

THE CORPORATION OF THE TOWNSHIP OF ADMASTON/BROMLEY

BY-LAW NUMBER 2020-54

BEING A BY-LAW TO REPEAL BY-LAW 2007-49 AND TO PROVIDE FOR A BY-LAW TO GOVERN THE PURCHASING OF GOODS AND SERVICES BY THE TOWNSHIP OF ADMASTON/BROMLEY

WHEREAS Section 5 of the Municipal Act, S.O. 2001, as amended, states that the powers of the Municipal Council shall be exercised by By-law, unless the municipality is specifically authorized to do otherwise;

AND WHEREAS section 270 (1) of the Municipal Act, 2001, S.O. 2001, Chapter 25 provides that a municipality shall adopt and maintain policies with respect to its procurement of goods and services and the manner in which the municipality will try to ensure that it is accountable to the public for its actions, and the manner in which the municipality will try to ensure that its actions are transparent to the public;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWNSHIP OF ADMASTON/BROMLEY ENACTS AS FOLLOWS:

1.0 SHORT TITLE

This By-law may be cited as the Purchasing By-law.

2.0 PURPOSES, GOALS AND OBJECTIVES

2.1 The purpose, goals and objectives of this By-law and each of the methods of acquisition authorized are:

- a) to encourage competition among suppliers;
- b) to maximize savings for taxpayers;
- c) to ensure service and product delivery, quality, efficiency and effectiveness;
- d) to ensure fairness among Bidder's/Proponent's;
- e) to ensure openness, accountability and transparency, while protecting the financial and operational best interests of the Township;
- f) to have regard for the accessibility for persons with disabilities to the Goods/Services purchased by the Township.
- g) to attempt to reduce the amount of solid waste requiring disposal through the purchase of environmentally responsible Goods and Services;
- h) to ensure compliance with all statutory and regulatory obligations.

3.0 DEFINITIONS

In this by-law the following terms shall have the assigned meanings:

3.1 "**Award**" means the selection of a Bidder/Proponent and their Goods/Services as accepted by the Township.

3.2 "**Bid**" means the Bidder's/Proponent's offer to sell the Goods/Services to the Township.

3.3 "**Bidder**" means a person, supplier, vendor, contractor, developer or professional who submits a Bid to the Township.

3.4 "**Bid Document**" means a Request for Tender, Request for Quotation, Request for Proposal or other documents that state the Township's desire to buy or to consider buying and Bidder's/Proponent's offer to sell to the Township the Goods/Services specified in the documents.

- 3.5 “Clerk/Treasurer (CT)”** means the Township’s employee with that title or person acting in that capacity as designated by by-law.
- 3.6 “Contract”** means a binding agreement between two or more parties that creates an obligation to provide goods/services.
- 3.7 “Corporate Credit Card”** means a credit card issued to users as a system of payment.
- 3.8 “Council”** means the Council of the Township of Admaston/Bromley.
- 3.9 “Department”** means a department as established by Council from time to time.
- 3.10 “Department Head”** means the person chosen by Council to be the head of a Department.
- 3.11 “Deputy Clerk/Treasurer (DCT)”** means the Township’s employee with that title or person acting in that capacity as designated by By-law.
- 3.12 “EOI”** means Expression of Interest, a process whereby the Township uses a focused market research tool to determine Bidder/Proponent interest in proposed procurement.
- 3.13 “Estimates”** means the amount approved by Council in annual budget.
- 3.14 “Formal Process”** means the request for Bid is issued in writing on prescribed forms. Bidders/Proponents must submit their Bid using these forms in a sealed package, by a predetermined time. Formal processes must follow the provisions detailed in the various procurement related ISO Standard Operating Procedures.
- 3.15 “Goods/Services”** means all goods and services, as set out in the Bid Document, which include all supplies, materials, equipment, general maintenance and services and works contracts, leases, rentals, and repairs of equipment; consulting and professional services, including the services provided by architects, engineers, designers, real estate appraisers, management or financial consultants, brokers or lawyers and any other consulting or professional service rendered on behalf of the Township.
- 3.16 “Informal Process”** means the request for Bid may or may not be published and received on prescribed forms, by a predetermined time. Depending on the purchase value, Bids may be received electronically, verbally or in written formats.
- 3.17 “ISO”** means the International Organization of Standardization.
- 3.18 “Major Irregularity”** means an irregularity in a Bid, such that a strict compliance component is missing, which is required at the time of Bid submission, affecting the price, quality, quantity or delivery and is material to the Award. If the irregularity is permitted, the Bidder/Proponent could gain an unfair advantage over competitors and therefore results in the automatic rejection of the Bid.
- 3.19 “Pertinent Authority”** means the Department Head has authority of spending up to \$15,000; the Clerk/Treasurer has authority of spending of up to \$40,000.
- 3.20 “Minor Irregularity”** means an irregularity in a Bid, such that a Bid submission is substantially compliant, and the irregularity affects form rather than substance. The effect on the price, quality, quantity or delivery is not material to the Award. If the irregularity is permitted, the Bidder/Proponent would not gain an unfair advantage over competitors. The Bidder/Proponent will, if any, be allowed time to clarify/correct the submission, only with respect to the Minor Irregularity.

