



TOWN OF ERIN
REGULAR COUNCIL MEETING
AGENDA

October 24, 2024

3:00 PM

Municipal Council Chamber

Pages

| | | |
|---------|---|----------|
| 1. | Call to Order | |
| 2. | Approval of Agenda | |
| 3. | Declaration of Pecuniary Interest | |
| 4. | Community Announcements | |
| 5. | Adoption of Minutes | 1 - 5 |
| | October 10th - Regular Council Meeting | |
| 6. | Business Arising from the Minutes | |
| 7. | Delegations/Petitions/Presentations | |
| 8. | Reports | |
| 8.1 | Infrastructure Services | |
| 8.1.1 | Water | |
| 8.1.1.1 | Municipal Well E9 Wellhead Protection Areas, Wellington County Road 23, Erin | 6 - 23 |
| 8.1.2 | Wastewater | |
| 8.1.2.1 | Wastewater Project Update | 24 - 32 |
| 8.2 | Corporate Services | |
| 8.2.1 | Finance | |
| 8.2.1.1 | Procurement Policy and Procedures | 33 - 71 |
| 9. | Correspondence | |
| 9.1 | 2024 Activity List | 72 |
| 10. | By-Laws | 73 - 110 |
| | Procurement By-law | |

Confirming By-law

11. **Notice of Motion**

12. **Adjournment**



TOWN OF ERIN
MINUTES OF THE REGULAR COUNCIL MEETING

October 10, 2024
3:00 PM
Municipal Council Chamber

| | | |
|-----------------------|-------------------|---|
| Present: | Michael Dehn | Mayor |
| | Cathy Aylard | Councillor |
| | John Brennan | Councillor |
| | Jamie Cheyne | Councillor |
| | Bridget Ryan | Councillor |
| Staff Present: | Rob Adams | Chief Administrative Officer |
| | Joe Forte | Director of Planning & Development/Chief Building Official |
| | Brian Kavanagh | Director of Infrastructure Services & Town Engineer |
| | Nina Lecic | Director of Legislative Services & Town Clerk |
| | Jennifer McPetrie | Director of Community Services |
| | Wendy Parr | Director of Finance & Treasurer |
| | Justin Grainger | Deputy Clerk |
| | David Waters | Manager of Planning & Development |

1. Call to Order

Mayor Dehn called the meeting to order at the hour of 3:00PM.

2. Approval of Agenda

Resolution # 24-218

Moved By Councillor Ryan

Seconded By Councillor Cheyne

That the agenda be approved as circulated.

Carried

3. Declaration of Pecuniary Interest

None.

4. Public Meetings

Ben Patternick, Matthew Forezli, and John Tjeerdsma, representatives on behalf of the applicants, and residents Laurel Norrish, Rob Jackett, and Martin Rudd addressed Council with respect to the reports numbered PD2024-13 and PD2024-14.

4.1 Application for Stage 1B (Earthworks) Site Alteration Permit for 5520 Eighth Line and 5552 Eighth Line, Mattamy (Erin) Limited and 2779181 Ontario Inc. (Coscorp); Public Meeting

Resolution # 24-219

Moved By Councillor Ryan
 Seconded By Councillor Cheyne

That Council hereby receives Public Meeting report number PD2024-13 “Application for Stage 1B (Earthworks) Site Alteration Permit for 5520 Eighth Line and 5552 Eighth Line, Mattamy (Erin) Limited and 2779181 Ontario Inc. (Coscorp)” for information.

Carried

4.2 Application for Stage 1B (Earthworks) Site Alteration Permit for 5525 Eighth Line, EC (Erin) GP Inc. (Empire Developments); Public Meeting

Resolution # 24-220

Moved By Councillor Cheyne
 Seconded By Councillor Brennan

That Council hereby receives report number PD2024-14 “Application for Stage 1B (Earthworks) Site Alteration Permit for 5525 Eighth Line, EC (Erin) GP Inc. (Empire Developments); Public Meeting” for information.

Carried

5. Community Announcements

- EWFH Team continues its series of virtual workshops on a variety of topics. Please consult their website for more information.
- The 174th Erin Fall Fair takes place over the Thanksgiving Day weekend, October 11th to 14th.
- On October 12th, the Erin Legion will be serving a hot Fall Fair breakfast from 8:30AM to 11:00AM.
- On October 16th the Town and Wellington Source Water Protection are hosting a "Septic Social" at Town Hall from 6:00PM to 8:00PM.
- On October 19th, Trailside Veterinary holds an Open House at 2 Thompson Crescent, Unit 4 from 11:00AM to 3:00PM.
- Everdale Community Farm is hosting Volunteer Harvest Days on October 19th and 26th.
- On October 25th, the Erin Refugee Action Group is holding a community dinner at All Saints Anglican Church starting at 5:30PM.

Details on these and more at www.erin.ca/whats-on/

6. Adoption of Minutes

Resolution # 24-221

Moved By Councillor Ryan
 Seconded By Councillor Aylard

Be it resolved that Council hereby adopts the following meeting minutes as circulated;

September 26th - Regular Council Meeting

And the Confidential Minutes of the Closed Session Meeting held on September 26th, 2024

Carried

7. Business Arising from the Minutes

None.

8. Delegations/Petitions/Presentations

8.1 Rotary Club of Erin - World Polio Day

Resolution # 24-222

Moved By Councillor Brennan

Seconded By Councillor Aylard

That the presentation by the Rotary Club of Erin regarding World Polio Day be received for information;

And that Council hereby proclaim October 24th as World Polio Day in the Town of Erin.

Carried

9. Reports

9.1 Infrastructure Services

9.1.1 Roads

9.1.1.1 Award of RFP 2024-02R – Transportation Master Plan

Resolution # 24-223

Moved By Councillor Ryan

Seconded By Councillor Aylard

That report number R2024-01 “Award of RFP 2024-02R – Transportation Master Plan” be received for information;

And that Council directs staff to proceed with the award of contract to 30 Forensic Engineering Inc. in the amount of \$81,648.00 excluding HST.

Carried

10. New Business

10.1 Councillor Brennan - Motion regarding Town branding

Councillor Brennan, seconded by Councillor Cheyne, put the following motion on the floor:

Whereas, Council and staff initiated an expedited re-branding process in order to save tax dollars on the implementation of a new logo;

And Whereas, the timeline of this process did not allow for meaningful public participation;

And Whereas, there was a significantly negative reaction from concerned residents to the newly adopted logo such that Council and staff made the decision to delay the logo on the new water tower;

Therefore, be it resolved that Council directs staff to dispense with the newly adopted logo and assemble variations of the shamrock logo previously used;

And that consultation with the public on a possible new design be sought before implementation of the final design.

Mayor Dehn vacated the Chair in order to make a motion to amend and during the consideration thereof the Chair was assumed by Councillor Brennan.

Amendment:

Moved By Mayor Dehn

Seconded By Councillor Cheyne

That the therefore clause be amended to read "That Council directs staff to dispense with the newly adopted logo and assemble variations of the previously reviewed icons".

Carried

Mayor Dehn resumed the Chair.

Resolution # 24-224

Moved By Councillor Brennan

Seconded By Councillor Cheyne

Whereas, Council and staff initiated an expedited re-branding process in order to save tax dollars on the implementation of a new logo;

And Whereas, the timeline of this process did not allow for meaningful public participation;

And Whereas, there was a significantly negative reaction from concerned residents to the newly adopted logo such that Council and staff made the decision to delay the logo on the new water tower;

Therefore, be it resolved that Council directs staff to dispense with the newly adopted logo and assemble variations of the previously reviewed icons;

And that consultation with the public on a possible new design be sought before implementation of the final design.

Carried

11. Correspondence

11.1 2024 Activity List

Resolution # 24-225

Moved By Councillor Cheyne

Seconded By Councillor Brennan

Be it resolved that Council receives correspondence item 11.1 for information.

Carried

12. By-Laws

Resolution # 24-226

Moved By Councillor Ryan

Seconded By Councillor Brennan

Be it resolved that By-Law number 24-47 is hereby passed.

Carried

13. Notice of Motion

None.

14. Adjournment

There being no further business to discuss, the Mayor adjourned the meeting at the hour of 4:30PM.

Mayor Michael Dehn

Town Clerk Nina Lecic



Town of Erin

Corporate Report

| | |
|---|------------------------------------|
| Department: Infrastructure Services | Report Number: W2024-02 |
| Business Unit: Water | Meeting Date: 10/24/2024 |
| Presented/ Prepared By: Kyle Davis, Risk Management Official | |

Subject

Municipal Well E9 Wellhead Protection Areas, Wellington County Road 23, Erin

Recommendation

That report number W2024-02 “Municipal Well E9 Wellhead Protection Areas, Wellington County Road 23, Erin” be received for information;

And that Town of Erin Council provide a resolution of support for the inclusion of Municipal Well E9, its wellhead protection areas, associated mapping and edits within the Credit Valley Assessment Report and CTC Source Protection Plan;

And that a copy of the resolution be sent to the Credit Valley Source Protection Authority.

Highlights

A Town of Erin Council resolution is required to support amendments to the Credit Valley Assessment Report and the CTC Source Protection Plan for the proposed municipal well E9 on Wellington County Road 23, Erin.

Background

The Town of Erin is regulated by two Source Protection Plans (based on watershed or Conservation Authority boundaries): Grand River Source Protection Plan and the Credit Valley, Toronto and Region and Central Lake Ontario Source Protection Plan (CTC). Source Protection Plans are established under the Clean Water Act for the purposes of protecting current and future sources of drinking water. Source Protection Plans are routinely updated to ensure conformance with Provincial direction and to reflect changes in municipal well locations, risk mitigation practices and science. The purpose of this report is to provide Council with an update on proposed changes to the CTC Source Protection Plan related to proposed municipal well E9 in the Town of Erin.

Discussion

On October 16, 2024, the CTC Source Protection Region initiated pre-consultation with affected municipalities, provincial ministries and other implementing bodies on proposed

changes to include a new municipal well for the Town of Erin: municipal well E9. The formal pre-consultation notice has been received by the Town Clerk. Municipal well E9 is a critical well needed to support growth within the Town of Erin. To include well E9 in the CTC Source Protection Plan, the Plan requires an amendment under Section 34 of the Clean Water Act which requires a resolution of support from both Town and County Councils. These resolutions of support are required prior to the Source Protection Region initiating public consultation. Public consultation is anticipated to start in December 2024.

Two documents, relevant to the Town and County, are being updated as part of the proposed amendment: the Credit Valley Assessment Report and CTC Source Protection Plan. For reference, an Assessment Report describes the municipal wellfields and water systems and the science related to delineating the wellhead protection areas while the Source Protection Plan outlines the legal requirements or policies that apply within the wellhead protection areas and other vulnerable areas. Staff have reviewed the updates to both documents and have no concerns.

Municipal well E9 is located on County Road 23 north of the village of Erin. Its location is shown on the attached map. The Town has received a Permit to Take Water for this location and has completed the necessary wellhead protection area mapping through their consultant Aqua Insight. Wellington Source Water Protection staff worked with Aqua Insight and Town staff to complete the wellhead protection area mapping and have completed the initial significant drinking water threat activity enumeration. This enumeration concluded that up to ten properties may be regulated under the Clean Water Act once well E9 is approved in the CTC Source Protection Plan. The requirements will include limited prohibition of manure application, risk management plans for pesticide applications and septic system inspections within 100 metres of the well and potentially chemical risk management plans for industrial or commercial facilities within the broader wellhead protection areas. The requirements are the responsibility of the Risk Management Official and Town to ensure compliance is achieved, once the CTC Source Protection Plan is amended. It should be noted that more properties are included within the wellhead protection areas, however, based on the enumeration, only up to ten properties are estimated to potentially be subject to requirements under the Clean Water Act. It is also anticipated that the number of ten properties may be reduced once public consultation begins and the Risk Management Official is able to discuss specifics of each property's activities with the property owners.

The CTC Source Protection Committee directed their staff to proceed with early engagement, pre-consultation and public consultation at their meeting on May 30, 2024. Further information on the technical studies completed for well E9, including the CTC staff report, can be found at www.ctcswp.ca under their Meetings tab. Early engagement with the Province concluded October 3, 2024 and staff are working with CTC staff to respond to the Provincial early engagement comments. With the release of the pre-consultation notices on October 16, 2024, pre-consultation with affected

municipalities and Provincial Ministries will occur over the next month. Following pre-consultation, the CTC Source Protection Committee and Region will conduct public consultation including directly mailing the ten property owners that have been identified as potentially being regulated under the Clean Water Act due to the establishment of E9 as a municipal well. It is anticipated public consultation will begin in early December 2024. The Town, through Wellington Source Water Protection, will support that public consultation including discussing with property owner their concerns related to the Clean Water Act requirements. Comments from the property owners and other members of the public will be taken into consideration by the CTC Source Protection Committee and will be forwarded to the Province for their consideration during approval of the amendment. Submission to the Province is anticipated in early 2025. The Minister of the Environment, Conservation and Parks is the approving authority for this amendment to the Credit Valley Assessment Report and CTC Source Protection Plan. Once submission has occurred, there is not an exact timeline on when the Minister may approve the submission.

Strategic Pillar

Growth Management

Financial Impact

Existing staff and resources through Wellington Source Water Protection program.

Conclusion

Proposed municipal well E9 is critical to support growth in the Town of Erin. Amendments to the Credit Valley Assessment Report and CTC Source Protection Plan are required for well E9 to be put into service. A resolution of support from Town Council is required before public consultation can begin.

Attachments

Appendix A – Proposed Wellhead Protection Areas Municipal Well E9

Appendix B – Preconsultation Notice dated October 16, 2024

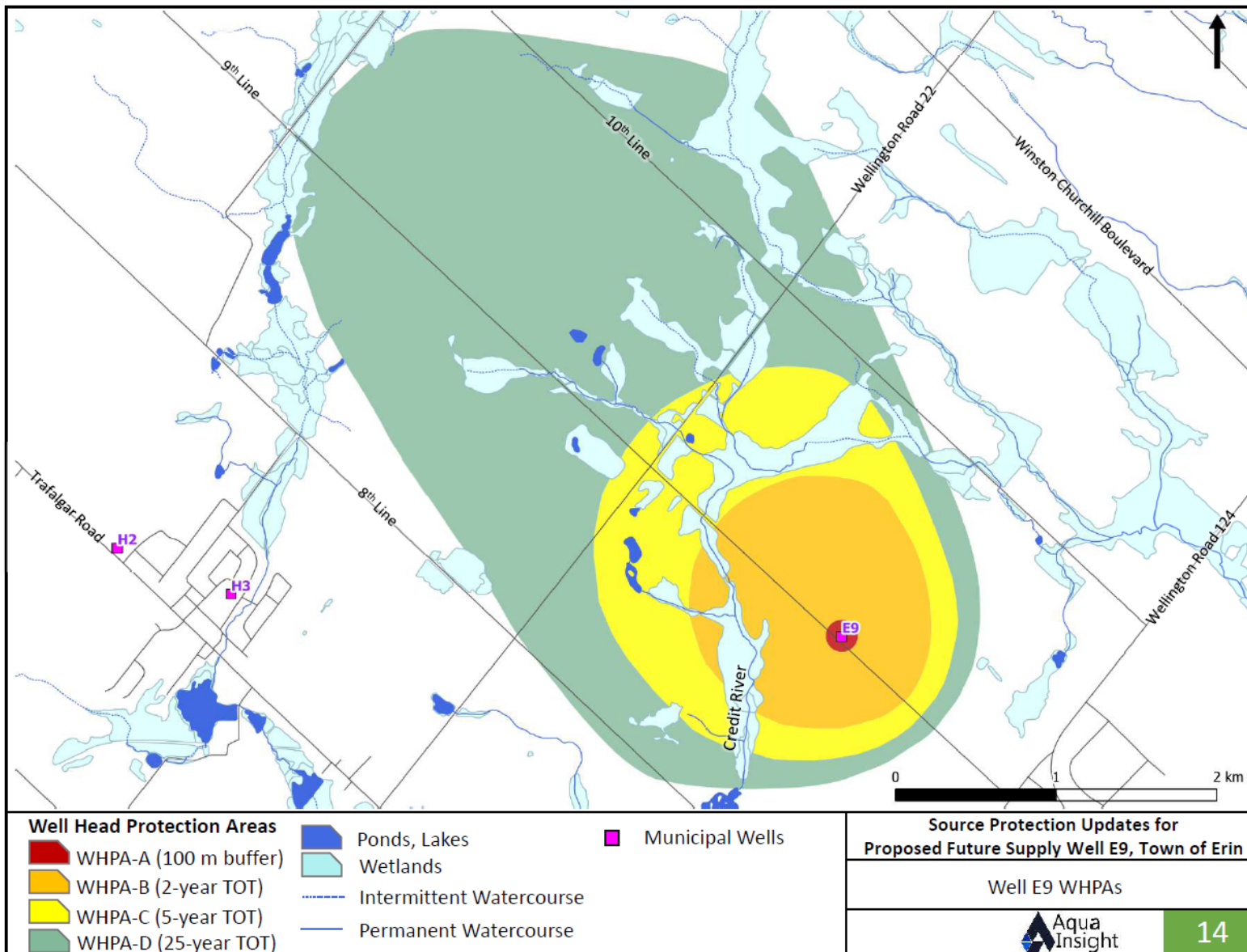
Kyle Davis

Risk Management Official

Rob Adams

Chief Administrative Officer

Figure 1 E9 Wellhead Protection Area





October 16, 2024

Town of Erin

Attention: Nina Lecic

5684 Trafalgar Rd.

Hillsburgh, ON,

NOB 1Z0

Email: Nina.Lecic@erin.ca

RE: Notification of Consultation pursuant to Sections 34 of the *Clean Water Act, 2006* and Ontario Regulation 287/07

Written Comments due by November 15, 2024

Municipal Council Resolution due by Friday, November 22, 2024

You are receiving this correspondence because you are considered a municipality affected by proposed amendments to the Credit Valley Assessment Report and Credit Valley –Toronto Region – Central Lake Ontario (CTC) Source Protection Plan to include updates to the Erin Drinking Water System.

The current drinking water supply for the Erin Drinking Water System is sourced from groundwater, supplied through two municipal wells PW E7 and PW E8. To address existing water demands and future growth projections, the Town of Erin has proposed to add a new well (E9) to their drinking water system. This proposed supply well is located north of Sideroad 17 on Wellington County Road 23 (9th Line), within the West Credit River subwatershed in the Credit River Watershed. This has resulted in new wellhead protection areas within the Town of Erin.

The Credit Valley Source Protection Authority (CVSPA) is the lead authority in the CTC Source Protection Regions and as such, along with the CTC Source Protection Committees, initiated an updated to the Credit Valley Assessment Report and CTC Source Protection Plan under s.34 of the *Clean Water Act, 2006*. This pre-consultation notice is a formal request for your comments and a municipal council resolution for the proposed amendments.

