



The Corporation of the Town of East Gwillimbury

By-law 2026-021

Being a By-law to Adopt Policies with Respect to its Procurement of Goods and Services

Whereas section 270 (1) of the *Municipal Act, 2001* provides that a municipality shall adopt policies with respect to its Procurement of Goods and Services;

Now therefore, the Council of The Town of East Gwillimbury hereby enacts as follows:

1 PRIMARY OBJECTIVES

1.1. The primary objectives of this By-law are:

- a. To encourage competition among Contractors;
- b. To obtain Best Value in the Procurement of Deliverables;
- c. To ensure fairness, objectivity, accountability and transparency in the Procurement process;
- d. To provide Procurement guidance to Town staff in the performance of their duties.
- e. To promote and implement Procurement practices that support the principles of the *Ontarians with Disabilities Act, 2001* and the *Accessibility for Ontarians with Disabilities Act, 2005*; and
- f. To comply with all applicable laws.

2 DEFINITIONS

2.1. In this By-law:

“**Award**” means the authorization to proceed with the Purchase of Deliverables;

“**Best Value**” means, in relation to a Purchase, that the Purchase provides the greatest overall benefit through the optimal balance of quality and financial terms;

“Bid” means a submission received in response to a Call for Bids, and includes a Quotation, a Tender and a Proposal;

“Bidder” means any legal entity that makes a submission in response to a Call for Bids;

“Call for Bids” means a formal request for Bids and includes a Request for Quotations, a Request for Tenders and a Request for Proposals;

“Chief Administrative Officer” means the Chief Administrative Officer (CAO) of the Town;

“Construction” means a construction, reconstruction, demolition, repair or renovation of a building, structure or other civil engineering or architectural work and includes site preparation, excavation, drilling, seismic investigation, soil investigation, the supply of labour, products, 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 of a building, structure or other civil engineering design or architectural work;

“Consulting and Professional Services” means those services requiring the skills of a professional for a specialized service and includes, but is not limited to, 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, hydro geologists, transportation planners and engineers, communications consultants and any other consulting services which may be required by the Town;

“Contingency” means an event or circumstance that gives rise to an increase in a Contract price, and which could not have been reasonably anticipated at the time of Contract Award;

“Contract” means any form of binding agreement between the Town and a Contractor for the Purchase of Deliverables and may include a Purchase Order;

“Contractor” means a vendor, supplier, service provider, consultant or other third party entity or individual and includes any that has entered into a Contract with the Town;

“Council” means the Council of the Town of East Gwillimbury;

“Deliverables” means Goods, Services and Construction;

“Department Head” means the head of a Town department who typically has the title of General Manager;

“Direct Purchase” means a Purchase with a Total Cost that exceeds ten thousand dollars (\$10,000.00) that may be procured without a Call for Bids, in accordance with Section 10 of this By-law;

“Surplus Assets” means Goods that are no longer required by the Town that have residual value;

“Emergency” means an unexpected, sudden, or unforeseen occurrence or event or combination of circumstances calling for immediate action to acquire Deliverables and where it is foreseeable that failure to act immediately will cause irreparable harm to other persons or to the Town’s operations or infrastructure;

“Goods” means property, including raw materials, products, supplies, and other physical objects of every kind and description but excludes Real Property;

“Litigation” means any unresolved legal proceeding involving the Town and any other party or related party adverse in interest;

“Lowest Cost Compliant Bid” means a Compliant Bid with the lowest dollar amount;

“Low Value Purchase” means a Purchase of Deliverables which does not exceed a value of ten thousand dollars (\$10,000.00) excluding HST that is procured without a Call for Bids;

“Manager of Procurement” means the Manager of Procurement of the Town;

“Municipal Clerk” means the Municipal Clerk of the Town;

“Price Agreement” means a Contract between the Town and a Contractor resulting from a Call for Bids, under which the Contractor agrees to provide Deliverables as and when needed by the Town, at a pre-determined price, for a pre-determined period of time, upon pre-determined terms and conditions;

