k. Provide training and documentation on how to use the Purchasing Computer Module to users of the system. Supply copies of the policies and procedures to all staff that have procurement authority and train staff as required to ensure a clear understanding of the purchasing policies and procedures.
- l. Maintain accounting records as required.
- m. Process monthly Purchasing Card payments.
- n. Provide written authorization of Designates as requested by Department Directors.

4.3 Responsibilities of Department Directors

4.3.1 Department Directors shall have the following responsibilities relating to the procurement policies:

- a. Ensure procurement is carried out in accordance with this By-law.
- b. Determine appropriate delegated signing authority of staff in their departments as authorized by this By-law.
- c. Ensure sufficient approved budget exists for planned purchases before a procurement process commences.
- d. Prepare, in consultation with the Director of Corporate Services, specifications and scope of work to be included in all Bid Solicitations.
- e. Ensure that all Bid Solicitation documents originating from their departments have been prepared in conjunction with, reviewed by, issued by and administered by the Director of Corporate Services as set out in Section 4.2.2.b., unless Section 4.4 applies.
- f. Prepare award reports, where required, in accordance with formats satisfactory in content to the Director of Corporate Services.
- g. Ensure that after award, and prior to the commencement of the work, all mandatory documentation has been obtained, including but not limited to a signed agreement unless in the opinion of the City Solicitor exceptional circumstances exist.

4.4 Additional Responsibility of the Director of Utility Services

The Director of Utility Services (or designate) shall prepare Request for Tenders for the Engineering and Construction Division and the Infrastructure Planning Division within the Utility Services Department in a form satisfactory to the Director of Corporate Services.

Part 5: Prohibitions

The purpose of Part 5 of this By-law is to set out a number of actions by City staff and Council members, which are expressly prohibited.

5.1 Prohibited Actions

5.1.1 The following actions are prohibited:

- a. The splitting up of purchases.
 - b. Procurement by the City of any goods or services for personal use by or on behalf of any member of Council, appointed officer, employee of the City or their immediate families, unless specifically approved by Council, including, without limiting the foregoing, the Employee Computer Purchase Plans.
 - c. Acceptance of any gift, benefit, money, favour, hospitality or other assistance from any supplier or potential supplier.
 - d. Coat-tailing.
 - e. Asking a supplier to alter the invoice date or shipping date from what would otherwise be shown to accommodate City accounting needs.
 - f. Other than the employee or other designated individual who is the official contact person identified in the Bid Solicitation document, discussing any aspect of the Bid Solicitation with a prospective supplier from the time the Bid Solicitation document is first issued until such time as an award report has been prepared and submitted to the appropriate approval authority.
 - g. Accepting a bid from a City of Peterborough employee, or the employee's immediate family, if any of the following are true:
 - i. The employee is at or above the level of Director
 - ii. The employee was involved in the development of the need for the work
 - iii. The employee will be on the Evaluation Committee
 - iv. If the employee is the successful bidder, they will be in a conflict with the City's Code of Conduct, with the Collective Agreement provisions for their position or any other terms and conditions of their employment with the City
 - h. Accepting a Bid from a City of Peterborough Municipal Councillor.
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Part 6: Types of Procurement Processes

The purpose of Part 6 of this By-law is to set out the different types of procurement processes that may be used, including the goal, circumstances in which the process is to be used, the contractual arrangement, and the features of each.

6.1 Low Value Procurement - Dollar Threshold: up to \$10,000

6.1.1 Goal of Low Value Procurement Process

The goal of the Low Value Procurement Process is to use an expeditious and cost effective manner to purchase goods and services valued at \$10,000 or less, which may, but does not necessarily, include informal price comparison through phone, supplier advertisements, supplier catalogues or other similar communication methods.

6.1.2 Circumstances when Low Value Procurement Process used

The Low Value Procurement Process is used when goods or services are expected to cost \$10,000 or less, are required on a one time (non-repetitive) basis, and the end user of the goods and services has identified a clear or single solution. Price comparison may be sought from known suppliers; price is the primary factor and is usually not negotiated.

6.1.3 Method of Payment for Low Value Procurement Process

Low Value Procurement may be made by the Purchasing Card or Direct Acquisition method.

a. Purchasing Card

Based on the approval of the Department Director or Manager and the Purchasing Card Administrator, certain City employees are provided with City Purchasing Cards to be used solely for the purchase of goods and/or services for the City. The employee's immediate supervisor shall review and sign each employee's monthly Purchasing Card transaction listing and the Purchasing Card Administrator or designate shall review all monthly transactions for compliance.

b. Direct Acquisition

Although the encouraged method of payment for all low value procurement is the Purchasing Card, it is recognized that certain suppliers are not equipped with such functionality. Employees with appropriate authority, as set out in this By-law, may sign an invoice indicating that the goods have been received and the supplier may be paid.

6.2 Informal Procurement Through Quotation - Dollar Threshold: greater than \$10,000 and less than or equal to \$25,000

6.2.1 Goal of Informal Procurement Through Quotation Process

The goal of the Informal Procurement Through Quotation Process is to obtain competitive pricing for a one-time procurement valued at greater than \$10,000 and less than or equal to \$25,000, in an expeditious and cost effective manner.

6.2.2 Circumstances when Informal Procurement Through Quotation Process used

The Informal Procurement through Quotation Process issued when goods or services are expected to cost more than \$10,000 but less than or equal to \$25,000, are required on a one-time (non-repetitive) basis, and the end user of the good or service has identified a clear or single solution. Price comparison shall be sought, where practicable, from a minimum of three (3) suppliers. Price is the primary factor and may be negotiated.

6.2.3 Features of Informal Procurement Through Quotation Process

- a. The requesting department shall obtain three informal quotes, where practicable, through advertisements, supplier catalogues, direct solicitations to suppliers, and other similar methods. Faxed and email responses from suppliers are acceptable.
- b. A Purchase Requisition authorized by the Director or designate (less than or equal to \$25,000) or Division Manager or designate (less than or equal to \$10,000) shall be prepared, with the results of price comparison attached, and forwarded to the Purchasing Section for processing.

6.2.4 Contractual Arrangement for Informal Procurement Through Quotation Process

Form of contract is a Purchase Order or Agreement.

6.2.5 Method of Payment

When permitted by the Vendor, the payment transaction may be processed on the Purchasing Administrator's Purchasing Card.

6.3 Bid Solicitation Procurement - Dollar Threshold Greater than \$25,000

All procurement shall be carried out through Bid Solicitation, where the value of the goods and/or services is expected to exceed \$25,000.

6.4 Request For Proposals or RFP

6.4.1 Goal of Request for Proposals Process

The goal of a Request for Proposals process is to implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining unique proposals designed to meet broad outcomes to a complex problem or need for which there is no clear or single solution, or it has been determined by the Director of Corporate Services, in consultation with a Department Director, other criteria besides price should be evaluated, and where the value is expected to exceed \$25,000.

6.4.2 Circumstances when Request for Proposals used

A Request for Proposals is used when the goods and/or services are expected to cost more than \$25,000, the end user of the good or service does not have a precisely defined technical requirement, and where there is no clear or single solution.

