

**THE CORPORATION  
OF THE  
TOWN OF NIAGARA-ON-THE-LAKE**

**BY-LAW NO. 4701-14**

**(Consolidated version May 28, 2018)**

**By-laws 4701A-18**

A BY-LAW TO RESCIND BY-LAW 3929-05 AND TO ENACT A POLICY FOR THE PROCUREMENT OF GOODS AND SERVICES FOR THE CORPORATION OF THE TOWN OF NIAGARA-ON-THE-LAKE

**WHEREAS**, Section 270(1)(3) of the Municipal Act, 2001, S.O. 2001, c. 25, as amended, requires all municipalities to adopt and maintain a policy with respect to the procurement of goods and services.

**THEREFORE**, be it enacted that the attached policy governing the procurement of goods and services for The Corporation of the Town of Niagara-on-the-Lake be adopted by the Council of the Town of Niagara-on-the-Lake.

**READ A FIRST, SECOND AND THIRD TIME THIS 3<sup>rd</sup> DAY OF MARCH 2014**

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LORD MAYOR DAVE EKE

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TOWN CLERK HOLLY DOWD

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## 1 OBJECTIVE

- 1.1 The purposes, goals, and objectives of this policy are:
- (a) To set out guidelines for the Town to ensure the most cost-effective methods are used for the acquisition of goods and services for all operations;
  - (b) To ensure the prices paid for goods and services make optimum use of resources and will best serve the interests of the Corporation and through it, the residents of the Town; and,
  - (c) To maximize openness, accountability, and transparency throughout the procurement process.

## 2 DEFINITIONS

2.1 For the purpose of this policy, the following definitions should apply:

<b>Acquisition:</b>	The process of obtaining supplies, services, or construction through purchase, lease, or grants.
<b>Award:</b>	The notification to a bidder or tenderer of acceptance of a bid or tender which brings the contract into existence.
<b>Bid:</b>	An offer or submission received from a vendor, contractor or consultant in response to a request, tender or proposal that may be subject to acceptance or rejection.
<b>CAO:</b>	The Chief Administrative Officer or designate of the Corporation of the Town of Niagara-on-the-Lake.
<b>Clerk:</b>	The Clerk or designate of the Corporation of the Town of Niagara-on-the-Lake.
<b>Contract:</b>	A legally binding agreement between two or more parties.
<b>Committee/Council:</b>	The Municipal Council or Committee of the Whole of the Corporation of the Town of Niagara-on-the-Lake.
<b>Department Head:</b>	The Head of a specific Department or designate of the Corporation of the Town of Niagara-on-the-Lake.
<b>Designate:</b>	The person or persons assigned the duties and responsibilities on behalf of and in the absence or in the capacity of the person charged with the principal authority to take the relevant action or decision.
<b>Direct Payment:</b>	A non-competitive method of procurement which may receive exemption from the policy due to the nature of the good and/or service.
<b>Goods:</b>	Anything purchased other than services or real property.
<b>Lord Mayor:</b>	The Lord Mayor or designate of the Corporation of the Town of Niagara-on-the-Lake.
<b>Payment Card:</b>	A charge card approved by the Town that can be used by authorized Town employees to acquire low dollar value items outlined in Schedule "A".
<b>Quotation:</b>	A request for prices on specific goods and/or services from selected vendors, which are submitted verbally or in writing, as required by the policy.
<b>Region:</b>	The Regional Municipality of Niagara.

<b>Responsible Vendor:</b>	A vendor whose reputation, past performance, business, and financial capabilities are such that the vendor would be judged as capable of satisfying the needs for a specific contract.
<b>Responsive Vendor:</b>	A vendor whose bid does not vary from the specifications and terms and conditions set out in the quotations, bids, or request for proposal.
<b>Services:</b>	Work performed which does not result in the delivery of goods or materials. This may include but is not limited to utilities, cleaning services, consultant and legal services, insurance, and the rental, repair, or maintenance of equipment, machinery, or other corporate owned property.
<b>Single Source:</b>	Means an individual supplier with whom a contract is negotiated directly for the supply of goods or services, without being selected through a competitive process;
<b>Sole Source:</b>	In relation to a proposed acquisition, means the only known source of supply of particular Goods or Services, following a reasonable inquiry into the availability of supply.
<b>Total Acquisition Cost:</b>	The sum of all costs, including but not limited to, purchase price, applicable taxes, warranties, local service facilities, life cycle costs, vendor carrying costs, operating and disposal costs incurred for determining the lowest acceptable bid meeting specifications.
<b>Town:</b>	The Corporation of the Town of Niagara-on-the-Lake.
<b>Treasurer:</b>	The Treasurer or designate of the Corporation of the Town of Niagara-on-the-Lake.
<b>Vendor:</b>	A supplier of specific goods and/or services.