Regulatory Background

Section 34 of the *Clean Water Act, 2006* (CWA) provides a Source Protection Authority (SPA) the process to carry out locally initiated amendments to source protection plans and assessment reports. **Pre-consultation** refers to the regulatory requirements within O. Reg. 287/07 to send notices to persons or bodies responsible for implementing policies, including government ministries that have obligations under the CWA. Prior to conducting public consultation, the CWA requires the SPA to obtain a municipal council resolution from each municipality affected by the amendments. A municipality may be considered “affected” if it is located within a geographic area related to the amendments, and/or the municipality is responsible for taking actions or otherwise implementing source protection policies related to the amendments.

Proposed Amendments to the Credit Valley Assessment Report and CTC Source Protection Plan

The Town of Erin has completed the technical work required to add the new well to their system. This included updating the groundwater model, delineating new Wellhead Protection Areas (WHPAs) and enumerating threats according to the 2021 Technical Rules. As such, the CTC Source Protection Committee has proposed revisions to its Credit Valley Assessment Report under O. Reg. 287/07. This includes:

- The delineation of Wellhead Protection Areas (WHPAs)
- Vulnerability assessment of the landscape and scoring of the WHPAs
- Analysis of managed lands, livestock density and impervious surfaces.

The CTC Source Protection Committee has also proposed to amend its Source Protection Plan (SPP) to include:

- The updated well count for the Town of Erin.
- Maps of the new threat areas where the SPP policies apply.

Appendix A provides a summary of updates to the CTC Source Protection Plan, Appendix B provides a summary of updates to the CVSPA Assessment Report and Appendix C provides the proposed Wellhead Protection Area maps within the Town of Erin.

The proposed assessment report sections and associated source protection plan amendments for CTC can be found at this [link](#).

Requests and Next Steps

- **Written Comments:** We welcome your written feedback on the proposed amendments. These comments can be sent via email to ctcswp@cvc.ca by 5:00 pm on November 15, 2024

- **Municipal Council Resolution:** Town of Erin, Wellington County and CVSPA staff have been working collaboratively to prepare a report for your council. A council resolution is requested by 5:00 pm on November 22, 2024

Once the pre-consultation period ends, written comments will be reviewed by the CTC Source Protection Committee Working Group and, if necessary, changes will be made to the relevant Assessment Reports and CTC Source Protection Plan. Following municipal council endorsement, a mandatory **Public Consultation** period will take place for a minimum duration of 35 days. Based on the above timelines, public consultation is anticipated to take place during December 4, 2024, to January 22, 2025.

The amendments will then be received by Credit Valley Source Protection Authority for authorization to submit the documents to the Ministry of the Environment, Conservation and Parks. Lastly, the proposed amendments will be considered by the Minister for approval.

If you require further information or have any questions, please do not hesitate to contact us. Thank you for your continued support and participation in efforts to protect our sources of drinking water.

Best regards,



Behnam Doulatyari,
Senior Manager, Watershed Plans and Source Water Protection
Credit Valley Conservation
905-670-1615 ext. 3290
Email: behnam.doulatyari@cvc.ca

cc. Kyle Davis
Risk Management Official
Town of Erin c/o Wellington Source Water Protection
519-846-9691 ext. 362
kdavis@centrewellington.ca

Appendix A: Summary of Updates to CTC Source Protection Plan
Appendix B: Summary of Updates to CVSPA Assessment Reports
Appendix C: Proposed Erin Drinking Water Systems WHPA update maps

CTC Source Protection Plan

NOTICE OF AMENDMENTS

Currently proposed amendments to this document, made under Ontario Regulation 287/07, Section 34, are summarized in the table below. Section, figure, and table references are applicable to the CTC Source Protection Plan, which is provided in pdf format. The proposed amendments using track changes are **highlighted in yellow**.

DATE PROPOSED AMENDMENTS POSTED: Q3/ Q4 2025

Table: Summary of Anticipated Section 34 Amendments to the CTC Source Protection Plan

| Chapter | Section, Figure, and/ or Table | Brief Description of Anticipated Amendment |
|-----------------|--------------------------------|---|
| All | Cover page, header and footers | Update proposed document version number in text as applicable, on the cover, and in header and footers |
| All | Cover page, header and footers | Update approval and effective dates |
| Preface | p.i | Update contact information. Update references to Technical Rules for amendment versions |
| Version Control | p.ii | Add description of s. 34 amendment |
| Chapter 2 | 2.1, Figure 2-2 | Map updated to include revised Town of Erin Drinking Water System WHPA delineation. Update number of active municipal production wells in the CTC SPR |
| Chapter 3 | Table 3-1b | Update list of active SPC members |
| Chapter 4 | 4.1.2 | Updated text to reflect the s. 34 amendment |
| Chapter 5 | 5.1.8 | Updated text to improve accessibility |

DRINKING WATER SOURCE PROTECTION

Our Actions Matter

CTC Source
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| Chapter | Section, Figure, and/ or Table | Brief Description of Anticipated Amendment |
|------------|--------------------------------|---|
| Chapter 5 | 5.1.10 | Updated text for consistency |
| Chapter 5 | 5.1.11 | New section added regarding consultation related to s. 34 amendment |
| Chapter 6 | 6.1.1 | Updated text referencing Table 6-1 description |
| Chapter 6 | Table 6-1 | Updated well count |
| Chapter 7 | 7.0, 7.1.4 | Moved text from text box to Section 7.4 and removed text box |
| Chapter 7 | 7.2 | Updated test in transport pathways section |
| Chapter 8 | 8.3 | Updated text on amendment process |
| Chapter 9 | 9.1, 9.2 | Text clarification |
| Chapter 10 | 10.1.2 | Updated text in Definitions of Existing Threat Activity, Transition and Amendments |
| Chapter 10 | 10.4.1 | Clarified text regarding current non-applicability of policy ASM-5 |
| Appendix F | Map 1.5 | Updated map to include amended significant threat areas for Erin Drinking Water System WHPAs, including Well E9 |
| Appendix F | Map 2.5 | Updated map to include amended significant DNAPL threat areas for the Erin Drinking Water System WHPAs, including Well E9 |
| Appendix F | Map 3.5 | Updated map to include Well E9 WHPA delineated areas |
| Appendix F | Map 4.1 | Updated map to include readability |

Credit Valley SPA Assessment Report

NOTICE OF AMENDMENTS

Currently proposed amendments to this document, made under Ontario Regulation 287/07, Section 34, are summarized in the table below. Section, figure, table, and page references are applicable to the relevant chapters of the Assessment Report and are provided as individual chapters in pdf format. The proposed amendments using track changes for each chapter and appendices are **highlighted in yellow**.

DATE PROPOSED AMENDMENTS POSTED: Q3/ Q4 2025

Table: Summary of Anticipated Section 34 Amendments to the Assessment Report for the Credit Valley Source Protection Area

| Chapter | Section, Figure, and/ or Table | Page Numbers | Brief Description of Anticipated Amendment |
|--|---------------------------------------|--------------|--|
| Cover/Preface/Executive Summary/Glossary | Cover, footers, in text as applicable | All | Update to proposed version number and date of approval and effective dates |
| Cover/Preface/Executive Summary/Glossary | Preface | pi | Update official naming of Ministries |
| Cover/Preface/Executive Summary/Glossary | Preface | pii | Add version description |
| Cover/Preface/Executive Summary/Glossary | Executive Summary | P1 | Add version description and note DTR version |
| Cover/Preface/Executive Summary/Glossary | Executive Summary | P8 | Update SDWT count |
| Cover/Preface/Executive Summary/Glossary | Executive Summary, Figure ES-7 | P15 | Update figure to include Well E9 |
| Chapter 1 | 1.2.3 | P1-4 | Add version description and note DTR version |

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| Chapter | Section, Figure, and/ or Table | Page Numbers | Brief Description of Anticipated Amendment |
|-----------|--------------------------------|--------------|---|
| Chapter 1 | Table 1.1 | P1-14 | Update dates relating to consultation and when document was finalized for public consultation |
| Chapter 2 | Figure 2.6 | P2-25 | Add Well E9 to the Erin Drinking Water System |
| Chapter 2 | 2.3.2 | P2-27 | Update to 45 active wells |
| Chapter 2 | Table 2.6 | P2-28 | Update number of wells and maximum pump rate for the Erin Drinking Water System |
| Chapter 2 | 2.4.8 | P2-59 | Change the number of supply wells in the Town of Erin to five |
| Chapter 4 | 4.0 | P4-1 | Add version description and note DTR version |
| Chapter 4 | 4.2 | P4-12 | Update to 45 active wells and 48 total wells in the CV SPA |
| Chapter 4 | 4.2 | P4-13 | Update well count to 48 for WHPAs mapped in the CV SPA |
| Chapter 4 | Figure 4.4 | P4-16 | Add Well E9 WHPA delineated areas |
| Chapter 4 | 4.6 | P4-36 | Add well E9 to the Erin Drinking Water System |
| Chapter 4 | 4.6.1 | P4-36 | Update bedrock geology and update study objectives and |

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| Chapter | Section, Figure, and/ or Table | Page Numbers | Brief Description of Anticipated Amendment |
|-----------|--------------------------------|--------------|---|
| | | | scope of work regarding Well E9 |
| Chapter 4 | 4.6.2 | P4-37 | Update capture zone and WHPA delineation method and aquifer vulnerability assessment methodology applied to Well E9 |
| Chapter 4 | 4.6.2 | 4-38 | Update model calibration and WHPA delineation method used for Well E9. Update text speaking to WHPA delineation pumping rates |
| Chapter 4 | 4.6.2 | 4-39 | Update WHPA delineation description for Well E9 |
| Chapter 4 | Figure 4.14 | P4-41 | Add Well E9 and corresponding WHPA delineation |
| Chapter 4 | 4.6.2 | P4-43, 4-44 | Update groundwater vulnerability assessment methodology used for Well E9. Editorial updates |
| Chapter 4 | Figure 4.17 | P4-47 | Add Well E9 and corresponding vulnerability rating |
| Chapter 4 | Figure 4.20 | P4-51 | Add Well E9 and corresponding vulnerability scoring |

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| Chapter | Section, Figure, and/ or Table | Page Numbers | Brief Description of Anticipated Amendment |
|-----------|--------------------------------|--------------|---|
| Chapter 4 | 4.6.5 | P4-51 | Updates to the uncertainty assessment pertaining to Well E9 |
| Chapter 4 | Table 4.7 | P4-52 | Update the uncertainty assessment for the Erin Drinking Water System |
| Chapter 5 | 5.5 | P5-36 | Update total number of municipal wells to 48 |
| Chapter 5 | Table 5.12 | P5-36 | Update summary of drinking water threats (quality and quantity) for the CV SPA |
| Chapter 5 | 5.5.4 | P5-71 | Update number of wells, inclusion of new foundational work and data sources |
| Chapter 5 | 5.5.4 | P5-72 | Update significant threat description for Erin |
| Chapter 5 | Table 5.21 | P5-73, 5-74 | Update significant threat enumeration for Erin Drinking Water System |
| Chapter 5 | Figure 5.20 | P5-78 | Update figure to include Well E9 areas of significant, moderate or low chemical threats |
| Chapter 5 | Figure 5.21 | P5-79 | Update figure to include Well E9 areas of significant, |

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| Chapter | Section, Figure, and/ or Table | Page Numbers | Brief Description of Anticipated Amendment |
|-----------|--------------------------------|---------------|--|
| | | | moderate or low pathogen threats |
| Chapter 5 | Figure 5.22 | P5-80 | Update figure to include Well E9 areas of significant, moderate or low DNAPL threats |
| Chapter 5 | Table 5.46 | P5-173, 5-174 | Update significant water quality threat count in the CV SPA |
| Chapter 5 | 5.7.6 | P5-144, 5-145 | Fix typographical errors |
| Chapter 6 | 6.1 | P6-1 | Add version description, note DTR version, and update date range when technical studies pertaining to wellhead protection were completed |
| Chapter 6 | 6.1 | P6-4 | Update summary numbers of significant groundwater quality and quantity threats and parcels in the CV SPA |
| Chapter 6 | Table 6.1 | P6-5 | Update significant groundwater threats (quality and quantity) count in the CV SPA |
| Chapter 6 | 6.1 | P6-6 | Fix typographical error |
| Chapter 6 | 6.3 | P6-10 | Update summary of significant drinking water threats |

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| Chapter | Section, Figure, and/ or Table | Page Numbers | Brief Description of Anticipated Amendment |
|------------|--------------------------------|-----------------|--|
| Chapter 7 | 7.1 | P7-2 | Include new foundation document prepared by Aqua Insight Inc. |
| Chapter 7 | 7.1 | P7-6 | Include memorandums prepared by Wellington Source Water Protection |
| Appendix A | A1.1 | pA-1 | Added Cnty of Wellington under Municipal Government partnerships |
| Appendix D | Figure D2-4 | pD2-17 | Figure updated to be AODA compliant |
| Appendix D | Table D2-21 | pD2-43 | Update to include Well E9 info |
| Appendix D | D2.3.3 | pD2-43 to D2-56 | Update groundwater flow model construction, calibration, WHPA delineation method, and vulnerability assessment for Well E9. Updated groundwater recharge conceptualization |
| Appendix D | New Figure D2-8 | pD2-48 | Added new figure to illustrate model plan extent for updated FEFLOW model |
| Appendix E | E3.1 | pE3-1 | Added language to clarify Managed Lands Percentage methodology section |

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| Chapter | Section, Figure, and/ or Table | Page Numbers | Brief Description of Anticipated Amendment |
|------------|--------------------------------|-----------------|--|
| | | | is applicable to Dufferin and Peel |
| Appendix E | E3.2 | pE3-19 | Added language to clarify Livestock Density methodology section is applicable to Dufferin and Peel |
| Appendix E | E3.5 | pE3-41 | Added language to clarify Percent Impervious Surfaces methodology section is applicable to Dufferin and Peel |
| Appendix E | E3.6 | pE3-55 | Added language to clarify Managed Lands Percentage methodology section is applicable to Wellington |
| Appendix E | E3.6 | pE3-55 to E3-56 | Update methodology for calculating Managed Land Percentage in reference to the methods used for Well E9 |
| Appendix E | Table E3-9 | pE3-56 | Update Managed Lands Percentage table to include Well E9 |
| Appendix E | Figure E3-42 | pE3-58 | Update to include Well E9 |
| Appendix E | E3.7 | pE3-60 | Added language to clarify Livestock Density methodology section |

DRINKING WATER SOURCE PROTECTION

Our Actions Matter

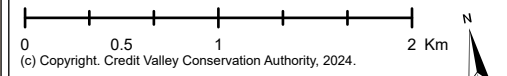
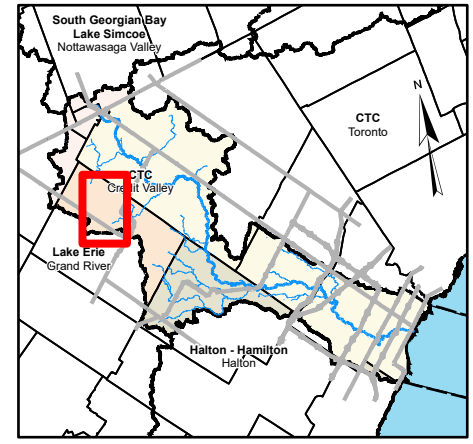
CTC Source
Protection
Region

| Chapter | Section, Figure, and/ or Table | Page Numbers | Brief Description of Anticipated Amendment |
|-------------------|--------------------------------|-----------------|---|
| | | | is applicable to Wellington |
| Appendix E | Table E3-10 | pE3-60 to E3-61 | Update to include Well E9 |
| Appendix E | Figure E3-42 | pE3-63 | Update to include Well E9 |
| Appendix E | E3.8 | E3-62 | Update methodology for calculating Percent Impervious Surfaces in reference to the methods used for Well E9 |
| Appendix E | E3.8 | pE3-65 | Added language to clarify Percent Impervious Surfaces methodology section is applicable to Wellington |
| Appendix E | Figure E3-45 | pE3-67 | Added a new figure illustrating Impervious Surfaces for Well E9 |

Credit Valley Source Protection Area

Wellhead Protection Areas (WHPAs) - Erin

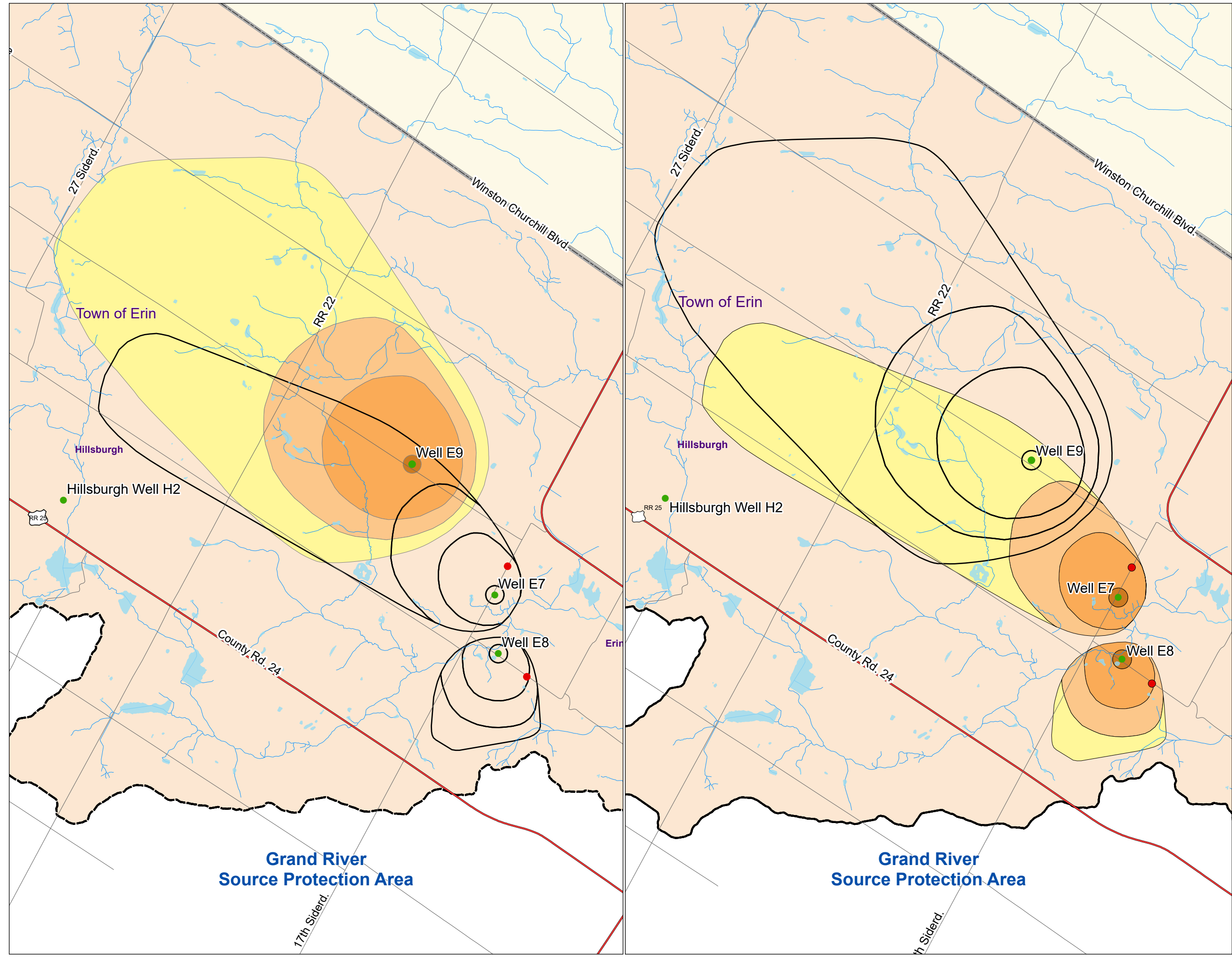
- WHPA-A: 100m Buffer Zone (Pathogen Security/Prohibition Zone)
 - WHPA-B: Pathogen Management Zone (0 to 2 Year Time of Travel)
 - WHPA-C: DNAPL/Contaminant Protection Zone (2 to 5 Year Time of Travel)
 - WHPA-D: Secondary Protection Zone (5 to 25 Year Time of Travel); WHPA D
 - Adjacent WHPAs
 - Well Type - I (Production)
 - Monitoring Well
- Transportation network**
- Highway
 - Road
 - Railroad
- Hydrologic Network**
- Main Credit River branch
 - Rivers and Streams
 - Lakes and Ponds
- Political Boundaries**
- Municipal Boundary
 - Source Water Protection Watershed Boundary
 - County of Dufferin
 - County of Wellington
 - Regional Municipality of Halton
 - Regional Municipality of Peel



Source: Credit Valley Source Protection Area Boundary (OMNR, 2008); Subwatersheds (CVC, 2002); Drainage Network (OMNR, 1982; CVC, 2009); Municipal/Regional Boundary (CVC, 1998); Transportation Network (OMNR, 1982; CVC, 2007); WHPAs (Blackport, 2010; Aqualinsight, 2024).

