

## The Corporation of the Town of Minto By-law 2017-63

### A By-law to Establish Policies and Procedures Respecting the Procurement of Goods and Services for the Town of Minto

WHEREAS section 270 (1) of the *Municipal Act, 2001* S.O. 2001, c. 25 (the "Act") provides that a municipality shall adopt and maintain policies respecting the procurement of goods and services; and

AND WHEREAS section 5 (3) of the Act provides that a municipal power shall be exercised by by-law unless it is specifically authorized to do otherwise; and

AND WHEREAS section 5 (1) of the Integrated Accessibility Standards, Ontario Regulation 191/11, provides that municipalities shall incorporate accessibility design, criteria and features when procuring or acquiring goods, services or facilities, except where it is not practicable to do so; and

NOW THEREFORE the Town of Minto Council hereby enacts as follows:

#### 1.0 By-law Purpose

This by-law shall be known as the Purchasing By-law for the Town of Minto and is adopted for the following purposes:

- (a) to encourage competition among contractors, bidders and service providers;
- (b) to obtain best value in the procurement of deliverables;
- (c) to ensure fairness, objectivity, accountability and transparency in the procurement process consistent with Town policies regarding fiscal accountability and transparency;
- (d) to ensure goods and services are procured by the Town in a manner consistent with its code of conduct and conflict of interest legislation;
- (e) to encourage environmentally responsible and sustainable procurement while maintaining fiscal prudence; and
- (f) to promote and implement procurement practices that support the principles of the *Accessibility for Ontarians with Disabilities Act, 2005*.

#### 2.0 Applicability

This by-law shall apply to the purchasing or disposing of goods and services with the following exceptions:

- a) Purchase, sale or disposition of real property;
- b) Purchase of goods or services needed by the City Clerk to carry out the requirements of the *Municipal Elections Act*;
- c) All public or private utilities used by the municipality including repairs, service or upgrades to same;
- d) Legal and other consulting or professional services
- e) General corporate expenses including employee documentation such as function abilities forms, debentures, claim settlements, legal advice, arbitrators, historical experts, damage claims, Workplace Safety and Insurance (WSIB) remittance, or customs brokerage services;
- f) Council and Staff training, professional development, accreditation or membership in professional organizations and related travel, accommodation or meal expenses;
- g) Sole providers of goods or services supplied by any level of government or their agencies;

### 3.0 Definitions

In this by-law the following definitions shall apply:

- i. "Agreement" means a formal written legal agreement or contract for supply of goods, services, equipment or construction;
- ii. "Authorized purchaser" means the CAO Clerk , Department Head, Supervisor, Lead Hand or other person authorized to acquire goods and services for the Town;
- iii. "award" means the authorization to proceed with the purchase of deliverables;
- iv. "best value" means, in relation to a purchase, that the purchase represents the optimal balance of high quality and financial terms considering requirements of this by-law and applicable Town policies, and without limiting the generality of the foregoing suppliers have the capacity, skill, ability, past performance, accessibility, quality, service, availability, affordability, reliability, best practices, environmental benefit, proximity and similar as the case may be to supply such goods, services and/or supplies.
- v. "bid" means a submission received in response to a call for bids, and includes a request for proposal or quotation as well as a tender;
- vi. "Bid Review Committee" means the committee established under Section 11 of this bylaw;
- vii. "bidder" means any legal entity that submits a bid in response to a call for bids and includes a proponent;
- viii. "CAO Clerk" means the Chief Administrative Officer of the Town or designate, or subsequent position or title representing the administrative head of the municipality;
- ix. "Construction" means construction, reconstruction, demolition, repair or renovation of a building or structure and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures to a building or structure;
- x. "Consulting and professional services" means those services requiring the skills of a professional for a specialized service and includes the services of architects, engineers, designers, surveyors, planners, accountants, auditors, management professionals, marketing professionals, software and information technology experts, financial consultants, lawyers, law firms, real estate agents and brokers, environmental planners and engineers, hydrogeologists, transportation planners and engineers, communications consultants and any other consulting services which may be required by the Town;
- xi. "Contract" means any form of binding agreement between the Town and a contractor for the purchase of deliverables and includes a purchase order;

