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2017-025 (Original)	March 6, 2017

**Consolidated for Convenience Only**

This is a consolidation copy of a City of Owen Sound by-law for convenience and information. While every effort is made to ensure the accuracy of this by-law, it is not an official version or a legal document. The original by-law should be consulted for all interpretations and applications on this subject. For more information or to view by-laws please contact the Clerks Department.

# The Corporation of the City of Owen Sound

## By-law No. 2017-025

### A By-law to adopt a policy respecting the procurement of goods and services for the City of Owen Sound

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

WHEREAS section 5 (3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law unless it is specifically authorized to do otherwise; and

WHEREAS section 5 (3) 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

WHEREAS on May 26, 2014., the Council of the Corporation of the City of Owen Sound (the "City") passed By-law 2014-095 to adopt a policy respecting the procurement of goods and services for the City; and

WHEREAS on February 13, 2016, City Council passed Resolution No. R-170213-021 directing staff to provide the subject by-law and to repeal By-law 2014-095;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF OWEN SOUND HEREBY ENACTS AS FOLLOWS:

#### **Part I. Short Title, Purpose and Scope**

##### **Short Title**

1. This by-law shall be known and may be cited as the "Purchasing By-law".

##### **Purpose**

2. This by-law has been enacted to adopt a policy respecting the procurement of Goods and Services for the purpose of ensuring:
  - a. legislative compliance;
  - b. that, wherever possible, the city aims to promote and incorporate the requirements of the *Accessibility for Ontarians With Disabilities Act, 2005* and the regulations thereunder in City purchasing activities;
  - c. that the City receives the best value for every tax dollar; and
  - d. open, honest, fair and impartial procurement practices.

##### **Scope**

3. This by-law shall apply to the purchase or disposition of all Goods and Services except:
  - a. the sale and other disposition of land, unless the City uses the Request for Proposals or Tender method described herein to dispose of land;
  - b. Goods or Services considered necessary or advisable by the City Clerk to carry out the requirements of the *Municipal Elections Act, 1996*;
  - c. staff training, professional development, accreditation or membership in professional organizations and related travel, accommodation or meal expenses;
  - d. Utilities, including repair, servicing and modification;
  - e. licenses or maintenance for existing computer hardware or software;
  - f. general corporate expenses including employee documentation such as functional abilities forms, debentures, claim settlements, legal advice, arbitrators, historical experts, damage claims, Workplace Safety and Insurance (WSIB) remittance, or customs brokerage services;

- g. Goods or Services from a public body, including schools and educational facilities or a non-profit organization;
- h. all refunds and returns of deposits;
- i. salary, honourarium or remuneration of staff, City Council or members of City boards or committees;
- j. procurement of services provided by any of the following licensed professionals: medical doctors, dentists, nurses, pharmacists, veterinarians, accountants, lawyers and notaries;
- k. procurement of services of financial analysts or the management of investments by organizations who have such functions as a primary purpose;
- l. procurement of financial Services respecting the management of financial assets and liabilities, for example treasury operations, including ancillary advisory and information Services, whether or not delivered by a financial institution;
- m. procurement of Goods and Services related to cultural or artistic fields and computer software for educational purposes; and
- n. procurement from philanthropic institutions or persons with disabilities.

## **Part II. Interpretation**

### **Headings**

- 4. The division of this by-law into parts and the insertion of headings are for convenient reference only and shall not affect interpretation of the by-law.

### **References to Applicable Law**

- 5. All references to applicable law are ambulatory and apply as amended from time to time.

