Bill No. 015

BY-LAW NUMBER 2019-

A By-law of The Corporation of the City of Barrie to repeal and replace By-law 2016-035 as amended, being a by-law to establish and maintain a policy concerning the procurement of goods and services.

WHEREAS the *Municipal Act* 2001, S.O., Section 270 requires all municipalities and local boards to adopt and maintain a policy concerning the procurement of goods and services.

AND WHEREAS the Corporation of the City of Barrie is committed to ensuring its procurement decisions are fair, open and transparent;

AND WHEREAS purchases made by the City of Barrie should reflect best value for the taxpayer, protect the Corporation's financial interests and encourage competitive bidding;

AND WHEREAS the Corporation of the City of Barrie must be prepared to manage extraordinary circumstances from time to time, and that such circumstances may require immediate procurement decisions that are necessary to prevent or alleviate serious delay, a threat to public health, safety or welfare, the disruption of essential services or damage to public property or to respond to any emergency of the Corporation or as required under the provincial *Emergency Management and Civil Protection Act* (as amended);

AND WHEREAS effective planning, monitoring and control of public sector procurement are essential for maintaining public trust and confidence;

AND WHEREAS by motion 19-G-023, it is deemed expedient that the Council of The Corporation of the City of Barrie repeal By-law 2016-035 as amended being a by-law to establish a policy concerning the procurement of goods and services.

NOW THEREFORE the Council of The Corporation of the City of Barrie enacts as follows:

1. PURPOSES OF THIS BY-LAW

The purposes of this By-law are:

1.1. To express the City's goals and objectives in relation to its procurement of goods, services and construction;

1.2. To describe the roles, responsibilities and authorities of the City's employees, officers and elected officials in carrying out the City's procurement operations;

1.3. To extend authority to the CAO for the approval of detailed procurement procedures and protocols that are consistent with the intent of this By-law and, to supplement and amend those procedures and protocols as and when deemed necessary, to meet the present and future needs of the City; and,

1.4. To comply with the requirements of Section 270(1) of the *Municipal Act*, S.O., 2001, as amended from time to time.

2. PROCUREMENT GOALS AND OBJECTIVES

The goals and objectives of the City's procurement operations are:

2.1. To obtain the best value for the City when procuring goods and service(s) and construction;

2.2. To encourage competitive procurement and ensure the principles of fairness, objectivity, transparency and accountability are reflected in the City's procurement processes;

2.3. To support effective business planning such that goods, services and construction will only be acquired after consideration of need, alternatives, timing and appropriate life cycle management issues;

2.4. To adhere to the highest standards of ethical conduct and to avoid conflicts between the interests of the City and those of the City's employees, officers and elected officials;

2.5. To ensure compliance with all applicable trade agreements, laws and regulations;

2.6. To practice reciprocal non-discrimination and geographic neutrality with respect to Ontario's trading partners and avoid preferential treatment of local suppliers;

2.7. To avoid creating situations or relationships which may result in a continuous reliance on a particular supplier; and,

2.8. To encourage the procurement of goods, services and construction with due regard to the preservation of the natural environment and the promotion of human rights and fair labour practices.

3. APPLICATION OF THIS BY-LAW

3.1. This By-law applies to all departments of the City and may be adopted in principle and, at their own discretion, by affiliate boards and commissions of the City;

3.2. This By-law applies to the procurement of all goods, service(s) or construction except for those items set out in Schedule "A". This By-law also applies to the disposal of the City's personal property;

3.3. In addition to the items set out in Schedule "A", this By-law does not apply to the acquisition or disposal of real property. The disposal of real property is governed by the Policy and/or By-law in effect at the time of such disposition; and,

3.4. In addition to this By-law, the City has procedures, protocols, templates and forms for use during the procurement cycle. All tools for engaging in procurement activity will be maintained and updated by the Purchasing Branch as required, and stored on the City's Intranet and where applicable the external website.

4. CONTRACT SPLITTING

4.1. Subdividing, splitting or otherwise structuring procurement requirements or contracts in order to reduce the procurement value or in any way circumvent the requirements or intent of this By-law is not permissible.

5. DEFINITIONS

5.1. In this By-law:

a) "Best value" means the optimal balance of performance and cost determined in accordance with pre-defined evaluation criteria;

b) "Bid" means a submission in response to a solicitation document;

c) "Bidder" means a supplier that submits a bid;

d) "CAO" means the Chief Administrative Officer of the City or designate;

e) "Chief Procurement Officer" or "CPO"" means the Chief Procurement Officer or designate who is responsible for the City's Purchasing Branch;

f) "City" means The Corporation of the City of Barrie;

g) "City Solicitor" means the head of the City's Legal Services Department or designate;

h) "Competitive Process" means either an Open Competition or an Invitational Competition;

i) "Construction" means the process of using labour to build, alter, repair, improve or demolish any structure, building or public improvement, and generally does not apply to routine maintenance, repair or operations of existing real property;