- xii. "Contractor" means any legal entity to whom a contract is awarded and includes a vendor, supplier, service provider and consultant;
- xiii. "Council" means the Municipal Council of the Town;
- xiv. "Department Head" means the head of a specific Department of the Town;
- xv. "Designate" means the person or persons assigned the duties and responsibilities on behalf and in the absence or incapacity of the person charged with the principal authority to take the relevant action or decision;
- xvi. "Disability" shall have the same meaning as set out in the Accessibility for Ontarians with Disabilities Act, 2005 or any successor legislation.
- xvii. "goods" means personal property, including raw materials, products, supplies, equipment and other physical objects of every kind and description;
- xviii. "Mayor" means the Mayor of the Town or in absence of the Mayor the Deputy Mayor
- xix. "Proposal" means a submission received in response to a request for proposals;
- xx. "Purchase Order" means the purchasing document used to formalize a purchasing transaction with a vendor.
- xxi. "Purchase Requisition" means a request for goods and/or services for which budget is approved prepared by a Department Head or designated and sent to the Treasurer.
- xxii. "Quotation" means a bid received as a result of a written or verbal request by the Town for the supply of goods and services;
- xxiii. "Request for proposals" means a request for proposals issued under this bylaw
- xxiv. "Request for quotations" means a request for quotations issued under this bylaw
- xxv. "Request for tenders" means a request for tenders issued under this bylaw;
- xxvi. "Responsible" means a bidder or offerer who is deemed to be fully technically and financially capable of supplying the goods or services requested in the solicitation.
- xxvii. "Services" may include, but are not limited to, telephone, gas, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical services, insurance, and the rental, repair or maintenance of equipment, machinery or other personal property, and includes consulting and professional services;
- xxviii. "Sole Source" shall mean a non-competitive process to acquire goods and/or services from a specific supplier whether or not there is another supplier able to provide the same goods and/or services.

- xxix. "Supplies" include goods, wares, merchandise, materials, and equipment used or required by the Town.
- xxx. "Tender" a written sealed offer from a bidder to supply goods, services and/or supplies to the Town
- xxxi. "Treasurer" means the Treasurer of the Town or Designate.
- xxxii. "Town" shall mean the Corporation of the Town of Minto and its legally appointed or elected representatives.

#### **4.0 Purchasing Authority, Practices**

- a) The CAO Clerk and the Treasurer shall have all the necessary authority to administer this By-law and to carry out their duties on behalf of the Town.
- b) The authority to award a contract is subject to identification and availability of sufficient funds in appropriate accounts within the budget.
- c) Upon approval of a policy requiring purchase requisitions, before purchasing goods or services over \$10,000 value, Department Heads shall complete an electronic purchase requisition form for approval by the CAO Clerk and Treasurer describing the nature of the goods and services requested, available budget in the current year, account number for all billing, and whether the purchase will be by quotation, call for proposal, quotation, tender or other such manner. Once the purchase requisition is approved it shall become an electronic purchaser order which Department Heads shall use to acquire the approved goods or services, monitor payments, and document the conclusion of the transaction including substantial completion, final delivery, and proof of payment.
- d) Subject to the exclusions set out herein, the policies and procedures outlined in this by-law shall be followed for the purchase of all good and or services by the Town or its officers, servants and employees.
- e) This by-law does not apply to the purchase of goods, services and equipment considered necessary or advisable by the CAO Clerk to carry out the requirements of the *Municipal Elections Act*.
- f) In determining which procurement method is to be employed, the amount of sales taxes, excise taxes, goods and service taxes and duties shall not be a consideration when determining the price of a contract for the supply of any goods or services. Budgeted or estimated amounts shall be used in determining the appropriate procurement method to use.
- g) The CAO Clerk may procure goods or services on a one time basis for urgent or pending matters at his/her sole discretion if the amount required is less than \$5,000. This authority may not be delegated except where the CAO Clerk is on vacation in which case the Treasurer shall hold the same powers provided for in this section.
- h) Department Heads are authorized under this bylaw to:
  - (i) provide procurement advice, in consultation with the Town legal counsel or consulting engineering firm, if required, including, but not limited to, preparing calls for bids;