### **3 PURCHASING PRINCIPLES**

- 3.1 To promote the most cost effective and efficient use of Town funds by acquiring goods and services at the optimum quality, quantity, price, delivery, and performance.
- 3.2 To encourage a fair but competitive bidding process.
- 3.3 To always consider the total acquisition cost rather than the lowest bid so as to maximize long term savings for taxpayers of the Town. This includes, but is not limited to, consideration of maintenance, repairs, training, warranty, suitability, licensing requirements, support, and similar expenses.
- 3.4 To participate with other publicly funded bodies in co-operative purchasing activities where they are in the best interest of the Town.
- 3.5 To promote, when possible, the procurement of goods, services and construction with due regard to the conservation of natural environment.
- 3.6 To ensure accessible goods and services are purchased where accessibility would impact the successful use of the good or service by staff or public or where a lack of accessibility would have direct impact on the success of a Town project as required under *The Accessibility for Ontarians with Disabilities Act (AODA)*, 2005 O. Reg. 191/11; Integrated Accessibility Standard.

### **4 APPLICATION**

- 4.1 Formal approval of all purchases shall be authorized by Council annually within approved budgets, with the exception of emergency situations. The

ability to incur actual expenditure is hereby delegated to Town staff through the procedures established in this policy. The authority to Award is hereby expressly delegated to staff for all procurement related to operations and capital works that have been approved in the annual budgets, with the following exceptions:

- 4.1.1. Contracts prescribed by statute to be made by Council;
  - 4.1.2. Any contract where the awarded bid price is outside of the parameters set out in Council approved budget;
  - 4.1.3. Any contract where the award is not being recommended to the lowest bidder;
  - 4.1.4. In the case of a revenue generating proposal, where the net revenue amount proposed for acceptance is lower than the Council approved budget and cannot be offset within the existing operating budget without changing the budgeted levels of service;
  - 4.1.5. Any contract anticipated to be financed by debentures;
  - 4.1.6. When the bid price of two or more tender submissions are equal; or
  - 4.1.7. Where Council direction has been provided to have Council make the Award directly. – By-law 4701A-18
- 4.2 No Committee established by Council, no member of Council and no employee of the Town shall make a purchase except as in accordance with this policy.
- 4.3 No contract for goods, services or construction shall be structured in such a manner so as to circumvent any intent or thresholds of this policy.

## **5 PURCHASING APPROVAL LEVELS**

- 5.1 Unless otherwise approved by Council, all purchases of goods and services must be approved in the annual budgets. The exercise of authority to incur expenses is subject to the identification and availability of sufficient funds within the budget limits approved by Council. The ability to incur the actual expenditures is delegated to Town staff based on the following approval levels:

Up to	\$25,000	Department Head
Up to	\$100,000	CAO
Over	\$100,000	Council

– By-law 4701A-18

- 5.2 The dollar amounts in Section 5.1 refer to invoice costs exclusive of taxes, but inclusive of delivery charges. No requisition, purchase, or contract shall be divided in order to avoid the requirements of the spending limits applicable to this section.
- 5.3 Department Heads are hereby authorized to make any purchases required by the Town and to sell or dispose of any unusable, obsolete, worn-out, disused or scrapped supplies in accordance with this policy.

## **6 PROCUREMENT PROCEDURES**

- 6.1 The following are the authorized procedure limits for the procurement of goods and services: – By-law 4701A-18

<b>Procedure</b>	<b>Cost</b>
<b>Open Market Procurement Payment Card</b>	Up to \$5,000
<b>Quotation Process</b>	Up to \$100,000
<b>Tender Process</b>	Greater than \$100,000
<b>Request for Proposal</b>	Greater than \$100,000

- 6.2 The dollar limits in Section 6.1 refer to invoice cost exclusive of taxes, but inclusive of delivery charges. No requisition, purchase, or contract shall be divided in order to avoid the application of procurement procedure limits.

## **7 DIRECT PAYMENT FOR PURCHASES**

- 7.1 Direct payment for purchases shall be used to make small order purchases of goods and services for items expressed in Schedule “B”, provided sufficient funding has been allocated in the approved budget.

