

THE CORPORATION OF THE TOWNSHIP OF AMARANTH

BY-LAW NUMBER 79-2022

Being a By-Law to Provide for the Purchasing, Quotations, Tendering, Authorization and Payment of Accounts of the Township of Amaranth

WHEREAS The Council of the Corporation of the Township of Amaranth recognizes its responsibility for the effective utilization of all of its resources is desirous of codifying sound policies for the purpose of procuring goods and services in a manner congruent with its mandate to provide effective responsible government and efficient delivery of services to the residents of the Township of Amaranth;

NOW THEREFORE The Corporation of The Township of Amaranth by the Municipal Council thereof enacts as follows:

Purpose

1. Purpose of Purchasing By-Law

The purpose of this by-law is to set out guidelines for the Township to ensure that all purchases of materials, supplies and services provide the lowest costs consistent with the required quality and service.

An open and honest process shall be maintained that is fair and impartial.

The purchasing by-law will promote and maintain the integrity of the purchasing process and protect Council, vendors and staff involved in the process by providing clear direction and accountability, authorizing staff and committees in the acquisition and payment of goods and services.

Implementation Procedure

2. Definitions

For the purposes of this by-law,

“Blanket Order” shall mean the agreement wherein a vendor will provide certain items or services to the Township for an agreed period of time with established terms and conditions

“Bid” shall mean a submission from a prospective vendor in response to a request for the purchase of goods or services issued by the Township. Bid shall have the same meaning a “quotations” or “tender”

“Council” shall mean the Municipal Council of the Corporation of the Township of Amaranth

“Emergency Purchase or Rental” shall mean a purchase or rental made in a crisis situation where immediate action is required to prevent delays, loss, protection of assets or endangerment of limb or possible loss of life or property

“Generic” shall mean that no specific brand or name shall be included as part of the specifications unless such a brand or name is required to identify the intent of a purchase, order or proposal

“Quotation” shall mean a competitive bid process for goods or services that is conveyed and received from bidders in a written format by email, mail or fax

“Request for Proposal” shall mean a competitive process to be used in place of a tender or quotation when goods or services cannot be specifically stipulated or when alternative methods are being sought to perform certain functions or services

“Services” shall mean items such as telephone, gas, water, hydro, janitorial and cleaning services, consultant services, legal surveys, medical and related services, insurance, leases for grounds, buildings, office or other space required by the Township and the rental, repair or maintenance of equipment or machinery

“Staff” shall mean an assigned department head employee operating within the Township

“Supplies” shall mean goods, wares, merchandise, material and/or equipment

“Tender” shall mean a document which sets out particular specification for the commodity or service required. This can also refer to an offer in writing to execute some specified work or to provide some specified articles at a specified rate

“Tender Deposit” shall mean a financial guarantee to ensure the successful bidder will enter into an agreement

“Vendor” shall mean any person or enterprise supplying goods or services to the Corporation of the Township of Amaranth

Purchasing Responsibilities

3. Expenditure Authorization

Council has ultimate authority for all expenditures. Council delegated this authority by the authorization of budgets or by specific resolution. Treasury cannot pay for any item that has not been authorized by Council through budget appropriation or specific resolution. This purchasing by-law provides guidelines outlining how spending authority is to be used.

4. Staff Authorization and Responsibilities

Staff shall be responsible for approval of accounts within the approved budget for such department or any amendment to same as approved by Council. Unspecified capital expenditures in the annual estimates require prior Council approval by resolution.

Staff shall be authorized to make purchases of goods and services up to an amount of \$5,000.00 from such vendor and upon such terms and conditions as staff deems appropriate. Staff shall endeavour to obtain three (3) quotes whenever possible.

Resolutions approving budget amendments, capital expenditures or special appropriations shall contain purpose of expenditure, cost estimates or

expenditure limitation, and the fund in which an appropriation has been provided. All staff reports recommending such resolutions shall contain the CA/Clerks endorsement.

Requisitions for goods the value of which is less than \$3,000.00 may be signed on behalf of the department concerned by an employee so authorized.