- 3.21 “Petty Cash”** means a small amount of discretionary funds in the form of cash used for expenditures where it is not reasonable to make the disbursement by any other means.
- 3.22 “Proposal”** means an offer from a Proponent to provide Goods/Services to the Township, acceptance of which may be subject to further negotiation. It is the response submitted to an RFP.
- 3.23 “Proponent”** means a person, supplier, vendor, contractor; developer or professional submitting a Proposal.
- 3.24 “Purchasing”** means the Finance Department.
- 3.25 “Purchase Order (PO)”** means a written offer to a supplier formally stating all terms and conditions for the purchase of goods, services or a written acceptance of an offer received in accordance with this By-law.
- 3.26 “Quote”** means a bid submitted in response to a Request for Quotation.
- 3.27 “Request for Information”** a process whereby the Township uses a general market research tool to determine what products and/or services are available, to scope out business requirements and/or estimate project costs.
- 3.28 “Request for Proposal (RFP)”** means a bid solicitation based on relevant specifications and where suppliers are invited to propose a solution. Award will be based on an evaluation process, not just cost.
- 3.29 “Request for Quotation (RFQ)”** means a bid solicitation where written quotes are received from suppliers without formal advertising or receipt of sealed bids.
- 3.30 “Request for Tender (RFT)”** means a bid solicitation based on relevant specifications, terms and conditions where the recommendation to award the contract is intended to be Bidder which offers the most value to the Township.
- 3.31 “Request for Standing Offer (RFSO)”** means a process used to solicit standing offers to provide goods and services on an as-and-when required basis, at firm prices, as per established terms and conditions. It must clearly state the requirement, the evaluation method and selection criteria, the call- up procedures, the ranking methodologies, whenever applicable, to be used for making call-ups against the authorized standing offer(s), and all terms and conditions applicable to the contract that is brought into effect, as a result of any call-up.
- 3.32 "Security Deposit"** means a deposit of securities by a supplier that the Township may convert under defined conditions to complete the supplier's contractual obligation.
- 3.33 "Selection Committee"** means a committee comprised of at least two (2) staff members who are knowledgeable about a project under review and charged with the responsibility of evaluation of proposal submissions. The CT shall appoint the committee members.
- 3.34 “Single Sourcing”** means the procurement of Goods/Services from a particular Bidder/Proponent rather than through the solicitation of Bids from multiple Bidders/Proponents who can also provide the same/similar Goods/Services.
- 3.35 “Sole Sourcing”** means the procurement of Goods/Services that are unique to a particular Bidder/Proponent and cannot be obtained from another source.
- 3.36 "Standing Offer”** means an offer from a supplier that allows the Township to purchase frequently ordered goods or services from suppliers at prearranged prices, under set terms and conditions, when and if these are requested but no contract exists until the Township places an order

against the Standing Offer.

3.37 “Tender” means a written detailed offer from a Bidder/Proponent to supply goods or services where the value is anticipated to exceed \$40,000.

3.38 “Township” means The Corporation of the Township of Admaston/Bromley.

To establish the definition of any other purchasing term not herein included, reference shall be made to the latest edition of the National Institute of Governmental Purchasing Guide.

4.0 GENERAL PROCUREMENT POLICY APPLICATION

- 4.1** The procedures prescribed in this by-law shall be followed to make a contract award or to make a recommendation of a contract award to Council.
- 4.2** All purchase of goods and services for the Township shall be subject to the provisions of this by-law. Prices and spending authority levels as stated in this by-law are intended to be before taxes are applied.
- 4.3** In the event a department chooses to engage a consultant to coordinate the procurement of goods and services, then it shall be the responsibility of the pertinent authority to ensure that all conditions of the by-law are adhered to.
- 4.4** All Bidders/Proponents who will be performing work on municipal property must provide evidence of liability insurance in the amount of \$1,000,000 and active Workplace Safety and Insurance Board status to be eligible for specified works.
- 4.5** Formal approval of the annual estimates constitutes financial approval to proceed with the purchases subject to any scheduling or priority consideration as may be deemed necessary by Council and as outlined by the purchasing policies.
- 4.6** Prior to the passing of the annual operating budget each department shall be allowed an interim appropriation of fifty percent (50%) of the previous year's approved operating budget, and such interim appropriation shall be deemed to be for routine operating and recurring expenditures or statutory purposes unless otherwise directed by Council.
- 4.7** Subject to Section 10, the pertinent authority shall decide the method of source selection which shall be employed to obtain the most favourable price, having regard to the nature or importance of the contemplated work, the urgency of the requirement, and general trade practice and market conditions.
- 4.8** The pertinent authority is authorized to place orders on behalf of departments for goods and services from such suppliers and upon such terms and conditions as deemed appropriate. In the awarding of a contract, the pertinent authority shall not be bound to accept the lowest bid and may award to another if, in his/her discretion, having regard for delivery time, service and quality of goods that it would be in the best interest of the Township.
- 4.9** When identical low bids are received, the pertinent authority shall determine the low Bidder/Proponent on the basis of a coin toss conducted in the presence of the tied Bidders/Proponents.

5.0 RESPONSIBILITIES AND AUTHORITIES

- 5.1** Department Heads have responsibility for procurement activities within their departments and are accountable for achieving the specific objectives of the procurement project.

5.2 Department Heads and the CT have authority to award purchases in the circumstances specified in this By-law, provided the delegated power is exercised within the spending authorities prescribed in this By-law and the requirements of this By-law are met.

5.3 The CT has the authority to instruct Department Heads not to award purchases but to submit recommendations to Council for approval. The CT may provide additional restrictions concerning procurement, where such action is considered necessary and in the best interest of the Township.