- (ii) subject to any procedure that may be required under 4.0 c) administer calls for bids and ensuring compliance with the terms and conditions of the calls for bids;
- (iii) review statements of work and specifications for compliance with the terms of this bylaw;
- (iv) develop co-operative purchasing arrangements with other levels of government, municipalities, boards, agencies, commissions, or private sector entities, as the case may be, where such arrangements are determined to be in the best interests of the Town;
- (v) standardize procurement procedures;
- (vi) maintain purchasing practices consistent with this by-law and the Town's code of conduct, accessibility and transparency policy, fiscal accountability policy and other applicable policies
- (vii) dispose of surplus assets in accordance with Section 9.7 of this by-law and applicable Town policy; and
- (vii) prepare reports to Council when required under this bylaw to recommend awards or develop policy as appropriate.

- h) The Treasurer is authorized to pay for any goods or services purchased by the CAO Clerk, Department Heads, and Supervisor, Lead Hand, or other authorized purchaser in accordance with this by-law, upon receipt of:
  - (i) a request for payment endorsed by the C.A.O. CAO Clerk, Department Head or Designate acknowledging receipt of the good or services on behalf of the Town;
  - (ii) an invoice signed by the authorized purchaser and their immediate supervisor provided the price and appropriate Town account number is accurately and clearly indicated on the said invoice prior to signing;
  - (iii) an approved electronic purchase requisition and completed electronic purchase order are filed documenting the required work, Town account number, certification of work completion, and any other such information as may be required by policy;
  - (iv) verification of payment by the Town Engineering Consultant for work authorized by contract where the work required under the contract or any portion of the contract has been fully executed by the contractor and received all required approvals, and the contractor has provided any insurance policies, performance or other bond required by contract, and until all required payment certifications are filed with the Treasurer;
  - (v) a request to pay accounts of ordinary business transactions of the Town incurred between the last regular meeting of Council in any year and the approval of the following year's budget.
- i) Good or services required by any member of Council shall be acquired under this policy through the CAO Clerk or designate.

**5.0 Inspection of Supplies and Services**

- (a) The CAO Clerk, Department Head or designate shall inspect all deliveries of supplies to determine whether they meet the specifications set out in the purchase agreement or formal contract.
- (b) The CAO Clerk, Department Head or designate shall return of all supplies and, where appropriate, terminate all formal contracts in writing which do not meet specifications set out in the purchase agreement or formal contract documents.
- (c) The CAO Clerk, Department Head or designate shall review all services procured by the Town to ensure compliance with specifications set out in the formal agreement, contract or other document verifying award.

- (d) Where services provided under Section 5.0 (b) or (c) are deemed not to be adequate based on the specifications set out in the formal agreement, contract or other document, the CAO Clerk, Department Head or designate shall advise the service provider in writing of the inadequacy of the service provided and take steps to ensure compliance with the agreement between the Town or service provider or restitution is made such as non-payment of invoices or repayment as may be required, or cancellation where contract is breached or repudiated.

#### **6.0 Co-operative Purchasing**

Department Heads are authorized to participate in co-operative purchasing arrangements with other municipalities, County, local boards and public agencies within the Province where such participation has been approved by Council.

#### **7.0 Council Authorization Required**

Except as herein provided, no Committee established by Council, no member of Council and no employee of the Town shall enter into any contract to purchase goods or services on behalf of the Town without Council approval.

#### **8.0 Sole Source Purchases**

Council may pass a resolution permitting certain goods and/or services to be procured without issuing a call for bids where:

- (a) compatibility of a purchase with existing equipment, facilities or service is the paramount consideration;
- (b) only one entity is reasonably capable of providing the goods or services;
- (c) due to market conditions, required goods or services are in short supply, or when urgent acquisition of required goods or services is necessary due to unexpected circumstances;
- (d) the procurement relates to relocation of utilities associated with a Town contract, including but not limited to telecommunications, electrical, gas, cable, or telephone works;
- (e) there is merit in purchasing at a public auction;
- (f) procurement relates to the purchase of services where the Town provides subsidies or funding to the service provider or to the recipient under programs approved by Council; or
- (g) services are purchased to comply with eligibility criteria rather than a competitive process, and where multiple contractors may provide the same or similar services.

