

BY-LAW No. 2006-42
OF THE
CORPORATION OF THE TOWN OF COLLINGWOOD



A BY-LAW TO PROVIDE FOR THE PURCHASE OF GOODS AND SERVICES

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NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF COLLINGWOOD HEREBY ENACTS AS FOLLOWS:

1.0 DEFINITIONS

In this By-Law:

- a) *"Bid"* shall mean (i) a specific price for specific works or (ii) where appropriate, a proposal;
- b) *"Bidder"* shall mean anyone who submits a Bid or proposal in response to the issue of a Tender;
- c) *"Buyer"* shall mean a Purchasing Manager or employee of the Town who has been designated by a Department Head to procure Goods and Services for the Town;
- d) *"Clerk"* shall mean the Clerk of the Town of Collingwood appointed pursuant to then applicable governing municipal act, or in his absence, the Deputy-Clerk or such other person designated by the Council by resolution for the purposes of this By-law;
- e) *"Contract"* shall mean a written agreement authorized or ratified by the appropriate authority and executed by the appropriate authority;
- f) *"Department Head"* refers to the individual who is accountable for the budget and responsible for the operations of any single department or division within the Town;
- g) *"Emergency"* shall mean a situation, or the threat of an impending situation, where serious delay may affect the life, safety, health/or welfare of the general public, cause damage to the environment or to the property of the residents of the Town, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level;
- h) *"Expanded Works"* shall mean approved construction projects in which an unexpected problem arises during construction, which does not expand the scope of the project but is necessary in order to delivery the original approved work;
- i) *"Expression of Interest"* shall mean a call by the Town to suppliers to express interest for the provision of alternate options which cannot be fully defined or specified at the time of the request, and shall include development proposals;
- j) *"Goods and Services"* shall include all supplies, materials, equipment, furniture, fixtures, general maintenance and service construction contracts, construction maintenance, food, drugs and professional services, but does not include real property;
- k) *"His"* shall in all cases mean his or her and *"he"* shall in all cases mean he or she;
- l) *"Inquiry"* shall mean a formal request for a quotation;

- m) *"Prescribed Forms or Forms"* shall mean the standard documents as provided as part of the purchasing procedure guidelines as approved by the Treasurer;
- n) *"Professional Services"* include the services of architects, engineers, designers, surveyors, management and financial consultants, brokers, lawyers, planning consultants, project managers and any other professional and consulting services required by the Town;
- o) *"Public Advertisement"* shall mean an advertisement placed with one or more publications of local circulation, and if appropriate, with the Daily Commercial News;
- p) *"Purchase"* shall mean the acquisition of Goods and Services or any interest therein by purchase, lease, rental or otherwise;
- q) *"Purchasing Manager"* shall mean the individual responsible for ensuring that the purchasing by-law, policies and procedures are consistently applied in the Corporation and who serves as a resource to Departments in support of the purchasing function. In the absence of a Purchasing Manager, the Department Head of the department responsible for the use of the Goods and Services shall be deemed to be the Purchasing Manager;
- r) *"Purchase Order"* shall mean a written offer to procure Goods and Services or a written acceptance of an offer, made on the Town's prescribed form;
- s) *"Purchase Requisition"* shall mean an internal written or online request to the Purchasing Manager to procure goods or services for internal record purposes;
- t) *"Quotation"* shall mean a written request for vendor bids for the supply of goods or services, from selected sources of supply, not opened in public;
- u) *"Request for Proposal"* shall mean a formal request for details on the supply of goods or the provision of services, which cannot be fully defined or specified at the time of the request;
- v) *"Sole Source"* shall mean there is only one known source of supply of particular goods or services;
- w) *"Standing Purchase Order"* shall mean a Purchase Order for a period not greater than two years which establishes prices or a method for determining prices, terms and conditions and the period of time during which a vendor agrees to provide goods or services to the purchaser upon the purchaser's demand;
- x) *"Supplier"* shall mean any company or organization that provides, or has the capacity to provide, certain Goods and/or Services to the Town in accordance with the terms of this By-Law;
- y) *"Tender"* shall mean a formal request for sealed tender bids for the supply of Goods and Services in response to an advertised solicitation that is to be opened in public; for certainty, a Tender may include a request for proposal, an invitation to tender, a request for quotations, and any other document that is generally considered to facilitate the tendering process;
- z) *"Tender Bid"* shall mean any Bid or proposal submitted to the Town by a Bidder pursuant to a Tender;
- aa) *"Time-Sensitive Works"* shall mean works for which the timing to initiate and/or complete the purchase is paramount but the time available to follow normal procedures is insufficient;
- bb) *"Town"* shall mean the Town of Collingwood;
- cc) *"Treasurer"* shall mean the Treasurer of the Town of Collingwood; and
- dd) *"Unsolicited Proposal"* shall mean any submission from any party submitted to the Town on the initiative of that party, not in response to any formal or informal tendering process initiated by the Town, for the purpose of obtaining a contract from the Town.