This map is for information purposes only and the Credit Valley Conservation Authority takes no responsibility for, nor guarantees, the accuracy of all the information contained within the map.

This map has been prepared to meet provincial requirements under the Clean Water Act, 2006 and should not be used for other purposes without consultation with the responsible conservation authority. The analysis used to produce this map relies on best available information. Priority should be given to site specific information collected in accordance with accepted scientific protocols when being used for other purposes.



DRINKING WATER SOURCE PROTECTION
Our Actions Matter



Town of Erin Corporate Report

| | |
|--|---------------------------------|
| Department: Infrastructure Services | Report Number: WW2024-01 |
| Business Unit: Wastewater | Meeting Date: 10/24/2024 |
| Presented/ Prepared By: Brian Kavanagh, Director of Infrastructure Services & Town Engineer | |

Subject

Wastewater Project Update

Recommendation

That report number WW2024-01 “Wastewater Project Update” be received for information;

And that Council directs staff to submit an application for Intake II of the Housing Enabling Water Systems Fund (HEWSF) and continue to advocate for funding from this and other grant programs to be applied to the development of local sanitary sewer collection systems for existing residents and businesses;

And that Council directs staff to include funds in the 2025 draft capital budget to advance the technical and financial planning required to prepare for the development of local sanitary sewer collection systems for existing residents and businesses;

And that Council directs staff to prepare a draft sanitary sewer connection by-law, informed through public consultation, that will provide residents and businesses with insight into the requirements for future connection to local sanitary sewers, and will include flexible terms to lessen financial impacts;

And that Council directs staff to report back with updates regarding grant funding outcomes, a draft sewer connection by-law and technical and financial planning details.

Background

Council passed a motion in December of 2023 requesting the following information regarding the Town’s wastewater system construction project:

- a summary of the project including current finances, scheduling, potential cost overruns and ownership of associated financial liability;

- a set of recommendations for how existing property owners can manage their septic systems until the time of hookup;
- clarification on the process of instituting a sewer connection by-law; and,
- summary of the steps being taken on advocating for funding necessary for connection of existing houses and businesses to the wastewater system.

This report addresses the above items.

Discussion

1.0 Project Scope and Schedule

The following report sections detail the scope of work and associated completion schedule for the seven main components of the wastewater project, starting from the system high point in Hillsburgh and working through to the final outfall.

1.1 Hillsburgh Gravity Sewer

This portion of the project includes the installation of a gravity sewer, watermain and roadway reconstruction along Trafalgar Road between Upper Canada Drive/Church Street and the Elora Cataract Trail. The work includes the extension of water services and sewer laterals up to the property line for each property along the alignment.

The Hillsburgh gravity sewer has been successfully completed. The contractor is currently addressing minor deficiency items, ensuring that all aspects of the construction meet the Town's quality standards.

1.2 Elora Cataract Trail Linear Works

Construction along the Elora Cataract Trail will occur between Trafalgar Road and Main Street/Wellington Road 124, connecting the future Hillsburgh and Erin Village wastewater collection systems via gravity sewer. A new watermain connecting Hillsburgh to the water distribution system in Erin Village will also be installed, and 26 culverts crossing the trail between Hillsburgh and Erin Village will be upgraded.

Once the gravity sewer installation is completed, the Trail pathway will be restored to a better condition and all trees that are removed will be replaced with approximately four times as many new trees.

The linear works associated with the Elora Cataract Trail will be awarded in early 2025, with construction expected to be completed by Spring 2026. The construction schedule meets the timing requirements of development projects that rely on this infrastructure.

1.3 Erin Village Gravity Sewer & Twin Forcemains

The sanitary gravity sewer and twin forcemain construction in Erin Village along Main Street between the Elora Cataract Trail and Dianne Road, and along Water Street, commenced in July 2023.

The sewer installation utilizes micro-tunneling, a trenchless pipe installation method. As part of this process, micro-tunneling shafts have been installed at eight locations along Main Street.

Construction of the Erin Village gravity sewer is progressing and the micro-tunneling is planned for completion by the end of 2024, with restoration in Spring 2025.

1.4 Dundas Street East Gravity Sewer

The sanitary gravity sewer construction in Erin Village along Dundas Street East between Main Street and 10th Line commenced this Summer 2024 and is being constructed by developers.

The sewer installation utilizes both micro-tunneling and open-cut construction. As part of this process, a micro-tunneling shaft has been installed in front of the Legion parking lot with temporary lights controlling two-way traffic through this area.

Completion of the Dundas Street East gravity sewer works is anticipated by the end of 2024.

1.5 Erin Village Pumping Station

The Erin Village Sewage Pumping Station, located at the northeast corner of Lions' Club Park, will convey wastewater to the Erin Water Resource Recovery Facility. The sewage pumping station has been designed to complement the natural features within the park and will be secured from access by the public.

This contract includes a back-up emergency generator located on the west side of Williams Street, just north of March Street.

The Erin Village Pumping Station is scheduled for completion in Fall 2025, including reconstruction of the park. To ensure the water resource recovery facility can begin operations before the pumping station is fully completed, an interim pumping solution will be implemented.

1.6 Erin Water Resource Recovery Facility (WRRF)

The Erin Water Resource Recovery Facility is located on Wellington Road 52, west of 10th Line. The facility will treat the incoming raw wastewater from the Hillsburgh and Erin Village communities, producing treated effluent that achieves Ontario regulatory objectives and limits.

The facility is designed to produce one of the strictest discharge requirements in North America and will include Canada's first municipal effluent cooling system to limit effluent discharge temperatures and ensure the cold-water aquatic habitat of the West Credit River will not be affected.

Construction work is currently in progress and is anticipated to be completed in June 2025. Based on recent occupancies being granted in Solmar's Erin Glen subdivision, a

temporary hauling solution has been arranged that involves wastewater being trucked to Orangeville's Water Pollution Control Plant until the Town's WRRF is operational.

1.7 WRRF Effluent Sewer and Outfall

Treated effluent from the WRRF will be discharged to the West Credit River via an effluent sewer and outfall that run along Wellington Road 52 and Winston Churchill Boulevard.

Construction of the effluent sewer and outfall has been completed. The Town purchased a house adjacent to the outfall area to accommodate construction and provide access to infrastructure. An easement will be registered to allow for ongoing access, after which the property is planned to be sold.

2.0 Project Financial Responsibilities and Controls

The project is being fully funded by the developers whose projects will rely on the wastewater system. Extra costs, such as those associated with unforeseeable underground conditions and those required to meet conservation authority or Ministry of Environment, Conservation and Parks permit requirements, are being managed diligently to contain costs and minimize associated financial liabilities for developers.

An example of a cost control initiative is the decision to retender the Elora Cataract Trail linear works following a significant scope change required for permitting. This change was made to attain the best possible value for money for project stakeholders.

To ensure open communication and transparency with the Town's developer stakeholders, the Town holds monthly meetings that address project finances, schedule and other pertinent topics.

3.0 Funding for Existing Neighbourhood Wastewater Systems

Successfully implementing wastewater collection systems in existing Town neighbourhoods, including both residential and commercial/industrial properties, relies heavily on securing grant funding from the Provincial and/or Federal government.

The Town did not receive funding through its submission to Intake I of the Province's Housing-Enabling Water Systems Fund (HEWSF), however Intake II of HEWSF was announced earlier this year. The program is application-based and aims to protect communities by investing in the development, repair, rehabilitation and expansion of core water, wastewater, and stormwater projects to promote growth and enable housing.

Intake II totals \$250M, with the Province funding up to 73% of eligible project costs, with the municipality required to fund all remaining eligible project costs (27%). Applications are due by November 1st, 2024.

Town staff met with Ministry of Infrastructure staff on September 27, 2024 to gain insight into Intake II of the HEWSF grant, and to seek advice on achieving success in our next application. Staff will utilize this information to put forward a strong submission, and are

committed to actively pursuing all relevant funding opportunities to support the future construction of local sewer systems in existing neighbourhoods.

4.0 Septic System Planning

There is uncertainty regarding the timing of potential grant funding that would allow for the advancement of sanitary sewer construction in existing neighbourhoods. This uncertainty can be challenging for residents and business owners who are managing septic system lifecycle requirements, and for those considering buying, renovating, expanding or selling property in Town. To support these residents, the Town will:

- Commit to transparent and timely communication to ensure that residents who are contemplating buying or selling a home, and those considering rehabilitating or expanding the capacity of their septic system, can make informed decisions.
- Complete a diligent planning process to inform resident communications, including the preparation of a draft sanitary sewer connection by-law (detailed in Section 4.1) and the completion of technical and financial planning required to prepare for the development of local sanitary sewer collection systems for existing residents and businesses (detailed in Section 4.2).

Septic system owners should continue to maintain and pump out their septic systems as they normally would. Upon completion, the sanitary sewer connection by-law and the technical and financial planning process, detailed below, will help inform residents regarding decisions for septic system requirements above and beyond routine maintenance.

4.1 Sanitary Sewer Connection By-law

A sanitary sewer connection by-law is a regulatory framework that governs the process by which homeowners and businesses can connect to the municipal sewer system. The connection by-law ensures that the transition from septic systems to municipal sewer services is efficient, compliant and equitable. The Town's connection by-law will include the following:

- **Connection Requirements:** Specifications detailing what is required for a property to connect to the sewer system, including technical standards for installation.
- **Connection Fees:** Information on applicable fees associated with connecting to the sewer system, ensuring transparency and fairness.
- **Maintenance Responsibilities:** Clear guidelines outlining the responsibilities of homeowners for maintaining their connections and ensuring compliance with municipal standards.

- **Timelines:** Established timelines for when properties must connect to the sewer system, in relation to the timing of successful project funding, allowing residents to plan accordingly.
- **Flexibility:** Providing flexibility for homeowners who may need additional time or resources for connection and associated costs. Flexibility may include the number of years allowed to hook-up to the new sanitary sewer, and the number of years that associated payments can be spread out.

The following steps are required for implementation of the Town's sanitary sewer connection by-law:

1. **Research and Review:** Conduct a thorough review of existing by-laws in similar municipalities, and unique Town circumstances, to ensure best practices are followed.
2. **Drafting:** Collaborate with legal and engineering staff to draft a by-law that meets the specific needs of the Town and its residents and businesses. If required, draft an Official Plan Amendment to accompany the connection by-law.
3. **Public Consultation:** Engage with residents and businesses through public meetings, surveys and other platforms to gather input and address any concerns regarding the proposed by-law.
4. **Finalization:** Revise the draft by-law based on feedback received during the consultation phase.
5. **Approval:** Present the final draft to Council for review and approval.
6. **Implementation:** Once approved, ensure that the by-law is communicated effectively to residents and businesses, including information on how to initiate the connection process.
7. **Monitoring and Enforcement:** Establish a system for monitoring compliance and addressing any issues that arise post-implementation.

4.2 Technical and Financial Planning

It is recommended that funds be included in the 2025 draft capital budget to advance the technical and financial planning required to prepare for the development of local sanitary sewer collection systems for existing residents and businesses. Items to be addressed as part of the technical and financial planning include:

- Sewer system components and solutions that are required for each neighbourhood, including shallow sewers, maintenance holes, connections to trunk sewers and pumping stations.

- Review of elevations, density, proximity to a trunk sewer and other factors that determine the feasibility of a shallow sewer system.
- Preparation of mapping based on the technical review that indicates key sanitary sewer system requirements and delineation of which properties are within the feasibility area.
- Determination of ages and conditions of existing septic systems that may influence the prioritization and phasing of construction.
- Review of wellhead protection areas and related prioritization of construction phasing.
- Cost estimates for construction of sanitary sewer systems in existing neighbourhoods.
- Grant funding levels required to proceed to construction in each neighbourhood.
- Consideration of a local improvement process to fund the project.
- Financial implications of phased construction and payment programs.

Preparation of a conceptual design will address a number of these items and will also help inform resident and business owner decisions regarding the maintenance of their septic systems. If, for example, an owner of a property is determined to be outside the area of feasibility for shallow sewer construction, they will have certainty as to the future of their septic system. For owners of property within the feasibility area, the prioritization and phasing program development will provide some level of understanding of the relative timeframes for construction and hookup.

5.0 Setting Sanitary Sewer Rates

Through a separate report to Council in November 2024, staff will seek the implementation of an interim sanitary sewer rate that will contribute to the funding of wastewater services provided to recently occupied and soon to be occupied homes.

The interim sanitary sewer rate is planned to be in place until actual operating and maintenance expenses for the wastewater system can be gathered for a period of time adequate to analyze and derive reasonable estimates of the long-term requirements to fund the system in a sustainable manner, and the sanitary sewer rate required to do so.

6.0 Communication

Communicating with residents remains a critical component of the wastewater project. The main goals of the Town's communication are to inform residents of impacts and project benefits, address concerns and misconceptions, and to enhance community engagement and input to the process and planning initiatives.

Quarterly open house meetings are held at Town Hall and have been well attended. The Town's website has a dedicated section for project information and updates, and will be refreshed regularly. Project liaison meetings are held monthly. Staff will continue to make use of various methods of communicating regularly with residents.

Strategic Pillar

Investment in Community Assets

Financial Impact

The following table provides a financial summary of the project up to June 30, 2024. It includes the total contract value for each component of the project, spending to date and the percentage spent as an indication of progress toward completion. Note that the linear works portion of the project includes water infrastructure in addition to the core wastewater infrastructure component.

| Component | Total Contract Value | Spent to Date (up to June 30, 2024) | % Spent |
|----------------------------------|-----------------------|--|------------|
| Linear Works | \$ 49,616,008 | \$ 32,964,561 | 66% |
| Sewage Pumping Station | \$ 15,207,859 | \$ 5,975,368 | 39% |
| Water Resource Recovery Facility | \$ 122,878,870 | \$ 100,930,061 | 82% |
| Design | \$ 5,790,399 | \$ 5,564,392 | 96% |
| Construction Management | \$ 7,302,799 | \$ 6,180,207 | 85% |
| Total | \$ 200,795,935 | \$ 151,614,589 | 76% |

The wastewater project is being fully funded by the developers whose projects will rely on the wastewater system. Extra costs are being managed diligently to contain costs and minimize associated financial liabilities. In addition to the project costs, developers are contributing an amount of \$10,152,710 which is being set aside for future use to support the funding of local sanitary sewer systems in existing neighbourhoods in Erin and Hillsburgh.

Staff will include funds in the 2025 draft capital budget to advance the technical and financial planning required to prepare for the development of local sanitary sewer collection systems for existing residents and businesses.

Conclusion

The wastewater project is advancing successfully. The project schedule, finances and construction quality are being managed diligently, prioritizing value for money and the provision of a wastewater system that supports subdivision developments as they come online.

Staff have prepared a workplan to advance the provision of wastewater systems in existing neighbourhoods. Key components of the plan include stakeholder communication, seeking grant funding, engaging residents and businesses in the preparation of a draft connection by-law, and completing technical and financial planning.

These items will support residents and businesses as they manage the lifecycle requirements of their septic systems.

Attachments

None.

[Brian Kavanagh](#)

Director of Infrastructure Services &
Town Engineer

[Rob Adams](#)

Chief Administrative Officer



Town of Erin

Corporate Report

| | |
|--|------------------------------------|
| Department: Corporate Services | Report Number: F2024-25 |
| Business Unit: Finance | Meeting Date: 10/24/2024 |
| Presented/ Prepared By: Wendy Parr, Director of Finance & Treasurer | |

Subject

Procurement Policy and Procedures

Recommendation

That report number F2024-25 “Procurement Policy and Procedures” be received for information;

And that By-law 24-48, to establish procurement policies and procedures and to repeal By-law 17-39, as listed on the October 24, 2024, agenda be approved.

Background

All municipalities must comply with the Municipal Act, 2001, C.25 part VI, s.270 which requires that the Town establish policies with respect to the procurement of Goods and Services. By-law 24-48 will replace By-law 17-39, and it aims to provide and expand a competitive, fair and effective procurement process, and will govern how Town resources are procured, contracts are awarded, and successful bidders are chosen.

The By-law centralizes the procurement process under the Finance Department in a collaborative approach with other departments. Furthermore, the Finance Department will monitor, oversee and manage adherence to the By-law.

Discussion

In addition to compliance with the Municipal Act, 2001, this By-law has the added objectives of best value, efficient and effective procurement, openness and transparency, objectivity, ethical procurement, accountability and fairness. Schedule “A” of the by-law encompasses 23 Sections detailing all aspects of procurement while adhering to the above goals. Some of the highlighted improvements and changes from the previous By-law are itemized below:

- An expanded list of interpretations and definitions for a clear understanding of the procurement process.
- Informal Quotations were increased from the range of \$5k to \$25k to between \$35k and \$75k. The requirement for a minimum of three informal quotes remains.

