

THE CORPORATION OF THE TOWN OF LINCOLN

BY-LAW NO. 2018-22

BEING A BY-LAW TO ADOPT A PURCHASING POLICY
FOR THE CORPORATION OF THE TOWN OF LINCOLN

WHEREAS Section 271 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality shall adopt policies with respect to its procurement of goods and services;

AND WHEREAS it is deemed expedient to adopt the Purchasing Policy for the Corporation of the Town of Lincoln;

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

26. That the Purchasing Policy for the Corporation of the Town of Lincoln dated April 2, 2018, attached hereto and forming part of this By-law, be and the same is hereby adopted.
27. By-law 2006-55 be rescinded.
28. This By-law shall come into force and take effect upon the final passing thereof.
29. Any by-laws or policies inconsistent with the Purchasing Policy attached hereto are hereby repealed.

BY-LAW read a FIRST time this 3rd day of April, 2018.

BY-LAW read a SECOND time this 3rd day of April, 2018.

BY-LAW read a THIRD time and FINALLY PASSED this 3rd day of April, 2018.

MAYOR

CLERK

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1) DEFINITIONS

Bid means an offer or submission from a Bidder in response to a Procurement Document.

Bid Irregularity means a variance between the requirements (terms, conditions, specifications, special instructions) of a Procurement Document and the information provided in a Bid that is responsive to that Procurement Document.

Bid Security is a bond or deposit that guarantees that the Bidder, if awarded the Contract, will accept the Contract as Bid by the Bidder.

Bidder is a Person that makes a submission to the Town in response to a Procurement Document.

Bidding System is the Town's online web-based solution for issuing Bid solicitations and/or receiving online Bids and posting Bid results.

CETA means Chapter Nineteen (Government Procurement) of the Canada-European Union *Comprehensive Economic and Trade Agreement*, effective September 21, 2017, as may be updated from time to time.

CFTA means Part III, Chapter Five (Government Procurement) of the *Canadian Free Trade Agreement*, effective July 1, 2017, as may be updated from time to time.

Chief Administrative Officer (CAO) means the official, or Designate, appointed by Council, to oversee the administrative management of the Town.

Clerk means the Clerk of the Town of Lincoln, or Designate.

Compliant Bid means a Bid (i) that has been submitted by a Bidder that is determined by the Town to be capable, technically and financially, of making good on its Bid; and (ii) that correctly responds to all the requirements that are stated in the Procurement Documents to be mandatory or required.

Conflict of Interest is defined as a situation or circumstance that could be perceived to give a Bidder or prospective Bidder an unfair advantage during a Procurement Process or compromise the ability of a supplier or consultant to perform its obligations under the Contract.

Contract means a legal agreement, usually written, between the Town and one or more Suppliers, or a Purchase Order.

Council means the municipal council of the Town of Lincoln.

Department means a functional division within the Town's administrative structure, e.g., Finance Department, Clerk's Department, Public Works Department.

Designate means the person or persons assigned the duties and responsibilities on behalf or in the absence or incapacity of the person charged by the Town with the principal authority to take the relevant action or decision.

Director means the head of a specific Department of the Town of Lincoln, or Designate.

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Negotiation means a purchasing method whereby the Town may negotiate directly with one or more Suppliers with the intent to award a Contract or extend an existing Contract.

Non-Compliant means a Bid (i) that has been submitted by a Bidder that is determined by the Town not to be capable, technically or financially, of making good on its Bid; or (ii) that does not correctly respond to all the requirements that are stated in the Procurement Documents to be mandatory or required.

Person means any individual, corporation (including a municipal corporation), partnership, trust, government entity or other entity that is capable of entering into contractual relations.

Prequalification is the process of screening potential Suppliers in which such factors as financial capability, reputation and experience are considered, to develop a list of qualified potential Suppliers that may then be allowed to submit Bids, or that may be hired on a rotational basis to fulfill specific requirements or projects.

Procurement Document means a Request for Quotations, Request for Tenders, Request for Proposals, Request for Supplier Qualifications or Request for Expressions of Interest.

Procurement Policy means this procurement policy of the Town, as amended from time to time.

Procurement Process means (i) any activities of the Town or a Department that may lead to the issuance of Procurement Documents; (ii) following the issuance of Procurement Documents, any activities of the Town or a Department that may lead to a Contract; and (iii) following the execution of a Contract any activities of the Town or a Department involved in obtaining the goods and services promised in the Contract.

Proposal means a Bid from a potential Supplier in response to a Request for Proposals to provide goods and/or services, acceptance of which Bid is subject to detailed evaluation against requirements and may, depending on the legal construction of the Request for Proposals, be subject to further negotiation.

Purchase means to acquire goods and services by purchase, rental, lease, licence, trade, construction or other means by which the Town provides consideration and receives in return goods or services.

Purchase Card means the Town's corporate credit card system.

Purchase Order means a written confirmation of the purchase of goods and/or services between the Town and a Supplier.

Request for Expressions of Interest or RFEOI means a public request made by the Town seeking responses from potential Suppliers for the purposes of compiling a list of Suppliers who may be interested in providing goods and/or services to the Town from time to time. Receipt of an expression of interest by the Town does not create any obligation between the potential Supplier and the Town but may, at the option of the Town, be a precondition to qualifying for subsequent Procurement Documents issued by the Town.

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Request for Proposal or RFP means a public request for Proposals made by the Town made in accordance with Schedule F, seeking Proposals to supply goods and/or services. A Request for Proposals may not result in a Contract of any kind, even where a particular Proposal is a Compliant Bid.

Request for Quotation or RFQ means a request for quotations by the Town for the provision of Goods and/or Services made in accordance with Schedule D.

Request for Tender or RFT means a public request for tenders by the Town made in accordance with Schedule E.

Single Source is a procurement method whereby purchases are directed to one source of supply, supported by a sound business case, notwithstanding that other competitive sources may be available and capable of providing the goods or services within the necessary time frame.

Sole Source is a procurement method whereby purchases are directed to one source of supply because no other source is qualified or capable of providing the goods or services.

Specifications means the detailed description of, and written requirements and standards for, goods and/or services contained in any Procurement Documents to the extent known, and also includes any drawings, designs and models. Specifications may include descriptions of the functionalities of goods or services.