5.4 In accordance with the Tangible Capital Asset Policy adopted by Council, Department Heads are responsible for ensuring that notice of acquisition, betterment, etc. of any tangible capital asset purchased in accordance with this By-law be reported to the Finance Department.

6.0 REQUIREMENT FOR FUNDING APPROVAL

6.1 The exercise of authority to award a contract is subject to the identification and availability of sufficient funds in appropriate accounts, within the Council approved budget and/or estimates.

6.2 Where goods and services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a contract is subject to:

- a) the identification and availability of sufficient funds in appropriate accounts for the current year within the Council approved budget and/or estimates,
- b) the requirement for the goods or services will continue to exist in subsequent years and in the opinion of the CT, the required funding can reasonably be expected to be made available, and
- c) the contract has a provision in it that the supply of goods or services in subsequent years is subject to the approval by Council of the department estimates to meet the proposed expenditures.

7.0 RESTRICTIONS

7.1 No purchase requirement may be divided into two (2) or more parts to avoid the application of the provisions of this by-law.

7.2 Purchase requisitions for services, where the services could result in the establishment of an employee - employer relationship, are not permitted.

7.3 Where this By-law identifies delegated authority limits for contract awards, the value of a contract shall be the sum of:

- a) all costs to be paid to the supplier under the contract;
- b) all taxes, and
- c) less any rebates.

8.0 NOTIFICATION REQUIREMENTS

8.1 Request for Quotations require the receipt of at least two (2) written quotations where cost is estimated to be \$15,000 up to \$40,000. There is formal advertising required for this method.

8.2 Request for Tenders require that an advertisement be placed in at least one (1) local newspaper with circulation in all or a major portion of the Township. Notice must also be placed on the Township's website.

If the required expertise is outside of the Township, the Department Head may advertise in the Daily Commercial News, daily newspaper or in a trade publication.

- 8.3** Request for Proposals with an estimated cost up to \$100,000 may be invited from qualified firms.

Request for Proposals with costs estimated to be in excess of \$100,000 shall have notices advertised in at least one (1) local newspaper, with circulation in all or a major portion of the Township. Notice must also be placed on the Township's website. The Department Head may elect to use this process for projects valued less than \$100,000.

If the required expertise is outside of the Township, the Department Head may, in consultation with the CT, advertise in the Daily Commercial News, daily newspaper or in a trade publication.

- 8.4** Request for Standing Offers require that an advertisement be placed in at least one local newspaper with circulation in all or a major portion of the Township. Notice must also be placed on the Township's web site.
- 8.5** At the discretion of the Department Head, and in consultation with the CT, other means of notification, such as MERX which is a location for all levels of government including private sector to access or post tenders, may be used.

9.0 PROCUREMENT DOCUMENTATION

- 9.1** Procurement documentation shall avoid use of specific products or brand names.
- 9.2** The use of standards in procurement documentation that have been certified, evaluated, qualified, registered or verified by independent nationally recognized and industry-supported organizations, such as the Standards Council of Canada, shall be preferred.
- 9.3** Notwithstanding Section 9.1, a Department Head may, with the approval of Council, specify a specific product or brand name for essential functionality purposes, to avoid unacceptable risk or for some other valid purpose. In such instances, the Department Head shall manage the procurement to achieve a competitive situation so far as possible.
- 9.4** Department Heads shall:
- a) give consideration to the need for value analysis comparisons of options or choices, and
 - b) ensure that adequate value analyses comparisons are conducted to provide assurance that the specification will provide best value.

9.5 CHANGES TO TENDERS UNDER CALL

- a. Preparation of Addenda
 - (i) Interpretations should be made in reply to queries from Bidders only, in the form a written addendum.
 - (ii) When it becomes necessary to revise, delete, substitute or add to specifications for a tender call, the pertinent authority shall coordinate the issuance of an addendum or cancel the tender call.
- b. Notification of Addenda to Bidders
 - (i) A copy of each addendum shall be forwarded to each Bidder who obtained bid forms for the contract,
 - (ii) A copy of the addendum notice shall also be stapled to each bid form not yet distributed,
 - (iii) In the case of Bidders who have already submitted a tender bid, they will be informed and given a chance to adjust their tender where time permits.

- c. Notification to Bidders of Cancellation of Tender Call
Each prospective Bidder, who received bid documents, shall be notified, by the pertinent authority, of the cancellation of the tender call.
- d. Return of Tender Bids
When a tender call is cancelled, no bids will be accepted. Any tender bids inadvertently received shall be returned, unopened, to the Bidder by hand or by registered mail, with a covering letter.
- e. Extension of Time
Each Bidder who received documents shall be notified of the extension of time.
- f. Disposition of Tender Bids
When the closing date has been extended, bids already received shall be handled as follows:
 - (i) If the extension of time is four (4) weeks or less, the Bidder shall be advised that the bid will be returned upon request.
 - (ii) If the extension of time is more than four (4) weeks, all bids shall be returned unopened. For this, all communications shall be by registered mail.