j) "Consulting Services" means the provision of expertise or strategic advice that is presented for consideration and decision-making, and includes services provided by architects, engineers, designers, surveyors, geo-technical consultants, planners, technology consultants;

k) "Contract" means a commitment by the City for the procurement of goods, services or construction from a supplier, which may be evidenced by an agreement executed by the supplier and the City or a purchase order issued to the supplier by a duly authorized employee of the City;

l) "Cooperative Purchasing" means a variety of arrangements whereby two or more public procurement entities combine their requirements in a single procurement process to obtain advantages of volume purchases from the same supplier(s) or contractor(s);

m) "Council" means the Council of the City;

n) "Department" means a department of the City;

o) "Department Head" means a Director, City Clerk, Fire Chief, or respective designate, who is responsible for a specific department;

p) "Designate" means a person authorized by the CAO, GM/ED, Director, or Manager to act on his/her behalf, for the purpose of this By-law;

q) "Disposal" means an act through which the City gives up title to property;

r) "GM/ED" means a person appointed by the CAO with administrative responsibilities for a division or portfolio consisting of a group of departments and for the purposes of this by-law includes General Managers and Executive Directors;

s) "Goods" means moveable property including services that are incidental to the provision of the moveable property, such as manufacturing, delivery, installation or maintenance, and any necessary raw materials, products, supplies, equipment and other physical objects of every kind and description whether in solid, liquid, gaseous or electronic form, unless they are procured as part of a construction contract;

t) "In-House Bid" means a bid made by a department and authorized by the GM/ED responsible for that department, submitted in response to a call for bid, where the provision of the goods or services will be entirely by the employees of the City;

u) "Invitational Competition" means a competitive process in which an invitation to submit bids is issued to at least three suppliers;

v) "Low Cost Purchase" (LCP) means a purchase for goods, service(s) or construction, as per the thresholds stated in Schedule "B" of this By-law that are not covered by an existing supply agreement or qualified supplier roster or available through the City's existing materials inventory;

w) "Non-Standard Procurement" means the acquisition of goods, services or construction through a process or method other than the process and method normally required for the type and value of the goods, services or construction, as identified and described under Schedule "B" of the City's Procurement By-law. Non-standard procurement processes include:

   i) A "Non-Competitive Procurement", where the goods, services or construction are acquired directly from a particular supplier without conducting a competitive process when an Invitational Competition or an Open Competition would normally be required; or

   ii) A "Limited Competition", where bids are solicited from a limited number of suppliers when an Open Competition would normally be required.

x) "Open Competition" means the solicitation of bids through a publicly posted solicitation document;

y) "Personal Property" means tangible or intangible property owned by the Corporation, other than real property. Movable property subject to ownership, with exchange value;

z) "Procurement" or "Purchasing" means the acquisition of goods, service(s) or construction by purchasing, renting or leasing;

aa) "Procurement Review Committee" means the committee established pursuant to Section 10 of this By-law;

bb) "Procurement Value" means the total value of the goods, services or construction being procured, and must include all costs to the City, including, as applicable, acquisition, maintenance, replacement, disposal, and training, delivery, installation and extension options, less applicable rebates or discounts and exclusive of sales taxes;

cc) "Purchase Order" means the City's written document issued by a duly authorized employee of the City to a supplier formalizing all the terms and conditions of the purchase and supply of the goods, services or construction identified on the face of the Purchase Order;

dd) "Purchasing Branch" means the branch of the Finance Department responsible for the procurement of goods, service(s), and construction for the City;

ee) "Purchasing Card" means a credit card provided by the City to duly authorized employees of the City for use as a payment method to purchase directly from suppliers where permitted under this By-law and in accordance with a written card holder agreement and applicable procedures;

ff) "Qualified Supplier Roster" means a list of suppliers that have participated in and successfully met the requirements of a Request for Supplier Qualifications (RFSQ), and have been pre-qualified to perform discrete work assignments involving the delivery of a particular type of goods or services;

gg) "Qualified Supplier Roster Competition" means an expedited, invitational competition between suppliers that have been included on a Qualified Supplier Roster for the selection of a supplier to perform a discrete work assignment during the term of the roster;

hh) "Real Property" means land and its permanently affixed buildings or structures. Any property that is not personal property;

ii) "Service" means the furnishing of labour, time or effort by a supplier, which may involve the delivery or supply of products incidental to the provision of the services, and includes consulting and non-consulting services;

jj) "Solicitation Document" means the document issued by the City to solicit bids from bidders;

kk) "Supplier" means a person carrying on the business of providing goods, services or construction;

ll) "Supply Agreement" means a standing offer from a pre-approved supplier to the City to supply goods and services, as requested, through the use of an ordering process during a particular period of time, at a predetermined price or discount, generally within a pre-defined dollar limit.