- Request for Quotations, Tenders or Proposals are now included in one section with a former range of \$25k to \$50k to between \$75k and \$125k.
- For a value over \$125k, a Request for Tender or Proposal is required using the bidding website with very specific inclusions listed. This limit was not addressed under the former policy.
- The limit for purchases from the same supplier has increased from \$25k to \$100,000 or more per year. Department Directors are required to follow the Request for Prequalification (RFPQ) for the supplier to become a vendor of record.
- The Election Recess Procedures are further detailed with restrictions now posed on dispositions of Real or personal property, or other expenditures that exceed \$50,000.
- Emergency Purchases have been expanded with new details of the activation of the Emergency Operation Centre, forms for completion and definitions of 'Special Circumstance'.
- Vendor performance has been replaced with Supplier performance, with the value increased from \$25k to \$50k for a required evaluation in the event of unsatisfactory performance.
- A 'Code of Conduct' and 'Supplier Eligibility' for bidders and suppliers is a new addition with specific rules and requirements, reducing the risk to the Town.
- Appendix A outlines the authority to award limits for staff that are responsible for the purchase of goods and services. These methods of procurement are detailed within the policy.
- Appendix B provides guidelines for bid irregularities, not included in the previous policy.

There was no change to the bid bond deposit requirement of 10%. Standard insurance requirements remained at \$2 million for general liability, automobile, and homeowners (for rental of facilities) and professional errors and omissions liability, and \$5 million for general liability and automotive liability policies for work done on Roads, Water and Environmental projects.

Strategic Pillar

Service Excellence & Good Governance

Financial Impact

There is no direct financial impact.

Conclusion

Staff recommend that Council approves By-law 24-48, to establish procurement policies and procedures and to repeal the current procurement by-law.

Attachments

Appendix A – Schedule “A” of By-law 24-48 – Procurement Policy and Procedures

Wendy Parr

Director of Finance & Treasurer

Rob Adams

Chief Administrative Officer

Schedule “A” to By-law 24-48

PROCUREMENT POLICY AND PROCEDURES

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SECTION 1 – PURPOSE AND GUIDELINES

1.1 Purposes

This By-law is the basis by which the Municipality complies with the Municipal Act, 2001, c.25 Part VI, s.270 which requires that the Municipality shall establish policies with respect to the procurement of Goods and Services, with respect to:

- a) the types of procurement processes that shall be used;
- b) the goals to be achieved by using each type of procurement process;
- c) the circumstances under which each type of procurement process shall be used;
- d) how the integrity of each procurement process will be maintained;
- e) how the interests of the municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;
- f) how and when the procurement processes will be reviewed to evaluate their effectiveness; and
- g) any other prescribed matter.

In addition to compliance with the Municipal Act, 2001, this By-law has the following purposes:

- a) **Best Value:** To achieve Best Value for the Municipality, realizing optimum quality, quantity, price, delivery and performance. The primary objective of the procurement process is to acquire Goods and Services at the lowest possible cost, consistent with the demands of suitability, quality, service, and delivery capabilities.
- b) **Efficient/Effective Procurement:** To procure in the most efficient and cost-effective manner Goods and Services, with consideration to the Municipality's administrative capacity to support Procurement processes.
- c) **Openness and Transparency** To encourage open competitive bidding for the acquisition or disposal of all Goods and Services based on a clear definition of the Goods and Services required and a clear outline of the criteria used in the evaluation.
- d) **Objectivity:** Procurement of Goods and Services will be approached in an unbiased and non-discriminatory way and not be influenced by personal preferences, prejudices or interpretations.
- e) **Ethical Procurement:** To adhere to high standards of ethical conflict and avoid conflicts of interest of the Town and those involved in all Procurement.
- f) **Accountability:** To clearly delegate responsibility for procurement obligations and results to achieve administrative efficiency and accountability for those persons having Authority.
- g) **Fairness:** The procurement policies and processes will be applied equally to all bidders.

1.2 Guidelines

All persons shall follow the following guidelines in relation to Procurement:

Confidentiality- There shall be no informal contact between Municipality staff or elected officials involved in any Procurement with potential Suppliers during the Procurement process through to award.

Open Market Procurement - Except as otherwise stipulated or as appropriate given the purposes of this By-law, any Procurement shall be made on a competitive basis and in accordance with applicable federal, provincial and municipal laws and the Municipality's Code of Conduct and the Municipal Conflict of Interest Act.

Splitting of Purchase Prohibited -Where Goods and Services are required in connection with one Procurement, all of those Goods and Services shall be included in determining the total cost for the purposes of this By-law and no requirement for Goods and Services shall be divided to avoid any provision of this By-law.

All Costs Considered – Generally, purchasing shall be completed in a manner that considers the material factors in evaluating Bids from responsive and responsible V e n d o r s , rather than a manner that bases a decision solely on the lowest Bid price including ongoing cost commitments. Dollar amounts shown in this By-law setting parameters for any Procurement shall be the total cost including applicable taxes and freight, except as otherwise stated.

Local Preference - The following two legislative documents prohibit municipalities from adopting a local preference policy:

- The Discriminatory Business Practices Act (R.S.O. 1990, Chapter D12), as amended; and
- The Canadian Government's implementation of the Agreement of Internal Trade.

Local preferences are only permitted where, in the determination of the Finance Department, a competitive market exists, and two or more compliant Bids are received and are identical in price, and provide suitability, quality, service, and delivery are similar, then priority of acceptance may be made first for a local Bid, if any then, for a regional Bid, if any. Otherwise, the Finance Department, will proceed to procure 'best and final offers' from the Suppliers involved in order to break the tie.

Aggregate Materials - The Town of Erin is committed to responsible practices and aggregate materials that have been extracted in a socially and environmentally responsible manner. Where cost and availability are equivalent, Cornerstone Standards Council (CSC) Certification will be part of the evaluation criteria of bid documents to supply aggregate materials.

Risk Management – Minimizing risk to the Municipality is a key consideration in all Procurement. This includes persons with Authority selecting the appropriate means to guarantee execution and performance of a contract, as set out in Section 6 of the By-Law. Means may include, but are not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, and/or holdbacks. Appropriate guarantees shall be set out in the bid specifications or Bid Solicitation as required.

1.3 Scope of By-law

The purchasing procedures set out in this By-law shall apply to the Procurement of all Goods and Services made by or on behalf of the Municipality except as may be expressly exempted or restricted under this By-law or otherwise by Council.

Where Provincial and/or Federal Governments impose unique requirements in order to qualify for funding, the Municipality's Bid Solicitation and Contract will be amended to include those provisions

No Procurement shall be made under this By-law unless Council has provided funds for such Procurement in the budget or otherwise agreed to the provision of such funds and no expenditure shall be authorized or incurred in excess of such funds.

Despite any other provision of this By-law, Council may authorize any Purchase or method of Procurement where to do so would be in the best interests of the Municipality.

No Procurement or Purchase shall be arranged or made to avoid the application of this By-law. Without limiting the generality of the foregoing, no Procurement of Deliverables shall be divided into two or more parts for the purpose or intent of, or with the effect of, avoiding or frustrating the application of this Bylaw.

It should be the intent of the Departments to procure Goods and Services of like nature as a combined effort.

No purchases shall be made by the Municipality directly or indirectly for the personal use of any member of Council or any member of a local board or for any officer or employee of the Municipality.

1.4 Procurement Policies and Processes

Procurement processes developed by the Finance Department and approved by the CAO, are to be used as a guideline in compliance with this By-law and any related legislation.

SECTION 2 - Interpretation

2.1 Definitions

In this By-law, the following terms shall have the meanings indicated:

- (1) "**Applicable Law**" means any applicable federal, provincial or municipal law, statutes, as accepted by the Municipality
- (2) "**Asset**" means physical property (e.g. furniture, equipment, vehicle, etc.) other than real estate or natural resources owned by the Municipality and possibly having a permanent asset label affixed;

- (3) **"Authority or Authorized"** means the right to conduct the subject task as directed by Council and delegated through the Office of the Chief Administrative Officer to Department Director (or Director of Finance);
- (4) **"Authorized Purchases"** are those purchases that have prior approval of Council either through resolution or through the approval of the annual Departmental budget (budget process and adoption) but not per line items within the budget.
- (5) **"Award"** means the selection of the bidder and the bidder's Goods and Services, as accepted by the Municipality.
- (6) **"Best Value"** means the optimal balance of evaluated factors and cost to achieve the Municipality's objectives for the Procurement.
- (7) **"Bid"** means a proposal, offer or submission from a Bidder received in response to a Bid Solicitation which is subject to acceptance or rejection by the Municipality;
- (8) **"Bid Request"** means a solicitation from the Municipality to potential Bidders to submit a Bid.
- (9) **"Bid Bond"** means a cash deposit issued as part of a bidding process by the contractor to the Municipality, to attempt to guarantee that the winning bidder will undertake the contract under the terms at which they bid. The bid bond assures and guarantees that should the bidder be successful, the bidder will execute the contract and provide the required surety bonds.
- (10) **"Bid Solicitation"** means a formal request for Bids including a Request for Expression of Interest; Request for Information; Request for Pre-Qualification; Informal Request for Quotation; Request for Quotation; Request for Proposal or Request for Tender;
- (11) **"By-law or Procurement By-law"** means the Municipality's By-Law, as amended, which pertains to the Procurement of Goods and Services.
- (12) **"Chief Administrative Officer" or "CAO"** means the Chief Administrative Officer of the Municipality or Designate.
- (13) **"Compliant Bid"** means a Bid that meets the terms and conditions of the Bid Solicitation and this By-law;
- (14) **"Conflict of Interest"** means a situation where a personal, business or other interest of an employee of the Municipality is in conflict with the interests of the Municipality, and includes, but is not limited to:

- a. the giving or receiving of a direct personal gain or benefit, or a direct advantage or privilege, by any person or business that offers Goods and Services to the Municipality;
 - b. direct interest in any business that provides Goods and Services to the Municipality;
- (15) **"Contract"** means a binding agreement between the Municipality and a Supplier for the supply of Goods and Services that incorporates the requirements outlined in a Bid Solicitation and Bid.
- (16) **"Cooperative Procurement"** means a procurement process conducted jointly by the Municipality and two or more public procurement entities.
- (17) **"Council"** means the elected members of Council of the Town of Erin, comprised of the Mayor and Councilors or designates.
- (18) **"Department"** means an organizational unit of the Municipality headed by a director including any division within a Department;
- (19) **"Department Director"** means the Director or the Manager of the Department making the Purchase.
- (20) **"Designate"** means a person authorized in writing to act on behalf of another during his or her absence, which written authorization has been filed with the Director of Finance.
- (21) **"Director of Finance"** means the Director of Finance of the Town of Erin.
- (22) **"Direct Negotiation"** means a non-competitive procurement method and refers to the negotiation of an agreement for the purchase of Goods and Services where there is no open competition among or between Vendors;
- (23) **"Disposal Methods"** means the following methods by which an Asset, which has been determined to be Obsolete, Scrap or Surplus, may be disposed of through:
- a) On-line public auction;
 - b) Public Auction;
 - c) Sealed Bid;
 - d) Trade-in on replacement Asset;
 - e) Direct sale; or
 - f) Donation.
- (24) **"Emergency"** means a situation where it has been determined that a threat to public health, or life, or property or the environment exists such that the immediate Procurement of Goods and Services is essential to prevent serious delays, or damage to persons or property, or to restore or maintain essential Municipality services

- (25) **"Fair Market Value"** means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm's length who are fully informed and not under any compulsion to transact;
- (26) **"Goods and Services"** means tangible and intangible goods and services of all kinds, including but not limited to supply, material, equipment, structures and fixtures to be delivered, installed and/or constructed, licenses and subscriptions, Professional and Consulting services and includes the provision either goods or services; they take the form of an expense to the Municipality or may be revenue generating and may include warranty, installation, training, inspection, maintenance, conversion costs and repairs and related procurement services, but does not include land purchases, sales and property leases.
- (27) **"Irregular Result"** means the occurrence or likely occurrence in connection with any method of purchase where competitive bids or proposals are submitted, of any of the following:
- a. two or more identical Compliant low bids or proposals have been received;
 - b. the lowest Compliant bid or proposal exceeds the estimated cost or budget allocation;
 - c. all bids or proposals received are not Compliant; or
 - d. for any reason the award of the contract to or the purchase from the lowest Compliant bidder is procedurally inappropriate or not in the best interests of the Municipality.
- (28) **"Lowest Compliant Bid"** means the Compliant Bid that would provide the Municipality with the desired Goods and Services at the lowest cost;
- (29) **"MFIPPA"** means Municipal Freedom of Information Protection & Privacy Act
- (30) **"Negotiation"** means a procurement method whereby the Municipality may negotiate directly with one or more Suppliers with the intent to award a Contract or extend an existing Contract;
- (31) **"Finance Department"** means the department that is responsible for the Municipality's centralized procurement function and is hereby responsible for ensuring that the procurement by-law, policies and procedures are consistently applied in the Municipality and who serves as a resource to Departments in support of the procurement function.
- (32) **"Professional/ Consulting Services"** means those services requiring the skills of professionals for a defined service requirement, including but not limited to:
- a) architects, engineers, designers, surveyors, geoscientists, project managers, consultants, auditors, accountants, medical professionals and legal counsel/advisors;
 - b) firms or individuals having specialized competence in

- environmental, planning or similar disciplines; and
- c) software, graphic design and web-design consultants and any other persons providing similar services.

- (33) **"Procurement"** means the acquisition of Goods and Services by purchase, lease, rental or exchange transaction.
- (34) **"Procurement Administrator"** means the staff member who buys goods and services for the municipality.
- (35) **"Request for Expression of Interest"** means a request used to determine market interest to provide Goods and Services that the Municipality is contemplating purchasing and may result in the determination of a short list of Suppliers to respond to a Bid Request. .
- (36) **"Request for Information"** means a request used as a general market research tool to determine the availability of Goods and Services that will meet business or operational requirements and Procurement strategies and/or to estimate costs for the purpose of developing a Bid Request.
- (37) **"Request for Prequalification"** means a request with specific qualification criteria used to identify and pre-select qualified Bidders and/or Goods for participation in multiple step Procurement processes.
- (38) **"Informal Request for Quotation"** means a request by the Municipality seeking submissions from potential Suppliers to obtain Goods and Services under \$75,000 to obtain low dollar value of goods and services expeditiously.
- (39) **"Request for Quotation"** means a request by the Municipality seeking submissions from potential Suppliers to obtain Goods and Services with a value not exceeding \$125,000, excluding taxes, whenever the requirements can be precisely defined. The expectation is that the Lowest Compliant Bid meeting the requirements specified in the Request for Quotation, would be accepted, subject to any other provisions of the contract documents and this By-law.
- (40) **"Request for Proposal"** means a request by the Municipality seeking submissions from potential Suppliers to obtain Goods and Services of a unique or complex nature where all or part of the requirements cannot be precisely defined. The expectation is that the proposal offered by the highest ranked Supplier resulting from an evaluation and meeting the requirements specified in the Request for Proposal, would be accepted subject to any other provisions of the contract documents and this By-law. The ranking will generally be based on both the evaluation of the requirements and the Bid price.
- (41) **"Request for Tender"** means a request by the Municipality seeking submissions from potential Suppliers to obtain Goods and Services with a value greater than \$125,000, excluding taxes, whenever the requirements can be precisely defined.

The expectation is that the Lowest Compliant Bid meeting the requirements specified in the Request for Tender, would be accepted, subject to any other provisions of the contract documents and this By-law.

- (42) **"Services"** means services of all kinds, including labour, construction, maintenance and Professional and Consulting Services.
- (43) **"Sole Source"** means a non-competitive acquisition from a specific supplier, even though there may be more than one supplier capable of delivering the same goods or services, or a non-competitive acquisition where there is only one supplier for the source of the goods or services, due to reasons set out in Part 6 of this By-law.
- (44) **"Special Circumstance"** means:
- a. an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public of which may include any Provincial Orders;
 - b. an event that, unless immediately addressed, is likely to cause significant loss or damage to property and/or the environment;
 - c. an event that has disrupted any essential service that needs to be re-established without delay; or
 - d. an emergency as defined in the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.8, as amended, or any successor legislation thereto.
- (45) **"Supplier"** means any individual or organization offering Goods and Services including, but not limited to, contractors, consultants, vendors and service organizations;
- (46) **"Tender"** means a written detailed offer from a Supplier to supply Goods and Services to the Municipality.

2.2 Other Interpretation

Sales taxes, excise taxes, value added taxes, duties and shipping shall be excluded in determining the procurement limit of Authorized Delegates and the type of procurement process to be followed.

The dollar values identified in this By-law represent the **annual** estimated procurement value for Goods and Services to be procured. The annual estimated procurement value is the cumulative value of a particular Goods and Services in one calendar year. For multi-year Contracts, the estimated total procurement value over the term of the Contract, including any renewal periods, shall be used as the basis for determining which procurement process and Approval Authority applies.

SECTION 3 - RESPONSIBILITIES AND AUTHORITIES

Unless otherwise provided, the purchase of all Goods and Services shall be authorized in accordance with the provisions of Appendix A to this By-law.

It is the responsibility of each person, whether elected or appointed official, involved in the procurement process to understand this By-law and the meaning and intent of all sections contained in this By-law.

3.1 Finance Department

The Finance Department maintains a centralized procurement function for the Municipality and has the following responsibilities:

- a. develops, implements and maintains administrative procedures of Goods and Services and provides advice and assistance to Council, the CAO, Department Directors and Staff regarding the procurement of Goods and Services;
- b. generates Purchase Orders (PO) and ensures adequate documentation and approval;
- c. when appropriate and feasible, standardizes and coordinates the procurement of Goods and Services for multiple service areas;
- d. acts as the Municipality's representative in the purchasing function in working with departments and Suppliers;
- e. troubleshoots and assists departments and staff with purchasing related efforts;
- f. monitors purchasing activity for compliance with this Municipality's By-Law;
- g. monitors and documents performance of Suppliers based on feedback from department representatives;
- h. oversees the tender, proposal, consultant selection and quote processes from inception through to completion;
- i. monitors adherence to the provisions of this By-law and the procedures adopted for its use; and
- j. monitors, reviews and manages contractual terms secured through the procurement process to ensure compliance with this By-law.

It is understood and agreed that purchasing must involve, and cannot function without, the understanding and co-operation of all individual employees and such understanding and co-operation is an integral part of each person's regular duties and responsibilities.

3.2 Director of Finance

The Director of Finance shall have authority to administer this By-law and may establish procurement procedures consistent with this By-law to:

- a) delegate authority to review contracts and procurement processes;
- b) establish administrative procedures and policies for the implementation of this By-law; and
- c) establish standards for Bid Solicitations, Contracts and other documents.