9.6 TENDER BID REQUIREMENTS

- (i) All tender bids shall be mailed or hand delivered to the Township.
- (ii) The correct tender bid form, as supplied by the Township must be used and in the possession of the pertinent authority on or before the closing date and time.
- (iii) The tender bid must be legible, written in ink or typed, with the unit price for each item and other entries clearly shown, unless the bid form specifically permits otherwise.
- (iv) The tender bid must not be restricted by a statement added to the tender bid form or a covering letter, or must not have alterations to the tender bid forms, unless requested by the Township.
- (v) Adjustments, by telephone, facsimile or letter, for a bid already received, will not be considered. A Bidder desiring to make adjustments to a bid must withdraw the tender bid and/or supersede it with a later bid offer.
- (vi) The tender bid must be signed and initialled in the space(s) provided on the form, with the signature of the Bidder, or of an official of the company bidding. In the case of an incorporated company, the corporate seal must be affixed on the bid form.
- (vii) The person signing on behalf of the Bidder must initial erasures, overwriting or strikeouts.
- (viii) Tender bids must be accompanied by a certified cheque, bank draft, money order and/or bid bond made payable in the amount of ten percent (10%) of the total bid price to the Township.

9.7 RECEIVING TENDER BIDS

- (i) When a tender bid is received, the envelope shall be time and date stamped.
- (ii) If a time stamp is not available, the time received shall be noted in ink and initialled by the pertinent authority.
- (iii) Receipt of each bid shall be recorded.

(iv) Submissions shall be deposited unopened in the Municipal safe.

9.8 LATE TENDERS

- (i) Regardless of the time a tender bid is received, the envelope shall be time and date stamped.
- (ii) If the tender bid is for a contract already closed, it shall be returned unopened to the Bidder. If a tender bid is to be returned by mail, it shall be accompanied by a covering letter.
- (iii) If a late tender bid is received without a return address on the envelope, it shall be opened, the address obtained and then returned. The covering letter should state why the envelope could not be returned unopened.

9.9 WITHDRAWAL OF TENDER BIDS

- (i) A Bidder may request that the tender bid be withdrawn prior to the opening of the contract to which it applies.
- (ii) Withdrawal requests must be directed to the pertinent authority by letter, facsimile or in person. Telephone requests shall not be considered.
- (iii) Withdrawal requests received after the opening of the tenders will not be allowed.

9.10 OPENING OF TENDERS PROCEDURE

- (i) All tenders received shall be opened in public.
- (ii) The pertinent authority shall announce the number of bids received for each tender, the name of the Bidder and the total bid amount.
- (iii) The name of each Bidder and the bid amount shall be recorded on the summary of Bidders' sheet.
- (iv) The tenders shall be checked to determine that all requirements of this by-law have been met. If the requirements have not been met, the tender bid shall be rejected.

9.11 AWARD PROCEDURE

- (i) Council must approve the awarding of any purchases over \$40,000 and the purchase of any RFQ where only a single quotation is received.
- (ii) Upon the award of the tender bid, the pertinent authority shall inform the successful Bidder that the bid has been accepted.
- (iii) The pertinent authority shall inform all other Bidders of the award and the name of the successful Bidder.
- (iv) Following the award of the tender bid, all deposit cheques and/or bid bonds, other than the successful bids, shall be returned to the applicable Bidders by regular mail.

9.12 RIGHT TO ACCEPT OR REJECT TENDERS

- (i) The Township reserves the right to accept or reject any tender, including the lowest tender. In the case of there being only one valid tender, The Corporation may accept or reject that tender.

9.13 CONTRACT COMPLETION

- (i) Upon the satisfactory completion of the contract, the pertinent authority shall return the deposit cheque or bid bond.
- (ii) Upon the satisfactory completion of the contract and authorization of the pertinent authority, payment shall be made for the goods and services.

10.0 GENERAL PROCUREMENT PROCEDURES

10.1 The following are authorized procedures and project cost limits for the procurement of goods or services:

| Procedure | Project Cost |
|----------------------------|--------------------------------|
| Petty Cash | \$250 or less |
| Credit Card | \$5,000 or less (excluding CT) |
| Purchase Order | \$15,000 or less |
| Request for Quotation | \$40,000 or less |
| Request for Tender | Any value |
| Request for Proposal | Any value |
| Request for Standing Offer | Any value |

10.2 Request for Quotation and Request for Tender procedures shall be used where a requirement can be fully defined and best value for the Township can be achieved.

10.3 The Request for Proposal procedure shall be used where, to achieve best value, the award selection will be made on a formal evaluation. Criteria will be established, involving a combination of mandatory and desirable requirements, where the requirement is best described in a general performance and where innovative solutions are sought.

10.4 Request for Proposals will normally be evaluated and scored according to the following criteria:

- a) understanding of the assignment
- b) capabilities of firm or project team
- c) previous experience on assignments of a similar nature
- d) past performance in the provision of services to the Township or local municipalities in the County of Renfrew
- e) quality of submission
- f) cost savings and/or process improvements for the Township
- g) project schedule
- h) cost
- i) other criteria as may be appropriate for the services being sought

11.0 PURCHASES OF \$250 OR LESS

11.1 The CT shall have authority to establish a Petty Cash Fund in such an amount to meet the requirements of the Township for the acquisition of goods or services having a value of \$250 or less.

11.2 Purchases not exceeding \$250 may be made from Petty Cash in any one instance. Petty Cash should only be used when it is not reasonable to use a purchase order.

11.3 All purchases shall be made from the competitive marketplace whenever possible and be supported by evidence, voucher or receipt, and shall be processed through the CT or his/her designate.

12.0 PURCHASES NOT EXCEEDING \$15,000

12.1 Payment for purchases of goods or services not exceeding \$15,000 in value, incurred in the general administration of a department, may be made using:

- a) a properly authorized credit card,

- b) a properly authorized purchase order, or
- c) from a supplier's invoice, where the requirements of Section 12.2 inclusive, have been complied with.