2.0 POLICY STATEMENT

2.1 General

- a) No expenditure, purchase or commitment shall be incurred or made, and no account shall be paid by the Town for Goods and Services, except as provided in this By-Law or otherwise approved by Council, provided that Council's decisions shall be consistent with all applicable procurement laws, including the provisions of this By-Law;
- b) No contract shall be entered into and no expenditure shall be authorized or incurred unless Council has provided funds for such purpose in the annual budget or agreed to the provision of such funds and no expenditure shall be authorized or incurred in excess of the funds provided;
- c) Department Heads shall ensure that all provisions of this By-Law are complied with in respect of the purchase of Goods and Services for or on behalf of his department whether directly or by use of a consultant; and
- d) Where an Unsolicited Proposal is received by anyone within the municipality, whether elected or non-elected, the Town shall follow the procedure described in the Town's Unsolicited Proposals Guideline.

3.0 ESTABLISHING PRICE RANGE

3.1 Purchase prices shall be obtained as follows:

- **Up to \$1,500** - For any purchases other than those items contained in a Standing Purchase Order, when the amount is less than \$1,500, the Buyer making the purchase shall obtain verbal quotations from more than one supplier, or, they may purchase directly from catalogues, suppliers' lists or through negotiations, upon assuring themselves that all prices offered are fair and equitable;
- **\$1,500 to \$50,000** - For all purchases, when the amount is between \$1,500 and \$50,000, an Inquiry for written Quotation shall be issued on Prescribed Forms;
- **over \$50,000** - By Tender on Prescribed Forms; and
- **all motorized vehicles licensed to travel on a Highway or public road** - By Tender on Prescribed Forms.

3.2 The above prices shall be on a before-tax basis.

4.0 APPROVAL LEVELS

4.1 Formal approval of the annual budget constitutes financial approval to proceed with the purchases subject to any scheduling or priority considerations as may be deemed necessary by Council and in accordance with this By-Law.

4.2 Prior to the passing of the annual operating budget, each Department shall be allowed an interim appropriation of twenty-five percent (25%) 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.

4.3 Approval Levels:

- **up to \$ 5,000** - By any Buyer or Department Head;
- **up to \$25,000** - By any Department Head; and
- **over \$25,000** - By Council as evidenced by the passing of a resolution or by-law.

4.4 The above approval levels shall be on a before-tax basis.

5.0 INVENTORY

- 5.1 Each Department has the ability to establish inventories to ensure an efficient method of managing the delivery of goods. Minimum and maximum levels shall be established for each inventory item. Purchases in respect of inventory are subject to the provisions of this By-Law.

6.0 PURCHASING PROCEDURES

The following purchasing procedures shall apply to the purchase of Goods and Services:

- 6.1 Subject to any direction that may be given, the Purchasing Manager or Buyer 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.
- 6.2 Every purchase valued over \$1,500 shall be covered by a Purchase Order, provided that, where possible, three documented quotations have been received (telephone & facsimile are acceptable).
- 6.3 The Purchasing Manager or Buyer is authorized to order Goods and Services to the amount of \$25,000 from such suppliers and upon such terms and conditions as deemed advisable, subject to him/her first obtaining, where possible, three or more prices. In the awarding of a contract, the Purchasing Manager or Buyer shall not be bound to accept the lowest bid and may award to another bidder if, in his discretion, having regard for delivery time, service and quality of goods, that it would be in the best interests of the Town. If delivery time, service and quality of goods are equivalent however, the lowest bid shall be accepted. Verbal quotations shall be recorded on the approved quotation form for this purpose and shall be attached to the initiating purchase requisitions.
- 6.4 A Purchasing Manager or Buyer is authorized to order Goods and Services as to an amount exceeding \$25,000, provided that Council has authorized the purchase by resolution or by by-law.
- 6.5 A Department Head shall be permitted upon resolution or by by-law passed by Council, subject to such conditions as may be imposed, to award contracts in excess of \$25,000 when all of the following criteria have been met:
 - 1) there is sufficient approved budget;
 - 2) all procedures for the establishment of pricing in this By-Law have been followed;
 - 3) the lowest tender is accepted; and,
 - 4) where possible, three tenders or more have been received.
- 6.6 Two or more purchase orders shall not be issued for portions of any single items if the total amount of the purchase orders exceeds the amount authorized (see Approval Levels).
- 6.7 Notwithstanding any other requirement of this By-Law, circumstances may arise where competitive tendering is undesirable and a proposed procurement excluded from the requirement to obtain competitive bids, or where direct negotiations are appropriate, provided that such measures are not taken for the purpose of avoiding competition, discriminating against any Supplier, or circumventing any requirement of this By-Law. Such circumstances include the following:
 - a) When an Emergency has been declared, a purchase of Goods and/or Services may be made by the Purchasing Manager, or the Department Head (if the two positions are not combined), or his delegate, in the case of an Emergency, in which case the Goods and/or Services shall be acquired by the most expedient and economical means. In all such cases, an information report to Council shall be prepared by the Purchasing Manager, or the appropriate Department Head setting out the nature of the Emergency and the necessity of the action taken as a result.
 - b) Conditions may dictate the conduct of negotiations for the acquisition of Goods and/or Services, provided that the Clerk has received either verbal or written