Standard Criteria includes clear and objective evaluation criteria for measuring the performance of duties or services that are normally performed during a Contract, where evaluation of performance is relevant or customary and may be further developed, reviewed and revised from time to time.

Standardization is the adoption of a single product or group of products to be used to the exclusion of all others, e.g., Microsoft suite of office software.

Successful Bidder or **Successful Supplier** means the Bidder or prospective Supplier, as the case may be, selected in the course of the Procurement Process to be awarded a Contract.

Supplier shall mean the vendor, contractor or consultant that supplies goods or services to the Town pursuant to a Contract.

Town means The Corporation of the Town of Lincoln.

Trade Agreements means the CFTA, the CETA and any other trade agreement that may come into effect and be applicable to municipalities in the Province of Ontario during the time this Policy is in force.

Treasurer means the Treasurer of the Town of Lincoln or the Deputy Treasurer of the Town of Lincoln as a Designate.

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2) **PROCUREMENT POLICY STATEMENT**

The Corporation of the Town of Lincoln wishes to establish sound policies for the procurement of goods and services in a manner that is consistent with providing ethical, professional and accountable delivery of goods and services to the Town for the benefit of the residents of the Town, and that shall protect the integrity of the Town, the public and the participants in the Procurement Process.

3) **PROCUREMENT POLICY PURPOSE**

The *Municipal Act, 2001* provides that a municipality shall adopt and maintain a policy with respect to its procurement of goods and services.

The purposes of this Procurement Policy are:

- to encourage competitive bidding;
- maintaining the objectivity and integrity in the Procurement Process;
- fair treatment of all Bidders;
- openness, accountability and transparency in all business transactions;
- to ensure that Procurement Processes comply with applicable Trade Agreements;
- responsible management of the public funds, Town finances and assets;
- to achieve value for money when procuring goods and services; and
- to conduct procurement in a manner that enables the Departments to operate efficiently and effectively.

4) **SCOPE**

All employees of the Town delegated with the authority to engage in the Procurement Process shall comply with this Procurement Policy. An employee who knowingly fails to act in accordance with the provisions of this Procurement Policy will be subject to appropriate disciplinary action, in accordance with the Town's Employee Code of Conduct.

5) **ETHICS**

All members of Council and all employees who are authorized to procure on behalf of the Town are to adhere to the following:

Personal Integrity and Professionalism

Individuals involved in the Procurement Process or other supply chain-related activities shall act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence shall be integral to the Procurement Process and all such activities. Respect shall be demonstrated for each other and for the environment. Confidential information shall be safeguarded. Participants shall not engage in any activity that may create, or

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appear to create, a Conflict of Interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing vendors or products.

Accountability, Transparency and Non-Discriminatory Access

The Procurement Process shall be open, transparent and accountable. In particular, contracting and purchasing activities shall be fair, transparent and conducted with a view to obtaining value for money. Public sector resources shall be used in a responsible, efficient and effective manner.

Compliance and Continuous Improvement

All staff shall diligently work to improve supply chain policies and procedures, to improve their supply chain knowledge and skill levels, and to share leading practices.

Further, the Town of Lincoln Employee Code of Conduct and Council Code of Conduct shall govern conduct and decision making that are addressed by this Procurement Policy.

In accordance with the Town of Lincoln's Employee Code of Conduct and Council Code of Conduct, no member of Town staff or Council may receive a personal benefit from any Contract for goods and/or services or obtain a secret or hidden benefit from his or her employment with the Town or his or her being on Council, as the case may be.

6) **APPLICATION**

- a) No committee established by Council, no member of Council and no employee of the Town shall enter into any Contract on behalf of the Town without express authority from Council.
- b) All employees, including elected officials and appointed officers, of the Town shall adhere to the Conflict of Interest terms found in Schedule J of this Procurement Policy. An employee who fails to act in accordance with the provisions of this Procurement Policy will be subject to appropriate disciplinary action, in accordance with the Town's Code of Conduct Policies.
- c) The policies and procedures outlined in this Procurement Policy, including the purposes, shall be followed for the purchase of all goods and/or services on behalf of the Town.
- d) The methods of purchasing set out in Schedules C to I, and the reporting procedures set out in Schedule B, shall not apply to the purchase of goods and services outlined in Schedule A.
- e) This provision provides authority for the purchase of goods and services outlined in Schedule A as long as the funding is available in the budget.
- f) Any Contracts necessary to complete the purchase of goods and/or services outlined in Schedule A shall be signed by the appropriate Director or Designate within the Department doing the purchasing. For non-competitive procurements as set out in Schedule I, the appropriate Director or Designate shall have authority to spend up to the prescribed limits provided that funding is available in the budget.
- g) An award report to Council is required for all purchases for goods and services (including professional services) with a value greater than \$100,000; and for procurement of vehicles and equipment and construction with a value greater than \$250,000.

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- h) Execution of Contracts for goods and services (including professional) with a value greater than \$100,000; and for procurement of vehicles and equipment and construction with a value greater than \$250,000, shall be signed by the CAO and Clerk.
- i) For clarity, where the Town enters into a lease or licence or services agreement for the provision or use of goods or for the provision of services, in either case having periodic payments, then the sum of the periodic payments over the life of the Contract shall be the “value” for the purposes of sections 6(g) and (h) above.
- j) The dollar values identified shall represent the estimated maximum total value of the procurement over its entire duration, whether awarded to one or more prospective Suppliers, taking into account premiums, fees, royalties, commissions and interest and providing for the total value of all possible options. Sales taxes, excise taxes, value added taxes, duties and shipping shall be excluded in determining the said dollar value.
- k) When the estimated value of a procurement exceeds the maximum permitted within the current year budget, the CAO and/or Director shall:
 - i) identify possible funding sources or expenditures that could be substituted; or
 - ii) report to Council that no alternate funding has been identified.
- l) No employee of the Town shall divide or split a purchase into more than one Contract with the intent of avoiding the requirements of this Procurement Policy or to circumvent the prescribed approval authority dollar limits.
- m) When applicable, procurement of goods and services must be made from Suppliers who hold Contracts with the Town.
- n) Authority to purchase during emergency events is detailed under Schedule I. An emergency status report detailing the events will be provided to Council.
- o) Where no Contract is available, the following procedures may be used in purchasing goods and/or services for the Town:

Exceptions to Formal Purchasing Process	Schedule A
Purchasing and Execution Authority	Schedule B
Informal Quotations / Proposals by Departments	Schedule C
Request for Quotations (RFQ)	Schedule D
Request for Tenders (RFT)	Schedule E
Request for Proposals (RFP)	Schedule F
Request for Supplier Qualification (RFSQ)	Schedule G
Consulting and Professional Services Roster	Schedule H
Non-Competitive Procurement	Schedule I

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7) **AUTHORITY TO EXECUTE CONTRACTS**

All Contracts for goods and services (including professional services) with a value greater than \$100,000 or for procurement of vehicles and equipment and construction with a value greater than \$250,000 shall be signed by the CAO and Clerk.