6. CITY'S CONDUCT AND CONFLICTS OF INTEREST

6.1. The City's procurement activities must be conducted with integrity so as to maintain the public's trust. All procurement activities undertaken by the City must be conducted in accordance with:

a) the City's Council and Committee member Code of Conduct, as applicable;

b) the City's Employee Code of Conduct, as applicable;

c) the Statement of Ethics for Public Purchasers in Schedule "D" of this By-law; and

d) the *Municipal Conflict of Interest Act*, R.S.O. 1990, c.M.50, as applicable.

6.2. All participants in a procurement process, including any external consultants or other service providers acting on the City's behalf, must declare any perceived, possible or actual conflicts of interest.

6.3. No purchase will be processed for personal items of direct benefit to officers or employees of the City or any member of Council except where permitted by policy, or under the auspices of a City-sponsored employee program or with the prior approval of the CAO.

6.4. No goods, services or construction will be purchased from an officer or employee of the City, or any associate or family member of an officer or employee, unless the extent of the interest of such individual has been fully disclosed to the CPO and the purchase has been subsequently approved by the CAO.

7. SUPPLIER'S CONDUCT AND CONFLICTS OF INTEREST

7.1 The City expects its suppliers to act with integrity and conduct business in an ethical manner.

7.2 The City may refuse to do business with any supplier that:

a) has engaged in illegal or unethical bidding practices;

b) has an actual or potential conflict of interest;

c) has an unfair advantage in the procurement process; or

d) fails to adhere to ethical business practices.

7.3 All suppliers participating in a procurement process must declare any perceived, possible or actual conflicts of interest.

7.4 Where a supplier is retained to participate in the development of a solicitation document or the specifications for inclusion in a solicitation document, that supplier will not be allowed to respond, directly or indirectly, to that solicitation document.

7.5 Illegal or unethical bidding practices include:

a) bid-rigging, price-fixing, bribery or collusion or other behaviours or practices prohibited by federal or provincial statutes;

b) attempting to gain favour or advantage by offering gifts or incentives to City officers and employees, members of Council or any other representative of the City;

c) lobbying members of Council or City officers and employees or engaging in any prohibited communications during a procurement process;

d) submitting inaccurate or misleading information in response to a procurement opportunity; and

e) engaging in any other activity that compromises the City's ability to run a fair procurement process.

7.6 The City will report any suspected cases of collusion or other bid-rigging offences under the *Competition Act* to the Competition Bureau or to other relevant authorities.

7.7 In providing goods, services or construction to the City, suppliers are expected to adhere to ethical business practices, including:

a) performing all City contracts in a professional and competent manner and in accordance with the terms and conditions of the contract;

b) complying with all applicable laws, including safety and labour codes (both domestic and international as may be applicable);

c) ensuring that fair wages are paid to suppliers' employees; and

d) providing workplaces that are free from harassment or discrimination of any kind.

8. SEPARATION OF ROLES AND THE ROLE OF COUNCIL

8.1. In accordance with best practices in municipal procurement, Council recognizes the need for a clear separation of political and administrative functions in relation to the City's procurement operations. It is the role of Council to establish policy and to approve expenditures through the City's budget approval process. Through this By-law, Council delegates to the City's officers and employees the authority to incur expenditures in accordance with approved budgets through the procurement of goods, services and construction in accordance with the rules and processes set out in this By-law.

8.2. To facilitate Council's oversight role in respect of significant projects, Council may require Departments to obtain Council's authority to initiate specific procurements by identifying procurement projects of interest, such as procurements that are of a high value or involve significant risk, security concerns or significant community interest.

8.3. To avoid the potential appearance of bias or political influence in procurement contract award decisions, members of Council will have no involvement in competitive procurement processes from the time those procurement process have been initiated through the advertisement or issuance of the solicitation document until a contract has been entered into with the successful bidder, except where Council is required to approve the contract award in accordance with Section 15 of this By-law.

9. ROLES, RESPONSIBILITIES AND AUTHORITIES

9.1. Specific responsibilities pertaining to all stages of a procurement process, from the initial identification of requirements through to the management of contracts with suppliers, are detailed in this By-law and the City's procurement procedures and protocols. In addition to those specific responsibilities, the general roles and responsibilities delegated to the City's officers and employees are set out below.

9.2. Chief Administrative Officer

It is the role of the CAO to implement and promote this By-law and oversee the conduct and activities of the City's employees in carrying out the City's procurement operations. In fulfilling this role, the CAO is responsible for:

a) approving procurement procedures and protocols, as developed and recommended by the CPO;

b) providing support and guidance to the CPO and the Procurement Review Committee, as required;

c) ensuring compliance with this By-law and reporting serious or repetitive incidents of non-compliance to Council, as warranted; and

d) submitting recommendations and reports to Council, as required under this By-law.

9.3. Director of Finance

The Director of Finance is responsible for overseeing the Purchasing Branch and providing support and guidance to the CPO, as required.