“Procurement” means the activities and processes to acquire Deliverables and includes the activities involved in establishing fundamental requirements,

sourcing activities such as market research and vendor evaluation and negotiation of Contracts;

“Procurement Review Committee” means the committee established under Section 17.1 of this By-law;

“Proposal” means a submission received by the Town in response to a Request for Proposals;

“Purchase” means the process involved in the ordering of Deliverables such as the request for, creation or approval of a Purchase Order (P.O.), and is a subset of the wider Procurement process;

“Purchase Order” means a written order to a Contractor setting out the terms and conditions for the Purchase of Deliverables;

“Quotation” means a submission received by the Town in response to a Request for Quotations;

“Real Property” means land, or land and buildings, and includes fixtures attached to such land or buildings;

“Request for Expressions of Interest” means a request made by the Town for the purpose of identifying potential Bidders who may be interested in providing Deliverables to the Town;

“Request for Information” means the process of collecting written information about the capabilities or capacity of vendors to provide Deliverables to the Town;

“Request for Pre-qualification” means a process in advance of a Request for Proposals or Request for Tenders, made by the Town for the submission of information from potential Bidders, including qualifications, experience, financial capability, background and staffing of a potential Bidder, for the purpose of pre-qualifying potential Bidders who will be invited by the Town to participate in a subsequent Request for Proposals or Request for Tenders;

“Request for Proposals” means a request made by the Town that will be publicly and widely advertised for a proposed approach or solution to a requirement where the Deliverables may not be clearly known, and it is anticipated that Bidders may propose more than one alternative to fulfill the Town’s requirements when the RFP permits;

“Request for Quotations” means a request for pricing and availability of a Deliverable with a value under \$100,000.00;

“Request for Tenders” means a request made by the Town where two or more Bidders are available to supply the Deliverables, the Deliverables can be clearly specified, the market conditions are such that the Bids can be submitted on a competitive price basis, publicly and widely advertised and it is intended that the Lowest Cost Compliant Bid shall be accepted without negotiation;

“Responsive” or **“Compliant”** means that a Bid has complied in all material respects with the requirements set out in the Call for Bids;

“Scope” means the full extent of the Deliverables to be provided by a Contractor, as set out in the Contract;

“Scope Change” means any change to a Contract to accommodate a need identified by the Town which was not originally provided for in the Contract and which may include the Purchase of additional Deliverables or the extension of the term of the Contract and which may require an adjustment to the Total Cost of the Contract;

“Services” means the services to be provided to the Town under a Contract and includes Consulting and Professional Services;

“Tender” means a Bidder’s submission received in response to a Request for Tenders;

“Total Cost” means the Contract cost for the term of a Contract, and, in the case of a Contract containing renewal provisions, the total Contract cost to the Town for the initial term and all potential renewal terms. The Total Cost does not include the Harmonized Sales Tax or other applicable taxes;

“Total Revenue” means, where revenue is payable to the Town under a Contract, the total revenue payable during the full term of the Contract and, in the case of a Contract containing renewal provisions, the total revenue payable during the initial term and all potential renewal terms;

“Town” means the Town of East Gwillimbury;

“Town Solicitor” means the individual employed by the Town in the position of Town Solicitor;

“**Treasurer**” means the Treasurer of the Town; and

“**Vendor Performance Review Committee**” means the committee established under Section 18.1 of this By-law.