authorization prior to the start of negotiations with any Supplier. Negotiations may be authorized when any of the following conditions apply:

- a. Goods or Services are judged to be in short supply due to market conditions;
 - b. Where there is only one known source for the Goods or Services (sole source);
 - c. When two or more identical bids have been received;
 - d. Where the lowest bid received meeting specifications is excessive in total cost or substantially exceeds the Town's estimated costs;
 - e. When all bids received fail to meet the specifications or terms or conditions of the bid document and it is impractical to recall the process;
 - f. When a single source is being recommended because it is more cost effective or beneficial for the Town;
 - g. For the extension of a contract that has expired and unforeseeable circumstances have caused a delay in issuing a new tender/request for proposal process;
 - h. A Time-Sensitive situation as defined in section 1 of this By-Law; or
 - i. A situation of Expanded Works as defined in section 1 of this By-Law.
- c) The Town may participate with other governmental agencies or public authorities in cooperative acquisition initiatives when it is in the best interest of the Town to do so, provided any such initiative has been authorized by the Clerk. The policies and procedures of the agency calling the tender or making the request for proposals shall be followed. Each agency shall ultimately issue its own contract and shall be responsible for the remainder of the procurement process (such as ordering, receiving, inspection and payment).

7.0 TENDERS

7.1 The procedures set forth in Appendix "A" shall apply to the purchase of all types of Goods and Services where a Tender is required as determined in Section 3.1 of this By-law.

7.2 In all cases, Tenders shall be coordinated by the Purchasing Manager and administered by the Clerk.

The Purchasing Manager will ensure:

- 1) completeness of documentation;
- 2) advertisements are arranged;
- 3) closing dates and tender openings are scheduled; and,
- 4) vendors contact for information is appropriate.

NOTE: *From time to time, based on the nature of the project work, and as directed by the responsible Department Head, a contractor prequalification may be required. When this prequalification applies, contractors must provide the necessary documentation on prescribed forms acceptable to the Town.*

8.0 PROCUREMENT / APPOINTMENT OF PROFESSIONAL SERVICES

8.1 Selection of Criteria

In selecting a consultant for the supply of Professional Services, ability, experience in similar type projects, personnel available for the project, reputation, and / or local knowledge shall be considered. Although fees are a consideration, they may not be of prime importance. Selection on a basis of price rather than ability may not ensure the Town of the best or most economical overall solution. Generally there are two methods by which a consultant may be selected:

- 1) by direct appointment; or,
- 2) through a more formal procedure.

8.2 Direct Appointment

Direct appointment is an efficient manner of making a selection for normal or routine projects. By the use of a roster method, the Town is able to employ different consultants, thus matching particular talents to project needs.

The following points shall be considered when appointing a consultant:

- 1) Has the consultant served the Town well in the past?
- 2) Is the consultant known to the Town?
- 3) Has the consultant been recommended?
- 4) Does the Town wish to maintain continuity on a project by appointing a particular consultant?

8.3 Formal Selection Procedure - Closed Selection Procedure

A formal selection procedure is to be used for normal or routine projects where the Town is aware of suitable consultants to undertake the project. This procedure involves proposals and if required interviews with prospective consultants selected from a pre-determined consultant list.

Guidelines to decide which consultant to appoint:

Project Definition

A detailed definition of the project is required so that the consultants will interpret the requirements in a similar manner, making it easier for the Town to make an appropriate selection.

Prepare Consultant List

Develop a list of three to five consultants from personal knowledge and/or experience of the Town.

Request for Proposals

When requesting a detailed proposal, the Town must provide the consultants with the following:

Definition of the project;
Scope of services that are requested; and,
Terms of reference;

The Request for Proposal should ask the consultant to provide detailed information on:

- 1) The staff or study team proposed for assignment on the project;
- 2) Project Methodology;
- 3) Schedule or time frame for the project; and,
- 4) Basis for fees.