6.4.3 Features of Request for Proposals

The features of a Request for Proposals are as follows:

- a. It is a sealed Bid Process.
 - b. A Bid Deposit may be required at the discretion of the Director of Corporate Services.
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- c. There is a Public Opening to read out the names of Proponents (Proposal details are not released).
- d. The Request for Proposals may be preceded by a Request for Pre-Qualifications, or a Request for Information.
- e. Advertisement placed in relevant media as applicable.
- f. Where possible, the Request for Proposals is posted on the City's web page and/or through an online portal service and is available for download.
- g. Negotiation with Proponents after the bid solicitation closes and before award is acceptable.
- h. The Request for Proposals process is designed to select the proposal that earns the highest score in accordance with the Evaluation Criteria.
- i. The Evaluation Criteria are clearly identified in the Request for Proposals Document. As price is only one of the criteria evaluated, the award report will show the rating summary for each proponent and the total points. The award report will disclose the price of the recommended Supplier but not the price submitted by other proponents.
- j. An Evaluation Committee shall evaluate each Proposal based on the Evaluation Criteria.

6.4.4 Contractual Arrangement for Request for Proposals

Form of contract is a Purchase Order, CCDC, OAA contract document with supplementary conditions or other form of Agreement.

6.5 Request For Tenders or RFT

6.5.1 Goal of Request for Tenders Process

The goal of a Request for Tenders process is to implement an effective, objective, fair, open, transparent, accountable and efficient process for obtaining competitive Bids based on precisely defined requirements for which a clear or single solution exists and where the value is expected to exceed \$25,000.

6.5.2 Circumstances when Request for Tenders used

A Request for Tenders process is used when goods or services are expected to cost more than \$25,000 and it is possible to obtain competitive Bids based on precisely defined requirements for which a clear or single solution exists.

6.5.3 Features of Request for Tenders

- a. It is a sealed Bid Process.
 - b. A Bid Deposit is required unless the Director of Corporate Services has determined it is in the City's best interests not to request a Bid Deposit.
 - c. The Bid Deposit must be at least 10% of the bid price before taxes unless the Director of Corporate Services has deemed it to be in the City's best interest to be some other value.
 - d. Some form of Surety may be requested to be provided by the successful bidder.
 - e. The Request for Tenders may be preceded by a Request for Pre-Qualifications, or Request for Information.
 - f. Advertisement placed in relevant media as applicable.
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- g. Where possible, the Request for Tenders is posted on the City's internet website and/or through an online portal service and is available for download.
- h. There is a public opening to read out the names of the Bidders and the total prices offered, excluding applicable taxes.
- i. The tender is typically awarded to the lowest priced compliant Bidder who satisfies all specifications/requirements included in the Request for Tenders.

6.5.4 Contractual Arrangement for Request for Tenders

Form of contract is a Purchase Order, CCDC with supplementary conditions or other form of Agreement.

6.6 Request For Formal Quotations or RFQ

6.6.1 Goal of Request for Formal Quotations Process

The goal of a Request for Formal Quotations process is to implement an effective objective, fair, open, transparent, accountable and efficient process for obtaining competitive Bids from a predetermined list of suppliers based on precisely defined requirements for which a clear or single solution exists and where the value is expected to exceed \$25,000 and be less than or equal to \$50,000.

6.6.2 Circumstances when Request for Formal Quotations used

- a. A Request for Formal Quotations process may be used when the cost is expected to exceed \$25,000 and be less than or equal to \$50,000 and it is possible to obtain competitive Bids based on precisely defined requirements for which a clear or single solution exists from a predetermined list of suppliers.
- b. There may be requirements estimated at \$50,000 or less where, at the discretion of the Director of Corporate Services and the respective Department Director, it will be more appropriate to solicit bids using a Request for Tenders or a Request for Proposals.

6.6.3 Features of Request for Formal Quotations

- a. It is a sealed Bid Process.
 - b. A Bid Deposit is required unless the Director of Corporate Services has determined it is in the City's best interests not to request a Bid Deposit.
 - c. The Bid Deposit must be at least 10% of the bid price before taxes unless the Director of Corporate Services has deemed it to be in the City's best interest to be some other value.
 - d. Some form of Surety may be requested to be provided by the successful Bidder.
 - e. The Request for Formal Quotations may be preceded by a Request for Pre-Qualifications, Request for Information.
 - f. The Request for Formal Quotations is sent to at least three suppliers, where practicable, from a predetermined list but may be supplemented by advertisement placed on City's internet website and/or through an online portal service and relevant media as applicable.
 - g. There is a Public Opening to read out the names of the Bidders and the total price excluding applicable taxes.
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- h. The Request for Formal Quotations is typically awarded to the lowest priced compliant Bidder who satisfies all specifications/requirements included in the Quotation document.

6.6.4 Contractual Arrangement Formal Request For Quotations

Form of contract is a Purchase Order or Agreement.

6.7 Pre-Qualification of Acceptable Bidders

- 6.7.1 The provisions of this section shall apply in situations where it is deemed by the Director of Corporate Services, in consultation with the originating Department Director, to be necessary to pre-qualify bidders prior to the commencement of the competitive Sealed Bid process. Pre-qualification may involve any one of or all of General contractor, Sub-contractors or Consultants.
 - 6.7.2 The purpose of the pre-qualification is to ensure that each bidder can demonstrate they have the ability to provide the necessary expertise and resources to satisfactorily complete the work required. Pre-qualification shall only be considered in one or more of the following circumstances:
 - a. The work involves complex, multi-disciplinary activities, specialized expertise, equipment, materials, or financial requirements.
 - b. The work is such that Contract administration costs (work inspection, follow-up, and extra fee negotiations) could result in a substantial cost to the City if the work is not satisfactorily performed the first time.
 - c. The goods or services to be purchased must meet national safety standards, or if no standard has been established, require a demonstrated acceptable level of performance.
 - d. The work is considered “high risk” with respect to regulations governed under the Occupational Health and Safety.
 - e. Limiting the numbers of Bidders who can submit a Bid for the final competitive Bid Solicitation process, will increase the quality of Bids submitted by each as they know competition has been limited and their chances of success are increased.
 - 6.7.3 Pre-qualification involves a two-step process, where a Bid Solicitation process will follow. Pre-qualification is the first step, and sets out criteria requiring bidders to provide information including, but not limited to:
 - a. Experience on similar work,
 - b. References provided from other customers for similar work,
 - c. Verification of applicable licenses and certificates,
 - d. Health and safety policies and staff training, and
 - e. Financial capability.
 - 6.7.4 An evaluation committee, which includes appropriate staff and/or consultants, will evaluate and rank the submissions.
 - 6.7.5 The Administrative Staff Committee shall approve a short list of acceptable Suppliers who will be invited to participate in the subsequent procurement process.
 - 6.7.6 City Council may authorize a payment to each short listed bidder to compensate them for the time and effort required to prepare a submission for work considered to be sufficiently complex where the bidder is required to incur significant out of pocket expense in order to be able to respond satisfactorily.
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6.8 Vendor(s) of Record

6.8.1 The Director of Corporate Services, in consultation with the originating Department Director, may determine it is appropriate to establish a Vendor(s) of Record for a specified period of time to provide or bid on certain work when it becomes available.

6.8.2 The purpose of the arrangement is to:

- a. Gather information about vendor capabilities and qualifications,
- b. Increase procurement process efficiency; and
- c. Obtain consistent competitive prices for the identified goods and services.