3.3 Chief Administrative Officer (CAO)

The CAO shall have authority to administer this By-law which includes but is not limited to:

- a) instruct Department Directors not to award contracts, and to submit recommendations to Council for approval, and may provide additional restrictions concerning procurement where such action is considered necessary;
- b) during the time that regular Council meetings are suspended, during a period of recess, or for an Emergency or Special Circumstance, the CAO shall be authorized to award contracts as a result of a Solicitation that normally would require Council approval, provided that a report is submitted to Council, as soon as reasonably possible, setting out the details of any contract awarded pursuant to this authority; and
- c) delegate spending authority limits to staff in compliance with this By-law and all applicable policies.

3.4 Department Directors

Department Directors, within authority limits as outlined in Appendix A, are responsible for and shall have the authority to:

- a) call, receive, open and review Bids within their spending thresholds as per Appendix A;
- b) request the Finance Department to issue a Purchase Order (PO) for Goods and Services valued at greater than \$5,000;
- c) provide suitable documentation according to processes as set out in this By-Law.
- d) assist the Finance Department with preparation of the terms and conditions of Bid Solicitations;
- e) review proposed Bid Solicitations to ensure clarity, reasonableness and quality and advise staff of suggested improvements;
- f) monitor the performance of Suppliers and provide feedback to the Finance Department;
- g) advise Finance Department before disposal of goods;
- h) act on behalf of the Municipality, and from time to time, other boards, agencies and municipalities, for the purposes of the joint purchase of Goods and Services;
- i) ensure open, fair and impartial purchasing processes for goods and/or services;
- j) ensure compliance with this By-law and advise the Finance Department when there has been non-compliance;
- k) develop co-operative purchasing plans with other units of government or their agencies or public authorities, where deemed beneficial to the Municipality;
- l) identify Accessibility requirements which should be part of the procurement process, as noted in AODA Accessibility Requirements, if applicable;
- m) promote the standardization of Goods and Services, where such

standardization demonstrates and supports the purposes, goals and objectives of this By-law; and

- n) Department Directors are authorized to sign contracts in accordance with the Appendix A and / or Council Approval.

Department Directors, along with the Director of Finance, may appoint in writing Department Representatives who shall be responsible for the purchasing of Goods and Services and oversight up to the value of their prescribed authority, and shall have the following specific responsibilities:

- a) ensure that all Contract terms and conditions comply with the Bid Solicitation;
- b) prepare all terms and conditions and specifications of Bid Solicitations;
- c) request issuance of Purchase Order (PO) for goods and services valued at greater than \$5,000;
- d) manage Contracts to ensure Goods and Services are received by the Municipality and comply with Contract terms and conditions;
- e) monitor all Contract expenditures and ensure that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
- f) monitor the performance of Suppliers and provide feedback to the Finance Department;
- g) implement financial controls that meet audit requirements of the Municipality to ensure that those responsible for requisitioning and purchasing Goods and Services are held accountable for their decisions;
- h) standardize the use of Goods and Services, where such standardization demonstrates and supports the purposes, goals and objectives of this By-law; and
- i) ensure that all Goods and Services purchased have been received and invoices coded and sent to Finance in a timely fashion.

3.5 Municipal Employees with Prescribed Authority

Each employee granted prescribed authority is responsible and therefore accountable when authorizing a purchase in the name of the Municipality, which constitutes a commitment by the Municipality to honour the purchase of Goods and Services from Suppliers.

Notwithstanding any other provision of this By-law, the following Awards require Council approval:

- i. For Capital projects, the recommended Award exceeds by 10% of the amount budgeted;
- ii. the authority to Award has not been clearly delegated to staff of the Municipality; or
- iii. the recommended Award is not the Lowest Compliant Bid for purchases over \$100,000.

Employees or officers of the Municipality identified in Appendix A shall have the authority to execute Contracts and all other documents necessary to effect the Award

or Purchase of Goods and Services, up to the prescribed limits, provided that the Award or Purchase and related documents have been prepared in a form that complies with this By-law.

3.6 Separation of Roles and the Role of Council

In accordance with the 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.

To facilitate Council's oversight role in respect of certain Procurements, procurements may require Council approval. Council may require Council's authority to either initiate specific procurements or approve Awards. Examples of such procurements are those that are of high value or involve significant risk, security concerns or significant community or governance interest.

To avoid the potential appearance of bias or political influence in Awards, members of Council will have no involvement in any Procurement from the time such Procurement is initiated until a contract has been entered into with the successful bidder, except where Council is required to approve the Award.

SECTION 4 – BID BONDS AND INSURANCE

Persons with Authority shall select the appropriate means to guarantee execution and performance of a contract.

Means may include, but are not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, holdbacks, and insurance provisions. Means shall be set out in the bid specifications or Bid Solicitation as required. Means are not exclusive and more than one means are appropriate in many situations.

4.1 Bid Bond Deposit

Bid deposits of no less than 10% shall be required to accompany all bid submissions except in special contracts or scope of work as deemed appropriate by the Finance Department and Department Director.

A bid deposit shall be provided in Canadian currency and one of the following formats:

- a) A bid bond or an agreement to bond issued by a bonding agency currently licensed to operate in the Province of Ontario naming The Corporation of the Town of Erin as the obligee. A copy of the Bid Bond included with Bid Submission on the Procurement Bidding Site is acceptable.
- b) A certified cheque made payable to The Corporation of the Town of Erin.
- c) An irrevocable letter of credit naming The Corporation of the Town of Erin as the beneficiary.

- d) Money orders made payable to The Corporation of the Town of Erin.

All bid deposits must be original documentation, (or copy included with Bid Submission), signed and sealed as appropriate. No faxed or photocopies will be accepted. The Municipality is authorized to cash and deposit any bid deposit in the Municipality's possession that is forfeited as a result of non-compliance with any of the terms, conditions and/or specifications of a sealed bid. The Municipality does not pay interest on any bid deposits.

4.2 Bonding / Letters of Credit Requirements

Performance, Labour and Material and/or Maintenance Bonds are required for all construction projects exceeding \$100,000.00 for 100% of the bid amount.

All bonds/letters of credit must be originals, signed and sealed. No faxed or photocopies will be accepted.

Bonds shall be issued by reputable Bonding Companies licensed to carry on business in Ontario. Bid bonds must be irrevocable and open for bid acceptance for at least ninety (90) days from the date of bid opening.

4.3 Insurance Requirements

Prior to the commencement of work and where deemed appropriate, evidence of insurance coverage satisfactory to the Finance Department must be obtained, ensuring indemnification of the Town of Erin from any and all claims, demands, losses, costs or damages resulting from the performance of a supplier's obligations under a contract. A certificate of insurance must be submitted through the Municipality's bidding system for approval, prior to commencement of any service or work.

The standard insurance minimums are as follows:

- \$2 million – general liability policy
- \$2 million – automobile liability policy
- \$2 million – homeowners (e.g. for rental of facilities)
- \$5 million – general liability and automotive liability policies – for contract work done for most Roads, Water and Environmental projects
- \$2 million – professional errors and omissions liability Builder's Risk – the amount of the project cost

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

The successful bidder must furnish the Municipality at its cost a "certified copy" of a liability insurance policy insuring it as named insured and covering public liability and property damage for no less than the minimum amounts stated in section 5 to the satisfaction of the Municipality and in force for the entire contract period. The policy must contain:

- a) A "Cross Liability" clause or endorsement;
- b) An endorsement certifying that **The Corporation of the Town of Erin** is included as an additional named insured;

- c) An endorsement to the effect that the policy or policies will not be altered cancelled or allowed to lapse without thirty days prior written notice to the Town of Erin.

Contractor's Liability Insurance Policy shall not contain any exclusions of liability for damage, etc. to property, building or land arising from:

- a) The removal or weakening of support of any property, building or land whether such support is natural or otherwise.
- b) Occupational Health and Safety Act
- c) In order to avoid any misunderstanding as to the nature of the work to be performed herein, the Contractor, by executing this Contract unequivocally acknowledges that he is the Constructor within the meaning of the Occupational Health and Safety Act and amendments thereto.

Contractors and subcontractors may be required to:

- a) Demonstrate establishment and maintenance of health and safety program with objectives and standards consistent with applicable legislation and with the Municipality's health and safety policy and requirements.
- b) Ensure that workers in their employ are aware of hazardous substances that may be in use at place of work and wear appropriate personal protective equipment requirements.

4.4 WSIB Requirements

WSIB Certificates of Clearance must be submitted through the Municipality's bidding system prior to the commencement of a project and must comply with Provincial regulations. Prior to final payment to a Supplier, a WSIB Certificate of Clearance shall be obtained ensuring all premiums or levies have been paid to the Board to date.

The Contractor must show proof of current registration and proof of good standing with the Workplace Safety Insurance Board by providing a W.S.I.B. Independent Operator Status to the department contracting the service. Project contractors are to provide proof of good standing with the W.S.I.B.

SECTION 5 - PROCUREMENT PROCEDURES

5.1 Requirement for Approved Funds

The exercise of authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.

Where Goods and Services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a Contract is subject to the following:

- a) the identification and availability of sufficient funds in appropriate accounts for the current year within the Budget;
- b) the Goods and Services will continue to be required in subsequent years and, in the opinion of the Department Director or Designate, the required funding can reasonably be expected to be made available; and
- c) the Contract includes a provision that the supply of Goods and Services in subsequent years is subject to the approval by Council of the Budget estimates to meet the proposed expenditures.

5.2 Approval Guidelines

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

5.3 Bid Closing and Openings

- a) The Finance Department will determine appropriate bid closing and opening procedures.
- b) All Bids with estimates exceeding \$100,000 will be opened with unofficial results posted on the Procurement bidding site.
- c) Notwithstanding the provisions of this By-law s, the Municipality shall have the right to reject the lowest or any Bid at its sole discretion. The Municipality also reserves the right to reissue the bid document in its original format or modified as best suits the requirements of the Municipality.

SECTION 6 - PROCUREMENT TYPES

Any person acquiring Goods and Services, on behalf of the Municipality, shall do so in accordance with this By-law.

Method of Solicitation -The method of solicitation may take the form of one of the following:

- Request for Quotation (RFQ) - Informal and Formal Quotations
- Request for Tender (RFT)
- Request for Proposal (RFP)
- Request for Pre-Qualification (RFPQ)
- Request for Information (RFI)
- Expression of Interest (EOI)

6.1 Low Dollar Value Purchases – Less than \$35,000

A Department Director or Designate may procure Goods and Services if the following criteria are met:

- the estimated total value of the Goods and Services is less than \$35,000;
- it can be demonstrated the purchases were made at Fair Market Value;
- A direct invoice from the supplier is approved and signed by the initiating department director or designate.

6.2 Informal and Formal Quotations

Informal Quotations – Between \$35,000 - \$75,000

Where the requirement for Goods and Services can be specified and it is estimated that the total value is **\$35,000** or more, but less than **\$75,000**, the initiating Department

Director or Designate shall solicit and review a minimum of three written, fax, internet or email quotes from different Suppliers. All Suppliers must receive the same Bid criteria and instructions. Informal quotes shall be completed on the Informal Quotes Template as identified in Procurement Procedures. If the pricing is within the approved budget, the Department Director will request the Finance Department to issue a PO and attach copies of all the quotations.

A Request for Quotation may be called for lesser amounts if deemed beneficial by the Department Director or CAO and/or Director of Finance. If only one Bid is received, the Municipality may Award or exercise the right to cancel.

Department Directors shall receive informal quotes either via email or by signed letter on company letterhead, either of which may include attachments. The Department Director shall provide a copy of the informal quote to Department staff for document retention.

Request for Quotations or Request for Tender or Request for Proposal - Between \$75,000 - \$125,000

Where the requirement for Goods and Services can be specified and is estimated to be equal to or greater than a value of **\$75,000**, but less than **\$125,000**, the initiating Department Director shall issue a Request for Quotation, which includes required specifications, through the Bidding Website.

Requests for Quotation shall be called in accordance with this By-law and require a reply by a designated day and time as identified on the Bidding Website. An officer of the bidding company must sign the reply.

Sealed Bids are opened on the Bidding Website by the procurement representative in the Finance Department. Each sealed Bid received in response to a formal Request for Quotation is reviewed for completeness and accuracy by the initiating Department Director. The Department Director in consultation with, as necessary, the Finance Department and any external and internal consultants or experienced persons will select the successful Bid.

If the selected Bid is in accordance with the specifications and terms and conditions of the Request for Quotation, and is within 10% of budget, the Department Director may proceed with the purchase as approved by the CAO.

Copies of all the invoices with associated general ledger numbers are to be sent to the Finance Department for payment processing.

6.3 Request for Tender or Request for Proposal – Over \$125,000

For purchases with a total value greater than \$125,000, a Request for Quotation, Request for Tender, or Request for Proposal shall be issued, provided that:

- two (2) or more sources are considered capable of supplying the Goods and Services;

- the Goods and Services are adequately defined to permit the evaluation of Submissions against clearly defined criteria; and
- the Department Director, whose budget provides for the Procurement, shall provide the specifications, provisions, plans, relevant information, and supplemental general conditions for the Purchase.

All Tenders shall be called, opened, and awarded in accordance with this By-law and include terms and conditions for the Bid Solicitation.– Hand-delivered sealed Bids will be date and time stamped upon arrival and opened by the Director of Finance.

All Requests for Tenders shall be advertised in accordance with this By-law, except where a Request for Pre-Qualification (RFPQ) has previously been conducted. In this instance, only pre-qualified Suppliers shall be notified and Bids shall only be accepted from pre-qualified Suppliers.

All Purchases shall be authorized and executed in accordance with Appendix A.

If the Procurement is within the approved budget, is of a value greater than **\$125,000** and there are no challenges to the process by interested parties, the Department Director may proceed with the Procurement following approval from the CAO.

For Procurements with a total value **greater than \$250,000** and with no challenges to the process by interested parties, the Department Director will prepare a report to the Council for approval to proceed.

6.4 Request for Proposal (RFP)

A Request for Proposal (RFP) shall be issued when one or more of the following criteria applies:

- a) the Purchase is required as a result of a particular problem, requirements or objective;
- b) the selection of the Supplier depends more upon the effectiveness of the proposed solution, rather than the price alone; and
- c) the precise Goods and Services, or the specifications thereof, are not known or are not definable and it is expected that Suppliers will further define them.

Where it is not possible to prepare precise specifications, the Department Director will issue an RFP. An RFP will include evaluation criteria and weighting such as, but not limited to qualification, experience, strategy, approach, methodology, facilities, and equipment.

The RFP shall clearly distinguish those requirements that are deemed mandatory or non-mandatory and shall clearly outline how these items will be evaluated. All RFPs shall be called, opened and awarded in accordance with this By-law.

RFPs will be submitted as specified in the Bid Solicitation. No exemptions will be permitted.

All RFPs will be evaluated based on the evaluation criteria and process outlined in the Procurement Process established by the Municipality.

RFPs shall be advertised in accordance with this By-law, except where a list of pre-qualified Suppliers has been compiled in accordance with this By-law.

If the Procurement is within the approved budget and there are no challenges to the process by interested parties, the Department Director may proceed with the purchase.

All Purchases shall be authorized and executed in accordance with Appendix A.

6.5 Pre-Qualifications and Expressions of Interest

Request for Pre-Qualification (RFPQ) and Vendor of Record

Department Directors may conduct a Request for Prequalification (RFPQ) to develop a list of Suppliers (Vendor of Record (VOR)) that may be eligible to submit a Bid on subsequent Bid Solicitations or to develop a roster in accordance with this By-law.

If purchases from the same supplier exceed the aggregate \$100,000 or more per year, Department Directors are required to follow the RFPQ process for the Supplier to become a vendor of record and invoices will not be paid until such process has been completed. The Finance Department will monitor Supplier activity and advise Department Directors before the \$100,000 limit is reached.

Prequalification may be considered in the following circumstances:

- a) the work will require substantial project management by the Municipality and could result in a significant cost to the Municipality if the Supplier is not appropriately experienced;
- b) The goods and Services to be purchased must meet national safety standards;
- c) the work involves complex, multi-disciplinary activities, specialized expertise, equipment, materials or financial requirements;
- d) miscellaneous repairs and services as required by the Municipality such as plumbers, electricians, and drywall contractors;
- e) there could be a substantial impact on the Municipality's operations if the work is not satisfactorily performed the first time; or
- f) any other circumstances deemed appropriate by the Finance Department or respective Department Director.

An RFPQ shall be provided to potential Suppliers establishing the criteria for pre-qualification which may include, but are not limited to:

- a) experience on similar work (firm and staff assigned);
- b) references provided from other customers for similar work;
- c) verification of applicable licenses and certificates;

- d) health and safety policies and staff training; and
- e) financial capacity.

Supplier Bids will be evaluated and ranked. A short list of pre-qualified Suppliers may be invited to participate in the second step of the two-step Procurement process, being a Request for Proposal or a Request for Tender.

An RFPQ is not a legal offer but only an invitation for Suppliers to make offers to the Municipality.

Each VOR list will be updated and reviewed every three (3) years.

All RFPQs shall be conducted in accordance with submission instructions in the Bid Solicitation and this By-law.

Request for Expressions of Interest

Department Directors or Designates may conduct a Request for Expressions of Interest (RFEOI) for the purpose of determining the availability of Suppliers, compiling a list of Suppliers or determining the potential scope of work. An RFEOI may be used as a specific pre-condition of any method of Procurement used by the Municipality.

The receipt of an Expression of Interest by the Municipality does not create any obligation between the potential Supplier and the Municipality.

6.6 Request for Information

A Request for Information (RFI) can be used to identify Supplier interest and measure if there is enough interest to justify a full Request for Proposal Competition.

An RFI requests detailed information such as, but not limited to, company background, interested Suppliers, what they can offer and what they can do for the Municipality.

A reply to the RFI is required by a designated date and time to the Department Director who initiated the request and signed by an Officer authorized to legally bind the Supplier. Any resulting Bid Solicitation will be processed and advertised in accordance with this By-law.

6.7 Construction Tender/Bid Calls After Budget Adoption

Following the adoption of the budget by Council and the receipt of any necessary approval from outside agencies, the Department Director may call Tenders for budgeted Municipality construction projects and the acquisition of equipment.

6.8 Conditional Tender/Bid Before Budget Adoption

The Department Director may obtain, prior to the adoption of the budget by the Municipal Council, Sealed Bids for additional and replacement equipment, provided that the documents include a clause specifically stating that the acceptance of a bid and placing of the order is subject to budget approval by Municipal Council and the items specified are subject to change in quantity and/or deletion.

6.9 Election Recess Procedures

Where a matter, which would otherwise require Council approval pursuant to this By-law, but approval cannot be granted because approval is required:

- a) prior to the next regular scheduled Council meeting;
- b) during the recess required to conduct municipal elections; or
- c) there is a failure to obtain a quorum at a Council meeting where a contract approval was on the agenda for such a meeting; then t the following are restricted acts per S.275 (3) of the Act in relation to this Procurement By-law:
 - i. The disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
 - ii. Making any expenditures or incurring any other liability that exceeds \$50,000

6.10 Co-operative Bid Calls

Notwithstanding anything else contained in this By-law, the Department Director may join or participate with other units of government, as a named agency, including local boards, commissions and agencies, in co-operative purchasing and bulk buying of Goods and Services, if it is in the best interests of the Municipality to do so. If the Town participates with another such unit of government in co-operative purchasing the policies of the entity issuing the co-operative Bid Solicitation shall apply.