## **8 OPEN MARKET PROCUREMENT**

- 8.1 Goods and services may be obtained by the Department Head up to five thousand dollars (\$5,000) taxes excluded. Any correspondence or open market bidding is to be provided with the vendor invoice and payment card slip or other contract vehicle used as approved.
- 8.2 The Department Head is required to acquire goods and services using fair and ethical purchasing practices.
- 8.3 In soliciting prices, the Department Head shall indicate the terms equally to all suppliers contacted.
- 8.4 The payment card may be used by the Department Head to acquire goods and services to meet the requirements of section 8.
- 8.5 The acquisition of goods and/or services made using a payment card shall be carried out by the requesting Department Head, or designate, in accordance with this policy and the approved “Corporate Credit Card Policy” expressed in “Schedule C”.

## **9 QUOTATION PROCESS**

- 9.1 Informal Quotations

A minimum of three (3) quotations, using an informal fax or letter invitations are to be sought by the Department Head for goods and services over five thousand dollars (\$5,000), taxes excluded. Pricing is to be recorded by the Department Head, and

copies of all bids provided with vendor invoice and payment card slip, or other contract document used as approved prior to the expense.

## 9.2 Formal Quotations

A minimum of three (3) written quotations, using structured formats are to be sought by the Department Head for goods and services over twenty-five thousand dollars (\$25,000), taxes excluded. Pricing is to be recorded by the Department Head, and copies of all bids provided with the vendor invoice and payment card slip, or other contract document used as approved prior to the expense.

## 9.3 General Conditions for All Quotations

- 9.3.1 The Department Head is required to acquire bids using fair and ethical purchasing practises.
- 9.3.2 In soliciting prices, the Department Head shall indicate the specifications, terms and conditions equally to all bidders, all of which are to form the basis of the awarded contract.
- 9.3.3 Where a contract is awarded, it shall be to the lowest "responsive and responsible bidder".
- 9.3.4 Approvals:

Type	Cost	Approval Authority
Informal	\$5,000 - \$25,000	Department Head
	\$25,000 - \$100,000	CAO
Formal	Over \$100,000	Council

– BY-LAW 4701A-18

## 10 **FORMAL TENDER**

### 10.1 **General Procedures**

- 10.1.1 Formal tendering procedures shall apply when the total estimated contract price per project or annually is expected to be greater than one hundred thousand dollars (\$100,000). An advertisement shall be placed in at least one of the following: a local newspaper; major construction trade publication; and/or Town Website. – By-law 4701A-18
- 10.1.2 Tenders exceeding a value estimated in excess of five hundred thousand dollars (\$500,000) must be advertised in an electronic tendering advertisement system at least fifteen (15) calendar days preceding the closing date of tenders, unless otherwise directed by Council.
- 10.1.3 The advertisement shall contain the following:
  - (a) The name of the Town;
  - (b) A general description of the tender complete with securities required;
  - (c) The official designated to receive responses;
  - (d) The time and date of closing, and any mandatory bidder's meetings of site visits;
  - (e) The location of the performance of the contract;
  - (f) The location where plans and specifications may be obtained;
  - (g) The administrative fee, if any, for tender documents; and
  - (h) A statement that the lowest or any tender will not necessarily be accepted.