6.8.3 The RFP process should specify:

- a. The type of specifications of goods or services to be provided with a necessary level of detail,
- b. Upper limits of the value of future awards, if applicable,
- c. Time duration the arrangement will be valid for,
- d. The method(s) and time intervals by which additional vendors can be placed on the list,
- e. That any Supplier who does not participate or does not appear on the list will be excluded from future work opportunities; and how the work will be distributed if there is more than one Vendor.

6.8.4 Appropriate staff and/or consultants, in consultation with the Director of Corporate Services and the originating Department Director, will evaluate and rank the submissions.

6.8.5 Approval of a short list of acceptable Suppliers who will be invited to participate in subsequent work is the same as set out in Part 8 of this By-law and is based on the expected value of future work.

6.8.6 At the discretion of the Director of Corporate Services, the City reserves the right to issue further bid solicitations for work similar to that provided by the Vendor(s) of Record during the term of the arrangement.

6.9 Request for Information

A Request for Information can be used to build supplier interest and to see if there are enough suppliers to justify a full Bid Solicitation process. The Request for Information may request detailed information including, but not limited to, company background, who the interested parties are, what they can offer and what they can do for the City.

6.10 Negotiating

6.10.1 Negotiation may be used as part of the procurement of good(s), service(s) or for the sale of personal or real property for any contract, when one or more of the following criteria apply:

- a. Where only one bid is received and it exceeds the amount budgeted for the procurement, negotiations may be conducted; provided the bid is a Compliant Bid as per Section 8.7 of this By-law;
 - b. Where competition is precluded or severely restricted due to the existence of any patent right, copyright, technical secret or control of raw material as per Section 9.1.2.b. of this By-law;
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- c. Due to abnormal market conditions, the good(s) or service(s) required are in short supply and/or market price fluctuations or instability exists as per Section 9.1.2.f. of this By-law;
- d. With the highest offer in response to the sale of personal property;
- e. With the highest evaluated compliant bidder to a Request for Proposal as a condition of the award; if a negotiated settlement cannot be reached, the City may proceed to negotiate with the next highest evaluated compliant bidder, as a condition of the award;
- f. Where a renewal option of an existing contract, with approval of the respective Department Director in consultation with the Director of Corporate Services, would be more cost effective and beneficial to the City and, that the possibility of the renewal option was clearly stated within the original competitive bid process document as per Section 17.5 of this By-law;
- g. Where, in the opinion of the Director of Corporate Services, for security or confidentiality reasons, or where extraordinary circumstances exist and it is in the best interest of the City;
- h. Where authorized by Council to do so.

6.11 Summary of the Various Procurement Processes

Appendix A to this By-law provides a summary of the Types of Procurement Processes set out in Part 6.

Part 7: In-House Bids

The purpose of Part 7 is to set out the policy for when and how in-house Bids will be used.

- 7.1 In-House Bids may be used for the procurement of goods and/or services in the following circumstances:
 - a. Where an external Supplier has historically provided a good and/or service, and Council determines that it is in the best interest of the City to allow City staff to compete for the provision of the good and/or service.
 - b. Where staff has historically provided a good and/or service, and Council determines that it is in the best interests of the City to allow its staff to compete for the provision of the good and/or service.
 - c. In any other circumstances that Council determines may be appropriate.
 - 7.2 In-House Bids shall only be used where external Suppliers have also been requested to submit bids.
 - 7.3 If any Bid Solicitation permits In-House Bids, all bidders shall be made aware of this fact in the Bid Solicitation documents.
 - 7.4 Council shall authorize all In-House Bids, in advance. In determining whether an In-House Bid is in the best interest of the City, Council shall consider the following criteria:
 - a. Whether the In House-Bid will result in a significant increase or decrease in capital equipment and infrastructure expenditures by the City.
 - b. The extent to which the In-House Bid will affect the future ability of the City to deliver essential health, emergency or other vital services to the public, in a cost effective and efficient manner.
 - c. The extent to which the In-House Bid will affect the personnel complement of the City.
 - d. The extent to which the In-House Bid will affect service levels provided to the public.
 - 7.5 When it has been determined that an In-House Bid will be allowed, the type of Bid Solicitation to be used will be determined in accordance with Part 6, and the award process will be in accordance with Part 8.
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Part 8: Approval Authority for Competitive Bids, Single or Sole Source; Rejection of Bid where Relationship Impaired; Tied Bids; All Bids Exceed Budgets

The purpose of Part 8 of this By-law is to set out the approval authority for award, circumstances when a Supplier may be rejected because of impaired relationships, how to settle tied bids, and steps to be taken when all Bids exceed budget.

8.1 Anyone given Award approval authority under this by-law is accountable and responsible for ensuring that Approved Budget exists, purchases do not violate any City, policy or statutory requirements, and they have met the audit requirements of the City.

8.2 Award Approval

8.2.1 Council must approve an Award, where the expenditure is greater than \$100,000 (except as provided in subsections 8.2.2.b and c, or when one or more of the following applies:

- a. A senior government (ie. Provincial, Federal) requires Council to approve.
- b. The Award cannot be accommodated within an Approved Budget and therefore requires a budget transfer or a pre-commitment against a future years' budget.
- c. The Chief Administrative Officer or Director of Corporate Services deems it in the City's best interest that Council approve the Award.
- d. Council has specifically directed that Council approve the Award.

8.2.2 The Administrative Staff Committee is authorized to approve:

- a. An Award where the expenditure is greater than \$50,000 but less than or equal to \$100,000 and can be accommodated within the Approved Budget.
- b. An Award of a Request for Tenders, regardless of the size of the expenditure, provided that the Award is to the lowest bidder and the expenditure can be accommodated within the Approved Budget.
- c. Any Award that Council would otherwise approve as set out in 8.2.1 but it is a Municipal Election year and one or both of the following apply, and when the Award can be accommodated within the Approved Budget.
 - i. Award Approval is required after Nomination Day and prior to the first meeting of new Council, and no Council meetings of the outgoing Council are held during which an Award can be approved.
 - ii. Award Approval is required after Nomination Day, and prior to the end of the term of the outgoing Council it becomes known that less than eight of the outgoing Council members will form part of the new Council.

8.2.3 The Chief Administrative Officer is authorized to approve an Award where the expenditure is greater than \$25,000 but less than or equal to \$50,000 and can be accommodated within the Approved Budget.

8.2.4 A Director is authorized to approve an Award where the expenditure is less than or equal to \$25,000 and can be accommodated within the Approved Budget.

8.2.5 A Manager is authorized to approve an Award where the expenditure is less than or equal to \$10,000 and can be accommodated within the Approved Budget.

8.2.6 The Mayor is authorized to approve an Award where the expenditure is less than or equal to \$10,000 and can be accommodated within the Approved Budget for Council and Civic Functions Accounts.

8.2.7 Based upon roles and responsibilities within their department, Directors may delegate approval authority, up to \$10,000, to staff in their departments at the levels they deem appropriate, subject to the written approval of the Director of Corporate Services.

8.3 Summary of Approval Limits

Appendix B to this By-law provides a summary of approval limits for the various procurement processes.

8.4 Causes for Rejection of Bid Solicitation

8.4.1 The reasons, that a Bid Solicitation will be rejected, include but are not limited to:

- a. Bid received late;
- b. Bid received where a pre-qualification process or meeting is mandatory and has not been met by the Bidder;
- c. No Bid Deposit, if requested;
- d. Correct version of Bid form not used;
- e. Bid not complete;
- f. Bid not legible in whole or in part;
- g. Bid not completed in ink or type;
- h. Bid not signed;
- i. Erasures, alterations or cross-outs not initialed in ink by the Bidder; and
- j. Other mandatory forms or details required and clearly shown as being required upon submission are omitted.