The Department Director or Manager Procurement may acquire any Goods and Services from an existing government contract if it is deemed by the Department Director or Manager Procurement to be in the best interests of the Municipality.

6.11 Emergency Purchases

- a) Where an Emergency, Special Circumstance, or a situation arises requiring immediate procurement of Goods and Services essential to prevent serious delays in the work of any Department or which might involve danger to life, health or safety of employees or the public, or to prevent property damage, then the Director of the Department shall provide the reasons that an Emergency or such situation exists and shall approve any requisition document issued under such conditions. For

an amount exceeding \$250,000, the Department Director shall issue an information update to the CAO and Council.

- b) Where the Emergency Operation Centre (EOC) has been activated or an emergency situation has been declared, the Municipality EOC plan shall supersede this By-law. Where feasible, all Goods and Services acquired during an EOC activation or a declared Emergency are to be processed on a purchase order and managed and documented through the use of a transaction log report. For amounts exceeding \$250,000, the CAO shall submit an information update to the Council.
- c) Any information updates to Council shall endeavor to provide details as to what Supplier(s) were engaged and the costs incurred as a result of procuring Goods and Services to resolve the Emergency or Special Circumstance or situation in 9.11(a).
- d) Subsequent to the resolution of Emergency or Special Circumstance, all transactions require a purchase requisition to be entered to complete the Procurement process. The Department Director shall complete the Emergency Procurement Form and forward it to the Director of Finance for informational purposes.

6.12 Sensitive incumbent Supplier relationships

Where there is an incumbent Supplier on a Contract which is of a highly sensitive nature due to the risk associated with financial loss, confidentiality or the handling of sensitive information, a report shall be forwarded to the applicable standing committee of Council and Council to seek direction on the type of procurement process to be followed for the acquisition of the Goods and Services.

SECTION 7 - SOLE SOURCE PURCHASES

Bid Solicitations are not required for Sole Source Purchases, provided any of the following conditions apply:

- a) the compatibility of a Purchase with existing equipment, product standards, facilities or services is a paramount consideration;
- b) there is an absence of competition for technical reasons and the goods and/or services can only be supplied by a particular Supplier and Sole Source is being recommended;
- c) an unforeseeable situation of urgency exists and the Goods and Services cannot be obtained in time by means of open procurement procedures;
- d) the Municipality has a rental contract with a purchase option and such a purchase option is beneficial to the Municipality;
- e) for matters involving security, police matters or confidential issues, in which case a Purchase may be made in a manner that protects the confidentiality of the Supplier or the Municipality;
- f) there are no bids in response to a Bid Solicitation; and/or
- g) the Supplier is selected from a roster for Professional Services that has

been developed in accordance with this By-law.

All Purchases and related Contracts made under this section shall be authorized in accordance with Appendix A.

SECTION 8 - DIRECT NEGOTIATION

Notwithstanding that Direct Negotiation may be a component of another procurement process, Direct Negotiation may be used for Purchases of Goods and Services when any of the following criteria apply:

- a) the required Goods and Services are in short supply;
- b) competition is prevented due to the existence of any patent right, copyright, technical secret or control of raw material;
- c) a Sole Source is being recommended;
- d) two (2) or more identical Bids are received and suppliers are informed in advance that a direct negotiation is occurring;
- e) the Lowest Compliant Bid received meeting all mandatory specifications exceeds the budget amount;
- f) the extension of an existing Contract would be advantageous in relation to the purposes and guidelines of this By-law;
- g) only one (1) Bid is received in response to a Bid Solicitation;
- h) a roster for Professional Services has been developed in accordance with this By-law;
- i) when negotiating rebates based upon the annual purchase value with Suppliers;
- j) when negotiating improved discounts for quick payments of invoices;
- k) when suggesting alternative products, offering equal or higher performance at lower costs;
- l) when negotiating better warranties; and no-charge extra and/or there is Council authorization to do so.

All Purchases and related Contracts made under this section shall be authorized in accordance with Appendix A.

SECTION 9 - LEASING

In certain circumstances, it may be economically advisable for the Municipality to enter into a financing lease to acquire the rights to use capital property and equipment rather than an outright purchase.

All leasing shall be authorized in accordance with Appendix A.

SECTION 10 - SUPPLIER PERFORMANCE EVALUATION

- a) on an annual basis and at the completion of every Contract for Goods and Services of \$50,000 or greater, the Client Department shall complete a Supplier Performance Evaluation Form. The Responsible Director of the Department shall ensure this performance evaluation is completed for these Contracts. Such evaluation shall be completed and a copy will be forwarded to the CAO and Director of Finance.
- b) in the event of a Supplier's unsatisfactory performance as determined by the Municipality in its absolute discretion, including the Supplier's refusal to perform or to complete performance of a Contract at any time during the term of any Contract, the Director or an Authorized Delegate of the responsible Department shall complete and forward a copy of the Supplier Performance - Incident Reporting Form as soon as reasonably possible after the occurrence.
- c) documented unsatisfactory performance on any Contract will be used to determine the eligibility of a Supplier to continue to provide Goods and Services to the Municipality on a current Contract and to determine their ability to participate on future Contracts. Any Supplier may be excluded from a bidding process due to unsatisfactory performance, where in the opinion of the Procurement Sub-Committee or Council, the commercial relationship between the Municipality and such Supplier has been impaired.
- d) the Municipality's Infrastructure & Engineering Services Department shall be responsible for the Supplier performance evaluation process with respect to linear construction Contracts issued by that department, in a format which includes feedback from area residents and elected officials.
- e) in the event of a Supplier's breach of a Contract, the Manager of Procurement in consultation with the responsible Department shall have the discretion to either:
 - i. re-issue the RFQ, RFT or RFP; or
 - ii. negotiate and enter into a new Contract for the remainder of the Contract with the second lowest bidder of the original RFT or RFQ, or the next qualified Proposal of the original RFP, whichever is in the best interests of the Municipality.

SECTION 11 - UNSOLICITED PROPOSALS

Unsolicited proposals received by the Municipality shall not be reviewed by any Municipality employee.

SECTION 12 - REPORTING

Reports to Council regarding Procurement are required when:

- a) a purchase is greater than those identified by Appendix "A";
- b) the acquisition exceeds the budgeted amount by 10%;

- c) less than three Bids were received, if required;
- d) the recommended Bid does not meet major specifications;
- e) Procurements required without a competitive bidding process;
- f) before making unspecified budget expenditures;
- g) steps taken when accessibility criteria/features during Procurement practices are not realistic or doable; and/or
- h) the Finance Department conducts performance evaluations for poor performing Professional and Consulting services.

The report will be initiated by the requisitioning Department Director and reviewed by the Finance Department. The report will include background information regarding the purpose for the procurement, the circumstances requiring Council's consideration for the procurement, and, if possible, a recommendation or recommended options for Council's consideration.

Upon approval by Council, the Department Director shall authorize the purchase and/or a Contract shall be executed as authorized by Council.

SECTION 13 - ADVERTISING

Advertising for tenders, quotations or proposals shall be posted on the Municipality website, www.erin.ca. They may also be advertised in local newspapers that have general circulation within the Municipality and/or commercial/trade publications as deemed appropriate by Finance and Department Directors. The ability of the Municipality to cancel Request for Tenders/Quotations/Proposals will be explicit in all the forms where it was originally advertised.

SECTION 14 - DISPOSAL OF SURPLUS GOODS

Where any goods or equipment defined as a capital asset are considered to be obsolete or un-repairable, the Department Director shall notify the Finance Department and issue a report declaring the item(s) to be surplus, except where the replacement of goods has already been approved as a trade in as part of the procurement process.

Surplus items may be disposed of through formal auction, internet offering, Request for Tender, Request for Quotation, or trade-in, whichever is in the best interest of the Municipality at the discretion of the Department Director, as approved by the Director of Finance to ensure all transactions meet pecuniary interest legislation.

All Assets disposed of shall be accepted as is or where is and without warranty or guarantee. The new owner shall assume all risk and expense associated with these Assets.

Where the item has limited market value, the Department Director may, to the benefit of the Municipality, dispose of the item in a manner other than the ones listed above.

Any revenue from the sale of scrap material or other items shall be credited to the appropriate account by the Finance Department.

SECTION 15 – CODE OF CONDUCT FOR BIDDERS AND SUPPLIERS

- a) Suppliers shall certify that they prepared and submitted their Bids independently without any connection, knowledge, comparison of figures or arrangements with any other company, firm or person making a Bid for the same work and that the Bid is in all respects fair and without collusion, bid-rigging, price-fixing, bribery, fraud or other similar behavior or practices prohibited under the Criminal Code, the Competition Act or other Applicable Law.
- b) Suppliers shall not misrepresent their qualifications and experience, or the qualifications and experience of their sub-contractors, where applicable, in relation to any Bid Request.
- c) Suppliers shall not misrepresent the quality, origin, performance, technical attributes, functionality or suitability for a purpose of any Goods and Services including their products or the products of the sub-contractors, where applicable, in relation to any Bid Request or Contract.
- d) Suppliers must declare and fully disclose with their Bid any actual or potential conflicts of interest or unfair advantage related to the preparation of their Bid or where the Bidder foresees an actual or potential conflict of interest in the performance of the Contract, should they be awarded the Contract.
- e) Suppliers awarded a Contract must declare and fully disclose to the Contract Manager any actual or potential conflicts of interest or unfair advantage related to the performance of the Contract or where the Supplier foresees an actual or potential conflict of interest in the performance of the Contract.
- f) Suppliers shall disclose to the Procurement Officer any affiliations or other relationships with other suppliers that might be seen to compromise the principle of fair competition, including any proposed or existing subcontracting relationships.
- g) no Supplier shall offer anything of any value, tangible or intangible including but not limited to rebates, gifts, meals, money or special privileges of any kind to Municipal employees, or otherwise attempt to influence or interfere with the duties of employees in relation to a Procurement process or management of a Contract.
- h) no Supplier shall offer anything of any value, tangible or intangible including but not limited to rebates, gifts, meals, money or special privileges of any kind to Council, or otherwise attempt to influence or interfere with Procurement process or Contract.
- i) Suppliers shall at all times comply with Municipality policies for ethical conduct, including the Supplier Code of Conduct and the Respectful Workplace Policy.
- j) Suppliers shall at all times maintain confidentiality of any confidential Municipality information disclosed during a Procurement process or in the performance of any Contract.
- k) Suppliers shall pay, in full, all outstanding payments (and, where applicable, interest and costs) owing to the Municipality by such Supplier, after the Municipality has made demand for payment of same;
- l) Suppliers shall follow reasonable directions of the Municipality;
- m) Supplies shall cure a default under any Contract with the Municipality as and when

- required by the Municipality;
- n) Suppliers shall enter into a Contract with the Municipality after the Supplier's Bid has been accepted by the Municipality;
 - o) Suppliers shall not,
 - 1. over-bill or double-bill;
 - 2. retained a known over-payment or fail to notify the Municipality of an over-payment or duplicate payment;
 - 3. bill for items not supplied;
 - 4. bill for items of one grade, while supplying items of an inferior grade;
 - 5. submit false or misleading information to the Municipality;
 - 6. act in conflict with the Municipality's interests;
 - 7. misappropriated any property or right of the Municipality, in any form; or
 - 8. commit any other form of sharp or deceptive practice;

Any Supplier found to be in breach of this Section 18 is subject to disqualification from bidding and termination of any Contracts they may have with the Municipality.

SECTION 16 – SUPPLIER ELIGIBILITY

- (1) Without limiting or restricting any other right or privilege of the Municipality and regardless of whether or not a Bid otherwise satisfies the requirements of a Request for Pre-qualifications, RFP or RFT, the Municipality may reject any Bid from a Supplier where,
 - (a) in the opinion of the Municipality, the commercial relationship between the Municipality and the Supplier has been impaired by the act(s) or omission(s) of such Supplier including but not limited to any one or more of the following having occurred within the five year period immediately preceding, or any time after and prior to Award, the date of the respective Bid Solicitation:
 - (i) contravened the Code Conduct for Bidders and Suppliers in Section 15 of this By-Law;
 - (ii) the Supplier being involved in Litigation with the Municipality;
 - (iii) act(s) or omission(s) resulting in a claim by the Municipality under any security submitted by the Supplier on a RFP or RFT, including but not limited to a bid bond, a performance bond, or warranty bond;
 - (iv) the Supplier's unsatisfactory performance as determined by the Municipality in its absolute discretion, including the Supplier's refusal to perform or to complete performance of a Contract with the Municipality;
 - (v) the Supplier having unlawfully or unreasonably threatened, intimidated, harassed, or otherwise interfered with an attempt by any other prospective Supplier to bid for a Contract or to perform any Contract awarded by the Municipality to that Supplier;
 - (vi) the Supplier having discussed or communicated, directly or indirectly, with any other Supplier or their agent or representative about the preparation of the Supplier's Bid including, but not limited to, any connection, comparison of figures or arrangements with, or knowledge of any other Supplier making a Bid for the same work except in the

instance of a Joint Venture where one is permitted.

- (vii) the Supplier having threatened, intimidated, harassed, assaulted or committed battery against, or otherwise harmed or interfered with an official, employee, representative, agent or independent consultant or contractor of the Municipality in the performance of his or her duties or in any way attempted to influence such persons;
 - (viii) any other act or omission by the Supplier that the Municipality deems to impair the commercial relationship between the Municipality and the Supplier.
- (b) in the opinion of the Municipality, there are reasonable grounds to believe that it would not be in the best interests of the Municipality to enter into a Contract with the Supplier, including but not limited to:
- (i) the conviction of that Supplier or any person with whom that Supplier is not at arm's length within the meaning of the *Income Tax Act (Canada)* of an offence under any taxation statute in Canada;
 - (ii) the conviction or finding of liability of that Supplier under the *Criminal Code* or other legislation or law, whether in Canada or elsewhere and whether of a civil, quasi-criminal or criminal nature, of moral turpitude including but not limited to fraud, theft, extortion, threatening, influence peddling and fraudulent misrepresentation;
 - (iii) the conviction or finding of liability of that Supplier under any environmental legislation, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Supplier for the environmental well-being of the communities in which it carries on business;
 - (iv) the conviction or finding of liability of that Supplier relating to product liability or occupational health or safety, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Supplier for the health and safety of its workers or customers;
 - (v) the conviction or finding of liability of that Supplier under the financial securities legislation whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Supplier for its stakeholders.

(2) For the purposes of subsections (2), (5), (6), (8), (9) and (10) of this SECTION 16, a reference to a Supplier shall also include: an officer, a director, a majority or controlling shareholder, or a member of the Supplier, if a corporation; a partner of the Supplier, if a partnership; any operation to which the Supplier is an affiliate of or successor to, or an officer, a director or a majority or controlling shareholder of such corporation; a Joint Venture; and any person with whom that the Supplier is not at arm's length within the meaning of the *Income Tax Act (Canada)*.

(3) In the circumstances described in subsections (2) and (9), the Municipality may, in addition or in the alternative to rejecting a Bid from a Supplier, ban a Supplier from competing for or being awarded any Contract for a period of up to ten years.

(4) Without limiting or restricting any other right or privilege of the Municipality, the Municipality may refuse to enter into a Contract with a Supplier where any of the circumstances described in (2)(a), (2)(b) or (9) of this SECTION 19 have occurred

within the five year period preceding the date on which the refusal to enter into the Contract is approved by Council. In addition, or in the alternative to refusing to enter into the Contract, the Municipality may ban a Supplier from competing for or being awarded any Contract for a period of up to ten years as approved by Council

- (5) Except with the prior express written consent of the Municipality,
- (a) a Supplier and its representatives shall not act on behalf of the Municipality with respect to any matter, issue or in connection with any property in which the Supplier or any employee or subcontractor of the Supplier has a direct or indirect pecuniary interest, including any contingent interest;
 - (b) a Supplier shall not act in any case where there may be any conflict of interest between it and the Municipality, and each Supplier shall notify the Municipality, in writing, immediately of any potential conflict of interest that may arise prior to the award of any contract and fully disclose any details thereof;
 - (c) before submitting any Bid to act on behalf of the Municipality, the Supplier shall exercise reasonable due diligence to confirm that there is no conflict of interest within the contemplation of this subsection; and
 - (d) failure on the part of a Supplier to declare a conflict of interest to the Municipality and to obtain the Municipality's prior express written consent to waive the conflict of interest shall result in the Supplier being ineligible to Bid and shall form a basis for rejection of a Bid submitted to the Municipality.
- (6) Where the Contract is awarded to a Supplier who has made an unauthorized amendment to the Municipality's pre-printed forms (e.g. *Form of Proposal* or *Form of Tender*) or other documents submitted as part of the Supplier's Bid, then within a reasonable time of the Municipality discovering that unauthorized amendment, the Municipality may,
- (a) permit the Supplier to withdraw an unauthorized amendment to the Municipality's *Form of Proposal* or *Form of Tender*, at no cost to the Municipality;
 - (b) cancel or terminate the Contract without any compensation whatsoever to the Supplier by giving written notice to that effect to the Supplier;
 - (c) recover from such Supplier any amounts the Municipality paid to the Supplier and all costs, expenses, damages and losses incurred or accrued by the Municipality as a result of the unauthorized amendment; or
 - (d) ban such Supplier from competing for or being awarded any Municipality Contract for a period of up to ten years where, in the opinion of Council, the change was made by the Supplier as part of a deliberate attempt to deceive and such deception has resulted in an impairment of the commercial relationship between the Municipality and such Supplier, or any combination of the foregoing.
- (7) No Lobbying and Single Point of Contact
- (a) A Supplier and its representatives are prohibited from engaging in any form of public comment, political statement or other lobbying, of any kind whatsoever, that may or could influence the outcome of the Bid Solicitation and therefore

shall not:

- (i) advocate any interest that is affected, actually or potentially by the Bid Solicitation process or individuals involved in the Bid Solicitation process, including seeking to influence the outcome of the Bid Solicitation process or subsequent Award other than through the submission of a Bid;
- (ii) make any public comment, respond to questions in a public forum, or carry out any activities to publicly promote or advertise their qualifications, their service or product, or their interest in a Bid Solicitation;
- (iii) communicate with the Municipality regarding a Bid Solicitation except through the Procurement Administrator or Designate identified in the Bid Solicitation, who shall be the single point of contact for that Bid Solicitation. Having a single point of contact for the Bid Solicitation is intended to allow all other persons involved with the Bid Solicitation on behalf of the Municipality to avoid any perception of a conflict of interest and to conduct the procurement set out in the Bid Solicitation in as fair and objective a manner as possible;
- (iv) make any attempt to contact, directly or indirectly, any of the following persons, with respect to a Bid Solicitation,
 1. any member of an evaluation team;
 2. any member of a costing team;
 3. any expert, independent consultant or other advisor assisting the Municipality;
 4. any elected Municipality official;
 5. any staff of the Municipality or its advisors; or
 6. any other persons connected in any way with the procurement document,

until such time when the Bid Solicitation is cancelled or awarded. If paragraph 7 is not adhered to in any instance, the bidder shall be disqualified from the bidding process.