### **Definitions**

- 6. For the purposes of this by-law, unless a contrary intention appears;
  - "Accessibility for Ontarians With Disabilities Act, 2005" means the *Accessibility for Ontarians With Disabilities Act, 2005*, S.O. 2005, c. 11;
  - "Bid" means a Vendors response to a Quotation or Tender;
  - "Bid Deposit" means currencies, certified cheques, bond surety issued by a surety company or other form of negotiable instrument to ensure the successful Vendor will enter into a Contract;
  - "City" means the Corporation of the City of Owen Sound;
  - "Contract" means a formal written legal agreement for the supply of a Good or Service;
  - "Emergency" means an emergency as defined in section 1 of the *Emergency Management and Civil Protection Act*, R.S.O. 1990 c. E.9 and includes:
    - a. an imminent or actual danger to the life, health or safety of an official or employee acting on the City's behalf;
    - b. an imminent or actual danger of injury to or destruction of real or personal property belonging to the City;
    - c. an unexpected interruption of an essential public Service; and
    - d. a spill of a pollutant as contemplated by Part IX of the *Environmental Protection Act*, R.S.O. 1990, c. E.19;
  - "Good" or "Goods" includes supplies, materials and equipment of every kind;
  - "Insurance Document" means an insurance document issued by a licensed insurance company acceptable to the City;
  - "Irrevocable Letter of Credit" means an irrevocable letter from a recognized

financial institution acceptable to the City containing a request that the party to whom it is addressed pay the bearer, or a person named therein, money as a result of failure to perform or fulfill all covenants, undertakings, terms, conditions and agreements contained in a Contract;

"Labour and Materials Bond" means a bond issued by a surety company, licensed to operate in the Province of Ontario, to ensure that the Vendor has paid their suppliers and thereby protects the City against items which might be granted to suppliers should the Vendor not make proper payments;

"Letter of Agreement to Bond" means a document issued by a bonding agency licensed to operate in the Province of Ontario advising that, if the tender is successful, the bonding agency will issue the required Performance Bond;

"*Municipal Act, 2001*" means the *Municipal Act, 2001*, S.O. 2001, c. 25;

"*Municipal Elections Act, 1996*" means the *Municipal Elections Act, 1996* S.O. 1996, c. 32, Sch;

"Negotiation" means a process of planning, reviewing, and analyzing used by a buyer and a seller to reach an acceptable price or Contract;

"Performance Bond" means a document issued by a surety company which secures the performance and fulfillment of all undertakings, covenants, terms, conditions and agreements contained in a Contract;

"Proposal" means a sealed Submission received in response to a Request for Proposal issued by the City;

"Purchase Order" means a purchaser's written document which formalizes the terms and conditions of a transaction with a Vendor; and can include a blanket Purchase Order for the supply of Goods or Services which are repetitively purchased;

"Quotation" means a written or verbal invitation issued by the City for the supply of Goods or Services expected to be less than \$50,000;

"Request for Proposal" means an invitation issued by the City to supply a Good or Service for a fixed price where specifications may be difficult to define or are restrictive in nature;

"Roster System" means a process for determining a number of prequalified Vendors or consultants to be hired to fulfill specific requirements or projects;

"Senior Manager" includes the City Manager, Director of Community Services, Director of Corporate Services, Director of Public Works and Engineering, and Fire Chief;

"Service" or "Services" means any professional or general service work performed which does not result in the delivery of Goods;

"Single Source" means a procurement decision whereby purchases are directed to one source of supply even though competitive sources may be available;

"Sole Source" means a procurement decision whereby purchases are directed to one source of supply where the City has determined that no other source is qualified or capable of providing the Goods or Services;

"Standardization" means the adoption of single product or group of products to be used at the exclusion of all others;

"Tender" means a written invitation issued by the City for the supply of a Good or Service at a particular price expected to be \$50,000 or more;

"Treasurer" means the Treasurer appointed by the City;

"Utilities" includes postage, courier Services, water, wastewater, electricity, gas, all telephone Services, cable television and any other regulated authorities operating within and across municipal right of ways; and

"Vendor" means any individual or organization offering Goods or Services and includes contractors, consultants, suppliers and Service organizations.