8.5 Rejection of Bid when City/Bidder Relationship Impaired

8.5.1 The City may reject a Bid from a Supplier where in the opinion of both the Director of Corporate Services and the City Solicitor, the commercial relationship between the City and the Supplier, including any sub-contractor the Supplier intends to use, has been impaired by the act(s) or omission(s) of the Supplier or sub-contractor, within the five-year period immediately preceding the date on which the Bid is to be awarded.

8.5.2 The act(s) or omission(s) that are deemed to have impaired the commercial relationship include, but are not limited to:

- a. threatening litigation, or pursuing litigation against the City, in relation to any previous contract awarded to the Supplier by the City, threatening litigation means transmitting a written threat to commence an arbitration action, application or other judicial proceeding;
 - b. being a Supplier against whom the City is pursuing litigation;
 - c. a claim has been made against the City by the Supplier under a surety submitted by the Supplier, such as a Bid Deposit, Performance Bond or Materials and Labour Bond;
 - d. the Supplier has refused to follow reasonable directions of the City or to cure a default under any Agreement with the City;
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- e. the Supplier refuses to enter into an Agreement with the City after the Supplier's Bid has been accepted by the City;
- f. the Supplier has communicated, directly or indirectly, with any other Supplier about the preparation of the Supplier's Bid for the same work;
- g. the Supplier or any person with whom that Supplier is not at arm's length within the meaning of the **Income Tax Act (Canada)**, as amended, has been convicted of an offence under any taxation statute in Canada;
- h. the Supplier has been convicted under the **Criminal Code** or other legislation;
- i. the Supplier has been convicted under any environmental legislation;
- j. the Supplier has been convicted relating to product liability or occupational health or safety;
- k. the Supplier has been convicted under the financial securities legislation;
or
- l. poor quality of work previously received.

8.5.3 The City reserves the right to reject a bid from a Supplier, or from any person or Company that is affiliated, associated or controlled, as defined in the **Canadian Business Corporations Act, R.S.C., 1985, c.C-44**, by the Supplier that is indebted to the City. The Director of Corporate Services may choose to accept a bid and exercise the City's legal or equitable right to deduct the indebted amount from amounts owing to the Supplier.

8.6 Tied Bids

8.6.1 If the lowest compliant Bids from two or more bidders are identical in cost or unit price, the Director of Corporate Services, in consultation with the City Solicitor and the originating department Director, are authorized to enter into negotiations with the bidders who have submitted the identical prices in an attempt to resolve the tied bid. The negotiations may consider the following options:

- a. Awarding the work to multiple suppliers, where practical
- b. Basing the price on an alternative factor submitted in the Bids i.e., several items may have been bid but only one was the price used to award
- c. Providing an opportunity for the tied bidders to submit new prices
- d. In the case where two bidders are tied, the successful bidder may be determined by a coin toss
- e. In the case of tied Bids between more than two bidders, the successful bidder may be determined by the drawing of a name

8.7 All Bids Exceed Approved Budget

8.7.1 In the event that all Bids exceed the Approved Budget, and staff are not prepared to seek additional funding, the originating Department Director may, in consultation with both the Director of Corporate Services and the City Solicitor opt for one of the following:

- a. Approach the preferred bidder to discuss options to change the scope of work and obtain a corresponding price change for the reduced scope
 - b. Approach one or more of the lowest compliant bidders to discuss options to change the scope of work and obtain a corresponding price change from each for the reduced scope
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- c. Advise all bidders that, the Bid Solicitation process will be cancelled and a review of the scope of work will be undertaken and that a new Bid Solicitation may be issued later.

Part 9: Circumstances under which a Bid Solicitation Process is Not Required

The purpose of Part 9 of this By-law is to set out the circumstances under which a Bid Solicitation process is not required.

9.1 Non-Competitive Process

9.1.1 In certain situations, goods and/or services, that might reasonably be expected to be procured through a Bid Solicitation process, may be obtained through a non-competitive bidding process.

9.1.2 Non-competitive procurement is permitted in the following circumstances when approved by the Director of Corporate Services in writing prior to any discussion with the supplier:

- a. When it is deemed that security, police matters, or confidential issues are involved; procurement may be made in a manner that protects the confidentiality of the supplier or the City.
- b. When the required good or service is covered by an exclusive right such as a patent, copyright or exclusive licence.
- c. When the procurement is already covered by a lease-purchase Agreement where payments are partially or totally credited to the purchase.
- d. When it is necessary to ensure continuity of responsibility, compatibility with existing products and or previous work, or to avoid violating warranty/guarantee requirements when service is required.
- e. When no Bids were received in a Bid Solicitation process.
- f. When the required good or service is in short supply due to market conditions.
- g. When the good or service can be provided by any of the subsidiaries of the City of Peterborough Holdings Inc., and City staff elect to use their services.
- h. When the good or service is available only through a sole or single source.
- i. When a Consultant has been used to provide a service, and additional work is required that builds upon or is dependent upon the previous work undertaken, and when it could not reasonably be determined at the time the original work was approved additional services would be required.

For any non-competitive procurement circumstances described in Section 9.1, approval authority is the same as set out in Part 8 of this By-law.

9.2 Payments not requiring a Bid Solicitation Process

In addition to the non-competitive procurement circumstances described in Section 9.1, there are a number of payments made in the ordinary course of business that are considered as a transfer of funds or fulfillment of legislated requirements, and do not require a Bid Solicitation process.

The following payments shall not require a Bid Solicitation process:

9.2.1 General Expenses

- a. Workers Safety Insurance Board payments
-

- b. Payroll Deduction Remittances such as Income Tax, Unemployment Insurance Premiums Employer Health Tax
- c. Debt principal and interest payments
- d. Loan and mortgage payments
- e. HST remittances
- f. Licenses (e.g. vehicles, elevators, radios, and computer hardware and software)
- g. Real Property payments including purchases, leases, easements, encroachments and licenses, or the like
- h. Insurance claims, legal agreements or settlements and arbitration awards
- i. Employee/Council travel expenses
- j. Other training related expenses such as memberships in professional organizations, staff attendance of seminars, workshops, conferences or courses, subscriptions, periodicals or magazines

9.2.2 Professional Services

- a. Human Resources Services
- b. Employee training, facilitators, or speakers
- c. Medical Professional Services
- d. Expert Witnesses
- e. Outside Legal Counsel
- f. Individuals selected from the Alternate Work Force Roster who provide a service either as an employee or a consultant, where the cost per assignment is expected to be less than or equal to \$25,000 and their use has been approved by the Chief Administrative Officer
- g. Municipal Tax Equity (MTE) as approved in annual budgets
- h. Fees related to real estate transactions such as commissions and legal fees
- i. Otonabee Region Conservation Authority fees for services rendered