- (b) A Supplier who has been awarded a Contract shall not engage in any contact or activities in an attempt to influence any elected Municipality official or Municipality staff with respect to the purchase of additional enhancements, requirements, options or modules. A Supplier may communicate with the Municipality and Municipality staff for the purposes of administration of the Contract during the term of the Contract.

The determination of what constitutes an attempt to influence shall be at the sole discretion of the Municipality, acting reasonably, and is not subject to challenge.

- (c) The restrictions outlined in subsections (a) and (b) do not preclude the Supplier from pursuing its remedies.

- (8) Where the Procurement Administrator has demonstrated and is satisfied that there is sufficient evidence of act(s) or omission(s) described in this SECTION 16 on the part of a Supplier, the Procurement Administrator may impose an interim ban upon the Supplier from competing or being awarded any Contract, under the following circumstances:

- (a) while an investigation is being conducted by the Procurement Administrator;

- (b) while there is documented poor performance or non-performance that has not been resolved to the Municipality's satisfaction and which has impaired the commercial relationship between the Municipality and the Supplier such that the Supplier ought to be precluded from submitting bids on other contracts until the Supplier performance issues have been rectified; or
- (c) when a Supplier has been found to be in breach of a Contract and which breach has impaired the commercial relationship between the Municipality and the Supplier such that an interim ban is necessary in order to preclude the Supplier from submitting bids on other contracts pending Litigation or a final ban.

The interim ban may be imposed for a period of up to 12 months. The Procurement Sub- Committee's decision shall be final with respect to the interim ban.

- (9) Where an interim ban is imposed under subsection (10), the Procurement Administrator shall, prior to the expiry of the interim ban, report to the appropriate standing committee of Council the status of the investigation and any recommendations for further action.

SECTION 17 – CANCELLING AND REISSUING BID REQUESTS

Bid Solicitations may be cancelled and reissued at the sole discretion of the Municipality.

SECTION 18 – NON-COMPLIANCE WITH THE PROCUREMENT POLICY

Upon non-compliance with this By-law, the relevant Department Director in consultation with the Procurement Administrator will authorize the use of a Non- Compliance with the Procurement Policy Form which outlines the circumstances behind the non-compliance issue. This process is to be used when there is a violation of this By-law consisting of one or more of the following:

- (a) the contracting of a Supplier to provide Goods and Services, not in accordance with the requirements of this By-law;
- (b) the receipt of an invoice by the Municipality from a Supplier, for Goods and Services previously acquired outside the Procurement required under this By-law;
- (c) where it can be proven that the actions or non-actions of an employee, or employee group, results in the requirement to initiate Procurement pursuant to Section 6.11 of this By-law;
- (d) splitting of purchases contrary to this By-law; and,
- (e) any and all other significant violations of this By-law.

SECTION 19 - LEGAL CLAIMS

No Bid will be accepted from any Supplier who has a claim or instituted a legal proceeding against the Municipality or against whom the Municipality has a claim or instituted a legal proceeding with respect to any previous Contract, without prior approval by Council.

SECTION 20 - ACCESS TO INFORMATION

The disclosure of information received relevant to the issue of Bid Solicitations or Awards shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, as amended.

SECTION 21 - GOODS AND SERVICES EXEMPT FROM PROCUREMENT BY-LAW

The procurement methods described in this By-law do not apply to the following goods and services:

- (a) The Town Clerk has the authority to purchase goods, services and equipment considered necessary or advisable to carry out the requirements of the Municipal Elections Act, R.S.O. 1996. The Town Clerk shall whenever possible be guided by the provisions of this By-Law and the Procurement Policy and Procedures.
- (b) Councilor/Employee Training and Education, including:
 - i. Registration, accommodation and tuition fees for conferences, conventions, courses and seminars;
 - ii. Magazines, books and periodicals;
 - iii. Memberships; and
 - iv. Staff development or workshops.
- (c) Refundable Councilor/Employee Expenses, including:
 - i. Meal allowances;
 - ii. Travel; and
 - iii. Miscellaneous Expenses.
- (d) Employee/Employer's General Remittances/Expenses, including:
 - i. Payroll Deduction Remittances;
 - ii. Council/Committee/Employee Remuneration;
 - iii. Licenses/Memberships;
 - iv. Debenture Payments;
 - v. Agencies;
 - vi. Damage Claims; and
 - vii. Insurance Premiums.
- (e) Other, including:
 - i. Wellington County/School Boards/Conservation Authority Levies;
 - ii. Utilities;
 - iii. Postage;
 - iv. Bailiff or collection agencies;
 - v. Provision of professional and skilled services to individuals as a part of approved budgets;
 - vi. Licensing; and

- vii. Any payments required to be made by the Municipality under statutory authority.

SECTION 22 - PROCUREMENT BY-LAW REVIEW

The Finance Department shall submit an annual procurement information report to the Council to provide a summary of the Municipality's procurement activities for the following:

- a) the circumstances and details of any emergency purchase(s) with a procurement value equal to or greater than \$25,000; and
- b) The circumstances and details of all non-standard procurements with a procurement value equal to or greater than \$25,000.

The Finance Department, in consultation with the CAO and Department Directors, shall conduct a detailed review of this By-law on an as-required basis, but no longer than five years following its passage.

The review is to take into consideration current and future professional practices, industry standards, market conditions, Federal/Provincial Government directions/policies, technological developments and advancements and the impact that any recommended changes may have on potential suppliers to the Municipality.

The review findings are to be reported to Council for consideration.

SECTION 23 - PROCUREMENT DOCUMENTATION/FORMS

Conflict of Interest Guidelines will be included in all competitive bidding documents. A Privacy Statement, as required under The Municipal Freedom of Information and Protection of Privacy Act, will be included in all competitive bidding documents.

APPENDIX A – AUTHORITY TO AWARD

| Method of Procurement | Contract Value | Authority |
|--|------------------------|-----------------------------------|
| Direct Purchase Low dollar value / Informal Quote | Under \$35,000 | Manager or Department Director |
| Informal Request for Quotation. (Minimum 3 suppliers) | \$35,000 to \$75,000 | Manager or Department Director |
| Request for Quotation / Tender / Proposal | \$75,000 to \$125,000 | Department Director |
| Direct Negotiation/Non-Competitive (Sole Source Procurement) | \$75,000 to \$125,000 | CAO |
| Request for Tender / Proposal / Negotiation | \$125,000 to \$250,000 | CAO |
| Request for Tender (Formal bid solicitation) Request for Proposal | Greater than \$250,000 | Council |

**"Authority" means those positions listed, and includes any position which is higher in the Municipality's reporting structure.

**Dollar Ranges exclude taxes and freight

NOTE: Purchase Order requests to Finance Department for any purchase greater than \$5,000

APPENDIX B – BID IRREGULARITIES

| | |
|--|--|
| Late Bid | Automatic Rejection |
| Failure to attend a mandatory site visit | Automatic Rejection |
| Supplier not previously qualified under related prequalification process where applicable | Automatic Rejection |
| Bid Bond – not submitted or not in the acceptable form | Automatic Rejection |
| Amount of Bid Bond – incorrect and/or insufficient | 48 Hours to rectify (after staff review) |
| Agreement to Bond – not submitted or not in the acceptable form. | Automatic Rejection |
| Agreement to Bond – amount is incorrect and/or insufficient | 48 Hours to rectify (after staff review) |
| Partial Submissions – Part Bids – all items not bid | Acceptable only if Bid Solicitation allows for partial items to be bid on, otherwise automatic rejection. |
| Qualified Bids – Bids qualified or restricted by an attached statement | Automatic rejection unless, in the opinion of the Authority, the qualification or restriction is trivial or not significant. |
| Bids Containing Minor Clerical Errors | Manager of Purchasing and Authority shall have the authority to waive irregularities, which they jointly consider to be minor. |
| Mistakes in Tendering – on the application of the tenderer and the demonstration of an error in the bid or the tenderer's calculation sheets | Following consultation with the bidder, where applicable and requested, the Authority and the Manager of Purchasing may allow the Bid to be withdrawn and the Bid Bond returned. |
| Other Minor Irregularities | Manager of Purchasing and the Authority shall have authority to waive irregularities, which they jointly consider to be minor. |
| Any Irregularity | Despite the provision herein contained, Council may waive any irregularity where it considers it to be in the best interest of the Town of Erin. |

Activity List 2024

| | Description of Request | Responsibility | Date Directed | Suggested Completion | Status |
|---|---|------------------------|---------------|----------------------|---|
| 1 | Recommendation report to Council required regarding the disposition of two residential lots as outlined within report PD2022-15. | Planning & Development | 27-Apr-23 | TBD | Town to initiate severance applications to create two lots and apply for an OPA and ZBA. |
| 2 | Recommendation report to Council required regarding Z23-02, Blackthorn Development Corporation, 63 & 63A Trafalgar Road. | Planning & Development | 8-Jun-23 | TBD | Final recommendation report for the OPA considered on April 11 th . A Public Meeting was held on May 9 th regarding the ZBA and a recommendation report will be presented to Council for their consideration at a future meeting. |
| 3 | Commitment to the creation of Green Community Standards. | Planning & Development | 27-Jun-24 | Q4 | Staff are currently reviewing past work completed respecting Green Community Standards. A staff task team will be started in November of 2024, with reporting back to Council in 2025. |
| 4 | Staff were directed to dispense with the newly adopted logo, assemble variations of the previously reviewed icons, and consult the public on a possible new design before implementation of the final design. | CAO | 10-Oct-24 | TBD | TBD |



THE CORPORATION OF THE TOWN OF ERIN

By-Law # 24 – 48

A By-law to establish the procurement policies and procedures for the acquisition of goods and services for the Town of Erin and to repeal By-Law 17-39

Whereas, the Municipal Act, S.O. 2001, c. 25, Part VI, Section 270(1) stipulates that a municipality shall adopt and maintain policies with respect to its procurement of goods and services;

And Whereas, the Corporation of the Town of Erin has hereby undertaken a comprehensive review of its procurement processes to identify accountability, transparency, and efficiency improvements;

And Whereas, the Council of the Corporation of the Town of Erin deems it desirable to repeal, in its entirety, By-law 17-39, and pass a new by-law with respect to the procurement of goods and services;

Now Therefore, the Council of the Corporation of the Town of Erin hereby enacts as follows:

1. That Schedule "A" attached hereto and forming part of this by-law is to be known as the Town of Erin "Procurement Policy and Procedures".
2. That By-law 17-39 is hereby repealed.
3. And that this By-law shall come into force and take effect upon the day of its passing.

Passed in open Council on October 24, 2024.

Mayor, Michael Dehn

Town Clerk, Nina Lecic

Schedule “A” to By-law 24-48

PROCUREMENT POLICY AND PROCEDURES

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SECTION 1 – PURPOSE AND GUIDELINES

1.1 Purposes

This By-law is the basis by which the Municipality complies with the Municipal Act, 2001, c.25 Part VI, s.270 which requires that the Municipality shall establish policies with respect to the procurement of Goods and Services, with respect to:

- a) the types of procurement processes that shall be used;
- b) the goals to be achieved by using each type of procurement process;
- c) the circumstances under which each type of procurement process shall be used;
- d) how the integrity of each procurement process will be maintained;
- e) how the interests of the municipality or local board, as the case may be, the public and persons participating in a procurement process will be protected;
- f) how and when the procurement processes will be reviewed to evaluate their effectiveness; and
- g) any other prescribed matter.

In addition to compliance with the Municipal Act, 2001, this By-law has the following purposes:

- a) **Best Value:** To achieve Best Value for the Municipality, realizing optimum quality, quantity, price, delivery and performance. The primary objective of the procurement process is to acquire Goods and Services at the lowest possible cost, consistent with the demands of suitability, quality, service, and delivery capabilities.
- b) **Efficient/Effective Procurement:** To procure in the most efficient and cost-effective manner Goods and Services, with consideration to the Municipality's administrative capacity to support Procurement processes.
- c) **Openness and Transparency** To encourage open competitive bidding for the acquisition or disposal of all Goods and Services based on a clear definition of the Goods and Services required and a clear outline of the criteria used in the evaluation.
- d) **Objectivity:** Procurement of Goods and Services will be approached in an unbiased and non-discriminatory way and not be influenced by personal preferences, prejudices or interpretations.
- e) **Ethical Procurement:** To adhere to high standards of ethical conflict and avoid conflicts of interest of the Town and those involved in all Procurement.
- f) **Accountability:** To clearly delegate responsibility for procurement obligations and results to achieve administrative efficiency and accountability for those persons having Authority.
- g) **Fairness:** The procurement policies and processes will be applied equally to all bidders.

1.2 Guidelines

All persons shall follow the following guidelines in relation to Procurement:

Confidentiality- There shall be no informal contact between Municipality staff or elected officials involved in any Procurement with potential Suppliers during the Procurement process through to award.

Open Market Procurement - Except as otherwise stipulated or as appropriate given the purposes of this By-law, any Procurement shall be made on a competitive basis and in accordance with applicable federal, provincial and municipal laws and the Municipality's Code of Conduct and the Municipal Conflict of Interest Act.

Splitting of Purchase Prohibited -Where Goods and Services are required in connection with one Procurement, all of those Goods and Services shall be included in determining the total cost for the purposes of this By-law and no requirement for Goods and Services shall be divided to avoid any provision of this By-law.

All Costs Considered – Generally, purchasing shall be completed in a manner that considers the material factors in evaluating Bids from responsive and responsible V e n d o r s , rather than a manner that bases a decision solely on the lowest Bid price including ongoing cost commitments. Dollar amounts shown in this By-law setting parameters for any Procurement shall be the total cost including applicable taxes and freight, except as otherwise stated.

Local Preference - The following two legislative documents prohibit municipalities from adopting a local preference policy:

- The Discriminatory Business Practices Act (R.S.O. 1990, Chapter D12), as amended; and
- The Canadian Government's implementation of the Agreement of Internal Trade.

Local preferences are only permitted where, in the determination of the Finance Department, a competitive market exists, and two or more compliant Bids are received and are identical in price, and provide suitability, quality, service, and delivery are similar, then priority of acceptance may be made first for a local Bid, if any then, for a regional Bid, if any. Otherwise, the Finance Department, will proceed to procure 'best and final offers' from the Suppliers involved in order to break the tie.

Aggregate Materials - The Town of Erin is committed to responsible practices and aggregate materials that have been extracted in a socially and environmentally responsible manner. Where cost and availability are equivalent, Cornerstone Standards Council (CSC) Certification will be part of the evaluation criteria of bid documents to supply aggregate materials.

Risk Management – Minimizing risk to the Municipality is a key consideration in all Procurement. This includes persons with Authority selecting the appropriate means to guarantee execution and performance of a contract, as set out in Section 6 of the By-Law. Means may include, but are not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, and/or holdbacks. Appropriate guarantees shall be set out in the bid specifications or Bid Solicitation as required.

1.3 Scope of By-law

The purchasing procedures set out in this By-law shall apply to the Procurement of all Goods and Services made by or on behalf of the Municipality except as may be expressly exempted or restricted under this By-law or otherwise by Council.

Where Provincial and/or Federal Governments impose unique requirements in order to qualify for funding, the Municipality's Bid Solicitation and Contract will be amended to include those provisions

No Procurement shall be made under this By-law unless Council has provided funds for such Procurement in the budget or otherwise agreed to the provision of such funds and no expenditure shall be authorized or incurred in excess of such funds.

Despite any other provision of this By-law, Council may authorize any Purchase or method of Procurement where to do so would be in the best interests of the Municipality.

No Procurement or Purchase shall be arranged or made to avoid the application of this By-law. Without limiting the generality of the foregoing, no Procurement of Deliverables shall be divided into two or more parts for the purpose or intent of, or with the effect of, avoiding or frustrating the application of this Bylaw.

It should be the intent of the Departments to procure Goods and Services of like nature as a combined effort.

No purchases shall be made by the Municipality directly or indirectly for the personal use of any member of Council or any member of a local board or for any officer or employee of the Municipality.

1.4 Procurement Policies and Processes

Procurement processes developed by the Finance Department and approved by the CAO, are to be used as a guideline in compliance with this By-law and any related legislation.