### **Part III. General**

#### **Adherence to Accepted Practices**

7. Except as otherwise stated herein, all Goods or Services shall be purchased:
  - a. on a competitive basis, and
  - b. in accordance with:
    - i. accepted public purchasing practices and procedures,
    - ii. all applicable law and trade agreements including, but not limited to, the Agreement on Internal Trade and the Ontario-Quebec Trade Agreement; and
    - iii. this by-law.
8. When required, specifications will be prepared and developed by the relevant department in consultation with the Purchasing Agent.

#### **Procedures may be Applied**

9. Where this by-law does not apply to the procurement of a Good or Service, this by-law may be used as a guide for procuring the Good or Service.

#### **Advertising**

10. All advertising shall be in accordance with applicable trade agreements.

#### **No Direct Solicitation of Departments**

11. Without written approval from the Purchasing Agent, no Vendor shall contact any City department to:
  - a. solicit Goods or Services whether orally or in writing, or
  - b. distribute brochures, general information or price lists.

#### **Dispute Resolution**

12. All disputes related to this by-law shall be resolved as follows:
  - a. a meeting between the Vendor and the Purchasing Agent;
  - b. if a dispute is not resolved under subsection 12.a., the decision can be appealed to the Treasurer; or
  - c. if a dispute is not resolved under subsection 12.b., the decision can be appealed to the City Manager.

### **Part IV. Authority and Responsibility**

#### **Delegated Authority – Purchasing Agent**

13. Subject to the limits set out in this by-law the "Purchasing Agent" shall be responsible for:
  - a. the purchase of or Negotiation for all Goods and Services;
  - b. issuing Request for Proposals, Tenders and Quotations for partial or complete Goods and Services;
  - c. maintaining all purchasing and material management policies and procedures;
  - d. maintaining positive Vendor relations;
  - e. responding to inquiries regarding Goods, Services, prices, delivery, terms, conditions and adjustments; and
  - f. participating in co-operative purchasing with other levels of government, municipalities, universities, schools or hospitals, when in their opinion, it is in the best interest of the City.
14. City Council delegates authority for the Purchasing Agent to:
  - a. determine in consultation with the user department if a Letter of Agreement to Bond is required to be submitted with a Request for Proposal, Tender or Quotation;

- b. obtain Bids for required annual supply items, in consideration of City requirements, market conditions and product availability;
- c. establish and maintain blanket Purchase Orders for low dollar repetitive purchases of Goods and Services; and
- d. obtain Bids or Proposals for additional or replacement mechanical equipment before City Council adopts the capital budget provided the Tender or Quotation states that:
  - i. all items are subject to change in quantity or deletion, and
  - ii. the award of a Bid or Proposal is subject to budget approval by City Council.

#### **Delegated Authority – Staff**

- 15. City Council's authorization of capital work constitutes authorization for purchase of Goods and Services necessary to carry out such work.
- 16. Senior Managers may delegate their authority to staff in writing and must communicate the names of the authorized staff and their purchasing thresholds to the Purchasing Agent.
- 17. Staff given purchasing authority under this by-law are responsible for reviewing the budget and purchasing policies to ensure that there are sufficient funds in the budget for the selected project.
- 18. Any projects \$25,000 or more over budget shall be approved by Council and in recommending the approval of such projects staff shall report to Council:
  - a. the source of funding; and
  - b. justification for the purchase.
- 19. Subject to section 18 and any other limits of this by-law, City Council delegates authority to purchase or approve the purchase of Goods and Services as provided below:
  - a. purchases more than \$250,000 shall be approved by City Council where the following conditions are met:
    - i. the Vendor was selected from the results of a Request for Proposal or Tender advertised on the City's website or justifiable Negotiation, Single Source or Sole Source purchases approved by Council; and
    - ii. the purchase is authorized by Purchase Order or Contract;
  - b. purchases from \$50,000 to \$249,999.99 may be approved by the Treasurer where the following conditions are met:
    - i. the Vendor was selected from the results of a Request for Quotation, Request for Proposal or Tender or justifiable Negotiation, Single Source or Sole Source purchase approved by the Treasurer; and
    - ii. the purchase is authorized by Purchase Order or Contract;
  - c. purchases from \$25,000 to \$49,999.99 may be approved by the Purchasing Agent where the following conditions are met:
    - i. the Vendor was selected from the results of a Request for Quotation, Request for Proposal or Tender or justifiable Negotiation, Single Source or Sole Source purchase approved by the Treasurer; and
    - ii. the purchase is authorized by Purchase Order or Contract;
  - d. purchases from \$10,000 to \$24,999.99 may be approved by any employee authorized by a Senior Manager where the following conditions are met:
    - i. the Vendor was selected from a minimum of three Bids or Proposals received orally or in writing or the results of a Request for Proposal or Tender advertised on the City's website;