8.1 Council approval under section 8.0 shall not be required for goods or services under \$10,000 in value provided approval is given by the CAO Clerk and the Treasurer or designate.

8.2 In no case shall any goods or services be sole sourced to any employee of the Town or member of Council that would be considered a violation of the Town's code of conduct, policies regarding fiscal accountability and transparency, applicable conflict of interest legislation, or any other similar rules or requirements in place to ensure fair procurement policies.

#### **9.0 Purchasing Procedures**

Subject to the provisions of this by-law, the Town shall use the following procedures to purchase goods, services and/or supplies:

- a) Informal Quotations
- b) Formal Quotation
- c) Tendering

- d) Request for Proposals
- e) Negotiation and sole source
- f) Emergency procurement
- g) Asset disposal

9.1 **Informal Quotations** are required to purchase goods, services and/or supplies with a total value not to exceed \$10,000 whereby the CAO Clerk, Department Head or designate is satisfied that such purchase represents “best value” to the Town considering requirements of this by-law and applicable Town policies, and without limiting the generality of this section suppliers have the capacity, skill, ability, past performance, accessibility, quality, service, availability, affordability, reliability, best practices, environmental benefit, proximity and similar as the case may be to supply such goods, services and/or supplies.

9.2 **Formal Quotations** are required for purchases of goods, services and/or supplies with an individual value exceeding \$10,000 up to a total of \$50,000 whereby the CAO Clerk, Department Head or designate applies the following process:

- (i) ensure sufficient budgeted funds are available;
- (ii) communicate equally to all potential bidders specifications, terms and conditions by which such goods or services shall be purchased so as to ensure fair and equitable access for bidders;
- (iii) solicit a minimum of three written, emailed, or faxed quotations which contain sufficient details and a final price plus Harmonized Sales Tax if applicable;
- (iv) evaluate bids based on the “best value” to the Town;
- (v) report to Council as needed to obtain direction regarding equal bids, bids exceeding budget or where any other clarification is required;
- (vi) award the bid in writing or email in accordance with the terms of this bylaw and other applicable policies and regulations including ensuring all WSIB, insurance, guarantees, warranties, service requirements, and other commitments and requirements are met and secured by a written agreement between the Town and the supplier;
- (vii) inspect, monitor, document, report, follow up as needed with all purchased goods, services and/or supplies prior to authorizing any payment. Copies of all quotations will be submitted with payment requests complete with any vendor invoices and packing slips duly authorized by the Department Head; and
- (viii) apply the purchase requisition process of the Town if applicable.

9.3 **Tendering** is required for purchases of goods, services and/or supplies where deliverables can be clearly identified and quantified and two or more sources are available to supply deliverables with an individual value exceeding \$50,000 whereby the CAO Clerk, Department Heads or designate applies the following process:

- (i) ensure sufficient budgeted funds are available and market conditions are such that bids are likely to be submitted on a competitive pricing basis;
- (ii) prepare a tender using the procedures and standard form attached to this bylaw as Schedule A wherever possible to ensure consistency and continuity ;
- (iii) give notice of the tender as required by applicable municipal bylaws as well as in local newspapers, Town website, direct email, or other such method at the discretion of the CAO Clerk or Department Head so as to afford fair and transparent access to qualified bidders;
- (iv) advise of the location for receiving and safekeeping of sealed tenders, and arrange for a tender opening attended by representatives of the Treasury Department, CAO Clerk’s Department, and the Department wishing to purchase goods, services and/or supplies.
- (v) ensure purchasing notices issued by the Town communicate that information is available upon request to persons with disabilities, and that upon request the

Town will accommodate such persons during the bidding process to ensure persons with disabilities have equal opportunity to submit bids and participate in the process.