12.2 The procedure used to purchase the goods or services shall demonstrate that fair market value was achieved.

13.0 PURCHASES GREATER THAN \$15,000 BUT NOT EXCEEDING \$40,000

13.1 Subject to Section 13.2, requirements estimated at \$40,000 or less should be procured through the Request for Quotation procedure; however, there may be requirements estimated at \$40,000 or less where it will be more appropriate to solicit bids using a Request for Tender, a Request for Proposal or a Request for Standing Offer.

13.2 In advance of a solicitation, the department head shall be responsible for the development of specifications, terms and conditions for the purchase of goods or services.

13.3 The CT may award contracts emanating from a Request for Quotation not exceeding \$40,000 provided that:

- a) evidence that a minimum of two (2) written quotations were obtained
- b) sufficient funds are available and identified in appropriate accounts within Council approved departmental budgets and/or estimates, including authorized revisions, and
- c) the award is to the lowest responsive Bidder, subject to Section 4.8, provided the provisions of this By-law are followed.

13.4 Where the authority referred to in Section 13.3 is exercised, written documentation respecting the award of the contract is to be kept on a procurement file.

13.5 The purchase of goods or services referred to in Section 13.1, shall be made through the issue of a Purchase Order or supplier invoice.

14.0 PURCHASES EXCEEDING \$40,000 – REQUEST FOR TENDER

14.1 A Request for Tender shall be used for purchases exceeding \$40,000, where all of the following criteria apply:

- a) two (2) or more sources are considered capable of supplying the requirement
- b) the requirement is adequately defined to permit the evaluation of tenders against clearly stated criteria
- c) the market conditions are such that tenders can be submitted on a common pricing basis
- d) it is intended to accept the tender which offers the municipality the highest value.

14.2 In advance of a solicitation, the Department Head or his/her designate, shall develop the relevant specifications, terms and conditions for the acquisition of goods or services.

14.3 The Department Head shall recommend the award of contract to the lowest responsive tenderer.

14.5 The Department Head shall follow the provisions of Section 27.0, regarding the award of contract, using an agreement or Purchase Order.

14.6 Awards emanating from a Request for Tender per this section require the approval of Council.

15.0 PURCHASES EXCEEDING \$40,000 – REQUEST FOR PROPOSAL

- 15.1** A Request for Proposal should be used where one or more of the criteria for issuing a Request for Tender cannot be met, such as:
- a) owing to the nature of the requirement, suppliers are invited to propose a solution to a problem, requirement or objective and the selection of the supplier is based on the effectiveness of the proposed solution rather than on price alone, or
 - b) it is expected that negotiations with one or more Bidders/Proponents may be required with respect to any aspect of the requirement.
- 15.2** In advance of a solicitation, the Department Head or his/her designate, shall develop terms of reference and evaluation criteria to be applied in assessing the Proposals submitted.
- 15.3** Where the requirement is not straightforward or an excessive workload would be required to evaluate Proposals, either due to their complexity, length, number or any combination thereof, a multi-step procedure may be used that would include a pre-qualification stage, to ensure the workload is at a manageable level.
- 15.4** A Selection Committee shall be established to review all Proposals against pre-established criteria and reach consensus on the final rating results. The final rating results with supporting documents are to be kept on a procurement file.
- 15.5** Awards emanating from a Request for Proposal per this section require the approval of Council.
- 15.6** The Department Head shall follow the provisions of Section 26.0.

16.0 STANDING OFFER PURCHASES

- 16.1** A Request for Standing Offer may be used where:
- a) one or more departments repetitively order the same goods or services and the actual demand is not known in advance (e.g. heating fuel), or
 - b) a need is anticipated for a range of goods or services for a specific purpose, but the actual demand is not known at the outset and delivery is to be made when a requirement arises.
- 16.2** Each department shall establish and maintain Standing Offers that define source and price with selected suppliers for all frequently used goods or services.
- 16.3** To establish prices and select sources, the Department Head shall employ the provisions contained in this by-law for the acquisition of goods and services.
- 16.4** More than one (1) supplier may be selected, where it is in the best interest of the Township and the bid solicitation allows for more than one.
- 16.5** Where a purchasing action is initiated by a department for frequently used goods or services, for which a standing offer is in place, and the value of the purchasing action exceeds \$40,000, it is to be made with the supplier or suppliers listed in the Standing Offer.
- 16.6** In a Request for Standing Offer, the expected quantity of the specified goods or services to be purchased over the time period of the agreement, will be as accurate an estimate as practical and be based, to the extent possible, on previous usage adjusted for any known

factors that may change usage.

- 16.7** A call-up against a Standing Offer is considered to be an individual contract and the normal contract award prescribed limits apply, unless otherwise stated in the original approval document.
- 16.8** Council may select a supplier to provide professional services through the Standing Offer where:
- a) the estimated total cost does not exceed \$100,000 per occurrence,
 - b) the cost of preparing a detailed proposal would deter suppliers from submitting proposals, and
 - c) the provided services are clearly defined by terms of reference or agreement.
- 16.9** Purchases invited under a Standing Offer process shall not exceed \$100,000 per calendar year.
- 16.10** Request for Standing Offers require that an advertisement be placed in at least one local newspaper. Notice must also be placed on the Township's web site.