8) **REQUIREMENT FOR APPROVED FUNDS**

- a) The authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Town's budget.
- b) Where goods and/or services are routinely purchased or leased on a multi-year basis, the authority to award a Contract is subject to the following:
 - i) availability of sufficient funds within the current year budget;
 - ii) the goods and/or services will continue to be required in subsequent years and the required funding can reasonably be expected to be made available; and
 - iii) the Contract includes a termination provision exercisable in subsequent years should Council not approve the budget estimates to meet the proposed expenditures.

9) **RESPONSIBILITIES OF COUNCIL**

- a) Notwithstanding any other provision of this Procurement Policy, the following Contract awards require Council approval:
 - i) every purchase of goods and services shall be authorized by Council annually through approved budgets, with the exception of purchases required for emergency situations;
 - ii) the Town shall not purchase goods or services from any employee of the Town or member of Council without the express authority of Council or from any Person that has a Conflict of Interest in relation to the purchase.

10) **RESPONSIBILITIES OF THE TREASURER**

- a) The Treasurer and/or Designate is hereby authorized to pay for any goods and/or services purchased in accordance with this Procurement Policy, upon receipt of:
 - i) a Supplier's invoice or request for payment together with supporting documentation approved by a Director or Designate; or
 - ii) as it pertains to Contracts where there are competitive Bids, upon receipt of an authorized payment certificate that matches in price and terms the signed Contract, approved by the Director or Designate.
- b) The Treasurer and/or Designate is hereby authorized to pay for any goods and/or services purchased in accordance with this Procurement Policy upon receipt of an invoice endorsed by the Director or Designate indicating the receipt of such, the correct price and the appropriate account to be charged.

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11) **RESPONSIBILITIES OF THE DEPARTMENT**

The CAO or a Director shall appoint in writing Designates who shall be responsible for the purchasing of goods and/or services and oversight up to the value of their prescribed authority.

- a) Designates will also have the following responsibilities:
 - i) ensure all Contract terms and conditions comply with the Bid;
 - ii) prepare and approve all specifications and terms of reference;
 - iii) manage Contracts to ensure goods and/or services are received by the Town and comply with contractual terms and conditions;
 - iv) monitor Contract expenditures and ensure financial limitations have been adhered to and that all accounts are paid within the times set out in the contract; and
 - v) monitor Supplier performance.

- b) It is important that Town staff plan effectively to allow sufficient time to follow the requirements of this Procurement Policy and to ensure that Suppliers have a reasonable period of time to submit Bids in accordance with the time periods set out in applicable Trade Agreements.

- c) Every Department shall inspect all deliveries of goods and services to determine whether they meet the specifications set out in the Contract prior to submission for payment.

- d) Procurement Documents shall be retained in accordance with the Records Retention By-law.

12) **REQUEST FOR EXPRESSIONS OF INTEREST**

A Request for Expressions of Interest for the purpose of determining the availability of potential Suppliers and for the purpose of compiling a list of potential Suppliers may be used as a specific pre-condition of any method of purchasing (i.e., any Procurement Document) utilized by the Town. The receipt of a response to a Request for Expressions of Interest by the Town does not create any obligation between the potential Supplier and the Town.

13) **COOPERATIVE PURCHASING**

Town staff are authorized to participate in cooperative purchasing arrangements with other municipalities, regions, local boards and public agencies within the Province when doing so is in the best interest of the Town. In particular, the Town may choose to participate in the cooperative bid calls conducted by the Niagara Public Purchasing Committee (NPPC) and conduct bid calls on behalf of the NPPC. Any procurement conducted through cooperative purchasing shall be carried out in a manner consistent with applicable Trade Agreements.

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14) **SUPPLIER PERFORMANCE EVALUATION**

- a) Performance evaluation shall be instituted in respect of Contracts where the applicable Department determines that performance evaluation would be appropriate for the size and/or complexity of the procurement or for the particular goods and services procured.
- b) The performance evaluation shall rate the performance of the Supplier against Standard Criteria.
- c) Performance issues while performing any Contract shall be noted in writing by the project manager or other applicable Town personnel with a copy to the Supplier and a copy to the purchasing Department. Performance issues should also be noted in any site meeting or project meeting minutes, where applicable.
- d) On completion of a project, a final performance evaluation shall be completed by the project leader. The evaluation report shall be reviewed with the purchasing representative, and a copy of the completed evaluation forwarded to the Supplier for its records.
- e) A copy of the performance evaluation reports and documentation will be filed by the user Department and the Finance Department.

15) **SUPPLIER ELIGIBILITY**

- a) The Town may, in its sole discretion, disqualify a prospective Supplier from bidding on any procurement or reject a Bid if a prospective Supplier:
 - i) has a non-arm's length relationship with the Town or any Town personnel with influence over the Procurement Process in respect of that particular procurement;
 - ii) has, at any time, threatened, commenced or engaged in legal claims or litigation against the Town;
 - iii) is involved in a claim or litigation initiated by the Town;
 - iv) has, in the course of a prior Contract, performed with significant or persistent deficiencies in performance of any substantive requirement or obligation;
 - v) has failed to satisfy an outstanding debt to the Town; or
 - vi) has a history of illegitimate, frivolous, unreasonable or invalid claims.
- b) If there is supporting evidence, the Town may exclude a prospective Supplier on a ground such as:
 - i) bankruptcy or insolvency;
 - ii) false declarations;
 - iii) convictions in respect of serious crimes or other serious offences; or
 - iv) professional misconduct or acts or omissions that adversely reflect on the commercial integrity of the supplier.