- (vi) at any public tender opening state the name of the bidder, the good or service being bid for, the amount shown on the bid, and confirming that bids will be reviewed and assessed as to completeness and accuracy and analysis made available to all bidders prior to award;
- (vii) review and analyze tenders to assess "best value" to the Town;
- (viii) report to Council as needed to obtain direction regarding equal bids, bids exceeding budget or where any other clarification is required;
- (ix) communicate Council's award of the tender in writing or email in accordance with the terms of this bylaw and other applicable policies and regulations including ensuring all WSIB, insurance, guarantees, warranties, service requirements, and other commitments and requirements are met and secured by a written agreement between the Town and the supplier;
- (x) maintain records of all submitted bids, evaluation material, and other information used to review and/or score bids;
- (xi) inspect, monitor, document, report, follow up as needed with all purchased goods, services and/or supplies prior to authorizing any payment. Copies of all tenders will be submitted with payment requests complete with any vendor invoices and packing slips duly authorized by the Department Head; and
- (xii) apply the purchase requisition process of the Town if and when approved.

**9.4 Request for Proposals** are required for purchases of goods, services and/or supplies where deliverables cannot be clearly identified and quantified and two or more sources are available to supply deliverables with an individual value exceeding \$50,000 whereby the CAO Clerk, Department Heads or designate applies the following process:

- (i) the same steps outlined in Section 9.3 (i) to (xii) of this by-law that apply to tendering shall apply to requests for proposals;
- (ii) a request for proposals may be conducted using a two (2) envelope system whereby one (1) envelope contains the technical proposal and one (1) envelope for the financial proposal; where the two (2) envelope system applies generally only the envelope containing the technical information is opened first to assess qualifications, skills and abilities of the bidder, and the second envelope containing the financial proposal is not opened unless the bidder technically qualifies under applicable criteria to be used for weighing and reviewing submissions as outlined below; and
- (iii) where possible and practical requests for proposals shall contain specific criteria to be used for weighing and reviewing submissions to assist bidders with formulating submissions and make decision-making as transparent as possible.

**9.5 Negotiation and sole source purchasing** may only occur in the case of values of \$10,000 or more in accordance with Section 8.0 of this by-law whereby the CAO Clerk, Department Heads or designate applies the following process:

- (i) a strong business case is made to extend a contract beyond its initial term, such as when additional work is required that pertains to a current or recently completed project;
- (ii) the project is a pilot with the understanding that, if successful, further work will be subject to a bid process;
- (iii) required supplies must be compatible with equipment presently being used;
- (iv) a contract is being renewed for an additional fixed period of one year or less, and the exact same prices and terms will apply; or
- (v) tenders or bids received fail to meet specifications or terms and conditions, and it is impractical to recall tenders or formal quotations; and



- (vi) a report is prepared to Council outlining reasons for negotiation and/or single source purchasing and Council has passed a resolution approving this means of procuring goods and service.

**9.6 Emergency procurement** may apply when an event occurs that is determined by the CAO Clerk and Department Head to be a threat to public health, the maintenance of essential Town services, the welfare of persons or of public property, the protection of the Town's physical assets, or the security of the Town's interests or financial liabilities arising from unexpected conditions, and the occurrence requires the immediate delivery of goods, services and/or supplies and time does not permit normal Purchasing activities to acquire such goods, services and/or supplies. In such cases the following shall apply:

- (i) The CAO Clerk or Department Head shall advise the Mayor or Deputy Mayor of the need to may make such purchases without the bidding or tendering process, and is authorized to do so in the most expedient and economical means possible keeping in mind budget availability, and potential for cost recovery.
- (ii) Where such goods or services are purchased without the bidding or tendering process the CAO Clerk, Department Head or designate shall create a record of all goods, services and/or supplies so acquired and provide a report to Council.

**9.7 Disposal of Surplus Assets** resulting from a purchasing procedure under this by-law shall be conducted in accordance with the following provisions:

- (i) Where a bid or quotation is conducted to replace a Town owned asset the document shall state the terms by which the surplus asset is to be disposed, and without limiting the generality of the foregoing may include a trade-in, auction, private sale or other such process that will result in disposal of the asset in a fair and transparent way;
- (ii) Council approval shall be required prior to a proceeding to any bid procedure that would result in adding assets that would normally be replaced such as aging vehicles, equipment or similar to ensure that annual maintenance costs are not inadvertently increased by retaining a surplus asset.
- (iii) Surplus assets shall be disposed in such a way as to ensure the Town receives "best value" and in accordance with the Town's applicable Disposal of Surplus Equipment Policy.

