



CORPORATION OF THE UNITED TOWNSHIPS OF HEAD, CLARA & MARIA
BY-LAW NUMBER 2023-19
Procurement By-law

BEING a by-law governing the procurement of goods and services.

WHEREAS Section 270 of the Municipal Act, S. O. 2001, c.25 as amended, states that a municipality must adopt and maintain policies with respect to its procurement of goods and services among others;

AND WHEREAS this by-law establishes the authority and sets out the methods by which goods, services or construction will be purchased and disposed of for the purposes of the Municipality of the Corporation of the United Townships of Head, Clara & Maria subject to certain exceptions set out herein;

NOW THEREFORE the Council of Corporation of the United Townships of Head, Clara & Maria enacts as follows:

1. SHORT TITLE

1.1. This by-law may be cited as the "Purchasing By-law".

2. DEFINITIONS

2.1. The words and phrases listed below when used in this by-law shall have the following meanings ascribed to them:

"Bid" means an offer or proposal from a supplier in response to a bid solicitation;

"Bid Deposit" means the form of security required by the terms and conditions of bid solicitation documentation to guarantee that the successful bidder enters into a contract with the Municipality;

"Bid Solicitation" means a formal request for competitive bids that may be in the form of a Request for Tender, Request for Quotation or Request for Proposal;

"Clerk-Treasurer" means the Clerk-Treasurer of the Corporation of the United Townships of Head, Clara & Maria;

"Contract" means any agreement, regardless of form or title, for the lease, purchase or disposal of goods, service or construction authorized in accordance with this by-law;

"Council" means the Council of the Corporation of the United Townships of Head, Clara & Maria;

"Emergency" means a situation, or the threat of an impending situation, where the purchase of goods and services is required immediately, to mitigate the effects of the situation on the environment, the life, safety, health and/or welfare of the general public, or the property of the residents of the Municipality, or to prevent serious damage, disruption of work, or to restore or to maintain essential service to a minimum level;

"Fair Market Value" means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arms-length where fully informed and not under any compulsion to transact;

"Informal, Low Value Procurement" is used to obtain competitive pricing for a one-time procurement in an expeditious and cost-effective manner through phone, fax, email, other similar communication methods, vendor advertisements or vendor catalogues.

"Lowest Compliant Bid" means the bid that would provide the Municipality with the desired goods, service or construction at the lowest total acquisition cost, meets all the specifications and contains no irregularities requiring automatic rejection;

"Municipality" means the Corporation of the United Townships of Head, Clara & Maria;

"Negotiation" means the action or process of conferring with one or more vendors leading to an agreement on the acquisition of the required goods and services under the conditions outlined in this by-law.

"Non-Competitive Procurement" is a method of procurement that is not competitive which is to be used in specific circumstances. It includes sole sourcing and single sourcing. It is

used to allow for procurement in an efficient and timely manner without seeking competitive pricing or to provide for additional exceptions as specified in this by-law.

"Proposal" means an offer submitted in response to a Request for Proposal, acceptance of which may be subject to further negotiation;

"Quotation" means a formal statement of the estimated cost of a job, good, service or construction or an offer to sell goods and services to the Municipality or an offer to purchase surplus goods from the Municipality.

"Request for Proposal" or "RfP" means a bid solicitation that is used to acquire goods, service or construction, on variable terms the suitability of which is determined upon multiple factors and which may result in further direct negotiation with one or more bidders. It is used to select the proposal that earns the highest score and meets the requirements specified in the competition, based on qualitative, technical and pricing considerations.

"Request for Quotation" or "RfQ" is used to obtain competitive bids based on precisely defined requirements for which a clear or single solution exists. With this method of procurement the bid solicitation is done primarily on an invitational basis from a pre-determined bidder's list but may be supplemented with public advertising of the procurement opportunity.

"Request for Tender" or "RfT" is used to obtain competitive bids based on precisely defined requirements for which a clear or single solution exists. An RfT is used when the goal is to accept the lowest bid meeting the requirements specified in the competition.