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16) **NO LOBBYING**

- a) No Bidder or potential Supplier shall contact any member of Council or employee of the Town to attempt to influence the award of a Contract. Any activity designed to influence the decision process, including, but not limited to, contacting any member of Council or employee of the Town for such purposes as meetings of introduction, social events, meals or meetings related to the decision process, shall result in disqualification of the Bidder for the procurement to which the influential activity is directed.

Notwithstanding the above, this prohibition does not apply to meetings specifically scheduled by the Town of Lincoln for presentations or negotiations, or to questions that purchasing staff may pose from time to time, for clarification of the Town's requirements.

- b) No Bidder that has been awarded a Contract shall engage in any contact or activities in an attempt to influence any member of Council or employee of the Town with respect to the purchase of additional enhancements, requirements, options, or modules. However, a Supplier may communicate with the managing staff member, for purposes of administration of the Contract during the term of the Contract.
- c) The determination of what constitutes influential activity is at the sole discretion of the Town.
- d) At the discretion of the Town, any Supplier that violates the provisions of this section 16 shall be prohibited from any further opportunity to provide goods or services to the Town for a reasonable period of time as determined by the procuring Department.
- e) Staff and members of Council are to adhere to the provisions of the Town's Employee Code of Conduct and Council's Code of Conduct when considering all actions noted above.

17) **NO LOCAL PREFERENCE**

The Town will endeavour to achieve the best value for money in its transactions. As a result, the Town will not impose or consider, in the evaluations of Bids or awards of Contracts, local content or other economic benefits criteria that are designed to favour the goods or services of a particular region, nor shall the Town practice local preference in awarding Contracts unless specifically required to do so under the authority of an upper tier government body.

Each Procurement Process is to be conducted so as not to unduly exclude local vendors while at the same time maintaining the duty to be fair, open and transparent to all bidders.

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18) **ENVIRONMENTAL CONSIDERATIONS**

The Town shall make attempts to preserve the environment and reserves the right to encourage the procurement of goods and services with due regard to the preservation of the natural environment; suppliers may be selected to supply goods made by methods resulting in the least damage to the environment, and/or to supply goods incorporating recycled materials where possible. It is to be understood that total lifecycle cost analysis may be required to ensure that these goods and services are financially viable and available at competitive prices.

19) **ACCESSIBILITY FOR ONTARIANS WITH DISABILITIES ACT (AODA)**

- a) When purchasing goods, services and facilities the Town shall incorporate accessibility design, criteria and features except where it is not practicable to do so, as required by the *Integrated Accessibility Standards Regulation*, O. Reg. 191/11, as amended to include the *Design of Public Spaces* under O. Reg. 413/12, and successor regulations under the *Accessibility for Ontarians with Disabilities Act*.
- b) When preparing the specifications, the user Department shall comply with the *Accessibility for Ontarians with Disabilities Act* and its regulations and the Lincoln Universal Design Standards for Town facilities, as amended, and apply those requirements with respect to procuring goods, services and/or facilities, and in the development of the specifications therefor.

20) **FINANCIAL SECURITIES AND INSURANCE**

- a) The Director or Designate may request bid deposit or other similar security to guarantee that the Successful Supplier or Successful Bidder enters into a Contract with the Town.
- b) In addition to the security referred to in section 20(a), the Successful Supplier or Successful Bidder may also be required to provide:
 - i) a performance bond to guarantee the performance of the Contract; and/or
 - ii) such further security as deemed by the Town appropriate in the circumstances.
- c) Provide a Certificate of Insurance naming the Town of Lincoln as additional insured for commercial general liability of not less than \$5,000,000 (provided that limits less than \$5,000,000 may be approved by the Director); and
- d) a certificate of good standing with the Workplace Safety and Insurance Board (WSIB) demonstrating that the Successful Supplier or Successful Bidder has complied with the requirements and that all requisite premiums under the Act have been paid.
- e) Failure to comply with all terms and conditions of this section 20, including failure to provide proof of insurance as required, shall be sufficient cause for cancellation of the award and awarding the Contract to another Bidder or Supplier.

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21) **BID IRREGULARITIES**

- a) The Procurement Procedures shall outline classifications for Bid Irregularities and the resulting consequences.
- b) If, in the opinion of the Town, any Bidder has underestimated the value of the goods and/or services to be provided as reflected in its Bid, the Town may reject the Bid as containing a Bid Irregularity and as not representative of the scope of the goods and/or services to be procured.

22) **BID REVIEW PROCEDURES**

- a) Each Procurement Document issued by the Town will outline Bid Irregularities that may lead to the disqualification of a Bid, or may require corrective action to take place in order to make the Bid Compliant. The Bid Irregularities and the response that the Town would have to each Bid Irregularity or kind of Bid Irregularity may change from time to time.
- b) The process for administering Bid Irregularities shall be in accordance with the provisions of the Procurement Document.

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SCHEDULE A

EXCEPTIONS TO FORMAL PURCHASING PROCESS

Competitive Procurement Processes are not required for the following categories. The listing below is not a comprehensive listing, and the Treasurer or Designate will from time to time review and approve new situations or items to determine if they fall within the parameters of this schedule.

The Treasurer is hereby authorized to pay for any goods and/or services purchased in accordance with Schedule A upon receipt of an invoice endorsed by the Director or Designate indicating the receipt of such goods or services, the price thereof and the appropriate account to be charged.