#### **10.0 Credit Card Purchases or Purchases on Account**

The Mayor or staff members with corporate credit cards may purchase goods, services and/or supplies using their corporate credit card within the limits and requirements of the Town Corporate Credit Card Policy, the code of conduct, fiscal accountability and transparency policies, conflict of interest legislation, or any other similar rules or requirements in place to ensure fair and transparent procurement as well as the following requirements:

- (i) purchases must represent best value to the Town and are keeping with the general principals of this by-law;
- (ii) purchases not subject to the exclusions in this by-law are primarily acquired for incidental goods, services and/or supplies needed for general maintenance, on-going operations or other such similar reasons within expenditures allowed by the current year budget; and
- (iii) small capital or material purchases for which tenders or quotations would not be of benefit.

10.1 Purchases by invoice or on account shall adhere to the requirements outlined in Section 10.0 (i) to (iii)

#### **11.0 Bid Review Committee**

Where timing of regular Council meetings is such that a tender or request for proposal cannot reasonably be awarded by resolution of Council, a Bid Review Committee may be formed consisting of the following members appointed by Council:

- (a) the CAO Clerk or Department Head responsible for the area for which the proposal or tender was established;
- (b) the Mayor or Chair of the Committee responsible for the area for which the proposal or tender was established;
- (c) a representative of the consulting engineering firm or other such advisor that assisted with preparation of the tender or proposal where applicable
- (d) the Treasurer or designate;
- (e) any other person appointed by resolution of Council that would be of assistance in reviewing and awarding a bid.

11.1 The Bid Review Committee shall consider all the same matters as would apply to Council and staff outlined in this by-law when awarding any contract and without limiting the generality of the foregoing shall ensure that such purchase represents "best value" to the Town and suppliers have the capacity, skill, ability, past performance, accessibility, quality, service, availability, affordability, reliability, best practices, environmental benefit, proximity and similar as the case may be to supply such goods, services and/or supplies. The Bid Review Committee is hereby delegated the authority to approve the award of contracts.

11.2 If the "best value" bid as determined by the Bid Review Committee contains an informality or irregularity, or if there is a challenge to the call for bids process, the Bid Review Committee shall not make the decision and the matter must be determined by decision of Council who may, at the call of the Mayor, arrange a special meeting pursuant to the Procedural By-law in order to facilitate a timely decision.

11.3 If the Bid Review Committee does not agree unanimously on awarding a bid, the Bid Review Committee shall not make the decision and the matter must be determined by decision of Council who may, at the call of the Mayor, arrange a special meeting pursuant to the Procedural By-law in order to facilitate a timely decision.

11.4 Where a Bid Review Committee is established and a contract is awarded, a report shall be submitted to Council to advise of the award of the contract.

## **12.0 Negotiation**

Notwithstanding that Negotiation may be a component of another procurement process, Negotiations may be used for the Purchaser of Good and/or Services when any of the following criteria apply:

- (a) the required goods and or services are in short supply;
- (b) competition is precluded due to the existence of any patent right, copyright, technical secret or control of raw material;
- (c) a sole source is being recommended;
- (d) two (2) or more identical bids are received under any process under this by-law;
- (e) the lowest compliant bid received under any process under this by-law exceeds the budgeted amount;
- (f) the extension of an existing contract with the Town would be cost effective and keeping with the intent of this by-law and other policies and procedures of the Town;
- (g) a call for proposal, tender or any other bid process is cancelled without an award; or

(h) Council authorizes negotiation in the process of considering any award.

**13.0 Authority of Chief Administrative Officer and Treasurer Suspension of Council Meetings or "Lame Duck" Period**

Despite any other provision of this bylaw, during any period that regular Council meetings are suspended either during the summer recess or for any other reason, or during the period that the acts of Council are restricted under Section 275 of the Act the CAO Clerk and Treasurer shall jointly be authorized to award any contract.

13.1 The process and requirements outlined in Sections 9.1 through to 9.6 shall apply to any contract awarded under Section 13.0.

**14.0 Specification Development**

Where the Town requires a vendor(s) or potential vendor(s) to expend time, money or effort on design or developing specifications for a bid or otherwise to help define a requirement beyond the normal level of service expected from vendors, a fee may be paid for an amount agreed upon between the parties keeping in mind limits established in this by-law.