- 10.1.4 The Department Head shall arrange for the preparation of the tender documents with any additional technical assistance from the department or a consultant. These documents shall provide clear instructions, specifications, terms and conditions of the contract.
- 10.1.5 The Town may charge an administrative fee to bidders for issuance of tender documents.
- 10.1.6 The tender documents shall include the following:
- 10.1.6.1 A standardized tender envelope or technological equivalent shall be provided to all bidders and shall include the following:
- (a) Name and address of the Town;
  - (b) The official designation to receive the tenders;
  - (c) The closing date and time;
  - (d) The tender number;
  - (e) The name or general description of the tender; and
  - (f) The name of the bidder and their return address in top left hand corner; and
  - (g) The envelope is clearly marked "Confidential".
- 10.1.6.2 A standardized tender form shall be provided to all bidders and shall require the following:
- (a) A statement by the bidder that the bidder reviewed and understands the tender documents and that the bidder is capable of and willing to perform the requirements of the contract and enter into a legal agreement with the Town in regard thereto.
  - (b) An execution by the bidder – where the tender is submitted by a corporation, it shall be signed by the duly authorized officer(s) of the corporation and sealed with the corporate seal, or in the case of partnership, signed by all signing partners.
  - (c) Irrevocable period of the tender response.
  - (d) Time limit for signing the contract.
- 10.1.6.3 Terms and conditions of the specific tender as well as the Town standard terms and conditions document. The following term shall be included on every tender form;
- (a) "The Town reserves the right, in its sole discretion, to reject any or all bids, and the lowest or highest bid, as the case may be, will not necessarily be accepted."
  - (b) Notwithstanding and without restricting the generality of the statement immediately above, the Town shall not be required to, however may at Council's discretion, award or accept a tender, or recall the tenders at a later date:
    - I. When only one bid has been received as the result of a tender call;
    - II. Where the lowest responsive and responsible bidder substantially exceeds the estimated cost of the goods or service;
    - III. When all bids received fail to comply with the specifications of the tender terms and conditions; and
    - IV. Where a change in the scope of work or specifications is required.
- 10.1.7 Tender documents for construction contracts may, in addition to the above also include:
- (a) Drawings and plans;



- (b) Form of Agreement;
- (c) Form of contract securities;
- (d) A requirement for evidence of good standing with the Workplace Safety and Insurance Board;
- (e) A requirement for liability insurance and certificates, and form thereof; and
- (f) A statement of compliance with the Town's Occupational Health and Safety Policies.
- (g) Special provisions where applicable; and
- (h) Specifications.

10.1.8 The Department Head shall provide the tender documents or technological equivalent upon every bidder's request accompanied by payment of any required fee thereto.

10.1.9 Tenders shall comply with the following minimum conditions. A bidder's failure to comply with any of these conditions shall result in disqualification of the tender.

- (a) The tender form or format supplied by the Town shall be used.
- (b) A tender must be received by the official designated to receive tenders at the appropriate location on or before the closing date and time.
- (c) All tenders must be legible and written in ink or typewritten.
- (d) Tenders and adjustments to tenders submitted by telephone, facsimile transmission, or email, shall not be considered. A bidder wishing to make adjustments to a submitted tender must supersede it with a subsequent tender or letter enclosed in a tender envelope or equivalent received on or before the closing date.
- (e) All tender forms must be duly executed as required.
- (f) All required documents such as agreements to bond, bid bonds, security letters, or tender deposits, shall be enclosed in the same tender envelope, or envelopes, as specified in the tender instructions.
- (g) All tender envelopes or technological equivalent shall be sealed or secured.
- (h) All mandatory requirements stipulated in the Town's Request for Tender document must be met.

10.1.10 The Department Head may reject a tender if:

- (a) All items have not been bid, where stipulated, with the unit price for every item clearly shown;
- (b) Alternative tenders have been submitted where not requested in the tender documents;
- (c) The tender has been qualified by additions or alterations to the tender form, where not requested in the tender documents;
- (d) The tender envelope, or technological equivalent, supplied by the Town has not been used, or has not been supplied in the form specified;
- (e) Erasures, strikeouts, or overwriting have not been initialled by the signing party; and
- (f) Insufficient bid/contract security has been submitted.

10.1.11 The Department Head may request tender by invitation only when one of the following apply:

- (a) When it is impractical to call for tender due to the nature of the request;

- (b) It is in the Town's best interest to expedite the tendering process for requests which are time sensitive;
- (c) Where the expertise lies within a finite number of known suppliers.

## **10.2 Tender deposits**

- 10.2.1 Where tender deposits are required, the Department Head shall determine the form of deposit.
- 10.2.2 Where a tender deposit is required in connection with a contract for a road work or the construction of other infrastructure, the amount of the tender deposit shall be 10% of the engineer's estimate, rounded to the nearest ten thousand dollars (\$10,000).
- 10.2.3 Where a tender deposit is required in connection with a contract for the construction or demolition of a building, the amount of the deposit shall be in accordance with past accepted practice.
- 10.2.4 Other than as identified in sections 10.2.2 or 10.2.3 above, in cases where the amount of the contract is not likely to represent the importance or extent of the contract, the Department Head may increase or decrease the amount of tender deposit otherwise required or not request a deposit.
- 10.2.5 The Treasurer shall retain, in safe-keeping, all tender deposits. All tender deposits, save and except the two lowest tender deposits, shall be returned following the review by the respective Department Head. The two lowest tender deposits shall be retained until the Town is in receipt of an executed contract and any other required securities and documents from the successful bidder at which time, the tender deposit from both the successful and unsuccessful bidder will be returned. Performance bond, payment, and materials bond, where applicable, from the successful bidder shall be retained until one year following substantial performance of the contract or such other period required by the tender documents.
- 10.2.6 Should a tender not be awarded, upon notification from the Department Head, the Treasurer shall forthwith arrange the return of tender deposits to the bidders.
- 10.2.7 The tender deposit may be used to mitigate costs or damages to the Town where a successful bidder fails to execute the contract, or furnish any required documents within ten (10) calendar days or as specified within the tender documents after notice to them to do so.