17.0 IN-HOUSE BIDS

- 17.1** In-house bids are a process that allows for Township employees to compete with external entities for procurement opportunities. In-House Bids may be obtained for the procurement of goods or services in circumstances where the Department Head of the Township considers it beneficial and appropriate to do so.

18.0 CONTRACT DISPUTES

- 18.1** Disputes shall be resolved as follows:
- a) Meeting between the Bidder and the Department Head;
 - b) If there is no resolution, the decision can be appealed to the Council.

19.0 COUNCIL APPROVED CONTRACTS

- 19.1** Despite any other provision of this By-law, the following contracts are subject to Council approval:
- a) Any contract requiring approval from the Ontario Municipal Board,
 - b) Any contract prescribed by Statute to be made by Council,
 - c) Where the cost amount proposed for acceptance is higher than the Council approved budget and/or estimates and the necessary adjustments cannot be made within the Departmental budget,
 - d) Where the revenue amount proposed for acceptance is lower than the Council approved budget and/or estimates,
 - e) Where a substantive objection emanating from the bid solicitation has been filed with the Clerk Treasurer or with the Department Head,
 - f) Where a major irregularity precludes the award of a tender to the supplier submitting the lowest responsive bid, and
 - g) Where authority to approve has not been expressly delegated.
 - h) All unbudgeted capital projects must be awarded by Council, regardless of the value.

20.0 NON-COMPETITIVE PROCESS (Single/Sole Source Purchases)

- 20.1** All Non-Competitive purchases of goods or services greater than \$1,000.00 are to be assessed by the CT prior to any negotiations/discussions with a Vendor.

- 20.2** All Non-Competitive purchases of goods or services between \$1,000.01 - \$25,000.00 shall be approved by the CT and Department Head or his/her designates prior to the purchase of the goods or services.
- 20.3** All Non-Competitive purchases of goods or services over \$25,000.00 shall be approved by Council.
- 20.4** Purchasing, in consultation with Departments, shall obtain a written Bid, from the Bidder/Proponent, for any Non-Competitive purchase of goods or services prior to the purchase of the goods or services.
- 20.5** A Non-Competitive Process shall only be used if one or more of the following conditions apply and a process of negotiation is undertaken to obtain the best value in the circumstances for the Township:
- a) the goods or services are only available from one source or one supplier by reason of:
 - Sole Source:
 - i. a statutory or market based monopoly;
 - ii. scarcity of supply in the market;
 - iii. existence of exclusive rights (patents, copyright or license);
 - Single Source:
 - i. need for compatibility with goods or services previously acquired and there are no reasonable alternatives, substitutes or accommodations;
 - ii. need to avoid violating warranties and guaranties where service/support is required;
 - iii. the extension of an existing Contract would prove more cost effective or beneficial;
 - iv. due to market conditions, required goods or services are in short supply;
 - v. the required goods or services are to be supplied by a particular Bidder/Proponent having special knowledge, skill, expertise or experience, which cannot be provided by any other person; or
 - vi. the nature of the requirement is such that it would not be in the public interest to solicit competitive Bids, as in the case of security or confidential matters.
 - b) an attempt to purchase the required goods or services has been made in good faith, using a competitive Bid method and has failed to identify a successful Bidder/Proponent;
 - c) the required goods or services are to be supplied as a result of an emergency, which would not reasonably permit the use of other procurement procedure methods;
 - d) where, at the discretion of the Department Head in consultation with the DCT, and with the approval of the CT, it is deemed to be in the best interests of the Township to negotiate with Bidders/Proponents.
- 20.6** Where a Non-Competitive Procurement Process is undertaken, full disclosure shall be given, on all information relating to the purchase, subject to the provisions of the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA).

21.0 UNSOLICITED BIDS

- 21.1 Unsolicited Bids received by the Township shall be reviewed by the Department Head or CT. Any procurement activity resulting from the receipt of an unsolicited Bid shall comply with the provisions of the Non- Competitive Process requirements of this By-law.

22.0 PROHIBITIONS

- 22.1. Except where a Bid is requested on a unit price basis, and subject to the provisions of the MFIPPA, no employee, or any appointed or elected official of the Township shall divulge the unit prices paid for by the Township for goods or services. However, the total price of a Contract, as well as the name of the successful Bidder/Proponent may be revealed to any interested party.
- 22.2. No Contract shall be awarded to any person or corporation who or which has a claim or has instituted a legal proceeding against the Township or against whom the Township has a claim or has instituted a legal proceeding with respect to any previous Contract.
- 22.3. No personal purchase of goods or services shall be made by the Township on behalf of a member of Council, a member of a local board or an employee of the Township, unless authorized by Council.
- 22.4. No Township employee or member of Council shall purchase or offer to purchase any goods or services on behalf of the Township except as may be provided for in this by-law.
- 22.5. No requirements for goods or services, including consulting or professional services, shall be divided to avoid the requirements of this by-law and the total project, annual requirement, or total Contract value shall be considered.

23.0 SUPPLIER PERFORMANCE

- 23.1 The Department Head shall document evidence and advise the CT and DCT in writing, where the performance of a supplier has been unsatisfactory in terms of failure to meet contract specifications, terms and conditions or for Health and Safety violations.