Purchasing Mechanisms

5. Quotation Purchases

Staff shall be authorized to make purchases of goods and services for estimated expenditures exceeding \$5,000.00 and less than \$30,000.00 from such vendor and upon such terms and conditions as the department head deems appropriate subject to first obtaining at least three (3) written quotations whenever possible. Quotation documents and specifications (as applicable) can be issued in writing and received by e-mail and/or fax transmission and be presented to Council for purchase approval.

6. Tender Purchases

Staff shall not order good or services exceeding \$30,000.00 without requesting and obtaining sealed tenders for the goods and services unless specifically authorized to do so by a resolution of Council for a particular transaction. At least three (3) bids must be obtained whenever possible.

Notwithstanding the above, adherence to his purchasing by-law is not required with respect to those items listed below, or to a transaction specifically authorized by resolution of Council to be exempt from this purchasing by-law.

Purchases for the supply and placement of road material throughout the Township when clearly identified in the budget.

Purchases for consulting services for a program where services (i.e bridge inspection/evaluation) have been awarded to a consulting firm on an on-going basis when clearly identified in the budget.

Purchase of replacement parts where the original equipment manufacturer is the sole provider of that equipment (i.e. transmission for Champion road grader)

Singly source supply (i.e. hydro poles, bell lines)

7. Requests for Proposal

Staff may use a Request for Proposal in place of a tender or quotation when goods or services cannot be specifically stipulated or when alternative methods are being sought to preform certain functions or services.

For estimated expenditures not exceeding \$30,000.00 the evaluation criteria and process shall be approved by Staff prior to the issuance of the Request for Proposal. For expenditures exceeding \$30,000.00 the evaluation criteria and process shall be approved by Council resolution prior to the issuance of the Request for Proposal.

When the preferred proposal (i) exceeds the approved budget appropriation and/or (ii) exceeds \$30,000.00 staff will report to Council for direction.

Bid Closing and Opening

8. Purchasing procedures will establish appropriate bid closing and opening procedures.

When two or more identical bids have been received, the bid that was received earliest shall be selected.

If more than one bid is read out under the same name, except as an alternative for the same contract, and no withdrawal notice has been received, the bid contained in the envelope bearing the latest date and time stamp shall be considered the intended bid. The first bid shall be considered withdrawn and returned to the bidder in the usual manner.

If correspondence is found enclosed with a bid in the bid envelope, it shall be so noted in the record of bid opened and the bid read out in the normal manner. This correspondence and the bid shall be referred to staff for recommendation as to acceptance or rejection.

Conditions Applicable to all Bid Submissions

9. The following conditions apply to all bid submissions:
 - A. Bid documents must be submitted and received in the manner as specified in the bid document. The Bid Form must be used when required. No exemptions will be permitted.
 - B. Bid received by the designated Township location later than the specified closing date and time will be returned to the bidder. In the case of sealed bids, the bid will be returned to the bidder unopened. No exemptions will be permitted.
 - C. A bidder who has already submitted a bid may submit a further bid at any time up to the official closing time. The last bid received will supersede and invalidate all bids previously received by that bidder.
 - D. A bidder may withdraw a submitted bid at any time up to the official closing time by letter bearing their signature.
 - E. All departments must document the receipt of all submissions including the bidder's name, date/time of receipt and initials of the employee accepting the bid.
 - F. If it is necessary to revise, delete, substitute or add to bid material for a contract under call, Staff shall approve the issuance of an addendum or cancel the contract. A copy of each addendum shall be forwarded by regular first class mail to each contractor/supplier who obtained tender forms for the contract at his last known place of business. In addition to the above procedure, prior notice of the mailing shall be given to the contractor/supplier by telephone when practical.

- G. If any extension of time is allotted, any contractor/supplier who received bid documents shall be notified by registered mail or courier addressed to his last known place of business of the extension of time. In addition to this procedure, prior notice of the mailing should be given by telephone when practical and shall be advised that his bid will be returned upon request.

Basis of Decisions on Rejected Bids

10. Bids may be rejected for any of the following reasons:

- A. Bid received after the specified closing date and time as specified in the bid document. No exceptions.
- B. Bid does not comply with the requirements at time of closing as specified in the bid documents. No exceptions.
- C. Bids which are incomplete, conditional or obscure, or which contain additions not called for, erasures, alterations or irregularities of any kind.
- D. Bids not completed in ink or by typewriter must be rejected.
- E. Bids not properly signed must be rejected.
- F. Arithmetic errors may be rejected.
- G. Does not meet specification requirements.