14.1 Where such services are provided under Section 14.0, the specifications shall become the property of the Town and may be used in obtaining competitive bids.

14.2 A vendor who has assisted in developing specifications and has been paid for services pursuant to Section 14.1 shall be entitled to bid on the goods or services prescribed by the specifications in accordance with this by-law, unless Council directs otherwise.

**15.0 Refusal of Responses**

The Town shall reject all bids submitted by a bidder if that bidder (or a related person, as determined by Council) is engaged in a legal action (including arbitration) with the Town unless this provision is waived by Council, in its sole and absolute discretion.

Any potential supplier with an unsatisfactory record of performance may be disqualified. The offer of gratuities to any councillor, official or employee of the Town is grounds for disqualification.

**16.0 Financial Securities and Insurance**

The Town may require, at its sole discretion, that a bid be accompanied by a bid deposit or other similar security to guarantee that the successful bidder enters into a written contract with the Town.

16.1 In addition to the security referred to in Section 16.0 a successful supplier may be required to supply:

- (a) a performance bond to guarantee performance of the contract;
- (b) a labour and materials bond to guarantee payment for labour and materials to be supplied in connection with a contract; and
- (c) any such security as the Town may require and has been specified in the bid requirements for the goods or services to be acquired.

16.2 Prior to commencing any work awarded under this by-law the supplier may be required to provide to the Town proof of insurance as specified in the bid requirements for the goods and or services to be acquired.

16.3 Prior to commencing any work awarded under this by-law the supplier may be required to provide to the Town a Certificate of Clearance from the Workplace Safety and Insurance Board as specified in the bid requirements for the goods and or services to be acquired.

16.4 Failure to comply with the terms of a bid including but not limited to provision of insurance, performance bond, labour or material bond, or certificate of clearance under Section 16.0 through 16.3 shall be just cause for cancellation of the award.

#### **17.0 Division of Contracts Prohibited**

Contracts shall not be divided in order to avoid the requirements of the Formal/Informal Quotation, Tender or Proposal procedures.

#### **18.0 Authority to Execute Contracts**

Subject to statutory requirements and where all the requirements of this by-law have been met, the Mayor and Clerk are authorized to execute contracts and any ancillary documents that have been prepared in a form satisfactory to Council, except where otherwise excepted in the by-law and the schedules thereto.

#### **19.0 Lobbying**

No person involved in any segment of the purchasing process shall engage in any form of political or other lobbying to seek to influence the outcome of any bid process under this by-law, including but not limited to suppliers contacting elected officials, consultants or any employee of the Town to attempt to seek information in order to influence an award, or any person associated with the Town, political or staff, unduly attempting to direct an award to any supplier for any reason other than those outlined in the bid as provided for under this by-law.

#### **20.0 Access to Information**

Disclosure of information received under any bid process provided by the by-law shall be made by the responsible officials in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O 1990, c. M 56 as amended or other relevant legislation that may be enacted and in effect from time to time.

20.1 All suppliers contracted by the Town shall also adhere to the standards outlined in Section 20.0 as well as any such legislation that may specifically apply to private corporations as the case may be, and when conducting work on behalf of the Town shall protect privacy and confidentiality and shall disclose information as if were an agent of the Town as it relates to confidential information, disclosure of personal health or other confidential information including records that a supplier may come in contact with during the course of completing their contract with the Town.

#### **21.0 Severability**

If any Section or Sections of this by-law or parts thereof are found by a court or other body of competent jurisdiction to be invalid or beyond the authority of Council only those sections identified shall be deemed invalid and separate from the remainder of the by-law and all other such remaining sections shall remain in full force and effect.

#### **22.0 Repeal and Effective Date**

This by-law shall be effective on final passing thereof and shall repeal all predecessor by-laws and amendments except however that any purchasing processes underway prior to passage of this by-law shall be concluded in accordance with the applicable predecessor by-law.

Read a first, second and third time and finally passed this 1<sup>st</sup> day of August 2017.



Mayor George Bridge



C.A.O. Clerk Bill White