9.2.3 Payments to other Organizations/Individuals

- a. Other Municipalities, for example; the County of Peterborough for EMS, property taxes
 - b. Fire hydrant costs to Peterborough Utilities Commission
 - c. Street light maintenance costs payable to the Peterborough Utilities Group of Companies
 - d. Annual requisitions approved as part of the budget process to a local board or agency such as Otonabee Region Conservation Authority, Peterborough Humane Society, Peterborough County-City Health Unit, Little Lake Musicfest, Showplace, Canadian Canoe Museum, Race Relations Committee, Peterborough Green-Up and Greater Peterborough Area Economic Development Corporation (GPAEDC)
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- e. Sewer surcharge collection fees payable to Peterborough Utility Services Inc.
- f. Social Services agencies that provide service to the City through Service Agreements such as Daycare and Hostel Operators
- g. Tenants and promoters using the City arenas
- h. Social Housing providers and other related support organizations such as the Housing Resource Centre and Access Peterborough
- i. Municipal Property Assessment Corporation fees for property assessment services and support costs
- j. Organizations on whose behalf the City has received donations and issued income tax receipts
- k. Capital grants to other organizations, as approved in budgets
- l. Annual maintenance and support for hardware or software that is only available through a sole source
- m. Transportation, recycling and disposal of municipal Household Hazardous Waste as per Agreement with Stewardship Ontario
- n. Services that can be provided directly by the City's Cooperative Purchasing Group members (such as the printing of the City's budget documents by the Trent University Print Shop)

9.2.4 Special Services

- a. Various transfers to Social Services clients
- b. Postal services
- c. Communications, such as telephones, cell-phones, personal digital devices, cable, media, and advertising
- d. Payments to developers as stipulated in Subdivision or other Development Agreements
- e. Investments
- f. Bank charges
- g. Expenses related to an event which will be recovered in full from a third party

9.2.5 Utilities

- a. Electricity
 - b. Water
 - c. Natural gas
 - d. Rail crossing maintenance
 - e. Cable
-

9.2.6 Refunds

- a. Property tax refunds
- b. Building permit refunds
- c. Cancelled services, program, events, tickets

9.2.7 Transfer of Funds Collected on behalf of a third-party

- a. Go Transit Revenue
- b. Ticket Revenue – Peterborough Memorial Centre Events

9.3 Flexibility to Add Additional Exempt Purchases

The Director of Corporate Services is authorized to add similar expenditures to the list of payments in Section 9.2.

9.4 Payment Basis for Exempt Expenditures

Payments for the exempt expenditures may be made on the basis of an invoice from a supplier, or based on an internal cheque request, with the appropriate account number(s) indicated and which has been signed by an employee with applicable approval authority, as set out in Section 9.5. In some cases, a purchase requisition and purchase order or an Agreement may be required.

9.5 Approval Authority for Exempt Payments Where Sufficient Approved Budget Exists

9.5.1 The following approval limits apply for payments set out in Section 9.2, where sufficient approved budget exists:

- a. Less than or equal to \$10,000 may be approved by a Manager
 - b. Less than or equal to \$10,000, and which is to be charged to a Council or Civic Functions account, may be approved by the Mayor
 - c. Greater than \$10,000 and less than or equal to \$25,000 may be approved by the Department Director
 - d. Greater than \$25,000 may be approved by the originating Department Director and by either the Chief Administrative Officer or Director of Corporate Services
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Part 10: Authority to Transfer Approved Budgets or Commit Future Years' Budget

The purpose of Part 10 of this By-law is to set out authority levels to transfer Approved Budgets or commit future year's budget.

10.1 Delegated Authority to Approve Budget Transfers

10.1.1 Other than when Section 10.1.2. applies, the Chief Administrative Officer or the Director of Corporate Services are authorized to transfer approved budgets, including any uncommitted General Contingency, or the Capital Levy Reserve where the net required transfer is equal to or less than \$50,000. All such transfers will be reported in the Quarterly Financial Report.

10.1.2 During the period of an election year, when the actions of the outgoing Council have become restricted in accordance with Section 275 of the **Municipal Act 2001**, as amended, or when there are no meetings of the outgoing Council held after nomination day during which budget transfers can be authorized by Council, the Chief Administrative Officer, in consultation with the Director of Corporate Services, is authorized to transfer approved budgets, including any uncommitted General Contingency, or the Capital Levy Reserve, and to pre-commit future year(s)' budget(s). All such budget transfers or budget pre commitments will be reported in the December 31 Quarterly Financial Report.

10.1.3 The Chief Administrative Officer or the Director of Corporate Services are authorized to create a budget where 100% funding has become available, subsequent to the annual budget approval, for a specific good or service, and where no new full time staff are required. All such budget creation will be reported in the Quarterly Financial Report.

10.2 When Council Must Approve Budget Transfers or Creation

10.2.1 Other than when Section 10.1.2 applies, Council must approve budget transfers or creation when any of the following applies:

- a. Commitments against future years' budget(s) is required
- b. Net transfers of approved budgets is greater than \$50,000

10.2.2 Council must approve budget transfers or creation when a budget transfer or creation requires additional full-time staff complement.

Part 11: Specifications

The purpose of Part 11 of this By-law is to set out how specifications to be included in a Bid Solicitation document are to be developed.

11.1 Department Director Responsible for Preparing Specifications and Scope

The Department Director whose budget provides for the procurement of goods and services shall be responsible for the preparation of all specifications and/ or the scope of work to be used for the procurement of such goods and/or services.

11.2 Specifications Not to be Brand Specific

Where practical, specifications or the scope of work or terms of reference shall be detailed but not brand specific, so that potential Suppliers may provide alternatives in the event an equal or better-proven product or method is available.

11.3 Request for Proposals Specifications

Where a Request for Proposals is issued, the requesting Department shall prepare Evaluation Criteria and weightings for the criteria in conjunction with the Director of Corporate Services. The document shall clearly distinguish those requirements that are deemed mandatory or non-mandatory and shall clearly outline how these items will be evaluated.

11.4 Seeking Information from Suppliers

11.4.1 Preparation of the operating or capital budget or specifications for procurement may require information from potential bidders to determine what is available. Contact with suppliers, that does not preclude them from submitting a Bid Solicitation that may be subsequently issued, is permitted with the following conditions:

- a. Staff may contact potential Suppliers or meet with potential Suppliers informally in the gathering of information. Meetings could be in the form of office sales calls, demonstrations, trade shows, site visits, etc.
 - b. When discussing, requesting, or receiving information from Suppliers, staff must inform the Suppliers that the nature of the undertaking is exploratory and for information or budgetary purposes only, and that any subsequent request to purchase will be conducted according to the City's Purchasing By-law.
 - c. No commitment can be made to any Supplier.
 - d. No information can be given to a Supplier that would give the Supplier an advantage in a future Bid Solicitation.
 - e. Typical information required as part of developing the budget or seeking information might include:
 - i. An estimated cost and a reasonably definitive scope of work or specification
 - ii. Assisting in determining the appropriate size or capacity of the product or service
 - iii. Some knowledge of future cost implications e.g. maintenance
 - iv. A determination as to whether long-term contract arrangements are involved
 - v. Availability of alternatives
-

- vi. Availability of competition - vendors, manufacturers, distributors, resellers, etc.
- vii. Sources of independent information or evaluations
- viii. Basic specifications and/or recognized Supplier independent standards
- ix. Delivery timeframes
- x. Warranty/Service arrangements
- xi. Training and support available
- xii. Identification of any 'hidden' costs
- xiii. Any Supplier qualification/certification requirements
- xiv. Licensing requirements and associated costs

11.5 Supplier Who Assists in Developing Specifications

11.5.1 Where a Request for Information is not used, and it is necessary to do more than seek basic information from a Supplier, as described in Section 11.4 it may be desirable to ask a potential supplier to help City staff design or develop specifications, or to be used at a preliminary stage in a project, or otherwise help define a requirement that goes beyond the normal level of service expected from a Supplier. When such services are utilized:

- a. The Supplier will be considered as a consultant and shall not be eligible to bid, whether or not a fee is paid to the Supplier unless in the opinion of the Director of Corporate Services exceptional circumstances exist.
- b. The detailed specifications shall be approved by the Director of the originating Department and shall become the property of the City for use in obtaining competitive Bids.