## **10.3 Tender agenda, extension of time, and cancellation**

- 10.3.1 Where it is deemed necessary by the Town to revise the tender documents, an addendum shall be forwarded to every person who obtained tender documents for the contract.
- 10.3.2 The addendum shall be attached to all tender forms not yet distributed. Where an addendum is prepared too late to allow notification by mail, every person who obtained tender documents for the contract shall be notified by telephone, facsimile, or technological equivalent no later than 24 hours before closing.
- 10.3.3 Where it is deemed necessary by the Town to extend the closing date, an advertisement setting out the extension will be inserted in the electronic medium or publication in which the original advertisement appeared, and every person who obtained tender documents shall be notified of the extension by telephone, facsimile or technological equivalent. Where a closing date has been extended, all bidders shall be advised that any tenders submitted prior to the giving of the extension will be returned upon request.

- 10.3.4 Where it is deemed necessary by the Town to cancel a tender call, an advertisement will be placed in the electronic medium or publication in which the original advertisement appeared stating that the tender call has been cancelled and every person who obtained tender documents shall be notified by telephone facsimile or technological equivalent of the cancellation.
- 10.3.5 Where a tender call is cancelled prior to closing, no tenders shall be accepted. Should tenders be received, the Clerk shall return the received tenders unopened by registered mail with a covering letter.

#### **10.4 Receiving Tenders**

- 10.4.1 The Clerk shall provide a secure area for the safekeeping of tenders.
- 10.4.2 Every tender envelope received shall be noted with the date and time received and initialled by the Clerk or designate and placed unopened in the secure area by the Clerk.
- 10.4.3 Tenders received after the closing time shall be returned unopened to the bidder by the Clerk together with a covering letter. Where no return address is indicated on a late tender envelope, the envelope shall be opened by the Clerk only, the address obtained and the tender returned together with a covering letter setting out why the envelope was opened.
- 10.4.4 The Clerk shall maintain a list of all bidders. This list shall remain confidential until the time of tender opening. This list shall be used for recording the tender prices at the tender opening.
- 10.4.5 Should a technological process be available, which would satisfy procedures 10.4.3 and 10.4.4, it may be implemented.

#### **10.5 Withdrawal of Tenders**

- 10.5.1 A bidder may withdraw their tender prior to the closing time. Withdrawal requests shall be directed to the Clerk by letter, facsimile, or in person. A withdrawal request made by telephone or electronic mail shall not be considered. All withdrawal requests made in person shall require a written withdrawal request.
- 10.5.2 Tender withdrawal requests, on behalf of a vendor corporation, must be submitted by an officer of that corporation.
- 10.5.3 Tenders withdrawn prior to closing shall be returned unopened to the bidder.
- 10.5.4 The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same tender call prior to the closing time.
- 10.5.5 Withdrawal requests received after the closing time shall not be considered.

#### **10.6 Tender opening**

- 10.6.1 Tenders shall be opened at a meeting open to the public, at a time and location specified in the tender documents.
- 10.6.2 The following persons or representatives shall be present at every tender opening:
- (a) The Clerk or designate
  - (b) The Treasurer or designate
  - (c) The Department Head or a representative of the user department
- 10.6.3 The staff noted in Section 10.6.2 shall constitute the Tender Opening Committee.