Interview Candidate Consultants (optional)

This gives the Town an opportunity to assess the capabilities of the consultant's senior staff and how they interact with the Town staff.

Select Preferred Consultant

Selection should be made on ability, qualifications and experience in similar projects, personnel assigned to the project, reputation, location, knowledge, work load and fees.

Meet with Preferred Consultant

The Town should meet with the preferred consultant to discuss the project in depth, update the terms of reference and agree on compensation for the project.

Approvals

Consulting fees exceeding \$25,000.00 require Council approval.

Execute Agreement

Where the formal selection procedure is used, a contract shall be prepared for the protection of the Town and the consultant.

Notify Unsuccessful Consultants

The Town shall send unsuccessful consultants a written notification of the Town's decision on the choice of consultant.

9.0 DISPOSAL OF SURPLUS

9.1 Where any goods or personal property of the Town are declared surplus to the Manager of Purchasing by a Department Head or designate on a surplus declaration form and cannot be used by another Town department, they shall be disposed of by public tender or public auction. If no bids are received, the Manager of Purchasing may dispose of the goods or personal property as deemed to be in the best interest of the Town. This Section shall not apply to goods or equipment traded in on new equipment or returned for credit to original sources of supply.

10.0 EXPENDITURES EXCLUDED FROM THE APPLICATION OF THIS BY-LAW

The following expenditures are excluded from the application of this By-law.

1. Petty Cash Items
2. Training and Education
Conferences and conventions, courses, workshops and seminars, memberships and subscriptions, staff training and development
3. Refundable Employee Expenses
Advances
Meal allowances
Travel expenses
Hotel accommodations
4. Employer's General Expense
Employee, Councillor and Mayor's income including sick leave, severance and retiring allowances
Payroll deduction remittances ✓
Employee benefit remittances
Honorariums
Licenses (vehicle, elevator, radio, etc)
Debenture payments ✓
Payments to local boards
Grants to agencies
Real property including land, building, leasehold interest, easements, encroachments and licenses
Investments
Bank charges
Mortgage/loan payments
Imprest account expenses
Property rentals
Refunds
Fees or charges payable to the federal or provincial government
5. Special Services
Legal settlements
Witness fees ✓
Committee fees ✓
Arbitrator fees ✓
Appraisal fees ✓
Real estate fees
Land transfer taxes
Registry Office fees
Insurance claims ✓
Audit fees ✓
Revenue collected on behalf of a third party
6. Utilities
Postage

Water, sewer and gas charges
 Hydro
 Telephone services
 Cable services

7. Expenses related to an event, which will eventually be recovered in full by a third party.

11.0 DEBRIEFINGS

11.1 Any unsuccessful Supplier may request an opportunity to be debriefed by the Town on the reasons for not being awarded a particular contract, in accordance with the procedure set out in the attached Appendix B, provided that such a request shall not have the effect of delaying the Town's commitment to proceed with the successful Supplier.

11.2 As a prerequisite to protesting an award of a contract made in favour of another Supplier (in accordance with the procedure set out below in section 12), an unsuccessful Supplier shall request an opportunity to be debriefed by the Town, and shall not proceed under section 12 until such time as the Supplier has been debriefed by the Town.

12.0 COMPLAINT RESOLUTION

12.1 Where an unsuccessful Supplier chooses to protest an award of a contract made in favour of another Supplier, such unsuccessful Supplier shall request a meeting with the Buyer and the Clerk. Such request such be in writing and shall (i) provide a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and (ii) identify the form of relief requested.

12.2 Where, after a meeting with the Buyer and the Clerk, the Supplier is satisfied that its concerns have been addressed and that the purchasing process was conducted in a fair and equitable manner, no further action shall be required. Documentation in respect of the protest in question shall be maintained by the Buyer for future reference.

12.3 Where, after a meeting between the Supplier, the Buyer and the Clerk, the Buyer and the Clerk conclude that the purchasing process was materially flawed, for any reason, the Buyer and the Clerk shall issue a report to the Chief Administration Officer for his approval recommending corrective action.

12.4 Where, after a meeting between the Supplier, the Buyer and the Clerk, the parties fail to achieve a mutually satisfactory resolution, the Supplier may request an opportunity to presents its case to the Chief Administration Officer, who will hear the Supplier and make a recommendation to Council for approval, provided that the Supplier's request shall be in writing.

12.5 Where, after a meeting between the Supplier and the Chief Administration Officer, the parties fail to achieve a mutually satisfactory resolution and the Supplier indicates or suggests that legal proceedings may follow, the Chief Administration Officer shall contact the Town's legal counsel for advice and direction, which shall be reported to Council if it appears imminent that legal proceedings will result.