"Services" includes all professional and consulting services, all services in relation to real property or personal property including, without limiting the foregoing, the delivery, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an officer or employee of the Municipality in accordance with terms of employment;

"Single Sourcing" is the procurement of a good or service from a particular vendor due to reasons of function or service rather than through solicitation of bids from other vendors who can also provide the same item;

"Sole Sourcing" is the procurement of a good or service that is unique to a particular vendor and cannot be obtained from another source.

"Tender" means a bid solicitation used to acquire known goods, service or construction in accordance with specified terms and which is normally awarded to the Lowest Compliant bid;

"Total Acquisition Cost" means an evaluation of quality and service in the assessment of a bid and the sum of all costs including purchase price, all non-refundable taxes, warranties, local service costs, life cycle costs, time of completion or delivery, inventory carrying costs, operating and disposal costs for determining the Lowest Compliant bid;

"Treasurer " means the Treasurer of the Corporation of the United Townships of Head, Clara & Maria or designate.

"Vendor of Record Arrangement" means a procurement process where the municipality seeks out bids or proposals from a select group of vendors with which it has already established a satisfactory business relationship.

"Verbal Quotation" means the receipt of pricing via telephone or in person, and will include the retention of written documentation of the conversation in support.

2.2. Schedules A, B, C and D attached hereto form part of this by-law.

3. PURPOSE, GOALS AND OBJECTIVES

3.1. The purpose of the by-law is to outline the procedures for the municipality to ensure that all purchases of materials, supplies and services provide the lowest costs consistent with the required quality and service.

3.2. The goals and objectives of this by-law and of each of the methods of procurement authorized herein are to ensure:

- i. Maximum values for money spent and minimize employee time and effort expended;
- ii. Improved service and support;
- iii. Product delivery, quality, efficiency and effectiveness;

- iv. Fairness of competition among vendors and suppliers;
- v. Openness, accountability and transparency while protecting the financial best interests of the Municipality;
- vi. Regard in the preservation of the natural environment and to encourage the use of environmentally friendly goods, services and construction.

3.3. This by-law shall apply to the purchase of goods, services and/or construction for the purposes of all municipal departments.

3.4. This by-law shall not apply to the acquisition or disposal of any real property or to any lease, right or permission relating to the use or occupation of real property.

4. GENERAL PROCUREMENT POLICY APPLICATION

4.1. The procedures in this by-law shall be followed to award a contract or to recommend to Council that a contract be awarded.

4.2. The Clerk-Treasurer may purchase or contract for the goods and services listed in Schedule "A" to this by-law without following the procedures set out herein.

4.3. The purchase of goods and services listed in Schedule "A" to this by-law may be made provided that sufficient funds are available and identified in appropriate accounts within Council approved budgets or specifically authorized by Council resolution.

4.4. No personal purchases shall be made by the Municipality directly or indirectly for members of Council or any appointed member of a local board or commission or for any officer, employee or volunteer of the Municipality.

4.5. No Council member, officer, employee or volunteer of the Municipality shall personally obtain any goods that have been declared surplus unless through an advertised public process.

5. RESTRICTIONS

5.1. No contract for goods, service or construction may be divided into two or more parts to avoid the application of the provisions of this by-law.

5.2. No contract for services shall be awarded where the services would result in the establishment of an employee - employer relationship.

5.3. No employee, volunteer or elected official shall purchase or offer to purchase, on behalf of the Municipality, any goods, service or construction, except in accordance with this by-law.

5.4. Any employee who intentionally and knowingly acquires or disposes of any goods and services for the Municipality in contravention of any section of this by-law, as amended from time to time, shall be subject to disciplinary actions in accordance with Municipal policy.

5.5. Where an employee involved in the award of any contract, either on his or her own behalf or while acting for, by, with or through another person, has any pecuniary interest, direct or indirect, in the contract, the employee,

- i. shall immediately disclose the interest to the Clerk-Treasurer, or Council and shall describe the general nature thereof;
- ii. shall not take part in the award of the contract; and
- iii. shall not attempt in any way to influence the award of the contract.