3 APPLICATION AND RESTRICTIONS

- 3.1 The purchasing procedures set out in this By-law shall apply to the Procurement of all Deliverables made by or on behalf of the Town except as may be expressly exempted or restricted under this By-law or otherwise by Council.
- 3.2 No Procurement shall be made under this By-law unless Council has provided funds for such Procurement in the budget or otherwise agreed to the provision of such funds and save and except where this By-law provides otherwise, no expenditure shall be authorized or incurred in excess of such funds. For clarity, operating grants and/or other monies received by the Town after the date that Council approved the applicable budget in respect of the matter are deemed to be included in that budget.
 - 3.2.1 The Treasurer has authority to increase the Total Cost of a Contract to include a change in scope arising from work requested by a third party after the Award of the Contract where such increase is to be borne by the third party and arrangements have been made that are satisfactory to the Treasurer to ensure that the Town is fully reimbursed by the third party for the increase.
- 3.3 No Procurement or Purchase shall be arranged or made to avoid the application of this By-law. Without limiting the generality of the foregoing, no Procurement of Deliverables shall be divided into two or more parts for the purpose or intent of, or with the effect of, avoiding or frustrating the application of this By-law.
- 3.4 No Purchases shall be made by the Town directly or indirectly for the personal use of any member of Council or any member of a local board or for any officer or employee of the Town.
- 3.5 All Procurement undertaken by the Town shall comply with the Town’s Code of Conduct and the *Municipal Conflict of Interest Act*.

- 3.6 Where a proposed Contract provides for the Town to receive revenue from a Contractor, the procedures and authority limits set out in this By-law which are applicable to the Total Cost of a Contract shall be construed as applicable, with necessary changes, to the Total Revenue payable under the Contract.
- 3.7 All dollar amounts stated in this By-law are exclusive of Harmonized Sales Tax (HST).

4 EXEMPTIONS

- 4.1 This By-law shall not apply to the acquisition of any Real Property or to any lease, right or permission relating to the use or occupation of Real Property.
- 4.2 Where the Procurement of Deliverables is required under any lease of Real Property and is provided for under the terms of such lease, including tenant improvements, equipment and fixtures, the terms of the lease shall govern to the extent of any conflict with this By-law.
- 4.3 This By-law shall not apply to the retainer of Consulting and Professional Services in relation to (i) the retainer of external legal services to represent the Town or in respect of the Town's business and operations; (ii) the retainer of valuers, appraisers, surveyors, real estate agents and/or other like professionals required in respect of land transactions; (iii) the retainer of persons fulfilling the duties of an integrity commissioner, ombudsman or other statutory officer; and (iv) the retainer of other professional services where the Chief Administrative Officer believes that the nature of the matter is confidential and/or is necessary to retain the appropriate experience and expertise for the particular matter.
- 4.4 This By-law shall not apply where the purchase relates to:
- a. The purchase or relocation of utilities and related infrastructure associated with a Town contract, including but not limited to hydro-electrical, gas, cable, telecommunications services, water, wastewater, and natural gas;
 - b. Training and education, conferences, conventions, courses and seminars;
 - c. Magazines, books and periodicals;
 - d. Memberships;
 - e. Facilitators and program hosts;
 - f. Banking and insurance services; and

- g. Catering for short-term rental of venues for Town events and activities.

5 RESPONSIBILITIES AND AUTHORITIES

5.1 The responsibilities of Council

- 5.1.1 It is the role of Council to approve expenditures through the Town's budget approval process. Council will delegate to Town's staff the authority to incur expenditures in accordance with approved budgets through the Procurement of Deliverables in accordance with the rules and policies set out in this By-law.
- 5.1.2 Council will approve purchases, as required by this By-law.

5.2 The responsibilities of employees

- 5.2.1 Employees of the Town are responsible for abiding by the rules and requirements set out in this By-law when dealing with all stages of the Procurement process.
- 5.2.2 Employees involved in Procurement activities must understand their obligations and responsibilities under this By-law and should consult with Procurement staff to address any questions regarding the application or interpretation of this By-law.

5.3 The responsibilities of the Treasurer and overseeing Director

- 5.3.1 The Treasurer shall be responsible for overseeing the activities carried out by the Procurement area under this By-law. The Treasurer will not be responsible for the decision of Department Heads that do not comply with the requirements of this By-law.
- 5.3.2 The Director is responsible for ensuring that all Procurement activities and decisions are authorized by this By-law and are carried out within the financial and other limitations set out in associated policy documents.