Rejected Bids

11. When a bid must be rejected, it shall not be recoded in the minutes of bid opening, but the words "rejected bid" shall be recorded instead.

When a bid must be rejected, the bidder will be notified.

Following the opening of the bids, all bids shall be checked to ensure that all bidding requirements have been met.

Bid acceptance shall be approved and accepted by Council notwithstanding the provisions of this by-law, the Corporation reserves the right to accept any bid or part of any bid, or to reject any or all bids.

Blanket Orders

12. Staff may establish blanket Orders using the applicable bid mechanism based upon the estimated annual expenditure.

In the case of equipment repairs and equipment rentals for amounts not exceeding \$15,000.00 staff shall be authorized to select vendors not solely on the basis of cost, but also on ability, quality or workmanship, service, availability, overall performance and experience without first obtaining quotations.

Blanket Orders shall be issued for a specific time period with all ordering departments responsible for maintaining purchases within budget allocations.

Purchase of Used Fleet Equipment

13. Purchase of used fleet equipment shall be approved by Council.

Emergency Purchases and Rentals

14. Staff shall be authorized to make emergency purchases and rentals more than \$10,000.00 upon the approval of the CAO/Clerk and the Mayor. Staff must present a report to Council at its next meeting.

Purchase by Negotiation

15. Staff may purchase by negotiation with one or more vendors under which a formal bid process may be waived under the following conditions:

- A. When market conditions and in the judgement of Staff, the goods are in short supply
- B. When there is only one source of supply.
- C. Where two or more identical bids have been received.
- D. When the lowest bid meeting specifications exceeds the estimated costs and it is not viable or in the best interest of the Township.
- E. When all bids received fail to meet the specifications and/or tender terms and conditions and it is impractical to recall tenders or quotations.

16. Any negotiated purchase contract exceeding \$10,000.00 shall be subject to the approval of Council.

Exceptions

17. A staff may request exemption from any or all the purchasing methods outlined in this by-law by submission of a report requesting the same to Council. Such exemption may be granted by resolution.

Exclusions

18. Competitive bids shall not be required for goods or services provided by any of the following when such goods or services are not available elsewhere, including but not limited to:

- A. Utilities, government agencies, Crown corporations, travelling expenses, meals, conferences, seminars, memberships, subscriptions, medical exams, licenses, in-house services and any other goods or services as approved by Council.
- B. As identified elsewhere in this by-law.

Advertising

19. Where effective in the opinion of Council or Staff, information regarding the bid document shall be advertised on the Township website and may be advertised in the local newspaper and/or applicable publications necessary to comply with all existing statutory regulations or by invitation to not less than 3 potential bidders if

available. Coverage may be extended for contracts requiring special techniques applications or type of work.

Advertisements shall occur at least once and sufficient time between advertising and bid closing shall be allowed to permit a contractor to examine the site, obtain the tender document, complete and submit the bid.

Bid Deposits

20. Bid deposits shall be required to accompany bid submissions for the following circumstances:

- A. All bids for municipal construction projects in excess of \$50,000.00
- B. Special contracts or scope of work as deemed appropriate by Council or Staff
- C. For estimated expenditures less than \$100,000.00 staff shall determine the amount of the bid deposit
- D. A bid deposit shall be provided in one of the following formats:
 - i. A bid bond or an agreement to bond issued by a bonding agency currently licensed to operate in the Province of Ontario naming the Corporation of the Township of Amaranth as the obligee.
 - ii. A certified cheque made payable to the Corporation of the Township of Amaranth
 - iii. An irrevocable letter of credit naming the Corporation of the Township of Amaranth as the beneficiary
 - iv. Money orders made payable to the Corporation of the Township of Amaranth
 - v. Canadian currency
 - vi. The Township does not pay interest on any bid deposits
 - vii. All bid deposits must be original documentation, signed and sealed as appropriate. No faxes or photocopies will be accepted
 - viii. The Township is authorized to cash and deposit any bid deposit in the Township's possession that is forfeited as a result of non-compliance with any of the terms, conditions and/or specifications of a sealed bid.