5.6. An employee has an indirect pecuniary interest in any contract in which the Municipality is concerned, if, the employee or his or her spouse or same-sex partner:

- i. is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the contract;
- ii. has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the contract;
- iii. is a member of an unincorporated association or partnership, that has a pecuniary interest in the matter; or
- iv. the employee or his or her spouse or same-sex partner is in the employment of a person, unincorporated association or partnership that has a pecuniary interest in the contract.

5.7. In circumstances where a bidder has withdrawn its bid after bids have been opened in response to a bid solicitation the Clerk-Treasurer may by written notice exclude such bidder or supplier from bidding upon further contracts to supply goods, service or construction to the Municipality for a period up to two years from the date of the notice.

5.8. This prohibition shall be in addition to and not in substitution for the forfeiture of any bid deposit or security or other remedy that may be available to the Municipality.

6. COUNCIL APPROVAL

6.1. Despite any other provisions of this by-law, the following contracts are subject to Council approval:

- i. any contract requiring approval from the Ontario Municipal Board;
- ii. any contract where the total acquisition cost is greater than or outside of the Council approved budget;
- iii. where an irregularity precludes the award of a contract to the bidder submitting the lowest bid and the total acquisition cost exceeds \$10,000;
- iv. any contract where a bid solicitation has been restricted to a single source of supply and the total acquisition cost of such good, service or construction exceeds \$50,000;
- v. where the contract price is in excess of fifty thousand dollars (\$50,000.00) and a request for proposals has been issued under this by-law;
- vi. where the purchase is prescribed by statute to be made by Council;
- viii. where there is current litigation between the bidder and the Municipality;
- ix. where the term of a proposed contract is for a period longer than three years;
- x. where the purchase of any goods, services or construction is not authorized by this bylaw; and
- xi. where otherwise specifically provided in this by-law.

6.2. Approval by Council of the contracts referred to in this Section shall be by Resolution.

6.3. If a challenged bid shall be considered to be accepted or rejected, a report shall be prepared for submission to Council setting out the nature of the informality, irregularity or challenge and the proposed action to be taken. Council shall make the ultimate decision to accept or reject said bid.

7. PURCHASING RESPONSIBILITIES

7.1 Council has ultimate authority for all expenditures. Council exercises this authority by the approval of budgets or specific resolution. Purchases not covered by such approval are not authorized.

7.2 The Clerk-Treasurer shall have the responsibility and authority for the procurement of goods, services or construction for the Municipality, provided that:

- i. no expenditure, purchase or commitment shall be incurred or made, and no account shall be paid by the Municipality for goods, services or construction, except as provided in this by-law or otherwise approved by Council;
- ii. 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 otherwise agreed to the provision of such funds and no expenditure shall be authorized or incurred in excess of the funds provided unless otherwise authorized under this by-law or approved by specific resolution of Council; and
- iii. pending Council's approval of proposed budgetary estimates, the Clerk-Treasurer is authorized to spend up to fifty percent (50%) of the previous year's approved operating budget.

7.3. The Clerk-Treasurer shall be responsible for:

- i. providing procurement advice including preparing call for bids documentation as per Schedule "D" to this by-law;
- ii. administering the call for bids and ensuring compliance with the terms and conditions of the call for bids;
- iii. the development of co-operative purchasing plans with other levels of government, municipalities, boards, agencies, commissions, or private sector entities where such plans are determined to be in the best interests of the Municipality;
- iv. the standardization of all procurement procedures; and
- v. the disposal of surplus stock.

7.4. Where any person is authorized to take any action pursuant to this by-law, such action may be taken by that person's authorized designate.

7.5. Where any authority has been granted to any officer or employee of the Municipality pursuant to this by-law, such authority may also be exercised by the Clerk-Treasurer.

7.6. The Clerk-Treasurer shall have authority and be accountable for all procurement activity and decisions. The Clerk-Treasurer may delegate his/her authority, where appropriate.

7.7. The Clerk-Treasurer shall be responsible to respond to concerns and questions relating to procurement policies and procedures.

8. NOTIFICATION OF PROCUREMENT OPPORTUNITIES

8.1. All notices of procurement opportunities for goods, service or construction shall be placed on the Municipal website.