12.6 Where any dispute arises during the term of any contract for Goods and/or Services, the complaint mechanism set out in this provision shall apply, provided that the contract manager or other appropriate individual may be substituted for the Buyer.

13.0 OTHER

13.1 When the authority to purchase Goods and Services has been delegated or assigned to a local board, to Municipal Services board, to Collingwood Public Utilities Service Board or to the Ontario Provincial Police forces, either by Council or by statute, the procedures set out in this by-law shall not apply to such purchases, providing that the financing has been approved by Council prior to the commitment of funds.

13.2 No purchase of Goods and Services shall be made by the Town for the personal use of elected or appointed officials or employees of the Town.

13.3 No Goods and Services shall be purchased from an officer or employee of the Town, or from any associate of such officer or employee, unless the extent of the interest of such

officer or employee has been fully disclosed and the purchase has been approved by the Chief Administrative Officer of the Town. For the purposes of this By-law, the term 'associate' of an officer or employee of the Town means as follows:

- a) Any partner of the officer or employee;
- b) Any trust or estate in which the officer or employee has a substantial beneficial interest or as to which the officer or employee serves as trustee or in a similar capacity;
- c) Any relative of the officer or employee, including the officer or employee's spouse, where the relative has the same home as the person;
- d) Any relative of the spouse of the officer or employee where the relative has the same home as the officer or employee; or
- e) Any body corporate of which the officer or employee beneficially owns, directly or indirectly, voting securities carrying more than 10 per cent of the voting rights attached to all voting securities of the body corporate for the time being outstanding.

13.4 Where any other By-law exists which is in conflict with a provision of this By-law, the provision of this By-law shall be deemed to apply.

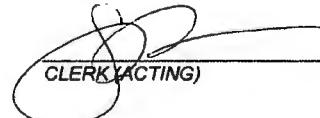
13.5 This By-Law shall be reviewed and update, as appropriate, every three (3) years, following the date of its enactment.

14.0 APPENDICES

14.1 Appendices shall form a part of this By-law.

ENACTED AND PASSED this 10TH day of April, 2006.


DEPUTY MAYOR


CLERK (ACTING)

APPENDIX "A"

PROCEDURES FOR TENDERS

The following procedure shall be applied to the purchase of Goods and Services.

A. ADVERTISING

Competitive sealed bids/proposals shall be called by Public Advertisement.

B. RELEASE OF INFORMATION TO BIDDERS

Upon the request of a prospective bidder, the Purchasing Manager or Buyer shall supply the following material for each contract:

- (i) one copy of the official Tender Bid form;
- (ii) one standard Tender Bid envelope; and
- (iii) Submission material, e.g. specifications, plans, profiles, etc.

NOTE: When a fee for submission materials/documents is required, it shall be paid to the Town. When a fee is refundable it will be returned when submission materials/documents are returned in good order.

C. RECORDING AND CONTROL OF SUBMISSION MATERIAL

The Purchasing Manager or Buyer shall maintain a list of prospective bidders for issuing submission material / documents.

NOTE: It is essential that names and addresses are recorded when bids are released to facilitate distribution of addenda and when necessary, to extend or cancel a contract under call.

D. CHANGES

1) Preparation of an Addenda

Interpretations should be made in reply to queries from potential Bidders only, in the form of a written addendum. When it becomes necessary to revise, delete, substitute or add to specifications for a contract under call, the Purchasing Manager or Buyer shall coordinate the issuance of an addendum or cancel the tender process.

2) Notification of Addenda to Potential Bidders

A copy of each addendum shall be forwarded to each potential Bidder who obtained bid forms for the contract. A copy of the addendum notice shall also be stapled to each bid form not yet distributed.

E. CANCELLATION

1) Notification to Potential Bidders of Cancellation of Contract

Each potential Bidder who received bid documents shall be notified of the cancellation of the Tender.

2) Return of Submissions on Cancellation of Contracts

When a Tender is cancelled, no bids will be accepted. Any submission inadvertently received shall be returned unopened to the potential Bidder by hand or by registered mail, with a covering letter.

F. EXTENSIONS OF TIME FOR TENDER

1) Notification to Potential Bidders of Extension of Time

Each potential Bidder who received documents shall be notified of the extension of the closing date to receive Bids.

2) **Disposition of Tender Bids When Closing Date Has Been Extended**

When the closing date for receiving bids has been extended, tender bids already received shall be handled as follows:

- (a) If the extension of time is four weeks or less, the Bidder shall be advised that his bid will be returned upon request; and,
- (b) If the extension of time is more than four weeks, all Bids shall be returned unopened.

For this section, all communications shall be in writing.

G. **SUBMISSION REQUIREMENTS**

1) **Tender Bid Requirements**

All Tender Bids shall either be mailed or delivered to the Clerk.