- 10.6.4 The list of bidders prepared by the Clerk shall be available to the public on a request basis.
- 10.6.5 The Clerk shall ensure that all tenders have been accounted for prior to reading out the tenders. Tender envelopes, which do not indicate the contract name or the tenderer's name, shall be opened, documented on the list of all bidders, and placed with other tenders for that contract.
- 10.6.6 The Clerk shall announce for each contract the contract name of the bidder, the total amount of the tender, any other documents required.
- 10.6.7 Where two or more tenders are submitted in the same tender envelope, the one bearing the lower price shall be considered as the tender.
- 10.6.8 Where two or more tenders are submitted by the same bidder, only the tender received at the latest time shall be considered. The first tender envelope submitted shall be returned unopened by the Clerk together with a covering letter.
- 10.6.9 Should a technological process be available which satisfies procedures 10.6.1 through 10.6.8, it may be implemented.
- 10.6.10 Immediately following the opening of tenders, every tender shall be reviewed by the Department Head or designate or through his/her consultant to ensure compliance with the requirements within this policy.

## **10.7 Award of Contract**

- 10.7.1 A report, or information report to Committee/Council informing Council of the award of the contract will be required. The contents of the report shall remain confidential until it is distributed to the appropriate Committee/Council. – By-law 4701A-18
- 10.7.2 In considering a contract award, the Department Head shall recommend that the award of the contract be made to the lowest responsive and responsible bidder. In determining "responsive and responsible bidder", the Department Head shall consider the following, assuming the bid contains no major irregularities:
- (a) The bidder's ability, capacity, and skill to perform the contract;
  - (b) Whether the bidder can perform the contract promptly or within the time specified without delay or interference;
  - (c) The quality of the bidder's performance of previous contracts or services;
  - (d) The sufficiency of the financial resources and ability of the bidder to perform the contract;
  - (e) The quality, availability and adaptability of the supplies or services to particular use required; and
  - (f) Any other evaluation criteria as indicated in the Request for Tenders document.
- 10.7.3 The Department Head shall note any irregularities in the written analysis of every not acceptable tender, and shall state the reason the tender is considered not acceptable in the report for Committee/Council.
- 10.7.4 If two or more low tenders are submitted in the same amount, the Department Head shall recommend a preferred bidder and include reasons for such in the written analysis.
- 10.7.5 The Department Head, following the approval of Council, shall notify the successful bidder and the result of Council's resolution to all unsuccessful bidders.

- 10.7.6 The awarding of a contract shall be approved by the appropriate authority based on the levels outlined in Section 5. The contract amount will be determined not by the request for tender, but by the amount on the bid submission for which the contract is to be awarded.
- 10.7.7 Where a contract has been awarded and the successful bidder fails to execute the contract or any other required documents within the specified time, the Department Head may:
- (a) Grant the successful bidder additional time to fulfill the requirements; or
  - (b) Award the contract to the second lowest bidder and cash the deposit of the non-responsive bidder.
- 10.7.8 Provisional items that may or may not be used in a contract, shall be included in determining the total bid price.

## **11 REQUEST FOR PROPOSAL**

- 11.1 Request for Proposal for supplies and/or services may be called when the requirements of supplies or services cannot be definitely specified, or the requirements of supplies or services are non-standard in nature and where such proposals would result in varied offers by the bidders to fulfill the requirements at a particular price.
- 11.2 Request for Proposal documents will follow the following components:
- (a) Clearly establish required project outcome or requirements.
  - (b) State existing conditions if applicable.
  - (c) Specifically outline response requirements at time of proposal receipt.
  - (d) Clearly outline “the evaluation criteria” and the weighting of this criteria that will form the basis of contract award.
  - (e) A two-envelope system may be used to isolate cost from material content. A selection committee may be identified and will be responsible for weighing vendor responses using established scores identified in the proposal call.
  - (f) Proposal unit values or contents of vendor proposal responses will not be disclosed and will be held in confidence. Scoring activities of the selection committee will also be held in strict confidence. Only the final contract awarded price of the successful proponent will be available upon award.
  - (g) Specific contract documents may be required such as architectural, engineering or construction related standard documents.
- 11.3 A Selection Committee shall be established to oversee the following:
- (a) Receive and review submissions;
  - (b) Short list and interview the proponents as may be appropriate;
  - (c) Evaluate the submissions; and
  - (d) Make a recommendation to Committee/Council as to the award of the proposal.
- 11.4 The Selection Committee shall include in their report to Committee/Council a draft document, criteria and weighting, and reasons for using this approach.
- 11.5 The Selection Committee described in section 11.3 may be comprised of Town staff, Members of Council and qualified members of the public.
- 11.6 The Department Head may request proposals by invitation only when one of the following apply:

- (a) When it is impractical to call for tender due to the nature of the request;
- (b) It is in the Town's best interest to expedite the tendering process for requests which are time sensitive;
- (c) Where the expertise lies within a finite number of known suppliers.