8.2. Notification of procurement opportunities for goods, service or construction by the above methods may be supplemented by other means of notification where appropriate and at the discretion of the Clerk and/or Treasurer and may include mailing the notification specifically to a known supplier.

8.3. When notification has been mailed to the current supplier of goods, service or construction, the Clerk-Treasurer shall make every effort to contact at least two other sources via mail or other appropriate means if practical and appropriate.

9. PROCUREMENT PROCEDURES

9.1. The Clerk-Treasurer shall establish purchasing procedures consistent with the purposes, goals and objectives set out in this by-law relating to:

- i. the form, content and use of forms, whether electronic or printed, including requisitions, purchase orders, bonds, letters of credit and other forms of guarantee or surety, tender, proposal and other contract documents;
- ii. the identification of those goods, service or construction which, are more effectively acquired through cooperative purchasing or vendor of record arrangement;
- iii. any other aspect of process or procedure not specifically provided for in this by-law.

9.2. Where, in the opinion of the Clerk-Treasurer, circumstances giving rise to an issue of adherence or non-adherence to the requirements of this by-law which cannot be resolved to the satisfaction of the Clerk-Treasurer, the Clerk-Treasurer shall advise the Municipal Solicitor who together shall have the authority to determine the appropriate action.

10. NON-COMPETITIVE PROCUREMENT

10.1. Non-competitive procurement may be used when:

- i. there is a statutory or market-based monopoly on the item;
- ii. no bids were received in the competitive process or in the previous competitive process;
- iii. other bids were obtained through the previous competitive process which were significantly higher than that of the successful supplier;
- iv. the required item is covered by an exclusive right such as a patent, copyright or exclusive license;
- v. the purchase is already covered by a lease-purchase agreement where payments are partially or totally credited to the purchase;
- vi. it is necessary to ensure compatibility with existing products or to avoid violating warranty/guarantee requirements when service is required;
- vii. the required item is in short supply due to market conditions;
- viii. competitive sourcing for low value procurement would be uneconomical or would not attract bids;
- ix. competitive procurement may be found to be impractical due to current provider specialized knowledge, past service, availability of competitors, location, history etc.; and/or
- x. an urgent procurement is necessary for fulfilling a statutory order issued by a federal or provincial authority, such as an environmental, public health, or workplace safety compliance order.

11. SOLE SOURCE AND SINGLE SOURCE PURCHASING

11.1. A sole source purchase may be made:

- i. where other service providers are not available;
- ii. for the procurement of goods, services or construction without issuing a call for bids where the compatibility of a purchase with existing equipment, facilities or service is the paramount consideration;
- iv. where the procurement is unique to a particular vendor and cannot be obtained from another source; or
- v. where work is required in another location, a contractor has already been secured through a tender process, with established unit prices, and it is

considered beneficial and cost effective to extend the unit prices for the work to be completed on a similar job.

- 11.2. The Clerk may award the contract under single or sole sourcing if the total cost does not exceed fifty thousand dollars (\$50,000.00), in which case the award shall be subject to Council approval.
- 11.3. Non-competitive, sole sourcing and single sourcing procurement methods may be used for any dollar value purchase where conditions warrant it as per the applicable sections of this by-law.
- 11.4. Due to the size, location and budget of the municipality, often sole and single sourcing are the only options due to the lack of local or willing providers.
- 11.5. Where past requests for bids or tenders have resulted in single tenders or only one interested bidder, staff have the option of simply renewing existing contracts.
- 11.6. Notice will be provided to Council through a formal report prior to renegotiating procurement in these situations.

12. REQUEST FOR EXPRESSIONS OF INTEREST

- 12.1. The Clerk may conduct a request for expression of interest for the purposes of determining the availability of suppliers of any goods, service or construction and for the purposes of keeping a list of available suppliers.