Tender Bids are required to conform to the conditions listed below:

- (a) The Prescribed Form for the Bid, as supplied by the Town, must be used and in the possession of the Clerk, on or before the designated Closing Date and Time. **TENDER BIDS RECEIVED AFTER CLOSING TIME WILL NOT BE CONSIDERED.** (Additionally, facsimile submissions will not be considered);
- (b) 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.
- (c) 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 Town;
- (d) 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 submission and / or supersede it with a later Bid;
- (e) The return envelope supplied by the Town must be used for bidding purposes without any extra exterior covering. Provision shall be made on the envelope for the bid number and the name and address of the Bidder;
- (f) The submission form must be signed and initialed in the space(s) provided on the form, with the signature of the Bidder, or of a responsible official of the Bidder. If a joint Bid is submitted, it must be signed on behalf of each of the Bidders, and if the signing authority for both Bidders is vested in one individual, he shall sign separately on behalf of each Bidder. In the case of an incorporated company, the corporate seal must be affixed on the bid form. Contract bid form(s) must be submitted under the name of a Bidder (group of contractors / suppliers) who has (have) been approved as having the required rating for the contract being bid;
- (g) Erasures, overwriting or strike-outs must be initialed by the person signing on behalf of the Bidder;
- (h) Tender Bids must be accompanied by a certified cheque, bank draft or money order, made payable to the Corporation of the Town of Collingwood, equal to or greater than the amount specified in the submission, **AND MUST BE ENCLOSED IN THE SAME ENVELOPE AS THE TENDER BID.**
- (i) It is a condition of all Tenders that proof of bonding in a form acceptable to the Clerk must be furnished before a contract is awarded, no later than 10 days following contract award.

2) **Deposit Requirements**

Unless otherwise specified, the refundable deposit requirements for submissions shall be as follows:

TOTAL AMOUNT OF TENDER BID MINIMUM DEPOSIT REQUIRED

- \$50,000 or less 5%
- over \$50,000 10%

The form for Tender deposits shall be either a certified cheque, bank draft, or money order issued by an approved Guarantee Company properly licensed in the province of Ontario, on Canadian Construction Documents Committee (CCDC) bond forms acceptable to the Town.

A Tender deposit cheque is not required for the supply of materials or for work or the supply of equipment.

3) Failure to Observe Tender Bid Requirements

If any of the mandatory Tender Bid requirements have not been met, the Bid shall be rejected. Where any discretionary Tender Bid requirements have not been met, the Bid shall be treated in accordance with the evaluation or other criteria set out in the specific Tender. Where any administrative requirement of the Bid has not been met, the Bid shall be considered to be an Improper Bid and dealt with as set out in Section J.

4) Submission Material

The requirements of Sections G (1) and G (2) shall be included as part of the submission material.

H. RECEIVING OF TENDER BIDS

1) Submission Box

A locked box shall be maintained under the control of the Clerk, for the reception and safekeeping of Tender Bids.

2) Time and Date Stamping and Recording of Tender Bids

When a Tender Bid is received, the envelope shall be time and date stamped. If a time stamp is not available, the time received shall be noted in ink and initialled by the Clerk or his designate. Receipt of each bid shall be recorded. Submissions shall be deposited unopened in the proper locked submission box. The Bids shall be deemed received when the envelope has been stamped with the time and date of receipt by the Clerk.

3) Late Submissions

Regardless of the time a Tender Bid is received, the envelope shall be time and date stamped. 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.

If a late Tender Bid is received without a return address on the envelope, it shall be opened, address obtained and then returned. The covering letter should state why the envelope could not be returned unopened.

4) Action on Correspondence Pertaining to Adjustments, Corrections or Restrictions to a Tender Bid

Any correspondence by a Bidder that purports to amend, adjust, correct or otherwise restrict the scope of a Bidder's submission that has been received by the Town shall not be considered by the Town. Where any such correspondence occurs before the closing of the bids, the Town shall advise the Bidder of the submission withdrawal procedures.

I. WITHDRAWAL OF BIDS

1) Withdrawal of Bids Prior to Closing

A Bidder who has submitted a Tender Bid, may request that it be withdrawn. Adjustments or corrections to a submission will not be allowed. The withdrawal shall be allowed if the request is made prior to the closing time for the contract to which it applies. Withdrawal requests must be directed to the Clerk by letter, facsimile or in person. Telephone requests shall not be considered. When withdrawals are made in person, the Clerk shall obtain a signed withdrawal confirming the details. If the person is other than a Senior

Official of the Bidder and for letter of facsimile withdrawals, the authenticity of the request must be confirmed by telephoning a responsible Official of the Bidder.