- a) Petty Cash – purchase reimbursements and replenishment
- b) Training / Education / Professional Development
 - i) Conferences, conventions, courses and seminars
 - ii) Subscriptions, books, periodicals
 - iii) Memberships
 - iv) Staff development
- c) Refundable Councillor and Employee Expenses
 - i) Meal allowances
 - ii) Travel and entertainment
 - iii) Miscellaneous - Non-Travel
- d) Corporate General Expenses
 - i) Payroll and benefit remittances
 - ii) Postage and courier services
 - iii) Advertising
 - iv) Employee medicals
 - v) Licenses – vehicle, radio, hardware, software and maintenance contracts
 - vi) Debenture payments
 - vii) Insurance premiums, claim settlements and adjuster services
 - viii) Approved subsidies and grants
 - ix) Damage claims
 - x) Building/development permit refunds and deposit returns
 - xi) Recreation program/facility refunds
- e) Professional and Special Services
 - i) Committee fees
 - ii) Legal, professional and expert services
 - iii) Appraisal and survey fees
 - iv) Consultants or contractors to complete project deficiencies of a developer where the developer has abandoned the project or is negligent or late in completion and where funds to complete the work are drawn from deposits held by the Town and where time does not permit a competitive bidding process
 - v) Special Events - performers, facility/equipment rental, catering, and related goods

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- f) Utilities
 - i) Water and sewage
 - ii) Hydro
 - iii) Gas
 - iv) Communication infrastructure, phone, cellular and wireless service
 - v) Utility relocations, e.g., Union Gas, hydro
 - vi) Other regulated authorities operating within and across municipal rights of way (e.g. CN Rail, GO Transit, Bell Canada)

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SCHEDULE B

PURCHASING AND EXECUTION REQUIREMENTS

Total Procurement Value	Procedure	Mandatory Requirements
For the Procurement of Goods or Services including Professional Services:		
<\$10,000	Direct Award by User Departments	Payment by Purchasing Card, Purchase Order or Invoice Director/Designate Approval
\$10,000 but <\$25,000	Informal Quotation by User Departments	Schedule C Purchase Order Director/Designate Approval
\$25,000 but <\$100,000	Request for Quotations (RFQ) or Request for Proposals (RFP) by User Departments	Schedule D Schedule F Purchase Order or Certificate Director/Designate Approval
>\$100,000	Request for Tenders (RFT) and Request for Proposals (RFP) by User Departments	Schedule E Schedule F Award Report Approved by Council Purchase Order or Certificate Director/Designate Approval
For the Procurement of Vehicles and Equipment:		
<\$10,000	Direct Award by User Departments	Payment by Purchasing Card, Purchase Order or Invoice Director/Designate Approval
\$10,000 but <\$25,000	Informal Quotations by User Departments	Schedule C Purchase Order Director/Designate Approval
\$25,000 but <\$250,000	Request for Quotations (RFQ), Request for Tenders (RFT) or Request for Proposals (RFP) by User Departments	Schedule D Schedule E Schedule F Purchase Order Director/Designate Approval
>\$250,000	Request for Tenders (RFT) and Request for Proposals (RFP) by User Department	Schedule E Schedule F Award Report Award Report Approved by Council Director/Designate Approval

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For the Procurement of Construction:		
<\$10,000	Direct Award by User Departments	Payment by Purchasing Card, Purchase Order or Invoice Director/Designate Approval
\$10,000 but <\$25,000	Informal Quotations by User Departments	Schedule C Purchase Order or Certificate Director/Designate Approval
\$25,000 but <\$250,000	Request for Quotations (RFQ) or Request for Proposals (RFP) by User Departments	Schedule D Schedule F Purchase Order or Certificate Director/Designate Approval
>\$250,000	Request for Tenders (RFT) and Request for Proposals (RFP) by User Department	Schedule E Schedule F Award Report Approved by Council Purchase Order or Certificate Director/Designate Approval
For Non-Competitive Procurement:		
>\$10,000	Single Source Sole Source	Schedule I Purchase Order or Invoice Director/Designate Approval
>\$25,000	Purchase Order Increase – where additional work is required to deliver the originally approved work	Schedule I Purchase Order Amendment Director/Designate Approval
>\$10,000	Emergency	Schedule I Purchase Order or Invoice CAO/Director Approval Emergency Status Report
For Contract Renewals:		
>\$25,000	Optional year contract renewal where provision for such optional year renewal formed part of the original contract	Purchase Order or Invoice

SCHEDULE C

INFORMAL QUOTATIONS / PROPOSALS BY DEPARTMENTS

- 1) For procurement of goods, services (including professional services), vehicles and equipment and construction from \$10,000 up to but not including \$25,000, the process shall be conducted in the following manner:
 - a. user Departments shall utilize all existing Town Contracts where available;
 - b. a minimum of three Compliant Bids/Proposals (from three separate prospective Suppliers) shall be obtained by the user Department in written communication (a “no bid” response shall not be considered a valid Bid);
 - c. staff are encouraged to seek more than the minimum three Bids and to vary the selection of Bidders to ensure a more competitive process;
 - d. staff shall refer to the suspended vendor list before invitations are sent and shall avoid sending invitations to suspended vendors;
 - e. all Bidders shall receive the same request information, terms and conditions;
 - f. staff shall utilize templates provided by the Finance Department;
 - g. award of Contract shall be to the lowest Compliant Bid or, for proposals, the highest ranked Compliant Proposal;
 - h. Bids/Proposals shall be kept on file in the user Department in accordance with the Records Retention By-law.
- 2) The requirement for three Bids, where the user Department has demonstrated to the satisfaction of the Treasurer/Designate that three Bids could not be obtained.
- 3) Informal requests for proposals should be issued in the same manner as the Request for Proposals (RFP) procedure outlined in Schedule F.
- 4) A Purchase Order or certificate is required with the Bid Documents attached. Any Contract document, other than a Purchase Order, shall be reviewed and executed by the Treasurer/Designate.