13. PURCHASING METHODS

13.1. Petty Cash

- 13.1.1. The Clerk-Treasurer shall have authority to establish petty cash funds in such an amount to meet the requirements of the Municipality for the acquisition of goods, service or construction having an individual total acquisition cost of \$350 or less.
- 13.1.2. All petty cash fund disbursements shall be evidenced by receipts and shall be available for auditing purposes through the Treasurer.
- 13.1.3. A float of \$350 is to be established and maintained in the municipal office to provide working funds for making change while processing payments of any fees payable to the municipality including but not limited to taxes, photocopies, faxes, tipping fees etc.
- 13.1.4. The Clerk-Treasurer shall have authority to meet the requirements of day-today operations for the acquisition of goods, service or construction having an individual total acquisition cost of \$5,000 or less. Quotes will be obtained at the discretion of the Clerk.

13.2. Informal Quotation Purchases

- 13.2.1. The Clerk-Treasurer is authorized to make purchases of non-capital goods and services with estimated values between \$5,001 and \$25,000 from such vendors and upon such terms and conditions as the Clerk-Treasurer deems appropriate subject to first obtaining at least two (2) written informal quotations. Specifications and bids may be communicated by e-mail, mail and/or fax.
- 13.2.2. Purchases made pursuant to this Section shall be made from the competitive market place wherever possible.

13.3. Formal Quotation Purchases

- 13.3.1. The Clerk-Treasurer is authorized to make purchases for capital items up to \$50,000, or for goods and services with estimated values between \$25,001 and \$50,000, without requesting and obtaining sealed tenders for the goods and services unless specifically required to do so by a resolution of Council for a particular transaction. At least two (2) formal bids must be obtained. Three (3) formal bids are preferred, if obtainable.
- 13.2.2. When the preferred Quotation exceeds the approved budget appropriation by 10% or more, the Clerk-Treasurer shall submit a Report to Council for direction.

13.4. Tender Purchases

- 13.4.1. The Clerk-Treasurer shall not order goods or services exceeding \$50,001 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.
- 13.5. The purchasing methods for the procurement of goods, service or construction at different values are listed in Schedule "B" to this by-law.

14. REQUESTS FOR PROPOSALS

- 14.1. The Clerk-Treasurer 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 perform certain functions or services.
- 14.2. For estimated expenditures not exceeding \$50,000, the evaluation criteria and process shall be approved by the Clerk-Treasurer prior to the issuance of the Request for Proposal. For expenditures exceeding \$50,000, the evaluation criteria and process shall be approved by Council resolution prior to the issuance of the Request for Proposal.
- 14.3. When the preferred proposal (i) exceeds the approved budget appropriation by 10% or more and/or (ii) exceeds \$50,000, the Chief Administrative Officer/Clerk shall submit an Issue Report to Council for direction in the provisions of this by-law are complied with.
- 14.4. Every Request for Proposal package shall contain an explanation of the criteria which will be used to evaluate all proposals.
- 14.5. The Clerk, on behalf of the municipality, may award contracts emanating from a Request for Proposal provided that:
 - i. the estimated total acquisition cost of the goods, service or construction does not exceed \$50,000;
 - ii. the award is to be made to the supplier meeting all mandatory requirements and determined, by reference to the evaluation criteria, as providing best value;
 - iii. sufficient funds are available and identified in appropriate accounts within Council approved budgets or have been allocated specifically by a resolution of Council; and
 - iv. the provisions of this by-law are complied with.
- 14.6. The Clerk shall follow the provisions of Section 35 regarding the form of contract required to complete the purchase.

15. ACCEPTANCE OF BIDS

- 15.1. Council is under no obligation to accept any proposal or bid and where only one quotation or bid is received, the Municipality may exercise its right to cancel the call for tender or quotations.
- 15.2. In circumstances where sealed bids are submitted, and the purchases are estimated to exceed \$25,000 in value, the bids will be opened publicly at a predetermined time and place, and reasonable notice of same will be provided to bidders.