5.4 The responsibilities of the Manager of Procurement

- 5.4.1 The Manager of Procurement shall have responsibility for leading the Town's Procurement operations and ensuring the consistent application of this By-law. Specifically, the Manager of Procurement is responsible for:

- a. Administering all aspects of the competitive purchasing process;
- b. Participating in co-operative purchasing with other levels of government, municipalities, boards, agencies, commissions, or private sector entities, where it is in the best interest of the Town;
- c. Developing Procurement strategies, analysis of building of business requirements and spending patterns to identify opportunities for more strategic sourcing;
- d. Compiling and analyzing data related to Procurement activities throughout the Town;
- e. Researching, developing, maintaining, updating and communicating Procurement procedures, policies, and templates;
- f. Addressing any issues or concerns that arise in respect of a Procurement process and seeking guidance, support and advice of Legal Services, as required; and,
- g. Providing appropriate orientation, training and tools to employees involved in Procurement activities.

5.5 The responsibilities of Department Heads

- 5.5.1 Department Heads are responsible and accountable for their department's decisions and compliance with this By-law, encouraging sound Procurement practices and ensuring that employees are trained in carrying out Procurement activities.

5.6 The responsibilities of Legal Services

- 5.6.1 Legal Services shall be responsible for providing legal advice and assistance regarding the Town's Procurement activities and compliance under this By-law.
- 5.7 Where any authority has been granted to any person under this By-law, such authority may be exercised by that person's authorized designate. The appointment of a designate shall be subject to the approval of the Chief Administrative Officer.
- 5.8 Where any authority has been granted to any officer or employee of the Town under this By-law, such authority may be exercised by the Chief Administrative Officer.

6 PRE-QUALIFICATION

Request for Expressions of Interest/Request for Information

- 6.1 The Town may issue a Request for Expressions of Interest or a Request for Information for the purpose of determining the availability of any Deliverable.
- 6.2 A Request for Expressions of Interest or a Request for Information may be conducted as a pre-condition to any Procurement procedure set out in this By-law.
- 6.3 The receipt of a submission in response to a Request for Expressions of Interest or a Request for Information shall not create any contractual obligation on the part of the Town. The Town is not required to proceed with any further Procurement process following a Request for Expressions of Interest or a Request for Information.

Request for Pre-qualification

- 6.4 The Town may issue a Request for Pre-qualification for the purpose of selecting qualified Bidders to respond to a Call for Bids.
- 6.5 Where a Request for Pre-qualification is issued, a pre-qualification document shall be provided to potential Bidders setting out the criteria for Pre-qualification, which may include:
 - a. Experience of similar work;
 - b. References provided from other customers for similar work;
 - c. Verification of qualifications, licenses and permits, if applicable; and
 - d. Financial capability.
- 6.6 The selection of Bidders following a Request for Pre-qualification shall not create any contractual obligation between the Town and a pre-qualified Bidder. The Town is not required to proceed with any further Procurement process following a Request for Pre-qualification.

7 AUTHORIZATION OF PURCHASES

Purchases not exceeding \$10,000.00 - Low Value Purchase

- 7.1 The Department Head or the Treasurer may authorize the Low Value Purchase without issuing a Call for Bids or a Request for Quotations, provided that,
- a. The Department Head, Treasurer or designate, is satisfied that the Purchase of the Deliverable represents Best Value; and
 - b. The Procurement is not being split from a larger Procurement to avoid going out for a competitive Quotation or Bid.

Purchases exceeding \$10,000.00 but not exceeding \$ 100,000.00

- 7.2 A Request for Quotation shall, at a minimum, be issued.
- 7.3 A minimum of three (3) written Quotations shall be solicited.
- 7.4 The Department Head or the Treasurer may authorize the Procurement provided that the Award is made to the Bidder submitting a Compliant Bid with the lowest Total Cost. The Award may be made notwithstanding that fewer than three (3) written Quotations are received, if the Department Head determines that it is the best value.

Purchases exceeding \$100,000.00 (Formal Process)

- 7.5 Either a Request for Tenders or a Request for Proposals shall be issued. The estimated value of the purchase shall include the cost associated with all option years to renew the Contract.