11.6 Accessibility

When preparing the specifications, the originating Department shall consider the requirements of the **Ontarians with Disabilities Act 2001**, as amended, and the **Accessibility for Ontarians with Disabilities Act 2005**, as amended, and apply those requirements with respect to procuring Goods and/or Services and in the development of the Specifications.

Part 12: Integrity of the Procurement Process and Protecting the Interests of the City

The purpose of Part 12 of this By-law is to set out how the integrity of the Purchasing By-law, the interest of the public, and the interest of the City will be protected.

12.1 General Principles

12.1.1 In order to ensure that integrity is maintained in the procurement process, and to protect the interests of the City, the public and persons participating in a procurement process, the following general principles shall be adhered to for any procurement:

a. Open Process

Requirements are clearly communicated to Bidders. The method of evaluating the Bid and the Evaluation Criteria used to evaluate the Bid, and the method and format of submitting Bids, are clearly addressed in the Bid Solicitation document.

b. Fairness

Standard documents such as Instructions to Bidders, Terms and Conditions and bidding forms, are used, to ensure consistency of content and format within documents issued by the City. All details regarding the closing date, time and location of all Bid Solicitation processes are clearly specified, and the rules of bid acceptance are applied consistently. All bidders and all Bids are treated equally and without bias or favouritism.

c. Accessibility

Specifications and terms of reference, whenever possible, are not restrictive and allow for open competition from the marketplace. Where possible, Requests for Tenders, Requests for Proposals, and Requests for Formal Quotations are advertised on the City's website or through online portals that aid in connecting suppliers with the City and where practical, the documents are available for down loading. At the discretion of the Director of Corporate Services, the competitive bidding opportunity may also be advertised in local newspapers, and national newspaper where deemed appropriate, to promote competition.

d. Accountability

All Bids are kept secure prior to the closing date, during the evaluation period, and following contract award. All proprietary information and Bids submitted in confidence are handled in accordance with the **Municipal Freedom of Information and Protection of Privacy Act**, as amended or applicable legislation. Where practicable, Requests for Proposals are evaluated by representatives from more than one Division or Department to allow for various perception and opinions when reviewing and evaluating proposals prior to contract award. All Bids rating results and related supporting documentation are kept on file in accordance with the City's Records Retention By-law for future reference, audit or examinations. Procurement procedures are reviewed on a regular basis to ensure the procedures are clear, logical, current, and in accordance with accepted industry standards.

e. **Employee Conflict of Interest**

Employees of the City shall not have a pecuniary interest, either directly or indirectly, in any evaluation of or contract with the City or with any person acting for the City in any contract for the supply of goods and/or services for which the City pays or is liable, directly or indirectly to pay unless such interest has been declared. Employees of the City are required to declare any pecuniary interest, either direct or indirect, in writing, to their Department Director with a copy to the Director of Corporate Services indicating the specific nature of the conflict. Any conflict of interest that cannot be isolated and resolved will be reported to the Chief Administrative Officer.

12.2 Purchasing Code of Ethics

12.2.1 In addition to the above general principles, all employees who are authorized to carry out procurement on behalf of the City shall adhere to the following Code of Ethics:

- a. Open and honest dealings with everyone who is involved in the purchasing process. This includes all businesses with which the City contracts or from which it purchases goods and/or services, as well as all members of staff and of the public who utilize the services of the Purchasing Section.
 - b. Fair and impartial award recommendations for all competitive processes. City staff may not extend preferential treatment to any supplier, including local suppliers. This is prohibited by the Province of Ontario's **Discriminatory Business Practices Act**, as amended, and, in any event, is not good business practice, since it limits fair and open competition for all suppliers and is, therefore, a detriment to obtaining the best possible value for each tax dollar.
 - c. An irreproachable standard of personal integrity. No gifts or favours may be accepted as set out in Section 5.1.1.c. No public endorsement of any potential Supplier may be made, in order to give that Supplier an advantage over others.
-

Part 13: Emergency Procurement

The purpose of Part 13 of this By-law is to set out guidelines for procurement during an Emergency.

13.1 Authorized Actions Related to an Emergency

13.1.1 As the result of an Emergency, the following actions are authorized:

- a. During the emergency:
 - i. the Chief Administrative Officer, or the requesting Department Director or Division Manager or their designates, shall approve the purchase of goods and/or services deemed necessary to remedy the emergency.
 - ii. procurement shall take place by the most expedient and economical means given the relevant circumstances.
 - iii. the Purchasing Section will provide cooperative assistance when requested to expedite any purchasing documents necessary to deal with the emergency.
 - b. As soon as practicable after the Emergency, if an Emergency purchase greater than \$25,000 has been made pursuant to this Part, and where the expenditure would normally have been subject to a competitive process, a report shall be prepared by the requesting Department Director, explaining the action taken and reasons therefore, and submitted as follows:
 - i. For amounts greater than \$25,000 but less than or equal to \$50,000, to the Chief Administrative Officer;
 - ii. For amounts greater than \$50,000 but less than equal to \$100,000, to the Administrative Staff Committee;
 - iii. For amounts greater than \$100,000, to Council.
-

Part 14: Cooperative Purchasing

The Purpose of Part 14 of this by-law is to describe how a Cooperative Purchasing process can be used.

- 14.1** Participating in a Cooperative Purchase requires written prior approval of the Director of Corporate Services.
 - 14.2** The City may issue a competitive solicitation in which the City is the largest purchaser. All other participating agencies shall be invited to the opening of the bids submitted.
 - 14.3** The City may also participate with other government agencies, including the Provincial and Federal Government, or public authorities in cooperative purchases when it is in the best interest of the City to do so as determined by the Director of Corporate Services. The procedures and policies of the agency issuing the competitive solicitation will be followed. The City participation can be either at the initial stages as part of a competitive bid solicitation that is being issued by the agency or after award to obtain the agency prices.
 - 14.4** Each agency will obtain appropriate approval, prepare and execute an Agreement, where required, order, receive, inspect and pay for the goods and/or service it uses.
 - 14.5** Award approval for cooperative purchases will be as set out in Part 8 of this by-law.
-

Part 15: Disposal of Surplus Goods and Real Property

The purpose of Part 15 of this by-law is to set out the policy for the disposal of surplus or obsolete goods and other assets.

15.1 Disposal of Surplus and Obsolete Goods

The Disposal of surplus and obsolete goods shall be evaluated on a case-by-case basis. The initiating Department Director, in conjunction with the Director of Corporate Services, have the authority to sell, exchange, or otherwise dispose of goods declared as surplus to the needs of the City, where it is cost effective and in the best interest of the City to do so.