16. BID DEPOSITS AND PERFORMANCE GUARANTEES

- 16.1. Bid deposits shall be required to accompany bid submissions for the following circumstances:
 - i. All bids for municipal construction projects in excess of \$50,000.
 - ii. Other special contracts as deemed appropriate by the Chief Administrative Officer/Clerk.
- 16.2. For estimated expenditures less than \$100,000, the Clerk-Treasurer shall determine the amount of the bid deposit.
- 16.3. Bid deposits shall be no less than five percent (5%) of the estimated value of the work prior to bidding or an amount equal to a minimum of five percent (5%) of the bid submitted. For estimated expenditures greater than \$100,000, the minimum bid deposit required shall be ten percent (10%).
- 16.4. Prior to the commencement of the work, the successful bidder may be required to provide the following security in addition to the security referred to in Subsection 16.1:
 - i. a performance bond to guarantee the performance of a contract, and
 - ii. a payment bond to guarantee the payment for labour and materials to be supplied in connection with a contract.
- 16.5. The Clerk-Treasurer shall select the appropriate means to guarantee execution and performance of the contract. Means may include one or more of, but are not limited to, certified cheque, bank draft, irrevocable letter of credit, money order and, where appropriate, a bid bond issued by an approved guarantee company properly licensed in the province of Ontario, on bond forms acceptable to the Corporation of the United Townships of Head, Clara & Maria.
- 16.6. The Municipality does not pay interest on any bid deposits.
- 16.7. All bid deposits must be original documentation, signed and sealed as appropriate. No faxed or photocopies will be accepted.

- 16.8. The Municipality is authorized to cash and deposit any bid deposit in the Municipality's possession that is forfeited as a result of non-compliance with any of the terms, conditions and/or specifications of a sealed bid.
- 16.9. Prior to the commencement of work, evidence of insurance coverage satisfactory to the Clerk-Treasurer must be obtained, ensuring indemnification of the Corporation of the United Townships of Head, Clara & Maria from any and all claims, demands, losses, costs or damages resulting from the performance of a bidder's obligations under the contract and from any other risk determined by the Clerk-Treasurer as requiring coverage.
- 16.10. Prior to payment to a supplier, a Certificate of Clearance from the Workplace Safety and Insurance Board may be required ensuring all premiums or levies have been paid to the Workplace Safety and Insurance Board to the date of payment.

17. CONDITIONS APPLICABLE TO ALL BID SUBMISSIONS

- 17.1. Bid documents must be submitted and received in the manner as specified in the bid document.
- 17.2. Bids received later than the specified closing date and time will be rejected and, where appropriate, returned to the bidder. In the case of sealed bids, the bid will be returned to the bidder unopened.
- 17.3. 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.
- 17.4. A bidder may withdraw a submitted bid at any time up to the official closing time by submission in writing with an original authorized signature. Fax or email withdrawals are not valid.

18. CONTINGENCIES

- 18.1. Where any purchase of goods, services or construction has been authorized under this bylaw, the Clerk-Treasurer may authorize disbursement of additional funds, provided that such additional funds shall not exceed fifteen percent (15%) of the total cost of the original contract, and provided that the additional funds are required to complete the work set out in the original contract.

19. PURCHASE OF ADDITIONAL GOODS, SERVICES OR CONSTRUCTION

- 19.1. Notwithstanding section 18.1 above, where goods, services or construction have been purchased under this by-law, similar, additional or related goods, services or construction shall be purchased from the same contractor, whether by way of contract extension, renewal, or separate purchase, only if:
- i. a report is submitted to Council for prior approval; or
 - ii. the procurement procedures set out in this by-law are complied with as if the
 - iii. additional purchase is a new contract; or
 - iv. the total cost of the additional goods, services or construction does not exceed
 - v. twenty percent (20%) of the total cost of the original contract.
- 19.2. Any amount authorized under section 30.1 of this by-law may be expended in addition to any contingency allowance authorized under section 18.1 of this by-law and may be authorized by the Clerk-Treasurer irrespective of the total cost of the original contract.
- 19.3. Despite section 30.1 of this by-law, the Clerk-Treasurer may jointly authorize the purchase of additional goods, services or construction provided that:
- i. the requirement for the additional goods, services or construction could not reasonably have been anticipated at the time of the award of the original contract; and
 - ii. the authorization to purchase the additional goods, services or construction is required to prevent interruption in service delay or to avoid incurring extra costs.