Withdrawal requests received after the contract closing time will not be allowed. The Bidder concerned shall be informed that the withdrawal request arrived too late for consideration. However, when the bids are read out at the bid opening, and if it is the lowest bid on a contract, the Bidder may then proceed in accordance with Section I 3).

2) Opening of Submissions

- (a) Public Opening of Submissions
 Openings shall be open to the public.
- (b) Action to "Unknown" Bids at Opening
 Any Bid that does not have the contract number on the envelope shall be opened and placed with its appropriate group.
- (c) Action on Correspondence found Enclosed in Submission Envelope
 If correspondence is found enclosed with a Bid in the envelope which qualifies the Bid in any way, that submission shall be considered improper and shall be rejected. The formality surrounding the rejection of the Bid shall be the responsibility of the Clerk.
- (d) All Bids Received Must be Accounted For
 When Bids have been opened and sorted, the Clerk shall check the Listing of bids received, and the number opened to ensure that all submissions are accounted for. If a discrepancy occurs, the opening proceedings shall be delayed until all Bids have been accounted for.
- (e) Reading Out of Bid Amounts, and Listing of Information
 When all Bids have been accounted for, the Clerk shall announce for each project, the Bid number, and the number of Bids received, the name of the Bidder and total Bid amount, simultaneously recording the name of each Bidder, the Bid amount and the deposit cheque amount on a Bid opening form.
- (f) More Than One Submission Under Same Name
 During the reading out of Tenders the Clerk shall check for more than one Bid under the same name (without a notice of withdrawal). If this situation occurs, each Bid shall be documented and referenced in a manner as "A", "B", "C", etc., and shall be dealt with as normal Bids.

3) Checking Bids

The submissions will be checked to determine whether,

- (i) all requirements have been met;
- (ii) all unit prices have been correctly extended; and,
- (iii) the extensions have been correctly totalled.

J. AWARD PROCESS

1) Basis of Decisions on Acceptance or Rejection of Improper Tender Bids

The decision as to whether an Improper Bid shall be accepted or rejected shall be based upon whether the Bid is sufficiently clear that the matter can be clarified without amending the Bid.

Care shall be exercised by the Clerk and the Department Head involved to ensure that Improper Bids are handled in a manner that is fair to other Bidders as well as to the public. The following are guidelines only, intended to illustrate some of the issues that commonly arise:

- (a) Late Tender Bids must be rejected and will not be considered.
 Tender Bids Not Completed in Ink or typed - must be rejected.
- (b) Incomplete Tender Bids
 Part tender bids or incomplete Bids must be rejected.

- (c) **Qualified Tender Bid**
If a Bid is restricted or qualified by a statement added to the Bid form or a covering letter, or alterations are made to the Bid form, then the Bid must be rejected.
- (d) **Tender Bid Not Signed**
Tender Bids that are not properly signed and sealed must be rejected.
- (e) **Erasures, Overwriting or Strikeouts Not Initialed**
Bids where erasures, overwriting or strikeouts have not been initialed must be rejected.
- (f) **Mathematical Errors**
Tender Bids containing mathematical errors that have been corrected, may be accepted. Tender Bid unit prices shall ordinarily be used to correct extensions.
- (g) **Deposit not Submitted or of Insufficient Amount**
If a certified cheque, bank draft or money order (if required) is not submitted, the Tender Bid must be rejected.
- (h) **Agreement to Bond**
If an agreement to bond is not submitted when required, the Tender Bid must be rejected.

2) **Tie Bids**

Tie Bids are those that are identical in price where the price is the determining factor. Tie Bids will be treated by attempting to identify qualitative factors between the Bids that may generate a benefit to the City from one Bidder and not the other(s). Such factors include, but are not limited to, the following:

- Will an earlier proposed delivery date for the Goods and/or Services provide a benefit to the Town?
- Does one Supplier have a proven track record of contracting with the Town that can legitimately justify giving such a Supplier additional consideration?
- Does one Supplier's Bid show that such a Supplier is prepared to assume a higher level of responsibility?
- Is there a difference in the quality of the Goods and/or Services proposed to be provided by the Suppliers?

Where the Bids are equal in every respect, the Town shall attempt to split the award between the Suppliers, provided that doing so is in the best interest of the Town.

Where the Bids are equal in every respect and where splitting the award would not be in the best interest of the Town, the Town may use one of the following methods, based upon the specific circumstances:

- Use a coin toss to select the successful Bidder;
- Request that the tied Bidders submit new Bids; and
- Directly negotiate with the tied Bidders to break the tie.

3) **Notification of Acceptance of Submission**

Upon the award of the contract, the Purchasing Manager or Buyer shall notify all unsuccessful Bidders of the award to the successful Bidder and the name of the successful bidder.