24.0 EXCEPTIONS/EXEMPTIONS FROM COMPETITIVE PROCESS (under \$40,000.00)

Unless otherwise noted, goods or services of value under \$40,000.00 as set out below may be procured without a competitive process, subject to the funds being available in the Operating Budget or the Capital Budget for that purpose:

- 24.1 Utilities (excluding purchases arranged through 3rdparty agreements):
- a) Electricity;
 - b) Water and Sewer;
 - c) Natural Gas;
 - d) Telephones & Long Distance Service (excludes cellular phones & services);
 - e) Internet.
- 24.2 Training and Education:
- a) Membership Fees - Professional Association;
 - b) Magazines;
 - c) Periodical Subscriptions;
 - d) Books;
 - e) Conference, Seminars & Conventions;
 - f) Courses;
 - g) Staff Development, Workshops & Reports.

- 24.3 Refundable Employee Expenses:**
- a) Advances;
 - b) Meal Allowances;
 - c) Travel & Hotel Accommodations;
 - d) Entertainment;
 - e) Miscellaneous – Non Travel;
- 24.4 Federal/Provincial/Municipal Mandated Programs;**
- 24.5 Advertising:**
- a) Newspapers (National and Local);
 - b) Radio;
 - c) Television;
 - d) Periodicals;
 - e) Trade Journals;
 - f) Magazines;
 - g) Internet (Specialty Association Web-Sites, such as AMCTO, OPBA).
- 24.6 Software (Proprietary, Non-Value Added Resellers):**
- a) Annual maintenance fees for software already approved under the requirements of this by-law, where the approved vendor is the sole source provider of the maintenance service;
 - b) Software upgrades for software already approved under the requirements of this by-law (including support and training), where the vendor is the sole source provider of the upgrade service;
 - c) Additional software licenses for software already approved under the requirements of this by-law, where the vendor is the sole source of the licensing service.
- 24.7 General Expenses:**
- a) Postage;
 - b) Petty Cash & Replenishment;
 - c) Newspaper Subscriptions;
 - d) Licenses (i.e. Vehicles);
 - e) Transportation (Bus, Train, Airplane);
 - f) Insurance;
 - g) Building Lease Payments;
 - h) Payroll Deduction Remittances;
 - i) Grants to Agencies;
 - j) Damage Claims;
 - k) Tax remittances;
 - l) Charges to/from other Government or Crown Corporations
 - m) Employee income.
- 24.8 Certain Professional and Special Services:**
- a) Arbitration Services;
 - b) Mediation Services;
 - c) Legal Settlements;
 - d) Additional Non-recurring Accounting and Auditing Services;
 - e) Group benefits;
 - f) Physician Services;
 - g) Counselling Services;
 - h) Committee Fees;
 - i) Temporary Help;
 - j) Banking & Underwriting Services (where covered by Agreements);
 - k) Providers of artistic or specialized services, such as; instructors for dance, yoga, karate; artists; entertainers or entertainment products, etc. (providing the total acquisition cost is less than \$25,000);
 - l) Catering (excluding concessions & vending services).
- 24.9 Public Relations:**

- a) Trade Show Registration;
- b) Trade Show Booth Rentals;
- c) Event Sponsorship.

25.0 LOCAL PREFERENCE

- 25.1** The following two (2) legislative documents prohibit municipalities from adopting a Local Preference By-law:
- a) The Discriminatory Business Practices Act (R.S.O. 1990, Chapter D12), as amended; and
 - b) The Canadian Governments implementation of the Agreement of Internal Trade.
- 25.2** The primary objective of the purchasing process is to acquire goods or services at the lowest possible cost, consistent with the demands of suitability, quality, service, and delivery capabilities.
- 25.3** If in the determination of the CT or his/her designate, a competitive market exists, and two or more compliant Bids are received and are identical in price, and provided suitability, quality, service, and delivery are similar, then priority of acceptance shall be based on Section 4.9.

26.0 CONTRACTUAL AGREEMENT

- 26.1** The award of contract may be made by way of a Formal Agreement, supplier invoice or a Purchase Order.
- 26.2** A Purchase Order is to be used when the resulting contract is straightforward and will contain the Township's standard terms and conditions.
- 26.3** A Formal Agreement is to be used when the resulting contract is complex and will contain terms and conditions other than the Township's standard terms and conditions.
- 26.4** It shall be the responsibility of the Department Head and/or the Township Solicitor, to determine if it is in the best interest of the Township to establish a Formal Agreement with the supplier.
- 26.5** Where a Formal Agreement is required, as a result of the award of a contract by delegated authority, the CT shall execute the agreement in the name of the Corporation of the Township of Admaston/Bromley.
- 26.6** Where a Formal Agreement is not required, a Purchase Order incorporating the terms and conditions relevant to the award of contract, shall be issued.

27.0 CO-OPERATIVE PURCHASING

- 27.1** The Township shall participate with other government agencies or public authorities in co-operative purchasing of goods or services where it is in the best interest of the Township to do so.
- 27.2** The decision to participate in co-operative purchasing agreements will be made jointly by the CT or his/her designate and the responsible operating Department.
- 27.3** The policies of the government agencies or public authorities calling the co- operative Bid Document, as amended, are to be the accepted governing policy for that particular Bid Document.

28.0 EMERGENCY PURCHASES (greater than \$1,000.00)

28.1 Emergency purchases of goods or services may be approved by the Department Head and DCT, and where applicable, the CT or his/her designates when the immediate purchase is essential to prevent serious delays in the work of any department which might involve; danger to life; damage to property; costly downtime; or the provision of an essential service.