11.7 Authority to incur expenditures of Town funds through a request for proposal procedure shall be subject to the same spending approval levels as outlined in Section 5 of the policy.

## **12 REQUEST FOR EXPRESSION OF INTEREST**

12.1 Department Heads may conduct a request for expression of interest for the purpose of determining the availability of suppliers and for the purpose of compiling a list of available suppliers which may be used as a specific pre-condition of any purchasing method utilized by the Town.

12.2 Every request for expression of interest shall state that the receipt of an expression of interest by the Town does not create any obligation between the supplier responding to the request and the Town.

## **13 NEGOTIATED PROCUREMENT PROCEDURES**

13.1 Negotiated procurement procedures can be used when the following applies:

- (a) When there is only one source of supply for the supplies or services; or when only one source of supply is uniquely qualified to perform the work;
- (b) When 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;
- (c) When there is merit in purchasing at a public auction;
- (d) When there is a strong business case to extend a contract beyond its initial term, such as when additional work is required that pertains to a current or recently completed project;
- (e) Where the best interest of the Town would be served through a negotiated process;
- (f) When the project is a pilot with the understanding that, if successful, further work will be subject to a bid process;
- (g) When required supplies must be compatible with equipment presently being used;
- (h) During negotiation of annual renewals within a contract period;
- (i) When the nature of the assignment is confidential and disclosure to several bidders is inappropriate, (e.g. real estate);
- (j) When all tenders or bids received fail to meet specifications or terms and conditions, and it is impractical to recall tenders or formal quotations.
- (k) When deemed beneficial by the Town to participate in co-operative purchasing agreements

13.2 Non-competitive procurement methods such as sole sourcing, oral or informal quotation, may be permitted when a negotiated procurement procedure applies, and the case for such method of procurement can be justified.

13.3 Authority to incur expenditures of Town funds through the negotiation procurement procedure shall be subject to the spending approval levels as outlined in Section 5 of the policy.

## **14 SINGLE SOURCE PURCHASE**

- 14.1 A single source purchase for goods, services, or construction is a purchase directed to one source, where other sources may be available.
- 14.2 A single source purchase may be conducted for the procurement of goods and/or services of any contract value without the competitive bid process when any of the following circumstances apply:
- (a) An attempt to acquire the required goods and/or services by a competitive process has been made in good faith, but has failed to identify a willing, capable and compliant supplier;
  - (b) There is a need for standardization to maintain functionality or existing service capacity;
  - (c) When required goods and/or services must be compatible with equipment presently being used;
  - (d) To purchase an item for testing or trial use;
  - (e) Where the extension of a contract may be beneficial to the Town;
  - (f) Where a single source method of procurement can be justified to be in the best interest of the Town.
- 14.3 Authority to incur expenditures of Town funds through single source procurement procedures shall be subject to the spending approval levels as outlined in Section 5 of this policy.

## **15 HIRING OF CONSULTANTS**

- 15.1 The Department Head or CAO, in consultation with appropriate staff, shall maintain a roster of qualified consultants as defined by the following criteria. For provisions of engineering or technical services on Town initiated works the Department Head or CAO shall:
- a) On routine type assignments where the estimated value of service is:
 

\$1000,000 or less:	Engage by direct assignment from the list of Qualified Engineering Firms. An information report on selection is to be provided to Committee and Council.
Greater than \$100,000:	Issue a formal tender for services and report to the next available Committee meeting with a recommendation for award.
  - b) On complex projects or studies, the Department Head or CAO shall initiate a Request for Proposal and follow the procedures as set out in this policy. – By-law 4701A-18
- 15.2 For provisions of engineering design review and inspection services on subdivisions and site plans on behalf of the municipality, the Department Head or CAO shall select from the list of Qualified Engineering Firms based upon current workload, availability, and any declared interest in the works and subsequently directly engage the appropriate firm.
- 15.3 “Qualified Engineering Firm” refers to an engineering firm which:
- a) Maintains a fully staffed office
  - b) Has previously provided services on municipal related projects within the Town;

- c) Has demonstrated satisfactory performance on these jobs;
- d) Retains competent personnel and resources;
- e) Is willing to provide a signed declaration attesting to their interest (financial or otherwise) in a specific project or development for which services are to be provided.