15.2 Surplus and Obsolete Goods May:

- 15.2.1 a. Be offered for sale to other departments or public agencies
- b. Be sold by external advertisement, formal request, auction or public sale (where it is deemed appropriate, a reserve price may be established)
 - i. If a good is sold through a formal competitive process, the approval limits for the sale shall be in accordance with the approval authority as set out in Part 8.
- c. Be sold or traded to the original supplier or others in that line of business where it is determined that a higher net return will be obtained than by following other procedures
- d. Be donated to a registered charity
- e. Be recycled; or
- f. Be scrapped, in the event that all efforts to dispose of goods by sale are unsuccessful.

15.2.2 The sale of such goods to employees, Municipal Councillors, or their family members, other than in accordance with Section 15.3.2., is prohibited.

15.3 Disposition of Real Property

15.3.1 The process to be used to dispose of real property owned by the City shall be in accordance with Section 268 of the **Municipal Act, 2001**, as amended and City By-law 95-62 – “Being a by-law to Establish Procedures to Govern the Sale of Real Property”, or any successor by-law.

15.3.2 During the period of an election year, when the actions of the out going Council have become restricted in accordance with Section 275 of the **Municipal Act 2001**, as amended, or when there are no meetings of the outgoing Council held after Nomination Day during which the disposal of real property can be approved by Council, the Chief Administrative Officer is authorized to dispose of real property. All such sales will be reported to the new Council at the first available opportunity.

Part 16: Sustainable Procurement

The purpose of Part 16 of this by-law is to set out the policy for Sustainable Procurement.

- 16.1** The City is committed to the purchase of environmentally friendly goods and/or services with due regard to the protection of the environment and public health, conservation of natural resources, reduction of toxicity, and the minimization of waste. All departments, in conjunction with the Purchasing Section, are encouraged to seek additional ways of achieving the goal of being environmentally friendly and responsible by thorough review of each procurement process of goods or services to ensure that wherever possible and economically feasible, specifications/terms of reference provide for:
- a. Expanded use of products and services that contain post-consumer recyclable content to the maximum level allowable, without significantly affecting the intended use or performance of the product or service.
 - b. Consideration of products, certified by an independently accredited organization, that prevent the over consumption of energy and other resource and reduce the production of waste, and the release of substances harmful to the environment and/or public health.
 - c. Consideration of products certified by an independently accredited organization, which favour environmentally-benign, post-consumer, bio-degradable, and non-toxic ingredients.
 - d. Consideration for the process by which products are manufactured, operated, transported, stored, packaged and the method of disposal. It is also recognized that a cost analysis may be required to ensure that the products are made available at competitive prices.
 - e. Consideration of energy efficiency and water conservation where applicable.
 - f. Consideration of Leadership in Energy and Environmental Design (LEED) for new buildings and renovations.
-

Part 17: Agreements

The purpose of Part 17 of this by-law is to set out when a written Agreement for procurement is required; the type of Agreement and how the Agreement is to be produced, who is authorized to execute the Agreement, and how and when an Agreement can be amended.

17.1 An Agreement shall be required when one or more of the following apply:

- a. The terms and conditions associated with a standard Purchase Order are deemed insufficient, as the requirements are more complex. Although not an exhaustive list, an Agreement may be necessary to outline the following:
 - i. a payment schedule
 - ii. the work to be done
 - iii. what the City is providing
 - iv. insurance requirements
 - v. liability and indemnification requirements
 - vi. timelines
 - vii. Surety is required
 - viii. Construction Lien holdback
 - ix. other conditions that must be met
- b. There is a mandatory requirement included in any funding Agreements, that the City has entered into to fund the purchase of goods and/or services, that an Agreement will be entered into; or
- c. The Vendor requires an Agreement.

17.2 If an Agreement is required:

- a. It shall be stated in any formal Bid Solicitation document and a sample may be attached to the Bid Solicitation document.
 - b. The City Solicitor, in consultation with the originating Department Director, or designate, shall prepare an Agreement.
 - c. The Agreement shall be signed by the City Clerk and one of the following:
 - i. The Chief Administrative Officer or the Director of Corporate Services if the cost of the work to be undertaken is greater than \$25,000.
 - ii. A Department Director if the cost of the work is \$25,000 or less.
 - d. A separate by-law to authorize the entering into of an Agreement is not required where all the requirements of this Purchasing By-law have been met.
 - e. Work or services shall not proceed prior to the execution of an Agreement or Purchase Order unless in the opinion of the City Solicitor exceptional circumstances exist.
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17.3 Where a formal Agreement is not required, the City may issue and execute a Purchase Order incorporating the relevant terms and conditions.

17.4 Amendments to Agreements

17.4.1 No amendment to an Agreement shall be made unless the amendment, in the opinion of the Director of Corporate Services or the City Solicitor, is in the best interest of the City.

17.4.2 No amendment that changes the original award price of an Agreement shall be made without a corresponding change in requirement or scope of work.

17.4.3 A Director may approve amendments to Agreements and resulting additional payments to suppliers provided that the total value of the original Agreement, plus any previous amendments, plus the value of the additional proposed amendment, are within their respective approval authority as noted in Part 8 of this by-law and can be accommodated within the Approved Budget.

17.4.4 The Chief Administrative Officer may approve amendments to Agreements and resulting additional payments to suppliers provided that:

- a. The total value of the original Agreement, plus any previous amendments, plus the value of the additional proposed amendment, are within the respective approval authority as noted in Part 8 of this by-law and can be accommodated within the Approved Budget.
- b. Where the original award was approved by the Administrative Staff Committee or Council and the value of any previous amendments plus the value of the additional proposed amendment are less than \$10,000 and can be accommodated within the Approved Budget.

17.4.5 The Administrative Staff Committee may approve amendments to Agreements and resulting additional payments to suppliers provided that:

- a. The original award was approved by the Chief Administrative Officer or Department Director and the value of any previous amendments, plus the value of the additional amendment is greater than \$50,000 but less than \$100,000 and can be accommodated within the Approved Budget.
- b. The original award was approved by the Administrative Staff Committee and the resulting additional payments can be accommodated within the Approved Budget.
- c. Where the original award was approved by Council and the value of any previous amendments, plus the value of the additional proposed amendment is less than 10 percent of the original agreement or \$100,000 and can be accommodated within the Approved Budget.

17.4.6 Council authority to amend an agreement and the resulting additional payments to suppliers is required in the following circumstances:

- a. Where the original award was approved by Council, additional Council approval is required for expenditures that exceed the original price by more than 10 percent or \$100,000.
 - b. Where the total value of the original Agreement, plus any previous amendments, plus the value of the additional proposed amendment, cannot be accommodated within the Approved Budget, the Department Director shall submit a report to Council recommending the amendment and proposing the source of financing.
-

- c. Where the Chief Administrative Officer or Director of Corporate Services deems it in the City's best interest that Council approve the amendment of the agreement.

17.5 Exercise of Agreement Renewal Options

17.5.1 Where an Agreement contains an option for renewal, such option may be exercised, provided that all of the following apply:

- a. The supplier's performance in supplying the goods and/or services is, in the opinion of the Department Director and Director of Corporate Services, considered to have met the requirements of the Contract.
- b. The Department Director or designate provides the Director of Corporate Services with a written explanation as to why the renewal is in the best interest of the City.
- c. The Department Director and the Director of Corporate Services agree that the exercise of the option is in the best interest of the City.
- d. Funds are available in appropriate accounts within the Approved Budget.