Request for Tenders

- 7.6 A Request for Tenders shall be issued where the following criteria apply:
- a. Two or more sources are available to supply the Deliverables;
 - b. The Deliverables can be clearly specified;
 - c. The market conditions are such that Bids can be submitted on a competitive pricing basis; and
 - d. It is intended that the Lowest Cost Compliant Bid shall be accepted without negotiation.
- 7.7 The Department Head or the Treasurer may Award the Contract, provided that the Award is made to the Bidder submitting the Lowest Cost Compliant Bid not exceeding one million dollars (\$1,000,000.00).

- 7.8 If the Department Head or the Treasurer Awards a Bid exceeding \$100,000.00, the Treasurer shall prepare and submit a memorandum to Council in the first and third quarter of the year setting out any such Awards.
- 7.9 If the Total Cost of the Contract exceeds one million dollars (\$1,000,000.00), the Award of the Contract shall be subject to Council approval.

Request for Proposals

- 7.10 A Request for Proposals shall be issued where the Deliverables are not clearly known, and it is anticipated that Bidders may propose a variety of alternatives to fulfill the Town's requirements.
- 7.11 The Request for Proposals shall be conducted using a two (2) file system: one (1) file for the technical Proposal and one (1) Schedule of Prices file for the financial Proposal.
- 7.12 The Department Head or the Treasurer may Award the Contract provided that:
 - (i) the Total Cost of the Contract does not exceed one hundred thousand dollars (\$100,000.00); and
 - (ii) the Award is made to the Bidder submitting the highest overall scoring Bid.
- 7.13 If the Total Cost of the Contract exceeds one hundred thousand dollars (\$100,000.00), the Award of the Contract shall be subject to Council approval.
- 7.14 The Award of the Contract shall be subject to Council approval if the Contract to be Awarded is to the Bidder submitting the highest overall scoring Bid.
- 7.15 Despite any other provision of this By-law, during any period that regular Council meetings are suspended, either during a summer recess or for any other reason, or during the period that the acts of Council are restricted by Section 275 of the *Municipal Act, 2001* the Chief Administrative Officer is authorized to Award any Contract.
- 7.16 The Treasurer shall prepare and submit a report to Council as soon as reasonably possible setting out the details of the Award of a Contract pursuant to Section 7.15 of this By-law.

8 PRICE AGREEMENTS

- 8.1 A Call for Bids may be issued in accordance with this By-law in order to establish Price Agreements for the Purchase of Deliverables.
- 8.2 The Town shall have no obligation to any Contractor to Purchase any Deliverable under a Price Agreement, unless otherwise agreed upon, in writing, pursuant to a Contract.

9 EMERGENCY PURCHASES

- 9.1 In the case of an Emergency, the Purchase of Deliverables may be authorized without issuing a Call for Bids.
- 9.2 The Department Head or the Treasurer shall use reasonable efforts to obtain the Best Value for any Deliverables purchased during an Emergency, using as fair and transparent a process as is possible having regard to the particular Emergency. The Department Head may authorize the Purchase provided the Total Cost of the Deliverables does not exceed one hundred thousand dollars (\$100,000.00). Before initiating the Purchase, the Department Head shall consult with the Treasurer and may proceed with the Purchase where they agree that the circumstances constitute an Emergency. If they do not agree, then the final decision rests with the Chief Administrative Officer. If the Department Head in the particular case is the Treasurer, then the Treasurer shall consult with the Chief Administrative Officer before initiating such Purchase with the final decision resting with the Chief Administrative Officer.
- 9.3 The Chief Administrative Officer may authorize the Purchase where the Total Cost of the Deliverables exceeds one hundred thousand dollars (\$100,000.00).
- 9.4 As soon as practicable after the rise of the Emergency, the Department Head shall prepare and submit a report to Council as soon as reasonably possible after the Emergency has occurred, setting out the details of the Purchase pursuant to Section 9.3 of this By-law.