9.4. Chief Procurement Officer

It is the role of the Purchasing Branch to lead the City's procurement operations. In fulfilling this role, the CPO or designate is responsible for:

a) researching developments in Canadian public procurement requirements and best practices and recommending updates to this By-law and the City's procurement procedures and protocols to reflect such developments and support the City's procurement goals and objectives;

b) providing procurement advice and related services, including developing and maintaining the necessary forms, contracts, and solicitation document templates, for the purposes of fulfilling the procurement needs of the City;

c) developing procurement strategies and continually analyzing City's business requirements and spending patterns to identify opportunities for more strategic sourcing, including:

   i) the standardization of goods and service(s) in conjunction with departments, where appropriate and feasible; and

   ii) the consolidation of all similar goods and service(s) where appropriate and possible;

d) ensuring the consistent application of procurement procedures and protocols and providing procurement services in an efficient and diligent manner;

e) addressing and, where possible, resolving issues or concerns that arise in respect of a procurement process or the application and interpretation of this By-law and the City's procurement procedures and protocols and seeking guidance and advice from the Director of Finance, GM, CAO and City Solicitor, as required;

f) referring unresolved issues or concerns raised by the City's officers or employees to the CAO, as necessary;

g) referring unresolved complaints from bidders or suppliers to the Procurement Review Committee, as necessary, or where required in accordance with applicable procedures and protocols;

h) ensuring compliance with this By-law and reporting non-compliance, in writing, to the appropriate Department Head or GM / ED and/or the CAO where warranted;

i) providing appropriate orientation, training and tools to City employees involved in procurement activities; and

j) serving as the City's representative as a member of co-operative purchasing groups and organizations, where such membership is determined to be in the best interests of the City.

9.5. Legal Services

It is the role of Legal Services to provide legal advice and assistance in respect of the City's procurement activities and its relationships with suppliers. In fulfilling this role, Legal Services is responsible for:

a) advising the CPO, as required, in relation to legal issues arising from procurement activities, and reviewing and approving specific procurement documentation referred for legal review by the CPO;

b) providing advice on the finalization of contracts and agreements, and reviewing and advising on proposed changes to the City's standard terms and conditions, legal agreements and solicitation document templates;

c) providing opinions to the Procurement Review Committee, as requested; and

d) providing legal advice and counsel to the City in the event of a contract dispute or legal challenge flowing from a procurement process.

9.6. General Managers, Executive Directors and Department Heads

It is the role of the Departments, City Administration, and Staff to ensure that their requirements for goods, services and construction are met in accordance with the goals and objectives of this By-law. In fulfilling this role, GM / EDs and Department Heads, or their designates, are responsible for:

a) exercising their authority for all procurement activity within the prescribed limits of this By-law;

b) delegating authority approval limits to staff in compliance with this By-law and all applicable procedures and protocols.

c) ensuring that all procurement activities and decisions are authorized by this By-law and are carried out in accordance with the City's procurement procedures and protocols;

d) monitoring all contract expenditures to ensure compliance with financial limits;

e) identifying and addressing non-compliance with this By-law and applicable procedures and protocols within their Departments; and

f) upon discovery of instances of non-compliance, notifying the Purchasing Branch and consulting with Legal Services to obtain advice with respect to mitigating potential risks to the City arising from the non-compliance.

9.7. Department Employees

Employees of all Departments are responsible for complying with this By-law. Department employees involved in procurement activities must clearly understand their obligations and responsibilities under this By-law and all applicable procedures and protocols, and should consult with the Purchasing Branch in respect of any questions regarding the application or interpretation of this By-law or the procurement procedures and protocols.

Department employees involved in procurement activities are encouraged to develop and foster productive and cooperative professional relationships with their colleagues in the Purchasing Branch.

9.8. Purchasing Branch Employees

Employees of the Purchasing Branch are responsible for complying with this By-law and ensuring all procurement procedures and protocols are applied consistently. Purchasing Branch employees must clearly understand their obligations and responsibilities under this By-law and all applicable procedures and protocols and should consult with the CPO in respect of any questions regarding the application or interpretation of this By-law or the procurement procedures and protocols.

Purchasing Branch employees are expected to provide purchasing services to Departments in an efficient and diligent manner, and are encouraged to develop and foster productive and cooperative professional relationships with their colleagues in Departments.

10. PROCUREMENT REVIEW COMMITTEE

10.1. The Executive Management Team is responsible for establishing a Procurement Review Committee (the "PRC") for the purpose of making determinations in respect of matters referred to it by the CPO.

10.2. The PRC will consist of the CPO and two or more persons designated by the Executive Management Team.

10.3. Where irregularities occur or complaints or challenges are made by bidders or suppliers in respect of a procurement process, the CPO will review the matter and may consult with the City Solicitor, where necessary. If the matter is not resolved, the CPO must refer the matter to the PRC, which will review with the objective of presenting a solution, recommendation or otherwise resolving an issue.