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SCHEDULE D

REQUEST FOR QUOTATIONS (RFQ)

- 1) For procurement of goods and services (including professional services), from \$25,000 up to but not including \$100,000; and for procurement of vehicles and equipment and construction from \$25,000 up to but not including \$250,000, the process shall be conducted in the following manner:
 - a. Requests for Quotations may be advertised publicly using the Bidding System, or sent directly to prospective Suppliers by invitation only;
 - b. where Requests for Quotations are sent directly to suppliers by invitation, staff are encouraged to seek more than the minimum three Bids and to vary the selection of Bidders to ensure a more competitive process;
 - c. every Department shall provide technical assistance in the preparation of the quotation specifications, drawings, etc.
- 2) Quotations shall be awarded to the prospective Supplier with the lowest Compliant Bid meeting all requirements specified in the Procurement Document.
- 3) If two or more Compliant Bids are submitted in the same amount, Bidders will be allowed 24 hours to re-examine their Bids to determine if there are any cost savings that may be passed on to the Town, and to lower their Bids, at their option, if such savings are evident. If this effort is unsuccessful, then a tie breaking method will be held to determine the Successful Bidder. The outcome of the tie breaking method is final.
- 4) The Town may, but shall not be required to, award a Contract or accept a quotation. The Town may choose to either cancel the Request for Quotations or recall the Request for Quotations at a later date:
 - a. if only one Bid has been received;
 - b. if the lowest Compliant Bid exceeds the available project budget for the goods or services; or
 - c. if all Bids received are Non-compliant with the specifications or quotation terms and conditions.
- 5) A Purchase Order shall be created, and a Contract shall be executed if required.
- 6) Executed Contracts shall be kept within secure files in the user Department in accordance with the Records Retention By-law.

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SCHEDULE E

REQUEST FOR TENDERS (RFT)

- 1) For procurement of goods and services (including professional services) with an estimated value greater than \$100,000; and for procurement of vehicles and equipment and construction with an estimated value greater than \$250,000, an open competitive Procurement Process shall be processed in the following manner:
 - a. user Department shall provide technical assistance in the preparation of the tender specifications, drawings, etc., for the tender Procurement Documents;
 - b. tenders shall be advertised using the Bidding System for a minimum of ten (10) calendar days preceding the closing date for tenders;
 - c. tenders covered under Trade Agreements shall be advertised using the Bidding System for a minimum of twenty-five (25) calendar days preceding the closing date for tenders;
 - d. the requirement for advertising twenty-five (25) days under item c. may be reduced to ten (10) calendar days provided;
 - i) a Prequalification process has been done in advance, or
 - ii) a notice of planned procurement has been posted using the Bidding System at least forty (40) calendar days (and not more than 12 months) in advance of the tender posting.
- 2) Tenders shall have a specified closing date and time. Bids received after the set closing date and time will not accepted.
- 3) A Contract shall be awarded to the prospective Supplier with the lowest Compliant Bid meeting all requirements specified in the Procurement Document for the tender.

If two or more Compliant tenders are submitted in the same amount, Bidders will be allowed 24 hours to re-examine their Bids to determine if there are any cost savings that may be passed onto the Town. If this effort is unsuccessful, then a tie breaking method will be held to determine the Successful Bidder. The outcome of the tie breaking method is final.

- 4) The Town may but shall not be required to, award a Contract or accept a tender. The Town may choose to either cancel the call for tenders or recall the tenders at a later date:
 - a. when only one tender has been received as the result of a tender call;
 - b. when the lowest Compliant tender exceeds the available project budget for the goods, services or construction;
 - c. when all tenders received fail to comply with the specifications or tender terms and conditions; or
 - d. when a material change in the scope of work or specifications is required.
- 5) The managing Department/Designate shall notify the Successful Bidder of the Town's intent to award the Contract. Should a report to Council respecting the award of the Contract be required, the award shall remain confidential until it is distributed to Council.

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- 6) Where a formal Contract is required, it shall be submitted, at the time of notification, to the Successful Bidder for execution.
- 7) Where a Successful Bidder has been notified of the Town's intent to award the contract, and the Successful Bidder fails to execute the contract or to provide any other required documents within the specified time, the Town may:
 - a. grant the Successful Bidder additional time to fulfill the requirements;
 - b. award the Contract to the second lowest Bidder; or
 - c. cancel the Request for Tenders.
- 8) Award reports and executed Contracts shall be kept on file with the Bid Documents in the user Department in accordance with the Records Retention By-law.
- 9) The Town shall publish an award notice using the Bidding System.
- 10) Changes or modifications to the terms and conditions of the Contract, including changes that result in an increase in price, shall be documented in the contract file.

SCHEDULE F

REQUEST FOR PROPOSALS (RFP)

- 1) Requests for Proposals are used where comprehensive technical specifications cannot be fully defined or specified, or when alternate methods are being sought to perform a certain function or service. Requests for Proposals can also be used to procure consulting and professional services.
- 2) A Request for Proposals shall be processed in the following manner:
 - a. every Department shall assist in preparing the RFP Procurement Documents including the technical information, clear instructions, project scope/outcome and/or requirements, terms and conditions of the Contract or a list of Contract main terms;
 - b. mandatory requirements shall be clearly articulated and any Proposal that fails to meet these mandatory requirements shall be deemed Non-Compliant;
 - c. proposal Procurement Documents shall clearly outline the technical and pricing evaluation criteria and applicable weighting assigned to the criteria that will form the basis of Contract award;
 - d. RFPs valued over \$100,000 shall be advertised using the Bidding System for at least ten (10) calendar days preceding the closing date for Proposals;
 - e. RFPs covered under Trade Agreements shall be advertised using the Bidding System for at least twenty-five (25) calendar days preceding the closing date for Proposals;
 - f. the requirement for advertising twenty-five (25) days under item e. may be reduced to ten (10) calendar days provided;
 - i) a Prequalification has been done in advance, or
 - ii) a notice of planned procurement has been posted using the Bidding System at least forty (40) days (and not more than 12 months) in advance of the RFP posting.
 - g. RFP evaluation committee members shall be determined prior to the closing time of the Request for Proposals, and
 - i) are responsible to fully review each Proposal and complete the evaluation matrix as provided;
 - ii) must hold all contents of the Proposal submissions in strict confidence; and
 - iii) shall be required to sign a confidentiality and Conflict of Interest statement as it relates to the process.
- 3) Proposals shall have a specified closing date and time. Proposals received after the set closing date and time will not be accepted.
- 4) The Contract shall be awarded to the prospective Supplier with the highest ranked Compliant Bid meeting all mandatory requirements set out in the related Procurement Document.