- ii. records of all Bids or Proposals received are provided to the Purchasing Agent; and
  - iii. the purchase is authorized by Purchase Order or Contract; and
  - e. purchases less than \$9,999.99 may be approved orally or in writing by any employee authorized by a Senior Manager where the Good or Service is purchased competitively where possible and practicable.
20. Section 19 of this by-law sets out the minimum requirements for purchasing Goods or Services and shall not prevent the use of a higher cost method.
21. City Council delegates authority to the Purchasing Agent in consultation with a Senior Manager to approve purchases by negotiation of \$25,000 or less.
22. When Council does not meet for more than 21 calendar days and a special meeting cannot be called or where Council cannot take any action as set out in section 275 of the *Municipal Act, 2001* during a "lame duck" period;
- a. the City Manager is authorized to award tenders that would require Council approval; and
  - b. Council shall be given an information report outlining such purchases at the next regular Council Meeting.

### **Determining Cost**

23. For the purpose of the limits or methods in this by-law, the cost of Goods or Services shall be determined as follows:
- a. all taxes and duties shall be excluded; and
  - b. the Purchasing Agent, in consultation with the user department shall determine the approval level for Goods and Services based on commission.

### **Reporting Requirements**

24. Reports to Council recommending the acceptance of a Bid or Proposal shall include the following:
- a. analysis of any significant cost changes from the previous year for regularly purchased Goods or Services;
  - b. the sources of financing or allocation of revenue; and
  - c. any financial commentary considered appropriate.

## **Part V. Purchasing Methods**

### **Procurement by Negotiation**

25. City staff shall not use Negotiation to purchase Goods or Services, costing more than \$25,000 unless the Purchasing Agent determines that:
- a. there is a shortage or scarcity of supply of the Goods or Services;
  - b. the City requires Standardization of the Goods or Services;
  - c. there is only one source of supply or a Sole Source of the Goods or Services;
  - d. it is necessary to Single Source the Goods or Services because:
    - i. they are additional to similar Goods and Services supplied under an existing Contract, including Contract extension or renewal;
    - ii. there is a need for compatibility with Goods and Services previously acquired and there are no reasonable alternatives or substitutes or to ensure continuity of critical processes or Services, to avoid technical or environmental risk, or to avoid violation of warranty or guarantee requirements;
    - iii. the Good is being purchased for trial use;
  - e. it is in the City's best interest to:
    - i. amend or renew an existing Contract; or

- ii. hire a consulting firm which has partially completed a project with subsequent phases;
  - f. no compliant Bids or Proposals are received and the Purchasing Agent determines that it is impractical to recall the Tender or Quotation; or
  - g. the lowest Bid meeting specifications is excessive in total cost or substantially exceeds the estimated costs.
26. Where Negotiation has been used to purchase Goods or Services staff shall:
- a. act in a fair and ethical manner which is consistent with the purpose of this by-law; and
  - b. report on any pertinent information and the results of all such negotiations to the Treasurer.

### **Public Auction**

27. Goods shall not be purchased through public auction unless:
- a. the Purchasing Agent approves any terms and conditions prior to the proposed transaction; and
  - b. the proposed transaction is approved by the authority which would approve purchases in section 19 of this by-law of equal cost.