10.4. If the PRC cannot reach agreement on the resolution of a matter referred to it, or otherwise considers it advisable, a report of the findings of the PRC must be prepared and submitted to the CAO for consideration and determination of the matter.

11. STANDARD PROCUREMENT

11.1. A standard procurement is the acquisition of goods, services or construction through the applicable process and method identified and described in Schedule "B" of this By-law. Depending on the type and value of the goods, services or construction required, standard procurement processes include:

a) placing an order under an existing Supply Agreement;

b) conducting a Qualified Supplier Roster Competition to solicit bids from suppliers on an existing Qualified Supplier Roster;

c) making Low Cost Purchases using petty cash, a corporate purchasing card or the issuance of a purchase order;

d) conducting an Invitational Competition by soliciting bids from a minimum of three suppliers; or

e) conducting an Open Competition by publicly advertising and posting the solicitation document.

11.2. All standard procurement processes must be approved, conducted and reported in accordance with this By-law and all applicable procedures and protocols.

12. NON-STANDARD PROCUREMENT

12.1. A non-standard procurement is the acquisition of goods, services or construction through a process or method other than the process and method normally required for the type and value of the required goods, services or construction, as identified and described under Schedule "B" of this By-law. Non-standard procurement processes include:

a) a Non-Competitive Process, where the goods, services or construction are acquired directly from a particular supplier without conducting a competitive process when an Invitational Competition or an Open Competition would normally be required; or

b) a Limited Competition, where bids are solicited from a limited number of suppliers when an Open Competition would normally be required.

12.2. The use of a non-standard procurement process is only permitted under the specific circumstances set out in Schedule "C" of this By-law.

12.3. All non-standard procurement processes must be approved and conducted in accordance with this By-law and all applicable procedures and protocols.

13. EMERGENCY PURCHASES

13.1. Notwithstanding any other provisions of this By-law, goods, services or construction may be purchased on an emergency basis where they are required as a result of an unforeseeable situation or event occurs that is a threat to any of the following:

a) public health and/or safety;

b) the maintenance of essential City services or to prevent the disruption of essential City services;

c) the welfare of persons or of public property; or

d) the security of the City's interests; and

e) time does not permit the use of a standard procurement process.

13.2. All emergency purchases must be reported to the CPO and the CAO and a purchase order issued as soon as reasonably possible under the circumstances.

14. DELEGATED PROCUREMENT AUTHORITIES

14.1. Delegated Procurement Authorities

Delegated authorities to award a contract and execute a legal agreement or issue a purchase order evidencing a contract are set out in the table in Schedule "B" of this By-law. A contract must be established by the execution of a legal agreement and/or the issuance of a purchase order before the delivery of goods, services or construction commences.

14.2. Conditions of Delegated Procurement Authority

The delegated procurement authorities are subject to the following conditions:

a) No contract award may be approved unless approved funding in an amount sufficient to cover the procurement value is available and the procurement process was conducted in accordance with this By-law and all applicable procedures and protocols;

b) No contract may be entered into, either through the issuance of a purchase order or the execution of a legal agreement, unless approved funding in an amount sufficient to cover the procurement value is available and the procurement process was conducted in accordance with this By-law and all applicable procedures and protocols;

c) No legal agreement may be executed unless the agreement and any ancillary documents have been prepared in a form satisfactory to the City Solicitor;

d) A financing lease may only be approved and entered into in accordance with the City's Statement of Lease Financing Policy and Goals.

e) The delegation of authority to approve a contract does not apply to a contract requiring Council approval under Section 15 of this By-law.

15. COUNCIL APPROVAL

15.1 The following contracts require Council approval, unless approved in accordance with Section 15.2:

a) any contract requiring approval from the Ontario Municipal Board;

b) any contract prescribed by statute to be made by Council;

c) where the Procurement By-law is being waived; and

d) where there is an irregularity or unresolved challenge in connection with the procurement process and, in the opinion of the CAO, in consultation with the City Solicitor, the award of the contract is likely to expose the City to legal, financial or reputational risk.

15.2. Where necessary, the CAO is authorized to approve the contracts normally subject to Council approval, as set out in Section 15.1, during the time that regular Council meetings are suspended, provided that a report is submitted to Council, as soon as reasonably possible, setting out the details of any contract approved pursuant to this authority.

16. BIDDER DEBRIEFINGS

16.1. Where the City has conducted a competitive procurement process, unsuccessful bidders may request a debriefing. Debriefings must be conducted in accordance with the City's Debriefing Protocol. This protocol is available to suppliers and staff on the City's Intranet and external website

17. PROCUREMENT PROTESTS

17.1. Suppliers may formally protest the outcome of a procurement process. Formal protests must be made by suppliers and responded to by the City in accordance with the City's Procurement Protest Protocol. This protocol is available to suppliers and staff on the City's Intranet and external website.