4) **Disposition of Deposit Cheques**

Following the award of the Contract, all deposit cheques and/or bid bonds, other than the low and second low bids, shall be returned to the applicable Bidders by the Purchasing Manager or Buyer, and all original submission forms shall be retained on file.

5) **Execution of Contract**

Where a Town Contract is required, a selected Bidder shall be allowed ten (10) working days, or as many days as are identified by the Town, between the date of mailing the Form of Contract, and the date the executed Contract must be returned to the Clerk. Copies of the executed Contract will be distributed to the appropriate Department Head.

No work shall proceed until the Contract is executed by all parties and the necessary securities are filed with the Town.

6) Action on Acceptance of Contract

When copies of the executed Contract are returned and found acceptable to the Purchasing Manager or Buyer, the Tender Bid Deposits of the second low Bidder, or second highest ranking Bidder shall be returned by registered mail. The Tender Bid Deposit of the successful Bidder will be returned by regular mail, once the necessary security documentation is received. This documentation includes, 50% Performance Bond and 50% Labour and Material Bond, or as otherwise stipulated in the Contract, or 100% of the amount of the bid in cash or certified cheque, Certificate of Insurance, with coverage to a minimum of \$2 million and naming the Corporation of the Town of Collingwood and its Managers or sub-contractors as additional insurers, and Workplace Safety Insurance Board (WSIB) Clearance Certificate.

K. NO WORK SHALL COMMENCE UNTIL THE ABOVE HAS BEEN SATISFIED

Bonding Requirements

When stipulated in the Contract, the Town typically requires a Performance Bond and a Labour and Materials Bond for 50% each, of the Bid, or other amounts when conditions warrant, issued by an approved Guarantee Company properly licensed in the province of Ontario, on Canadian Construction Documents Committee (CCDC) bond forms acceptable to the Town, or 100% of the amount of the bid in cash or certified cheque. There may be instances where it is desirable to obtain bonding to the extent of 100% of the bid amount to be determined on the recommendation of the Department Head in consultation with the Treasurer. These securities must be furnished by the contractor before the contract can be executed.

In its discretion, the Town may stipulate in its Tender that Contract performance shall be assured by the provision of a Letter of Credit for 100 percent of the value of the Bid amount.

Action When Successful Bidder Does Not Finalize Contract

If a Contract is to be awarded and the selected Bidder fails to sign the Contract or to provide the necessary security within the specified time, the Purchasing Manager may grant additional time to fulfill the necessary requirements or may recommend to Council, in consultation with the Department Head involved, one of the following;

- (i) that the Contract shall be awarded to the next lowest bidder, or the next highest ranking Bidder; and,
- (ii) that the Contract shall be cancelled.
- (iii) in appropriated circumstances, that legal action is taken against the selected Bidder.

In any of the above cases , the Tender Bid Deposit of the low Bidder or next highest ranking Bidder shall be forfeited.

Purchase Order

A Contract for the purchase of goods shall be confirmed by the issuing of a Purchase Order.

APPENDIX "B"

PROCEDURE FOR DEBRIEFINGS

Pursuant to section 11 of this By-Law, the following procedure shall apply to the conduct of Supplier debriefings by the Town.

A. TIMING

1) Request for a Debriefing

A request for a debriefing should be made by an unsuccessful Supplier within 30 day of being notified by the Town of contract award.

2) Provision of a Debriefing

Debriefing shall occur only after a contract is awarded, within 15 days of the date on which the unsuccessful Supplier's request is received in writing by the Town.

B. LOCATION AND FORMAT

1) Debriefing is to be conducted either by handwritten letter, by telephone conversation, or by face-to-face meeting.

2) Face-to-face debriefing sessions shall be held at the Town's premises.

C. CONTENT

1) Unsuccessful Suppliers shall not use the debriefing to change the decision of the Town or otherwise reopen the award procedure.

2) Only submissions made by the unsuccessful Supplier shall be discussed at a debriefing.

3) Debriefing shall be chaired by the Buyer.

4) Debriefing shall not be delegated to individuals with the unsuccessful Supplier who do not have the necessary experience or sensitivity to carry out the interview successfully.

5) Where possible, each debriefing session shall last no longer than 1 hour.

6) Only references to the assessment of the evaluation criteria listed in the unsuccessful Supplier's proposal shall be made.

7) The Town shall explain where the unsuccessful Supplier's proposal ranked in the final scoring, but not in relation to other specific proposals.

8) The Town shall note the strengths of the unsuccessful Supplier's proposal and highlight where the proposal scored well.

9) Where appropriate, the Town shall provide advice on how the unsuccessful Supplier can improve its scoring in future submissions.

11) If the debriefing is conducted by telephone conversation, the Town shall send a follow-up letter confirming that the Supplier's questions were answered.