### **Identical Bids**

28. In the case of identical low compliant Bids, the Purchasing Agent may invite the low Vendors to submit new Bids in an attempt to obtain a lesser price.
29. If the procedure described in section 28 of this by-law is not successful in breaking a tie between two or more identical low compliant Bids, or the Purchasing Agent determines it is in the best interest of the City, the City shall determine the winning Vendor by coin toss performed in the presence of:
- a. the Vendors, should they wish to attend; and
  - b. any employee authorized by the Senior Manager.

### **Consulting, Professional or Specialized Service Providers**

30. The Roster System process may be used to develop a list of prequalified Vendors for consulting, professional or specialized Services.
31. Where a Good or Service has received budget approval from City Council and estimated to cost less than \$50,000, any employee authorized by a Senior Manager may:
- a. issue specifications to Vendors prequalified by the Roster System; and
  - b. Negotiate the fee with a Vendor that, in their opinion, best meets the needs of the City.
32. Goods or Services with an estimated cost greater than \$50,000 or which are deemed complex shall be purchased by issuing a Request for Proposal or Tender.

### **Procurement in Emergencies**

33. Where, in the reasonable opinion of a Senior Manager, an Emergency occurs;
- a. the Purchasing Agent, on receipt of a requisition authorized by any employee authorized by a Senior Manager, may initiate a purchase order for more than \$50,000; and
  - b. any Goods or Services purchased in an Emergency shall be reported to City Council at their next meeting and the report shall include:
    - i. the source of funding; and
    - ii. justification for the purchase.

### **Where Requests for Proposal are Appropriate**

34. The City may issue a Request for Proposal when the requirements for Goods or Services cannot be definitively specified and where Proposals could result

in specific offers by the bidders to fulfill the requirements, Services or function at a particular price.

### **Request for Expression of Interest**

35. The City may issue a request for expression of interest to determine market conditions or to develop of a list of prequalified suppliers for a subsequent and separate bid process.
36. A request for expression of interest shall not be used to directly solicit Bids.

## **Part VI. Demolition and Disposal of Surplus or Scrap Goods**

### **Procurement of Demolition Services**

37. Upon receipt of approval from a Senior Manager to demolish buildings on City-owned property, the Purchasing Agent shall:
  - a. obtain prices and award a Purchase Order or Contract for the demolition, where the estimated demolition cost does not exceed the Tender expenditure limit; or
  - b. call for Sealed Bids in the form of Tender where the estimated demolition cost does exceeds the Tender expenditure limit.
38. All Bids for demolition Services shall include:
  - a. a Bid Deposit equal to 10 per cent of the price of the demolition; and
  - b. a Performance Bond or certified cheque equal to 100 per cent of the price for the demolition.
39. All Vendors selected to provide demolition Services shall be required to execute a Contract with the City within 10 days of the Bid being awarded which shall provide that the City may accept another bid or cancel the Contract if the work is not completed within 30 days unless the Purchasing Agent provides a written extension.
40. Failure of a successful Vendor to execute the Contract required under section 39 of this by-law or to complete the demolition within 30 days may result in:
  - a. forfeiture of the Bid Deposit, and
  - b. authorization for the City to accept another bid or cancel the Contract.

### **Surplus Goods**

41. Surplus Goods that cannot be used by the City may be disposed of in consultation with the Purchasing Agent by using any of the following methods:
  - a. advertising for Bids,
  - b. public or electronic auction,
  - c. direct contact with Vendors to submit a Bid to purchase scrap, or
  - d. other method approved by the Purchasing Agent.
42. The Purchasing Agent shall determine where revenue from the sale of surplus Goods shall be credited.