18. CONTRACT MANAGEMENT AND SUPPLIER PERFORMANCE

18.1. All contracts must be managed by the respective Department Head in accordance with this By-law and all applicable procedures and protocols to ensure that both the City and the supplier fulfil the requirements of the contract. Department Heads must involve the Purchasing Branch and Legal Services in the management of contract disputes, as required by applicable procedures and protocols.

18.2. The respective Department Head is responsible for monitoring and documenting supplier performance and compliance with procurement contracts in accordance with the City's Supplier Performance Evaluation Protocol. This protocol is available to suppliers and staff on the City's Intranet and external website.

19. SUPPLIER DISQUALIFICATION

19.1. The City may disqualify suppliers from participating in future procurement opportunities in accordance with the City's Supplier Disqualification Protocol. This protocol is available to suppliers and staff on the City's Intranet and external website.

20. RECORDS RETENTION AND ACCESS TO INFORMATION

20.1. All procurement activities must be supported by appropriate documentation and all records relating to a procurement process must be retained in accordance with the City's Contract Management Protocol and the City's Records Retention By-law and any associated records management policies and procedures.

20.2. Disclosure of information related to the City's procurement processes must be made in accordance with applicable procurement procedures and protocols and the City's policies with respect to disclosure and protection of information in accordance with the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)* and the *Personal Health Information Protection Act (PHIPA)*, as amended.

21. IN-HOUSE BIDS

21.1. The acceptance and award of in-house bids requires the prior approval of Council and would only be permitted where private sector suppliers have also been given an opportunity to submit bids.

22. UNSOLICITED PROPOSALS

22.1. All unsolicited proposals, including any offers for presentations or product/service trials submitted to the City with the expectation on the part of the submitter of obtaining consideration for an ensuing contract or purchase by the City, must be directed to the CPO for review and approval for acceptance.

22.2. In the event that an actual goods/services product presentation or demonstration would be required in advance of a purchase decision, such presentation or demonstration should be included as part of the formal competitive bid process.

22.3. Any procurement resulting from the receipt of an unsolicited bid must comply with the provisions of this Procurement By-law.

22.4. In the absence of a competitive process, a contract may only be awarded in respect of an unsolicited proposal if a Non-Standard Procurement is permitted in accordance with this By-law and all applicable procedures and protocols.

23. CO-OPERATIVE PURCHASING

23.1. The City may participate in co-operative purchasing initiatives with other government or broader public sector entities where it is in the best interests of the City to do so.

23.2. The co-operative purchasing process may be conducted in accordance with the procurement policies and procedures of the entity that is responsible for co-ordinating and leading the process, provided that those policies and procedures are consistent with the City's obligations under applicable trade agreements and the City's procurement goals and objectives set out in this By-law.

24. ACCESSIBILTY FOR ONTARIANS WITH DISABILITIES

24.1. The City will promote, and incorporate, whenever possible, the requirements of the *Ontarians with Disabilities Act,* 2001 (ODA), the *Accessibility for Ontarians with Disabilities Act,* 2005 (AODA), and specifically, Ontario Regulation 429-07 and Ontario Regulation 191-11 made under the *Accessibility for Ontarians with Disabilities Act,* 2005 in procurement activities of the City.

25. GREEN PROCUREMENT

25.1. The City is committed to the purchase of goods and services with due regard to the preservation of the natural environment and to encourage the use of environmentally friendly products and services.

25.2. All departments, in conjunction with the Purchasing Branch, are encouraged to seek additional ways of achieving the goal of being environmentally safe and responsible by thorough review of each procurement process to ensure that, wherever possible and economically feasible, the City's solicitation document includes specifications that reflect environmentally friendly attributes of the goods and services, as further described in the City's Document Drafting Protocol.

26. FAIR TRADE PRODUCTS

26.1. The City shall give equal consideration for the purchase of "Fair Trade Certified" products that are offered in response to a procurement request provided the submission is compliant with this By-law, that it meets or exceeds the stated specification or terms of reference and, is determined to be the economically best value for purchase.

27. DISPOSAL OF PERSONAL PROPERTY

27.1. The Department Head must submit to the CPO, a written report of all personal property, including but not limited to, furniture, vehicles, equipment, supplies, and other goods and material, which are deemed surplus or which have become obsolete, worn out, or otherwise incapable of use.

27.2. The Purchasing Branch must first offer the surplus personal property to other Departments. Any surplus assets not required by Departments and that are deemed by the CPO as having a residual value, must be publicly advertised for sale or disposed of in accordance with the City's Disposal of Personal Property Protocol.

27.3. No City employees, officers or elected officials, or any member of a City Board will personally obtain any personal property that has been declared surplus unless it is obtained through a public process.

28. ANNUAL REPORT TO COUNCIL

28.1. The CPO must submit an annual procurement information report to Council to provide the following information about the City's procurement activities:

a) the circumstances and details of any emergency purchase(s) with a procurement value equal to or greater than $10,000; and

b) The circumstances and details of all non-standard procurements with a procurement value equal to or greater than $10,000.