28.2 As soon as possible following the Emergency, the Department representative shall document the details of the acquisition. The following shall apply in accordance with the dollar value of the Award:

- a) \$1,000.01 to \$10,000.00 – the Department Head or his/her designate shall provide a written summary report to the DCT, detailing the emergency expenditure.
- b) \$10,000.01 to \$25,000.00 - the Department Head or his/her designate shall provide a written summary report to the CT, with a copy to the DCT, detailing the emergency expenditure.
- c) over \$25,000.00 – purchases will require Council approval.

29.0 RECEIPT OF GOODS

29.1 The Department Head, or his/her designate, shall arrange for the prompt inspection of goods on receipt to confirm conformance with the terms of the contract and inform the DCT of discrepancies immediately.

29.2 The Department Head shall coordinate an appropriate course of action with the CT, for any non-performance or discrepancies.

30.0 ETHICS IN PURCHASING

30.1 The code of purchasing ethics, established by the National Institute of Government Purchasing (NIGP) and the Ontario Public Buyers Association (OPBA), shall apply to all Finance Department, Purchasing Section staff involved in the procurement process.

31.0 CODE OF CONDUCT

31.1 All Township staff is governed by the Township's Code of Conduct Policy, as amended. Council is governed by the Municipal Conflict of Interest Act, R.S.O. 1990, as amended and the Township's Council Member Code of Conduct Policy, as amended.

32.0 REVIEW OF BIDS & BID IRREGULARITIES

32.1 Bids received are reviewed by staff for compliance with the Bidding process and procedural rules as set out in the Bid Document. Bids are further evaluated to determine the following, all in accordance with the Bid Document:

- a) technical requirements have been met;
- b) minimum specifications have been met;
- c) minimum required qualifications have been met;
- d) minimum experiences have been met;
- e) accuracy of the Bid.

32.2 Bid irregularities found in a Bid are categorized as a Major Irregularity or a Minor Irregularity with respect to Bid compliance. A Major Irregularity found in the Bid will result in automatic rejection of the Bid. Where a Minor Irregularity is found in the Bid, the Township reserves the right to waive, correct, or have the Bidder/Proponent clarify the irregularity in order to serve the best interests of the Township.

32.3 In exercising judgment, the Department Head or his/her designate,

shall consider the advice of the Township Solicitor.

33.0. BIDDER/PROPONENT PERFORMANCE

- 33.1 The Department shall be responsible for monitoring the Contract performance of Bidders/Proponents and for documenting evidence of such performance in accordance with the various Vendor Performance related ISO Standard Operating Procedures.
- 33.2 The Township may, in its sole discretion, reject a Bid from a Bidder/Proponent if:
 - a) the Bidder/Proponent has not performed works for previous Contracts in compliance with the Contract Documents;
 - b) the Bidder/Proponent has previously provided goods or services in an unsatisfactory manner;
 - c) the Bidder/Proponent failed to satisfy an outstanding debt/obligation to the Township;
 - d) there have been performance concerns (Section 33.1) between the Township and the Bidder/Proponent;
 - e) the Township determines that the Bidder/Proponent does not have sufficient experience in the supply of the goods or services; or
 - f) the Township has concerns with the financial ability of the Bidder/Proponent to perform the Contract.
- 33.3 Rejection of a Bid, for any of the above noted situations, must be substantiated by written documentation related to Bidder/Proponent performance of a Contract where applicable.
- 33.4 Rejection of a Bid for performance shall be approved by the appropriate Department Head and the CT.
- 33.5 The CT may, in consultation with the Department Head and the Township Solicitor, prohibit an unsatisfactory supplier from bidding on future contracts.

34.0 RIGHTS, AUTHORITY AND RESTRICTED ACTS

- 34.1 The provisions of this by-law are subject to the rights, authority and restrictions provided for by section 275 of the Municipal Act, Ontario.

This By-Law shall come into force and take effect on the date of its final passing and that By-Law 2007-49 be repealed this date.

READ a first and second time this 19th day of November, 2020.

READ a third time and passed this 19th day of November, 2020.

Michael Donohue
Mayor

Allison Vereyken
Clerk/Treasurer

**By-Law 2020-54
Schedule 'A'**

| Purchase Threshold | Authority to Approve Purchase | Method of Procurement Required | Advertisement/Notice Required |
|----------------------------|---------------------------------------------|-------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|
| \$0-\$250 | CT to establish Petty Cash Fund | Staff Choice - no formal requirement | None |
| \$15,000 or less | Department Head (if approved Budget amount) | Staff Choice - as long as purchase shall demonstrate fair market value was achieved | None |
| \$15,000 - \$40,000 | Clerk/Treasurer | RFQ with a minimum of 2 written quotes RFT RFP RSO | Formal advertising required: Website or Local Paper or Both |
| \$40,000 + | Council | RFT, RFP, RSO | Formal advertising required: placed in at least one local paper and on the Township website |

Single/Sole Source Purchasing (Exemption from Item 24)

| | | | |
|-------------------------|------------------------|----|----|
| \$1,000-\$25,000 | CT and Department Head | NA | NA |
| \$25,000 + | Council | NA | NA |

Emergency Purchases

| | | | |
|-------------------------|---------------------------------------------------------------------------------------|----|----|
| \$0-\$1,000 | Department Head with a report to the DCT with information about the purchase required | NA | NA |
| \$1,000-\$25,000 | Department Head with a report to the CT with information about the purchase required | NA | NA |
| \$25,000+ | Council | NA | NA |