17.6 Authority to Exercise Options to Renew

17.6.1 Except as provided in 17.6.2, options to renew an Agreement require the following approvals:

- a. Options to renew that will cost more than \$100,000, by Council or Administrative Staff Committee, depending on who originally approved the award.
- b. Options to renew that will cost more than \$50,000 and less than or equal to \$100,000, by the Administrative Staff Committee.
- c. Options to renew that will cost more than \$25,000 and less than or equal to \$50,000, by the Chief Administrative Officer or the Director of Corporate Services.
- d. Options to renew that will cost \$25,000 or less, by a Director.

17.6.2 Where the original bid and resulting award included a provision for additional units to be purchased at a subsequent date, based on such factors as satisfactory performance, operational needs and annual budget approvals; the award of the additional units may be approved by the Administrative Staff Committee regardless of the size of the expenditure.

17.7 Summary of Amendments to Agreements

Appendix C to this By-law provides a summary of the approval of amendments to agreements.

Part 18: Review/Evaluating Effectiveness of the Procurement Process

The Purpose of Part 18 of this by-law is to set out how and when the effectiveness of the procurement process will be reviewed and evaluated.

18.1 Review to be Undertaken Prior to the End of Each Council Term

The Director of Corporate Services, in consultation with the appropriate City staff, will conduct a detailed review of this By-law on an as-required basis, but at a minimum, shall report to each Council, prior to the end of its term, with any recommended amendments.

18.2 Factors to be Considered During Review

The review conducted by the Director of Corporate Services shall take into consideration current and future professional practices, industry standards, market conditions, Federal/Provincial Government directions/policies, technological developments and advancements, policies in the by-law where, through application, it becomes apparent that clarification is needed, and the impact that any recommended changes may have on potential Suppliers to the City.

18.3 By-Law Repealed

By-law 10-132 is repealed

18.4 Effective Date

This by-law becomes effective September 30, 2014.

18.5 Short Title

This By-law may be referred to as the "Purchasing Policy By-law".

By-law read a first, second and third time this 30th day of September 2014.

(Sgd.) Daryl Bennett, Mayor

(Sgd.) John Kennedy, City Clerk

Appendix A - Procurement Processes

Ref	If goods or services to be purchased Before all Applicable Taxes		Procurement process	Method of Acquisition, Approval Authority and Contractual Arrangement
	Greater than	Less than = to		
Col 1	Col 2	Col 3	Col 4	Col 5
1	-	10,000	Low Value Procurement Process Purchasing Card Direct Acquisition When vendor cannot use purchasing card	1. Purchased directly by card holder. 2. Monthly summary reviewed and signed by immediate supervisor. 3. Finance staff pay bank monthly 1. Vendor invoice signed by Director or Manager 2. Then forwarded to Purchasing for processing
2	10,000	25,000	Informal Quotation Where practical 3 informal price quotations	1. Purchase requisition prepared by originating department with results of quotation attached and approved budget referenced. 2. Purchase requisition to be signed by Director or Manager - depending on \$ value 3. Forwarded to Purchasing for processing 4. Contractual Arrangement can be Purchase Order or Legally Executed Agreement signed by Clerk and Department Director 5. When permitted by the Vendor, the payment transaction may be processed on the Purchasing Administrator's Purchasing Card.
3	25,000	50,000	Request for Proposals Request for Tenders Request for Formal Quotation	1. Purchase requisition prepared by originating department with results of bid solicitation attached and approved budget referenced. 2. Purchase requisition to be signed by originating department director. 3. Purchased requisition signed by CAO or designate 4. Forwarded to Purchasing for processing 5. Contractual arrangement can be Purchase Order or Legally Executed Agreement signed by Clerk and CAO or Director of Corporate Services
4	50,000	100,000	Request for Proposals Request for Tenders	1. Award report prepared and approved by Administrative Staff Committee 2. Report to include approved budget reference 3. Purchase requisition prepared by originating department with copy of award report to the Administrative Staff Committee, minutes of meeting showing approval attached, and signed by originating Department Director 4. Forwarded to Purchasing for processing 5. Contractual arrangement can be Purchase Order, or Legally Executed Agreement signed by Clerk and CAO or Director of Corporate Services
5	100,000		If Request for Tender and awarded to the lowest bidder and can be accommodated within the approved budget	1. Award report prepared and approved by Administrative Staff Committee 2. Report to include approved budget reference 3. Purchase requisition prepared by originating department with copy of award report to the Administrative Staff Committee, minutes of meeting showing approval attached, and signed by originating department Director 4. Forwarded to Purchasing for processing 5. Contractual arrangement can be Purchase Order, CCDC with supplementary conditions, OAA contract document or Legally Executed Agreement signed by Clerk and CAO or Director of Corporate Services
6	100,000		Request for Proposals Request for Tenders where not awarded to lowest bidder or insufficient approved budget exist to accommodate	1. Award report prepared and approved by Council (During an election year, Council Approval Authority is delegated to Administrative Staff Committee under certain conditions) 2. Report to include approved budget reference 3. Purchase requisition prepared by originating department with copy of award report to Council 4. Forwarded to Purchasing for processing 5. Contractual arrangement can be Purchase Order, CCDC with supplementary conditions, OAA contract document or Legally Executed Agreement signed by Clerk and CAO or Director of Corporate Services

Appendix B - Approval Limits

Ref	Before all Applicable Taxes		Approval by
	Greater than	Less than = to	
Col 1	Col 2	Col 3	Col 4
1	-	10,000	Manager or other "delegated" staff as specifically designated by the Director and approved by Director of Corporate Services in writing
2	-	10,000	Mayor
3	10,000	25,000	Director
4	25,000	50,000	Chief Administrative Officer
5	50,000	100,000	Administrative Staff Committee
6	100,000	No limit	Administrative Staff Committee
	If the bid solicitation process is a Request for Tender that is being awarded to the lowest bidder and the expenditure is within the Approved Budget (During an election year additional approval authority is possible under certain conditions)		
7	100,000	No Limit	Council
	Bid Solicitation or Award Other than Request for Tender awarded to the lowest bidder and the expenditure is within the Approved Budget (During an Election year Council approval authority is delegated to the Administrative Staff Committee under certain conditions)		

Appendix C - Approval of Amendments to Agreements

To use this chart, first determine the total value of Original Award plus Amendments to date and who Approved the Award and/or Amendments.					
Ref	By-law Section	Value of Previous Amendment Plus Proposed	Total Value of Original Plus Proposed	Original Approval	Approval of Proposed Amendment
Col 1	Col 2	Col 3	Col 4	Col 5	Col 6
1	17.4.3		< \$25,000	Director	Director
2	17.4.4.a		< \$50,000	CAO	CAO
3	17.4.4.b	< \$10,000	No Limit	ASC or Council	CAO
4	17.4.5.a		< \$100,000	CAO	ASC
5	17.4.5.b		No Limit	ASC	ASC
6	17.4.5.c		< 10% or \$100,000	Council	ASC
7	17.4.6.a		> 10% or \$100,000	Council	Council
8	17.4.6.b		Cannot be accommodated within Approved Budget	Director, CAO, ASC, Council	Council
9	17.4.6.c		CAO or Director of Corporate Services determines Council should approve amendment	Director, CAO, ASC, Council	Council