21. Following the bid opening, withdrawn bids shall be returned together with the deposit cheque (when applicable) to the bidders by mail or hand delivered.

Insurance

22. The standard insurance minimums are as follows:

- A. \$2 million – general liability by-law

- B. \$2 million – automobile liability by-law
- C. \$2 million – homeowners (eg rental of facilities)
- D. \$5 million – general liability and automobile liability policies – for contract work done for most transportation and public safety and environmental services projects
- E. \$2 million – professional errors and omissions liability
- F. Bidders Risk – the amount of the project cost

23. Bid documents must clearly indicate insurance requirements to be provided by the successful bidder.

The successful bidder must furnish the Township at their cost a “certified copy” of proof of liability insurance covering public liability and property damage for no less than the minimum amounts stated above (22 A thru F) to the satisfaction of the Township and in force for the entire contract period. The proof of liability insurance must contain:

- A. A “Cross Liability” clause or endorsement
- B. An endorsement certifying that the Township and the successful bidder are included as an additional named insured
- C. Contractor’s Liability insurance shall not contain any exclusions of liability for damage, etc to property building or land arising from:
 - i. The removal or weakening of support of any property, building or land whether such support be natural or otherwise
 - ii. The use of explosives for blasting
 - iii. The vibration from pile driving or caisson work, provided that the minimum coverage for any such loss or damage shall be \$5,000,000.00

Administration

24. A direct or indirect pecuniary interest must be declared to the CAO/Clerk by any employee acting as a contracting part for the Township. For purposes of this by-law Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50 shall be interpreted as if it applied to employees

Staff initiating the purchase shall ensure that deliverables are satisfactory to the Township and in accordance with any published specification

No contract or purchase shall be divided to avoid any requirements of this by-law

In all purchases, price shall be the prime selection criteria prior to any special provisions or add/delete calculated into the bid price, providing that all specification requirements are met. Such specifications are to be generic or “as equivalent”. All factors influencing the purchasing decision are to be included in the specifications.

The Township may participate with other units of government, their agencies or public authorities in co-operative purchase ventures when the best interest of the Township will be served. Where such participation is at variance with the Township's Purchasing by-law, Council shall first authorize any participation.

Performance evaluations may be undertaken on suppliers and providers of service.

All invoices and accounts from vendors shall be authorized prior to payment. Authorization in the form of signatures of a Township representative denoting clerical accuracy, budgetary or specific resolution approval and indication that goods and services were received in good order must be in place. These required signatures will be deemed to authorize payment.

Between the last regular meeting of Council in any year and the adoption of estimates for the next year, the Treasurer is authorized to pay the accounts of any ordinary business transactions of the Township that are required to maintain services. This shall include the payment of accounts or previously approved capital items and projects.

After the adoption of estimates, the Treasurer is authorized to pay the accounts approved by the appropriate staff and to pay contract accounts upon receipt of evidence of value received and which are approved by the appropriate staff.

Notwithstanding the provisions of this procedure, the Township shall have the right to reject the lowest or any bid at its absolute discretion. The Township also reserves the right to reissue the bid document in its original format or modified as best suits the requirements of the Township.

Retention of Documentation

25. All background information, information submitted by vendors and other relevant information involved in obtaining prices for goods and services exceeding \$10,000.00 shall be retained in the department for the entire budget year and five (5) years in the records retention.

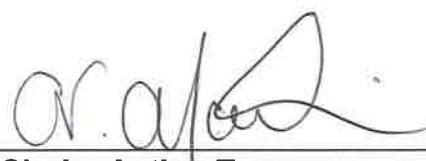
Purchasing Process Review

26. The CAO/Clerk may randomly review departmental purchasing related files on an on-going basis to review the effectiveness and integrity of the processes and by-law adherence.

BY-LAW READ A FIRST AND SECOND TIME THIS ²⁶ DAY OF **October 2022**.
BY-LAW READ A THIRD TIME AND PASSED THIS ²⁶ DAY OF **October 2022**.



Head of Council



CAO/Clerk - Acting Treasurer