20. EMERGENCY PURCHASES

- 20.1. Where an Emergency exists requiring the immediate procurement of goods, service or construction, the Clerk-Treasurer may purchase the required goods, service or construction by the most expedient and economical means, notwithstanding any other provision of this by-law to a maximum of \$50,000.
- 20.2. An emergency constitutes a danger of major proportions to life or property, and based upon implementation of the Municipality's Emergency Response Plan and associated with

an official declaration of an emergency by the Corporation of the United Townships of Head, Clara & Maria.

- 20.3. The Clerk-Treasurer shall endeavour to obtain the lowest cost for any goods, services or construction required using as fair and transparent a process as is feasible having regard to the particular emergency.
- 20.4. For all Emergency purchases made by the Clerk-Treasurer under sections 20.1 and/or 20.2, the Clerk-Treasurer shall as soon after the purchase as reasonably possible, notify Council with a written report detailing the circumstances of the Emergency.

21. IDENTICAL TENDERS

- 21.1. If the lowest compliant bids from two or more bidders are identical in total acquisition cost or unit price, the Clerk-Treasurer, is authorized to enter into negotiations with the bidders who have submitted the identical prices in an attempt to obtain a lesser price and shall maintain a record in respect of such negotiations.
- 21.2. The Clerk shall not reveal information pertaining to such negotiations or the manner in which the final price was determined to any of the other bidders concerned. The Clerk-Treasurer shall include as part of the record, a report concerning the results of such negotiations.

22. BID IRREGULARITIES

- 22.1. The process for administering irregularities contained in bids pertaining to all contracts shall be as set out in Schedule "C".

23. CONTRACTUAL AGREEMENT

- 23.1. The award of a contract that exceeds \$ 5,000 shall be made by way of a written agreement, approved and/or signed invoice or as a purchase order.
- 23.2. A formal agreement or written contract is to be used when the resulting contract is complex and will contain terms and conditions other than the Corporation of the United Townships of Head, Clara & Maria's standard contractual terms and conditions.
- 23.3. It shall be the responsibility of the Clerk-Treasurer and/or the Municipal Solicitor, to determine if it is in the best interests of the Corporation of the United Townships of Head, Clara & Maria to establish a formal agreement with the supplier.
- 23.4. Where it is determined that a formal agreement is required, the formal agreement shall be drafted by staff and may be reviewed and approved for execution by the Municipal Solicitor depending on circumstances and value.
- 23.5. Where a formal agreement is required, the Clerk and/or the Head of Council shall execute the agreement in the name of Corporation of the United Townships of Head, Clara & Maria.
- 23.6. Where a formal agreement is not required, the Clerk-Treasurer may issue and execute a Purchase Order incorporating the relevant terms and conditions or sign the appropriate invoice which lists the total price, terms, conditions of sale and a description of the goods or services.

24. SURPLUS AND OBSOLETE GOODS

- 24.1. The Clerk-Treasurer must dispose of all Goods for which the Municipality no longer has use and may use any method for disposal in the Municipality's best interests, including without limitation, public auction, sealed bid, public tender, trade, consignment, donation to charitable organization, negotiated sale, transfer to another department (including the Municipal Library) or destruction.
- 24.2. If the estimated residual value of any surplus or obsolete good is less than one hundred dollars (\$100), low cost disposal methods such as donation to other departments or organizations are preferred.
- 24.3. An employee who has the responsibility of declaring goods surplus or obsolete, or for sending items to a public auction shall not bid on or personally obtain any goods that the employee has declared as surplus.
- 25.4. No Council Member, employee or volunteer shall be permitted to receive surplus or obsolete goods except by purchase at public auction, public tender, trade or advertised sale.

25. BY-LAW REVIEW

- 25.1. This by-law shall be reviewed within each new term of Council.

26. EFFECTIVE DATE

26.1. This by-law shall come into force and take effect on the date of passage.

27. REPEAL

27.1. By-law 2012-17 and all amendments thereto are hereby repealed on the effective date of this by-law.

Read a first and second time this 26th day of August, 2023.

Read a third time short and passed this 21st day of September, 2023.

D. Hills
MAYOR

Mueher
CLERK