## **Part VII. Securities and Documentation Required for Bids**

### **Where Bid Deposits Required**

43. A Bid Deposit shall be required to accompany and be included in the envelope containing the Bid or Proposal in the following circumstances:
  - a. all Bids for City construction projects in excess of \$100,000.00 where the amount of the Bid Deposit shall be at least 10 percent;
  - b. all demolition Services; and
  - c. Bids or Proposals for the sale or removal of City-owned buildings.
44. In Circumstances not mentioned in section 43 of this by-law, the Purchasing Agent, in consultation with any employee authorized by a Senior Manager,

shall determine if a Bid Deposit is required, along with the amount of bid deposit, prior to the calling of Sealed Bids.

### **Form of Bid Deposit**

45. A Bid Deposit shall consist of one of the following:
- a. A bid bond issued by a bonding agency currently licensed to operate in the Province of Ontario;
  - b. a certified cheque from a recognized financial institution acceptable to the City; or
  - c. an Irrevocable Letter of Credit from a recognized financial institution acceptable to the City.

### **Where Bid Deposit Void**

46. Where a Bid Deposit is required for a Tender and not received in the manner specified in this by-law, the Purchasing Agent may void or recall the Tender at their discretion.

### **Forfeiture of Bid Deposit**

47. The City is authorized to cash and deposit any Bid Deposit cheques in the City's possession which are forfeited as a result of non-compliance with the terms, conditions or specifications of a Sealed Bid.

### **Vendor's List of Sub Contractors**

48. All Vendors may be required to supply a list of all subcontractors to be employed on a project at the discretion of the Purchasing Agent.
49. Any changes or additions to the list of subcontractors after award of the Bid must be approved in writing by the employee authorized by a Senior Manager responsible for the project.

### **Documentation for Construction Projects**

50. Upon written request by the City, the successful Vendor for construction projects exceeding \$100,000 shall submit the following documentation in a form satisfactory to the City within 10 working days:
- a. executed Performance Bonds and labour and material bonds;
  - b. executed Contract whether incorporated in the bid documents or subsequently prepared by the City;
  - c. certified Insurance Documents in compliance with the Tender;
  - d. certificate of clearance from the Workplace Safety and Insurance Board confirming all premiums or levies have been paid to date.

### **Amount of Performance and Labour and Material Bonds**

51. The Purchasing Agent, in consultation with any employee authorized by a Senior Manager, shall determine the amount of the Performance Bond and Labour and Material Bond subject to the following minimums:
- a. Performance Bond of at least 50 per cent of Contract value; and
  - b. Labour and Material Bond of at least 50 per cent of Contract value.
52. All Tenders shall clearly specify what action shall be taken if:
- a. Bids received are unbalanced or do not comply with the Tender; and
  - b. what penalties shall be imposed if the Vendor fails to submit the appropriate documents in the manner specified.
53. The Purchasing Agent shall report any bonding irregularities to the Treasurer.

### **Letter of Agreement To Bond**

54. When the requirements of a Letter of Agreement to Bond have been determined, the failure of a bidder to provide said Letter of Agreement to Bond shall result in the bid being rejected.

## **Part VIII. Bid and Proposal Submissions**

### **Conditions Applicable to all Bids and Proposals**

55. The City reserves the right to accept or reject any Bid or Proposal.
56. A Vendor may submit any number of Bids or Proposals any time before the official closing time. The last Bid or Proposal received shall supersede and invalidate all previous Bids or Proposals by that Vendor.
57. A Vendor may withdraw their Bid or Proposal at any time before the official closing time by submitting a letter signed by the Vendor's senior official.
58. The City may reject any Bid or Proposal which:
  - a. is incomplete, illegible or obscure; or
  - b. contains additions not called for, erasures, alteration, errors or irregularities of any kind;
  - c. contains prices which appear to be so unbalanced as to likely affect the interest of the City.