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- 5) The Town may but shall not be required to award a Contract or accept a Proposal. The Town may choose to either cancel the RFP or recall the RFP at a later date:
 - a. when only one Proposal has been received as the result of the RFP;
 - b. when the highest ranked Proposal exceeds the available project budget for the goods or services;
 - c. when all Proposals received fail to comply with the mandatory terms and conditions; or
 - d. when a material change in the scope of work or specifications is required.
- 6) The user Department or Designate shall notify the successful proponent of the Town's intent to award the Contract. Should a report to Council respecting the award of the Contract be required, the award shall remain confidential until it is distributed to Council.
- 7) Where a formal Contract is required, it shall be submitted, at the time of notification, to the Successful Bidder for execution.
- 8) Where a proponent has been notified of the Town's intent to award the Contract, and the Successful Bidder fails to execute the Contract or to provide any other required documents within the specified time, the Town may:
 - a. grant the Successful Bidder additional time to fulfill the requirements;
 - b. enter into negotiations with the next highest ranked Bidder; or
 - c. cancel the Request for Proposals.
- 9) Where an award is being made to the highest ranked Bid, but the Bid exceeds the current approved budget the award shall be approved and reported as required in the Financial Control Policy.
- 10) All executed Contracts shall be kept on file with the Proposal Documents in the user Department including all individual and consensus scoring documents.
- 11) On request, the Town shall provide an unsuccessful proponent with an explanation of the reasons why the Town did not select its Proposal.
- 12) The Town shall publish an award notice using the Bidding System.
- 13) Changes or modifications to the terms and conditions of the Contract, including changes that result in an increase in price shall be documented on the Purchase Order and in the Contract file.

SCHEDULE G

REQUEST FOR SUPPLIER QUALIFICATION (RFSQ)

- 1) The purpose of a Request for Supplier Qualification (prequalification) is to ensure that each prospective Supplier bidding to perform work for the Town can demonstrate its ability to provide the necessary expertise and resources to satisfactorily complete the work required.
- 2) Prequalification documents including specific criteria that are used to collect information from and to identify qualified prospective Suppliers in advance of one or more expected future projects. Information may include such things as:
 - a. previous experience (if essential to meet the project requirements);
 - b. capacity to fulfill the Contract requirements; and
 - c. the facilities and/or equipment to perform the work.
- 3) Only prospective Suppliers that have been subject to Prequalification (“**prequalified vendors**”) shall be invited to respond to a subsequent Request for Quotations, Request for Tenders or Request for Proposals.
- 4) RFSQ documents shall be advertised using the Bidding System for a minimum of ten (10) calendar days preceding the closing date for submissions. Where the subsequent procurement is covered by Trade Agreements, it shall be advertised for twenty-five (25) calendar days.
- 5) RFSQ documents are issued in the same manner as the Request for Proposals - Schedule F, and should specifically define:
 - a. the type of goods or services included as part of the Procurement Process;
 - b. the number of potential projects and upper limits to the value of future awards;
 - c. the time duration the list of prequalified vendors is to be valid, which shall be three (3) years or less;
 - d. windows of opportunity throughout the time duration should be identified so new suppliers may apply to become prequalified vendors;
 - e. that suppliers who do not participate in the Prequalification or do not appear on the list may be excluded from Procurement Processes.
- 6) An RFSQ may follow a number of formats, each to be determined based on the requirements to be fulfilled and the type of Procurement Process to follow, but in all cases shall be used according to the procedures as outlined in the RFSQ document.
- 7) The terms and conditions of the RFSQ document shall contain specific language to disclaim any obligation on behalf of the Town to call on any prospective Supplier as a result of such Prequalification.

SCHEDULE H

ROSTER FOR SUPPLIERS OF PROFESSIONAL OR SPECIALIZED SERVICE

- 1) It may be determined by the Director/Designate that it would be beneficial to develop a Roster for qualified suppliers of professional or specialized services. A Request for Proposals (RFP) process in accordance with Schedule F shall be used to select firms who are interested in supplying services if, as and when requested. The Request for Proposals document should specifically define the type of services included as part of the process, typically segmented by consulting discipline.
- 2) Request for Proposals shall be processed in the following manner:
 - a. The RFP documents shall be prepared, including clear instructions, project scope/outcome and/or requirements, terms and conditions of the Contract or a list of Contract main terms.
 - b. RFP Procurement Documents shall clearly outline the technical and pricing evaluation criteria and applicable weighting assigned that will form the basis of Roster award.
 - c. Proposal documents shall clearly indicate the time duration the Roster is to be valid, the method and timing by which firms can be placed on the Roster.
- 3) Proposal documents shall be advertised using the Bidding System for at least twenty- five (25) calendar days preceding the closing date for Proposals. RFP selection committee members, who
 - a. are responsible to fully review each submission and complete the evaluation matrix as provided;
 - b. must hold all contents of the Proposal submissions in strict confidence; and
 - c. shall be required to sign a confidentiality and Conflict of Interest statement as it relates to the Procurement Process.
- 4) On subsequent projects, suppliers of professional or specialized services may be selected from the Roster to submit detailed Proposals in response to a bid solicitation, in accordance with Schedules C, D, E or F of this Procurement Policy. The requesting Department shall invite suppliers on the roster to provide services, using best efforts to equally distribute opportunities amongst the prospective Suppliers on the Roster. Alternatively, a prospective Supplier may be selected from the Roster to submit a bid for professional or specialized services in accordance with Schedule I of this Procurement Policy.
- 5) The highest ranked firms shall be placed on the Roster in accordance with the Proposal terms and conditions.
- 6) Projects shall be awarded fairly to all consultants on the Roster. The Director/designate shall ensure Roster Contract awards are recorded, and that there is a reasonably equitable distribution of the work.
- 7) Rosters shall be updated at least once every two (2) years.