29. BY-LAW REVIEW

29.1. This Procurement By-law will be reviewed every five (5) years, or such earlier date as the CPO or Council may deem it appropriate to evaluate its effectiveness.

30. SHORT TITLE

30.1. The short title of this By-law is the “Procurement By-law”.

31. SCHEDULES

31.1. Schedule “A” to this Bylaw – Exempt Procurements forms an integral part of this By-law and is attached hereto.

31.2. Schedule “B” to this Bylaw – Delegated Procurement Authorities forms an integral part of this By-law and is attached hereto.

31.3. Schedule “C” to this Bylaw – Non-Standard Procurements forms an integral part of this By-law and is attached hereto.

31.4. Schedule “D” to this Bylaw – Statement of Ethics for Public Purchasers forms an integral part of this By-law and is attached hereto.

32. **REPEAL**

32.1 **THAT** By-law 2016-035 be repealed.

33. **ENACTMENT**

33.1 **THAT** this By-law shall come into force and effect immediately upon the final passing thereof.

READ a first and second time this 4th day of March, 2019.

READ a third time and finally passed this 4th day of March, 2019.

THE CORPORATION OF THE CITY OF BARRIE

_____

MAYOR – J. R. LEHMAN

_____

CITY CLERK – WENDY COOKE

SCHEDULE "A" EXEMPT PROCUREMENTS

This By-law does not apply to the acquisition of the following goods or services:

1. Goods or services the supply of which is controlled by a statutory monopoly.

2. Work to be performed on property under the provisions of a lease, warranty or guarantee held in respect of the property or the original work.

3. Goods purchased on a commodity market.

4. The following goods and services related to training and education:

   - Conferences, conventions, courses and seminars
   - Newspapers, magazines, books and periodicals
   - Memberships
   - Computer software for educational purposes

5. Services provided by the following licenced professionals:

   - Medical doctors
   - Dentists
   - Nurses
   - Pharmacists
   - Lawyers
   - Notaries

6. Goods and services related to cultural or artistic fields, such as:

   - Events supporting local non-profit organizations
   - Entertainers for theatre or special events
   - Original works of art
   - A contract to be awarded to the winner of a design contest
   - Sponsorship and/or Naming Rights for cultural, sports and/or other City of Barrie owned venues*

7. The following special services:

   - Health services and social services
   - Recreation program facilitators and/or hosts
   - Services of financial analysts or the management of investments by organizations who have such functions as a primary purpose
   - Financial services respecting the management of financial assets and liabilities (i.e. treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution
   - Honorariums
   - Expert witnesses
   - Arbitrators
   - Municipal Tax Equity (MTE) as approved in annual budgets
   - Utility relocates by Public Utility

This By-law does not apply to payment of the City's general expenses, such as:

- Refundable employee expenses (advances, meal allowances, travel, miscellaneous)
- Payroll deduction remittances
- Workers Safety Insurance Board payments
- Health benefits
- Tax remittances
- Debenture payments
- Sinking fund payments
- Insurance premiums
- Damage claims
- Legal settlements
- Arbitration awards
- Petty cash replenishment
- Charges to and from other government bodies
- Council approved grants
- Refunds (such as property tax refunds, building permit refunds and refunds for cancelled services, programs or events)
- Licences fees (regular licence fees for vehicles, firearms, elevators, communications, software, etc. required to maintain existing products and systems originally obtained in accordance with the Procurement Bylaw)
- Utility bills (such as water and sewer, hydro, natural gas, telecommunications and cable television)

* All City of Barrie employees and Councillors are required to adhere to the Conflict of Interest Policy and the City of Barrie Sponsorship Policy.

SCHEDULE "B"
DELEGATED PROCUREMENT AUTHORITIES

Requirement	Procurement Value	Procurement Process	Method (Note 1)	Authority to Approve the Award of a Contract *Note 2 and Note 3)	Authority to Execute Agreement or Issue a Purchase Order (Note 2 and Note 3)	
					Issue PO	Execute Agreement (if required)
Goods, Services and Construction from existing Qualified Supplier Roster	Greater than $10,000	Qualified Supplier Roster Competition	Solicitation document issued to all suppliers on the Qualified Supplier Roster	In accordance with spending authority	CPO	n/a
Low value procurement any goods, services or construction	Up to $10,000	Non-Competitive	Purchase made through petty cash, corporate purchasing card or issuance of purchase order	In accordance with spending authority	DH	n/a
Goods, Non-Consulting Services and Construction	$10,000 - $50,000	Invitational Competition	Solicitation document issued to all suppliers on the Qualified Supplier Roster	In accordance with spending authority	CPO	DH and CPO
Consulting Services	$10,000 - $100,000	Invitational Competition	Solicitation document issued to a minimum of 3 suppliers	In accordance with spending authority	CPO	DH and CPO
Establish Supply Agreement or Qualified Supplier Roster	Any value	Open Competition	Solicitation document publicly posted by the Purchasing Branch	In accordance with spending authority	n/a	DH or GM / ED or CAO and CPO
Goods, Non-Consulting Services and Construction	$50,000 or more	Open Competition	Solicitation document publicly posted by the Purchasing Branch.	In accordance with spending authority	CPO	DH or GM / ED or CAO and CPO
Consulting Services	$100,000 or more	Open Competition	Solicitation document publicly posted by the Purchasing Branch.	In accordance with spending authority	CPO	DH or GM / ED or CAO and CPO
Goods, Services or Construction under the circumstances included in Schedule "C".	$10,000 or more	Non-Competitive or Limited Competition	Contract awarded directly to a supplier without competition or bids solicited from a limited number of suppliers in place of an Open Competition	CAO and CPO	CPO	DH or GM / ED or CAO and CPO