### **Irregularities**

59. Where the unit price exists and does not agree with the extension of the estimated quantity and the unit price or the extension has not been made, the unit price shall govern and the total price shall be corrected accordingly.
60. Where the unit price exists and both the unit price and the total price are left blank, both shall be considered to be zero.
61. Where a required unit price is left blank and a total price is shown for the item, the unit price shall be established by dividing the total price by the estimated quantity.
62. Where the required total price is left blank for a lump sum item, it shall be considered to be zero.
63. Where a Bid or Proposal contains an error in addition, subtraction or transcription in calculating the total Contract price, the error shall be corrected and the corrected total Contract price shall govern.

### **Tender Opening**

64. The closing time for a Bid submitted in response to a Tender shall be 1:00 p.m. on the specified day unless otherwise stated in the Tender.
65. Bids submitted in response to a Tender which are received later than the specified closing time or at a location different than the specified location shall be returned unopened to the Vendor who provided the submission.
66. The opening of Bids submitted in response to a Tender shall commence at 2:00 p.m. unless otherwise stated in the Tender or the Purchasing Agent determines a different time is necessary.
67. The opening of Bids submitted in response to a Tender once started, shall continue until the last Bid is opened.

### **Where Only One Bid or Proposal is Received**

68. If only one Bid or Proposal is received in responses to a Tender, the Bid or Proposal may be:
  - a. returned to the Vendor unopened; or
  - b. opened and evaluated.
69. If a Bid is opened in accordance with section 68 of this by-law, the Purchasing Agent may:
  - a. Negotiate with the Vendor in a fair and ethical manner consistent with the purpose of this by-law;
  - b. recall the Tender;
  - c. modify the original specifications and reissue the Tender; or

- d. accept the Bid subject to the following:
  - i. if the price of the Bid is \$250,000 or more, City Council must approve the Bid;
  - ii. if the price of the Bid is between \$50,000 and \$249,999.99, City Council delegates authority to the Treasurer to approve the Bid; or
  - iii. if the price of the Bid is less than \$50,000, City Council delegates authority to the Purchasing Agent in consultation with a Senior Manager to approve the Bid.

### **Release and Confidentiality of Information**

- 70. The following information shall be released for all Bids:
  - a. the name of all Vendors who submitted a Bid; and
  - b. the total price of all compliant Bids.
- 71. The following information shall be released for all Proposals:
  - a. the total score for each Proposal submitted by a Vendor; and
  - b. the total price of the Proposal, as awarded to the successful Vendor.
- 72. All records and information pertaining to Bids or Proposals which reveal a trade secret or scientific, technical, commercial, financial or labour relations information implicitly or explicitly supplied in confidence, shall remain confidential if in the opinion of the Purchasing Agent the disclosure could reasonably be expected to:
  - a. significantly prejudice the competitive position or interfere with the contractual or other negotiations of a person, organization or Vendor;
  - b. result in similar information no longer being supplied to the City where it is in the public interest for such information continue to be supplied;
  - c. result in undue loss or gain to any person, organization, committee, financial institution or agency; or
  - d. result in the disclosure of information which could reasonably be expected to be injurious to the financial interest of the City.

## **Part IX. Conflict and Transition**

### **Conflict**

- 73. In the event the provisions of this by-law are inconsistent with the provisions of the *Municipal Act, 2001*, its Regulations or any other Act, the provisions of the Act or Regulation shall prevail.
- 74. The terms and provisions of this by-law shall be severable and should any term or provision be found by a court of competent jurisdiction to be legally unenforceable, in operative or invalid, the remainder of the by-law shall continue to be in full force and effect.

### **Repeal**

- 75. By-law No. 2014-095 is repealed.

### **Enactment**

- 76. This by-law shall come into full force and effect on the day it is passed at which time all by-laws, policies and resolutions that are inconsistent with this by-law are repealed insofar as it is necessary to give effect to this by-law.

FINALLY PASSED AND ENACTED this 6<sup>th</sup> day of March, 2017.

*Signature on File*

Mayor Ian C. Boddy

*Signature on File*

Briana M. Bloomfield, Deputy Clerk