10 DIRECT PURCHASES (SOLE SOURCING)

- 10.1 Despite Sections 7.2 ,7.3 and 7.4 of this By-law, where the Total Cost of any Deliverable exceeds ten thousand dollars (\$10,000.00), but does not exceed one hundred thousand dollars (\$100,000.00) the Deliverable may be procured

without issuing a Call for Bids provided that, in the opinion of the Department Head or the Treasurer:

- a. The compatibility of a Deliverable with existing equipment, facilities or service is the primary consideration; or
- b. There is only one potential Contractor reasonably capable of providing the Deliverable.

10.2 The Department Head or the Treasurer may Award any Contract under Section 10.1 of this By-law.

10.3 Despite Section 7.5 and subject to Section 10.4 of this By-law, where the Total Cost of any Deliverable exceeds one hundred thousand dollars (\$100,000.00), the Deliverable may be procured without issuing a Call for Bids provided that, in the opinion of the Department Head or the Treasurer:

- a. The compatibility of a Deliverable with existing equipment, facilities or service is the primary consideration; or
- b. There is only one potential Contractor reasonably capable of providing the Deliverable.

10.4 The Award of any Contract under Section 10.3 of this By-law is subject to Council approval.

11 CONTINGENCIES

11.1 Where any Purchase of Deliverables has been authorized under this By-law, the Department Head or the Treasurer may, upon being satisfied that a Contingency has arisen, authorize expenditures that exceed the original approved Contract amount, provided that all additional expenditures shall not exceed fifteen percent (15%) of the Total Cost of the Contract at the time of Award and further provided that the additional expenditures are required to obtain the Deliverables specified in the original Contract.

11.2 The Department Head or the Treasurer may authorize any expenditure under Section 11.1 of this By-law, provided that the Total Cost of the Contract remains within the approved budget, irrespective of the amount of the expenditure. Otherwise, the Purchase of the additional expenditures shall be subject to Council approval.

12 SCOPE CHANGE/ADDITIONAL DELIVERABLES

12.1 Where Deliverables have been procured, no similar or additional Deliverables shall be procured under the same Contract, whether by way of Contract extension, renewal, or separate Purchase, unless specifically permitted under this By-law.

12.2 The Department Head or the Treasurer may authorize the Purchase of additional Deliverables under a Contract, provided that the Department Head or the Treasurer, as the case may be, is satisfied that a Scope Change necessitates the purchase of additional Deliverables and:

- a. The Total Cost of the additional Deliverables does not exceed 15 percent (15%) of the Total Cost of the Contract and the Total Cost of the Contract as amended, remains within the approved budget; or
- b. The Total Cost of the additional Deliverables is required to be paid in full by a third party and payment has been received or security to ensure payment has been provided to the Town, to the satisfaction of the Treasurer.

12.2.1 Otherwise, the Purchase of the additional Deliverables shall be subject to Council approval.

12.3 Despite Section 12.2 of this By-law, where the Total Cost of the Contract at the time of award is less than one hundred thousand dollars (\$100,000.00), and the revised Contract value, including the cumulative value of all Scope Changes will remain less than one hundred thousand dollars (\$100,000.00), the Treasurer may authorize the additional expense

12.4 If a Scope Change requires the extension or renewal of a Contract, any extension or renewal of a Contract that would result in a total Contract term in excess of five (5) years shall be subject to Council approval.

13 RENEWAL OF CONTRACTS

13.1 Where a Contract provides for a renewal term, the Department Head or the Treasurer may exercise the option to renew, provided that:

- a. The Contract is being renewed in accordance with the Contract's renewal terms; and
- b. There is approved budget for the renewal term; and

c. The Contractor has performed the Contract to the satisfaction of the Department Head.

13.2 If a renewal of a Contract would result in a total Contract term in excess of five (5) years, the renewal of the Contract shall be subject to Council approval.

14 CO-OPERATIVE PURCHASING

14.1 The Town may participate with other levels of government, municipalities, agencies or public authorities in co-operative purchasing where the Department Head or the Treasurer determines it is in the best interests of the Town to do so, either by including other entities in a Call for Bids issued by the Town or by requesting that the Town be included in a Call for Bids issued by another entity.