## **16 LOCAL PREFERENCE:**

- 16.1 In accordance with the Discriminatory Business Practices Act, Revised Statutes of Ontario, 1990, Chapter D.12 there will be no local preferences for purchases. All else being equal, preference will be given to purchase goods and/or services firstly from Niagara-on-the-Lake based businesses, secondly from businesses located in the Region of Niagara and thirdly from Ontario owned businesses.

## **17 EXCEPTIONS**

- 17.1 The Department Head or designate may request an exemption from any or all purchasing methods outlined in this policy by submission of a staff report requesting the approval of Council. Such exemption may be granted by resolution.

## **18 EMERGENCY PURCHASES**

- 18.1 When an event occurs that is determined by the 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 and/or services and time does not permit the Department Head to follow normal purchasing activities to acquire such goods and/or services, the Department Head may make such purchases without the bidding or tendering process, and is authorized to do so in the most expedient and economical means possible.
- 18.2 Where a purchase has been made under Section 18.1, the Department Head shall notify the Treasurer and the CAO and Committee/Council in writing of the details thereof within a maximum of thirty (30) calendar working days of the event.
- 18.3 The Department Head shall provide a full written report to Committee/Council of the particulars of the emergency situation in all cases, where the amount of the expenditure is greater than ten thousand dollars (\$10,000).

## **19 REFUSAL OF RESPONSES**

- 19.1 The Town reserves the right not to accept a response from any person or corporation which includes any non-arms length corporation who, or which, has a claim or has instituted a legal proceeding against the Town or the Region, or against whom the Town or the Region has a claim or instituted a legal proceeding with respect to any previous contracts, bid submissions or business transactions who is listed as either the proposed general contractor or sub-contractor or vendor within the submitted responses.

## **20 DIVISION OF CONTRACTS PROHIBITED**

- 20.1 No employees of the Town shall divide a contract in order to avoid the requirements of the Formal Quotation, Formal Tendering, or Request for Proposal procedures.



**21 AUTHORITY TO EXECUTE CONTRACTS**

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

**22 PREVIOUS POLICIES**

- 22.1 This policy supercedes By-Law 3929-05.

**23 SCHEDULE A – METHODS OF PROCUREMENT SUMMARY TABLE**

Value	Method of Procurement	Method of Purchase	Source of Bid	Approval Authority
<b>\$5,000 or less</b>	Direct Purchase Procedure	Petty cash, cheque requisition, or payment card invoice	For items expressed in "Schedule A"	Department Head
	Open Market Procurement	Petty cash, cheque requisition, or payment card invoice	Purchase made from the competitive open market where practical & possible	Department Head
<b>\$5,000-\$10,000</b>	Informal Quotation	Payment card or legally executed agreement	A minimum of three (3) quotations, using an informal fax or letter invitations	Department Head
<b>\$10,000 - \$25,000</b>		Legally executed agreement		CAO
<b>\$25,000-\$50,000</b>	Formal Quotation	Legally executed agreement	A minimum of three (3) written quotations, using structured formats	CAO
<b>\$50,000 or more</b>	Request for Tender	Legally executed agreement	Competitive bidding process	Council
	Request for Proposal	Legally executed	Competitive bidding process	Council

## **24 SCHEDULE B – DIRECT PAYMENT FOR PURCHASES**

The appropriate Department Head, Treasurer or CAO may approve for payment for the following items provided sufficient funding has been included in the approved budget:

### **1. Petty Cash Items**

### **2. Training and Education**

- a) Conferences
- b) Courses
- c) Conventions
- d) Magazines
- e) Memberships
- f) Periodicals
- g) Seminars
- h) Staff Development
- i) Staff workshops
- j) Subscriptions
- k) Reference texts or standards

### **3. Refundable Employee Expenses**

- a) Advances
- b) Meal allowances
- c) Miscellaneous – non-travel
- d) Travel expenses
- e) Allowances as provided for in the hourly-rated and Office and Clerical Agreements
- f) Medicals
- g) Licenses

### **4. Professional and Special Services**

- a) Committee expenses
- b) Counselling & legal services
- c) Banking services
- d) Appraisal charges
- e) Physician fees
- f) Honorarium
- g) Arbitrators
- h) Temporary help
- i) Annual equipment maintenance and janitorial services

### **5. Utilities**

- a) Postage
- b) Water and Sewage
- c) Hydro
- d) Heating fuels
- e) Telephone
- f) Cable television charges

**25 SCHEDULE C – CORPORATE CREDIT CARD POLICY**