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SCHEDULE I

NON-COMPETITIVE PROCUREMENT

- 1) In certain infrequent and/or unique circumstances, the Town may not have the ability to go through a competitive process for its Procurement Process. In specific reference to Schedule I, the following are types of direct awards:
 - a. Single Sourcing – where purchases are made through a selected Supplier, even though there are other prospective Suppliers that provide similar goods or services where:
 - i) the compatibility of a purchase with existing equipment, product standards, facilities or service is a paramount consideration; or
 - ii) the goods or services are purchased for testing or trial use.
 - b. Sole Sourcing – where there is only one available Supplier for the source of the goods or services.
 - c. Purchase Order Increase – where additional work is required to address an unexpected problem or unforeseen circumstances and is required to deliver the originally approved work and not expand the original scope of the project.
 - d. Where a Bid has been publicly advertised and no submissions were received, no Bids were Compliant or no Suppliers satisfied the conditions for participation in the Procurement Process.
- 2) For Non-competitive Procurement, the Director/Designate shall initiate a single source award document including rationale for requesting non-competitive procurement prior to making a commitment to a Supplier or prior to commencing any work. The Director/Designate shall be involved and guide any negotiation process to ensure the Town employs fair and ethical practices. The award document or Contract will be authorized by the user Department Director and the Treasurer/Designate and attached to the Purchase Order, invoice or certificate.
- 3) Emergency - when an event occurs that is determined by the CAO or Director to be a threat to public health, essential Town services, the welfare of persons or of public property, the protection of the Town's physical assets, or financial liabilities arising from unexpected conditions, and the occurrence requires the immediate delivery of goods or services. The CAO or Director may make such purchases without a competitive bidding process and is authorized to do so in the most expedient and economical means possible. When feasible, the Treasurer/Designate shall be contacted to assist in obtaining quotes, securing services and issuing Purchase Orders.
 - a. Authority to purchase during emergency events shall be as follows:

Total Procurement Value	Delegated Procurement Authority Level
< \$100,000	Director
≤ \$250,000	CAO

- b. In the case of a declared emergency the Town of Lincoln Emergency Plan will supersede this By-law.

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- c. After the emergency, the appropriate Director or CAO shall provide an emergency status report to Council outlining:
 - i) the nature of the emergency;
 - ii) the action taken to resolve the situation; and
 - iii) the total cost of the emergency, including budgetary impacts.
- d. Any executed Contracts shall be kept on file with the single source award report in the user Department as well as attached to the Purchase Order, Contract or invoice.

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SCHEDULE J

CONFLICT OF INTEREST

- 1) Personal purchases shall not be made for any elected or appointed officials, members of a board or commission, or for Town employees or their families.
 - 2) An employee of the Town who has the responsibility for declaring surplus assets shall not bid on or personally obtain any goods that he or she has declared as surplus.
 - 3) Elected officials, appointed officers, employee of the Town or member of an employee's family is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase, contract or award, any rebate, gift or money, except:
 - a. gifts with a small intrinsic value; or
 - b. moderate hospitality during the normal course of business that would not significantly exceed what the Town, through the employee's expense account, would likely provide in return and would not be perceived by others as influencing the making of a business decision.
 - 4) Elected officials, officers or employees of the Town shall declare any Conflicts of Interest to the Treasurer/Designate and shall have no involvement in a bid solicitation process where a real or perceived Conflict of Interest has been found or deemed to exist, including, but not limited to:
 - a. requesting the goods and/or services, setting the parameters of the purchase, evaluating bids or recommending, deciding or making awards; and
 - b. direct contact with those making those purchasing decisions.
 - 5) Suppliers shall not be allowed to submit a Bid for any bid solicitation in which the supplier has participated in the preparation of the bid solicitation and any such Bid submitted shall be disqualified.
 - 6) Staff involved in procurement activities with suppliers and consultants shall implement provisions that:
 - a. Adhere to the definition of Conflict of Interest included in this Procurement Policy and the requirements of the Town's Code of Conduct for emphasis and clarity;
 - b. Reserve the right of the agent to solely determine whether any situation or circumstance constitutes a Conflict of Interest;
 - c. Reserve the right of the agent on behalf of the Town to disqualify prospective suppliers or consultants from a Procurement Process due to a Conflict of Interest;
 - d. Require prospective suppliers or consultants participating in a Procurement Process to declare any actual, perceived or potential Conflict of Interest;
 - e. Require suppliers or consultants to avoid or disclose any Conflict of Interest during the performance of their contractual obligations for the Town;
 - f. Reserve the right of the Town to prescribe the manner in which a supplier or consultant should resolve a Conflict of Interest;
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- g. Allow the Town to terminate a Contract where a supplier or consultant fails to disclose any actual or potential Conflict of Interest or fails to resolve a Conflict of Interest as directed by the Town; and
 - h. Allow the Town to terminate a Contract where a Conflict of Interest cannot be resolved.
- 2) Situations that might result in a Conflict of Interest include the following:
- a. Engaging in outside employment;
 - b. Not disclosing an existing relationship that may be perceived as being a real or apparent influence on their objectivity in carrying out an official role;
 - c. Providing assistance or advice to a particular supplier participating in a competitive process;
 - d. Having an ownership, investment interest, or compensation arrangement with any entity participating in a competitive process;
 - e. Having access to confidential information; and
 - f. Accepting favours or gratuities from those doing business with the organization.
- 3) Directors shall consider situations where there may be an employee or advisor Conflict of Interest and those situations shall be dealt with accordingly.

SCHEDULE K

DISPOSAL OF SURPLUS ASSETS

- 1) It may be determined that goods have become surplus to the Town. The Director/Designate shall be responsible for the sale or disposal of unusable, obsolete, surplus, worn-out or scrapped goods by or on behalf of the Town.
- 2) Directors shall supply an itemized inventory of all goods that are no longer used, or that have become obsolete or worn-out.
- 3) All assets that are being disposed due to condition or end of useful life cannot be made available to another Department unless a request has been made to the Treasurer/Designate.
- 4) If such goods cannot be used for purposes of the Town, the Treasurer/Designate shall have authority to sell, exchange, or otherwise dispose of such declared surplus by any of the following disposal methods:
 - a. as trade-in or salvage during a competitive Procurement Process;
 - b. by donation to a non-profit agency;
 - c. by sale through an auction site for public sector agencies;
 - d. through public auction;
 - e. by recycling.
- 5) Surplus assets shall not be sold directly to an employee or to a member of Council, although this does not prohibit any employee or member of Council from purchasing Surplus Assets being sold through a public process.
- 6) In the event that all efforts to dispose of the goods by means detailed above fail, surplus assets shall be scrapped or destroyed.
- 7) The Treasurer/Designate may delegate authority for disposal of surplus goods as and when appropriate.
- 8) The disposal of artifacts is exempt from the requirements of this Schedule K of this Procurement Policy.