14.2 Where another level of government, municipality, agency or public authority has completed a competitive Procurement and offers to extend to the Town the same terms and pricing offered by the successful bidder, the Town may enter a Contract with the successful bidder as a co-operative Purchase without issuing a further Call for Bids, whether or not the Town was named in the Call for Bids, if the original contract states this option, and it does not violate any applicable law. The Town may be required to negotiate some terms or pricing, if required.

14.3 Where any Contract proposed to be entered into by the Town where the Call for Bids was issued by another entity, the Procurement shall be authorized in accordance with the authority limits set out in Section 7 of this By-law.

15 UNSOLICITED BIDS/PROPOSALS

15.1 Where an unsolicited bid/proposal is received by the Town, and is under consideration, the evaluation and Award shall be in accordance with this By-law.

16 CONTRACTOR PERFORMANCE AND LITIGATION

16.1 No Bid shall be accepted from, nor shall any Contract be Awarded to or an extension or renewal of a Contract be granted to any Bidder or Contractor or related party, as determined in the discretion of the Town Solicitor, with whom the Town is engaged in litigation, except under the following circumstances:

- a. Where the subject Contractor is the only qualified Contractor in the Town's sole opinion, and the Chief Administrative Officer concurs with a decision to Award, extend or renew;
 - b. In the case of an Emergency;
 - c. Where there is a legal obligation on the part of the Town to enter into the Contract;
 - d. Where the proposed Contract is pursuant to the co-operative purchasing provisions of this By-law or where another public agency will be party to the Contract and has approved the Award;
 - e. Where the Town has been named as plaintiff or as a defendant in any claim pursuant to the exercise of third party subrogated rights and where an agreement or arrangement has been entered into which indemnifies or otherwise adequately protects the Town's interests, to the satisfaction of the Town Solicitor, pending resolution of the litigation;
 - f. Where the Town and any party adverse in interest have agreed to refer the litigation to alternative dispute resolution in a form or format approved by the Town Solicitor or where an agreement or arrangement has been entered into which indemnifies or otherwise adequately protects the Town's interests while resolution is pursued, as may be determined in the sole discretion of the Town Solicitor;
 - g. Where the Town has been named in an action by a sub-contractor pursuant to the Construction Act, or any successor legislation, and the Town's Contractor has been bonded off or otherwise disposed of the construction lien or protected the Town's interests in accordance with the Contractor's Contract with the Town; or
 - h. Where the Contractor or related party is exercising rights pursuant to the Expropriations Act.
- 16.2 Despite Section 16.1, where the amount in dispute in any litigation does not exceed one hundred thousand dollars (\$100,000.00), the Department Head or the Treasurer in consultation with the Town Solicitor may accept the Bid or Award the Contract, or approve the extension of the Contract, provided that he or she is satisfied that it would be in the best interest of the Town to do so, based on the consideration of factors including but not limited to the following:
- a. The Bidder's or Contractor's performance under previous contracts with the Town;

- b. The Town's claims history with the Bidder or Contractor or existing Contract with the Contractor, and;
 - c. An assessment of the overall risk and Total Cost to the Town in entering into a Contract with the Bidder or Contractor.
- 16.3 The Department Head shall be responsible for monitoring the performance of Contractors and documenting evidence of such performance and shall advise the Treasurer, Town Solicitor and Manager of Procurement in writing where the performance of a Contractor has failed to comply with the terms of the Contract or other Town requirements.
- 16.4 Further to Section 16.3, the Treasurer and the Town Solicitor may refer Contractor performance issues to the Vendor Performance Review Committee in accordance with Section 18. The Committee may prohibit a Contractor from submitting a Bid in response to a Call for Bids where the Committee is satisfied that the Contractor has demonstrated unsatisfactory performance under a Contract with the Town.
- 16.5 For the purposes of this Section 16, unsatisfactory performance means past performance by a Contractor under a Contract with the Town that is inconsistent with the expected standard of service delivery applicable in a commercial context, including, but not limited to any of the following:
- a. Consistent or significant failure to adhere to specified schedules or delivery requirements;
 - b. Consistent or significant failure to follow specified Contract requirements or authorized directions;
 - c. Consistent or significant failure to perform the Contract in accordance with generally accepted standards of good workmanship;
 - d. Consistent or significant failure to adhere to legislative requirements, including but not limited to applicable statutes, regulations and By-laws; or
 - e. Dishonesty or criminal actions on the part of the Contractor.