Note 1: All described methods must be conducted in accordance with applicable procurement procedures and protocols under the City's Procurement Manual.

Note 2: In the above table, "DH" means Department Head. The authority to approve the award of a contract and execute an agreement is based on the Department Head's level of spending authority. If the procurement value exceeds the Department Head's spending authority the GM / ED would become responsible.

Note 3: The need for an executed agreement, in addition to the issuance of a PO, is determined in accordance with the City's purchasing procedures and protocols. If a contract is for goods or services that will be provided to more than one Department within a Division/Strategic Portfolio, the GM / ED would be responsible for executing the agreement. If the goods or services will be provided to more than one Division/Strategic Portfolio, the CAO would be responsible for executing the agreement.

SCHEDULE "C"
NON-STANDARD PROCUREMENTS

Goods, services and construction may only be acquired through a non-standard procurement process under the following circumstances:

1. Where a standard procurement process conducted in accordance with this By-law and applicable procedures and protocols has not resulted in the receipt of any bids.

2. Where only one supplier is able to meet the requirements of a procurement in order to:

   a) ensure compatibility with existing products; or

   b) recognize exclusive rights, such as exclusive licenses, copyright and patent rights; or

   c) maintain specialized products that must be maintained by the manufacturer or its representative.

3. Where there is an absence of competition for technical reasons and the goods or services can only be supplied by one particular supplier and no alternative or substitute exists.

4. The procurement is for additional deliverables by the original supplier of the goods or services that were not included in the initial procurement if a change of supplier for such additional goods or services:

   a) Cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and

   b) Would cause significant inconvenience or substantial duplication of costs for the City.

5. For the procurement of goods or services relating to matters of a confidential or privileged nature where the disclosure of those matters through an open competition could reasonably be expected to compromise government confidentiality, cause economic disruption or otherwise be contrary to the public interest;

6. For the procurement of goods or services or construction from a public body or a non-profit organization.

7. For the procurement of goods under exceptionally advantageous circumstances such as bankruptcy or receivership, but not for routine purchases.

8. For the procurement of a prototype of a first good or service to be developed in the course of and for a particular contract for research, experiment, study or original development, but not for any subsequent purchases.

9. For the procurement of goods, services and construction that is financed primarily from donations that are subject to conditions that are inconsistent with a standard procurement process conducted in accordance with this By-law and applicable procedures and protocols.

10. The procurement is otherwise exempt from Open Competition requirements under all applicable trade agreements and it is in the best interests of the City to proceed with a non-standard procurement.

SCHEDULE "D"
STATEMENT OF ETHICS FOR PUBLIC PURCHASERS
STATEMENT OF ETHICS FOR PROCUREMENT

Goal: To ensure ethical, professional and accountable procurement.

All employees authorized to purchase Goods, Services and/or Construction on behalf of the City must adhere to the following principles.

a) **Open and Honest Dealings with Everyone who is Involved in the Purchasing Process. Procurement activities must be open and accountable.** This includes all businesses with which this City contracts or from which it purchases Goods, Services and/or Construction, as well as all members of our staff and of the public who utilize the services of the Purchasing Branch.

b) **Fair and Impartial Award Recommendations for All Contracts and Tenders. Contracting and purchasing activities must be fair, transparent and conducted with a view to obtaining the best value for public money.** This means that City Staff do not extend preferential treatment to any vendor, including local companies. Not only is it against the law, it is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar.

c) **An Irreproachable Standard of Personal Integrity on the Part of All Those Designated as Purchasing Representatives for This City.** Individuals involved with procurement activities must act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence must be integral to all procurement activities within and between the organization, suppliers and other stakeholders. Respect must be demonstrated for each other and for the environment. Confidential information must be safeguarded. Participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

d) **Cooperation with Other Public Agencies in Order to Obtain the Best Possible Value for Every Tax Dollar.** This City is a member of a cooperative purchasing group made up of several public agencies, this group pools its expertise and resources in order to practise good value analysis and to purchase Goods, Services and/or Construction in volume and save tax dollars.