17 PROCUREMENT REVIEW COMMITTEE

- 17.1 The Treasurer shall establish a Procurement Review Committee composed of, at a minimum, the following members of Town staff:
- a. The Manager of Procurement;

- b. A management representative of the Town department requesting the Procurement of the Deliverables; and
 - c. The Town Solicitor.
- 17.2 If a Bid contains an irregularity, or if there is a challenge to or issue with the Call for Bids process, the issue shall be referred to the Procurement Review Committee to determine whether the Bid complies with the submission requirements set out in the Call for Bids or to determine the validity of the challenge.
- 17.3 If the Procurement Review Committee is unable to agree with respect to Section 17.2, the Treasurer will have authority to decide on the matter.

18 VENDOR PERFORMANCE REVIEW COMMITTEE

- 18.1 The Treasurer shall establish a Vendor Performance Review Committee composed of, at a minimum, the following members of Town staff:
- a. The Manager of Procurement;
 - b. A management representative of the Town department requesting Procurement of the Deliverables; and
 - c. The Town Solicitor.
- 18.2 If a Contractor performance issue has been referred to the Vendor Performance Review Committee under Section 16.4, a decision on action to be taken by the Town will be made by the Vendor Performance Review Committee on a case-by-case basis.
- 18.3 If the Vendor Performance Review Committee is unable to agree regarding the manner in which the Town will address the performance of the Contractor, the Treasurer will have authority to decide on the matter.

19 REQUIREMENT FOR COUNCIL APPROVAL

- 19.1 A report shall be submitted to Council prior to authorizing an Award in each of the following circumstances:
- a. Where the term of a proposed Contract is for a period greater than five (5) years, or where the extension or renewal of a Contract or a Direct Purchase would result in an aggregate term of greater than five (5) years;

- b. Where a Request for Tenders has been issued under this By-law and the Award is not proposed to be made to the Bidder submitting the Lowest Cost Compliant Bid or where there is informality, irregularity or challenge that cannot be resolved by the Procurement Review Committee;
- c. Where a Request for Proposals has been issued under this By-law and the Total Cost of the Contract exceeds one hundred thousand dollars (\$100,000.00);
- d. Where a Request for Tenders has been issued under this By-law and the Total Cost of the Contract exceeds one million dollars (\$1,000,000.00);
- e. Where a statute requires that the Purchase be authorized by Council;
- f. Where the Purchase of any Deliverables is not authorized by this By-law; and
- g. Where otherwise specifically required by this By-law.

20 CONTRACT DOCUMENTS

20.1 Where the Purchase of Deliverables has been authorized under this By-law, the Contract may be executed by the person who had the authority in accordance with this By-law to authorize the Award and shall be in a form approved by the Town Solicitor.

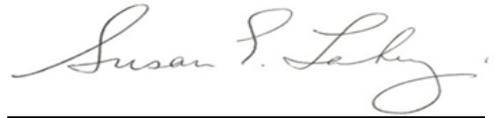
21 BY-LAW REVIEW

21.1 This By-law shall be reviewed and evaluated for effectiveness in the six (6) month period following the fifth anniversary of the date of its enactment or alternatively, if the Treasurer deems appropriate, prior to its fifth anniversary.

22 REPEAL

22.1 By-law No. 2019-146 is hereby repealed.

Enacted and passed this 10th day of March, 2026.

A handwritten signature in black ink, reading "Susan P. Lahey", written in a cursive style. The signature is positioned above a solid horizontal line.

Susan Lahey, Acting Mayor

A handwritten signature in blue ink, reading "Tara Lajevardi", written in a cursive style. The signature is positioned above a solid horizontal line.

Tara Lajevardi, Municipal Clerk