SECTION 2 - Interpretation

2.1 Definitions

In this By-law, the following terms shall have the meanings indicated:

- (1) "**Applicable Law**" means any applicable federal, provincial or municipal law, statutes, as accepted by the Municipality
- (2) "**Asset**" means physical property (e.g. furniture, equipment, vehicle, etc.) other than real estate or natural resources owned by the Municipality and possibly having a permanent asset label affixed;

- (3) **"Authority or Authorized"** means the right to conduct the subject task as directed by Council and delegated through the Office of the Chief Administrative Officer to Department Director (or Director of Finance);
- (4) **"Authorized Purchases"** are those purchases that have prior approval of Council either through resolution or through the approval of the annual Departmental budget (budget process and adoption) but not per line items within the budget.
- (5) **"Award"** means the selection of the bidder and the bidder's Goods and Services, as accepted by the Municipality.
- (6) **"Best Value"** means the optimal balance of evaluated factors and cost to achieve the Municipality's objectives for the Procurement.
- (7) **"Bid"** means a proposal, offer or submission from a Bidder received in response to a Bid Solicitation which is subject to acceptance or rejection by the Municipality;
- (8) **"Bid Request"** means a solicitation from the Municipality to potential Bidders to submit a Bid.
- (9) **"Bid Bond"** means a cash deposit issued as part of a bidding process by the contractor to the Municipality, to attempt to guarantee that the winning bidder will undertake the contract under the terms at which they bid. The bid bond assures and guarantees that should the bidder be successful, the bidder will execute the contract and provide the required surety bonds.
- (10) **"Bid Solicitation"** means a formal request for Bids including a Request for Expression of Interest; Request for Information; Request for Pre-Qualification; Informal Request for Quotation; Request for Quotation; Request for Proposal or Request for Tender;
- (11) **"By-law or Procurement By-law"** means the Municipality's By-Law, as amended, which pertains to the Procurement of Goods and Services.
- (12) **"Chief Administrative Officer" or "CAO"** means the Chief Administrative Officer of the Municipality or Designate.
- (13) **"Compliant Bid"** means a Bid that meets the terms and conditions of the Bid Solicitation and this By-law;
- (14) **"Conflict of Interest"** means a situation where a personal, business or other interest of an employee of the Municipality is in conflict with the interests of the Municipality, and includes, but is not limited to:

- a. the giving or receiving of a direct personal gain or benefit, or a direct advantage or privilege, by any person or business that offers Goods and Services to the Municipality;
 - b. direct interest in any business that provides Goods and Services to the Municipality;
- (15) **"Contract"** means a binding agreement between the Municipality and a Supplier for the supply of Goods and Services that incorporates the requirements outlined in a Bid Solicitation and Bid.
- (16) **"Cooperative Procurement"** means a procurement process conducted jointly by the Municipality and two or more public procurement entities.
- (17) **"Council"** means the elected members of Council of the Town of Erin, comprised of the Mayor and Councilors or designates.
- (18) **"Department"** means an organizational unit of the Municipality headed by a director including any division within a Department;
- (19) **"Department Director"** means the Director or the Manager of the Department making the Purchase.
- (20) **"Designate"** means a person authorized in writing to act on behalf of another during his or her absence, which written authorization has been filed with the Director of Finance.
- (21) **"Director of Finance"** means the Director of Finance of the Town of Erin.
- (22) **"Direct Negotiation"** means a non-competitive procurement method and refers to the negotiation of an agreement for the purchase of Goods and Services where there is no open competition among or between Vendors;
- (23) **"Disposal Methods"** means the following methods by which an Asset, which has been determined to be Obsolete, Scrap or Surplus, may be disposed of through:
- a) On-line public auction;
 - b) Public Auction;
 - c) Sealed Bid;
 - d) Trade-in on replacement Asset;
 - e) Direct sale; or
 - f) Donation.
- (24) **"Emergency"** means a situation where it has been determined that a threat to public health, or life, or property or the environment exists such that the immediate Procurement of Goods and Services is essential to prevent serious delays, or damage to persons or property, or to restore or maintain essential Municipality services

- (25) **"Fair Market Value"** means the price that would be agreed to in an open and unrestricted market between knowledgeable and willing parties dealing at arm's length who are fully informed and not under any compulsion to transact;
- (26) **"Goods and Services"** means tangible and intangible goods and services of all kinds, including but not limited to supply, material, equipment, structures and fixtures to be delivered, installed and/or constructed, licenses and subscriptions, Professional and Consulting services and includes the provision either goods or services; they take the form of an expense to the Municipality or may be revenue generating and may include warranty, installation, training, inspection, maintenance, conversion costs and repairs and related procurement services, but does not include land purchases, sales and property leases.
- (27) **"Irregular Result"** means the occurrence or likely occurrence in connection with any method of purchase where competitive bids or proposals are submitted, of any of the following:
- a. two or more identical Compliant low bids or proposals have been received;
 - b. the lowest Compliant bid or proposal exceeds the estimated cost or budget allocation;
 - c. all bids or proposals received are not Compliant; or
 - d. for any reason the award of the contract to or the purchase from the lowest Compliant bidder is procedurally inappropriate or not in the best interests of the Municipality.
- (28) **"Lowest Compliant Bid"** means the Compliant Bid that would provide the Municipality with the desired Goods and Services at the lowest cost;
- (29) **"MFIPPA"** means Municipal Freedom of Information Protection & Privacy Act
- (30) **"Negotiation"** means a procurement method whereby the Municipality may negotiate directly with one or more Suppliers with the intent to award a Contract or extend an existing Contract;
- (31) **"Finance Department"** means the department that is responsible for the Municipality's centralized procurement function and is hereby responsible for ensuring that the procurement by-law, policies and procedures are consistently applied in the Municipality and who serves as a resource to Departments in support of the procurement function.
- (32) **"Professional/ Consulting Services"** means those services requiring the skills of professionals for a defined service requirement, including but not limited to:
- a) architects, engineers, designers, surveyors, geoscientists, project managers, consultants, auditors, accountants, medical professionals and legal counsel/advisors;
 - b) firms or individuals having specialized competence in

- environmental, planning or similar disciplines; and
- c) software, graphic design and web-design consultants and any other persons providing similar services.

- (33) **"Procurement"** means the acquisition of Goods and Services by purchase, lease, rental or exchange transaction.
- (34) **"Procurement Administrator"** means the staff member who buys goods and services for the municipality.
- (35) **"Request for Expression of Interest"** means a request used to determine market interest to provide Goods and Services that the Municipality is contemplating purchasing and may result in the determination of a short list of Suppliers to respond to a Bid Request. .
- (36) **"Request for Information"** means a request used as a general market research tool to determine the availability of Goods and Services that will meet business or operational requirements and Procurement strategies and/or to estimate costs for the purpose of developing a Bid Request.
- (37) **"Request for Prequalification"** means a request with specific qualification criteria used to identify and pre-select qualified Bidders and/or Goods for participation in multiple step Procurement processes.
- (38) **"Informal Request for Quotation"** means a request by the Municipality seeking submissions from potential Suppliers to obtain Goods and Services under \$75,000 to obtain low dollar value of goods and services expeditiously.
- (39) **"Request for Quotation"** means a request by the Municipality seeking submissions from potential Suppliers to obtain Goods and Services with a value not exceeding \$125,000, excluding taxes, whenever the requirements can be precisely defined. The expectation is that the Lowest Compliant Bid meeting the requirements specified in the Request for Quotation, would be accepted, subject to any other provisions of the contract documents and this By-law.
- (40) **"Request for Proposal"** means a request by the Municipality seeking submissions from potential Suppliers to obtain Goods and Services of a unique or complex nature where all or part of the requirements cannot be precisely defined. The expectation is that the proposal offered by the highest ranked Supplier resulting from an evaluation and meeting the requirements specified in the Request for Proposal, would be accepted subject to any other provisions of the contract documents and this By-law. The ranking will generally be based on both the evaluation of the requirements and the Bid price.
- (41) **"Request for Tender"** means a request by the Municipality seeking submissions from potential Suppliers to obtain Goods and Services with a value greater than \$125,000, excluding taxes, whenever the requirements can be precisely defined.

The expectation is that the Lowest Compliant Bid meeting the requirements specified in the Request for Tender, would be accepted, subject to any other provisions of the contract documents and this By-law.

- (42) **"Services"** means services of all kinds, including labour, construction, maintenance and Professional and Consulting Services.
- (43) **"Sole Source"** means a non-competitive acquisition from a specific supplier, even though there may be more than one supplier capable of delivering the same goods or services, or a non-competitive acquisition where there is only one supplier for the source of the goods or services, due to reasons set out in Part 6 of this By-law.
- (44) **"Special Circumstance"** means:
- a. an event that is exceptional or could not be foreseen and is likely to pose a threat to the health, safety or welfare of the public of which may include any Provincial Orders;
 - b. an event that, unless immediately addressed, is likely to cause significant loss or damage to property and/or the environment;
 - c. an event that has disrupted any essential service that needs to be re-established without delay; or
 - d. an emergency as defined in the *Emergency Management and Civil Protection Act*, R.S.O. 1990, c. E.8, as amended, or any successor legislation thereto.
- (45) **"Supplier"** means any individual or organization offering Goods and Services including, but not limited to, contractors, consultants, vendors and service organizations;
- (46) **"Tender"** means a written detailed offer from a Supplier to supply Goods and Services to the Municipality.

2.2 Other Interpretation

Sales taxes, excise taxes, value added taxes, duties and shipping shall be excluded in determining the procurement limit of Authorized Delegates and the type of procurement process to be followed.

The dollar values identified in this By-law represent the **annual** estimated procurement value for Goods and Services to be procured. The annual estimated procurement value is the cumulative value of a particular Goods and Services in one calendar year. For multi-year Contracts, the estimated total procurement value over the term of the Contract, including any renewal periods, shall be used as the basis for determining which procurement process and Approval Authority applies.

SECTION 3 - RESPONSIBILITIES AND AUTHORITIES

Unless otherwise provided, the purchase of all Goods and Services shall be authorized in accordance with the provisions of Appendix A to this By-law.

It is the responsibility of each person, whether elected or appointed official, involved in the procurement process to understand this By-law and the meaning and intent of all sections contained in this By-law.

3.1 Finance Department

The Finance Department maintains a centralized procurement function for the Municipality and has the following responsibilities:

- a. develops, implements and maintains administrative procedures of Goods and Services and provides advice and assistance to Council, the CAO, Department Directors and Staff regarding the procurement of Goods and Services;
- b. generates Purchase Orders (PO) and ensures adequate documentation and approval;
- c. when appropriate and feasible, standardizes and coordinates the procurement of Goods and Services for multiple service areas;
- d. acts as the Municipality's representative in the purchasing function in working with departments and Suppliers;
- e. troubleshoots and assists departments and staff with purchasing related efforts;
- f. monitors purchasing activity for compliance with this Municipality's By-Law;
- g. monitors and documents performance of Suppliers based on feedback from department representatives;
- h. oversees the tender, proposal, consultant selection and quote processes from inception through to completion;
- i. monitors adherence to the provisions of this By-law and the procedures adopted for its use; and
- j. monitors, reviews and manages contractual terms secured through the procurement process to ensure compliance with this By-law.

It is understood and agreed that purchasing must involve, and cannot function without, the understanding and co-operation of all individual employees and such understanding and co-operation is an integral part of each person's regular duties and responsibilities.

3.2 Director of Finance

The Director of Finance shall have authority to administer this By-law and may establish procurement procedures consistent with this By-law to:

- a) delegate authority to review contracts and procurement processes;
- b) establish administrative procedures and policies for the implementation of this By-law; and
- c) establish standards for Bid Solicitations, Contracts and other documents.

3.3 Chief Administrative Officer (CAO)

The CAO shall have authority to administer this By-law which includes but is not limited to:

- a) instruct Department Directors not to award contracts, and to submit recommendations to Council for approval, and may provide additional restrictions concerning procurement where such action is considered necessary;
- b) during the time that regular Council meetings are suspended, during a period of recess, or for an Emergency or Special Circumstance, the CAO shall be authorized to award contracts as a result of a Solicitation that normally would require Council approval, provided that a report is submitted to Council, as soon as reasonably possible, setting out the details of any contract awarded pursuant to this authority; and
- c) delegate spending authority limits to staff in compliance with this By-law and all applicable policies.

3.4 Department Directors

Department Directors, within authority limits as outlined in Appendix A, are responsible for and shall have the authority to:

- a) call, receive, open and review Bids within their spending thresholds as per Appendix A;
- b) request the Finance Department to issue a Purchase Order (PO) for Goods and Services valued at greater than \$5,000;
- c) provide suitable documentation according to processes as set out in this By-Law.
- d) assist the Finance Department with preparation of the terms and conditions of Bid Solicitations;
- e) review proposed Bid Solicitations to ensure clarity, reasonableness and quality and advise staff of suggested improvements;
- f) monitor the performance of Suppliers and provide feedback to the Finance Department;
- g) advise Finance Department before disposal of goods;
- h) act on behalf of the Municipality, and from time to time, other boards, agencies and municipalities, for the purposes of the joint purchase of Goods and Services;
- i) ensure open, fair and impartial purchasing processes for goods and/or services;
- j) ensure compliance with this By-law and advise the Finance Department when there has been non-compliance;
- k) develop co-operative purchasing plans with other units of government or their agencies or public authorities, where deemed beneficial to the Municipality;
- l) identify Accessibility requirements which should be part of the procurement process, as noted in AODA Accessibility Requirements, if applicable;
- m) promote the standardization of Goods and Services, where such

standardization demonstrates and supports the purposes, goals and objectives of this By-law; and

- n) Department Directors are authorized to sign contracts in accordance with the Appendix A and / or Council Approval.

Department Directors, along with the Director of Finance, may appoint in writing Department Representatives who shall be responsible for the purchasing of Goods and Services and oversight up to the value of their prescribed authority, and shall have the following specific responsibilities:

- a) ensure that all Contract terms and conditions comply with the Bid Solicitation;
- b) prepare all terms and conditions and specifications of Bid Solicitations;
- c) request issuance of Purchase Order (PO) for goods and services valued at greater than \$5,000;
- d) manage Contracts to ensure Goods and Services are received by the Municipality and comply with Contract terms and conditions;
- e) monitor all Contract expenditures and ensure that all financial limitations have been complied with and that all accounts are paid within the times set out in the Contract;
- f) monitor the performance of Suppliers and provide feedback to the Finance Department;
- g) implement financial controls that meet audit requirements of the Municipality to ensure that those responsible for requisitioning and purchasing Goods and Services are held accountable for their decisions;
- h) standardize the use of Goods and Services, where such standardization demonstrates and supports the purposes, goals and objectives of this By-law; and
- i) ensure that all Goods and Services purchased have been received and invoices coded and sent to Finance in a timely fashion.

3.5 Municipal Employees with Prescribed Authority

Each employee granted prescribed authority is responsible and therefore accountable when authorizing a purchase in the name of the Municipality, which constitutes a commitment by the Municipality to honour the purchase of Goods and Services from Suppliers.

Notwithstanding any other provision of this By-law, the following Awards require Council approval:

- i. For Capital projects, the recommended Award exceeds by 10% of the amount budgeted;
- ii. the authority to Award has not been clearly delegated to staff of the Municipality; or
- iii. the recommended Award is not the Lowest Compliant Bid for purchases over \$100,000.

Employees or officers of the Municipality identified in Appendix A shall have the authority to execute Contracts and all other documents necessary to effect the Award

or Purchase of Goods and Services, up to the prescribed limits, provided that the Award or Purchase and related documents have been prepared in a form that complies with this By-law.

3.6 Separation of Roles and the Role of Council

In accordance with the 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.

To facilitate Council's oversight role in respect of certain Procurements, procurements may require Council approval. Council may require Council's authority to either initiate specific procurements or approve Awards. Examples of such procurements are those that are of high value or involve significant risk, security concerns or significant community or governance interest.

To avoid the potential appearance of bias or political influence in Awards, members of Council will have no involvement in any Procurement from the time such Procurement is initiated until a contract has been entered into with the successful bidder, except where Council is required to approve the Award.

SECTION 4 – BID BONDS AND INSURANCE

Persons with Authority shall select the appropriate means to guarantee execution and performance of a contract.

Means may include, but are not limited to, financial bonds or other forms of security deposits, provisions for liquidated damages, progress payments, holdbacks, and insurance provisions. Means shall be set out in the bid specifications or Bid Solicitation as required. Means are not exclusive and more than one means are appropriate in many situations.

4.1 Bid Bond Deposit

Bid deposits of no less than 10% shall be required to accompany all bid submissions except in special contracts or scope of work as deemed appropriate by the Finance Department and Department Director.

A bid deposit shall be provided in Canadian currency and one of the following formats:

- a) A bid bond or an agreement to bond issued by a bonding agency currently licensed to operate in the Province of Ontario naming The Corporation of the Town of Erin as the obligee. A copy of the Bid Bond included with Bid Submission on the Procurement Bidding Site is acceptable.
- b) A certified cheque made payable to The Corporation of the Town of Erin.
- c) An irrevocable letter of credit naming The Corporation of the Town of Erin as the beneficiary.

- d) Money orders made payable to The Corporation of the Town of Erin.

All bid deposits must be original documentation, (or copy included with Bid Submission), signed and sealed as appropriate. No faxed or photocopies will be accepted. The Municipality is authorized to cash and deposit any bid deposit in the Municipality's possession that is forfeited as a result of non-compliance with any of the terms, conditions and/or specifications of a sealed bid. The Municipality does not pay interest on any bid deposits.

4.2 Bonding / Letters of Credit Requirements

Performance, Labour and Material and/or Maintenance Bonds are required for all construction projects exceeding \$100,000.00 for 100% of the bid amount.

All bonds/letters of credit must be originals, signed and sealed. No faxed or photocopies will be accepted.

Bonds shall be issued by reputable Bonding Companies licensed to carry on business in Ontario. Bid bonds must be irrevocable and open for bid acceptance for at least ninety (90) days from the date of bid opening.

4.3 Insurance Requirements

Prior to the commencement of work and where deemed appropriate, evidence of insurance coverage satisfactory to the Finance Department must be obtained, ensuring indemnification of the Town of Erin from any and all claims, demands, losses, costs or damages resulting from the performance of a supplier's obligations under a contract. A certificate of insurance must be submitted through the Municipality's bidding system for approval, prior to commencement of any service or work.

The standard insurance minimums are as follows:

- \$2 million – general liability policy
- \$2 million – automobile liability policy
- \$2 million – homeowners (e.g. for rental of facilities)
- \$5 million – general liability and automotive liability policies – for contract work done for most Roads, Water and Environmental projects
- \$2 million – professional errors and omissions liability Builder's Risk – the amount of the project cost

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

The successful bidder must furnish the Municipality at its cost a "certified copy" of a liability insurance policy insuring it as named insured and covering public liability and property damage for no less than the minimum amounts stated in section 5 to the satisfaction of the Municipality and in force for the entire contract period. The policy must contain:

- a) A "Cross Liability" clause or endorsement;
- b) An endorsement certifying that **The Corporation of the Town of Erin** is included as an additional named insured;

- c) An endorsement to the effect that the policy or policies will not be altered cancelled or allowed to lapse without thirty days prior written notice to the Town of Erin.

Contractor's Liability Insurance Policy shall not contain any exclusions of liability for damage, etc. to property, building or land arising from:

- a) The removal or weakening of support of any property, building or land whether such support is natural or otherwise.
- b) Occupational Health and Safety Act
- c) In order to avoid any misunderstanding as to the nature of the work to be performed herein, the Contractor, by executing this Contract unequivocally acknowledges that he is the Constructor within the meaning of the Occupational Health and Safety Act and amendments thereto.

Contractors and subcontractors may be required to:

- a) Demonstrate establishment and maintenance of health and safety program with objectives and standards consistent with applicable legislation and with the Municipality's health and safety policy and requirements.
- b) Ensure that workers in their employ are aware of hazardous substances that may be in use at place of work and wear appropriate personal protective equipment requirements.

4.4 WSIB Requirements

WSIB Certificates of Clearance must be submitted through the Municipality's bidding system prior to the commencement of a project and must comply with Provincial regulations. Prior to final payment to a Supplier, a WSIB Certificate of Clearance shall be obtained ensuring all premiums or levies have been paid to the Board to date.

The Contractor must show proof of current registration and proof of good standing with the Workplace Safety Insurance Board by providing a W.S.I.B. Independent Operator Status to the department contracting the service. Project contractors are to provide proof of good standing with the W.S.I.B.

SECTION 5 - PROCUREMENT PROCEDURES

5.1 Requirement for Approved Funds

The exercise of authority to award a Contract is subject to the identification and availability of sufficient funds in appropriate accounts within the Budget.

Where Goods and Services are routinely purchased or leased on a multi-year basis, the exercise of authority to award a Contract is subject to the following:

- a) the identification and availability of sufficient funds in appropriate accounts for the current year within the Budget;
- b) the Goods and Services will continue to be required in subsequent years and, in the opinion of the Department Director or Designate, the required funding can reasonably be expected to be made available; and
- c) the Contract includes a provision that the supply of Goods and Services in subsequent years is subject to the approval by Council of the Budget estimates to meet the proposed expenditures.

5.2 Approval Guidelines

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

5.3 Bid Closing and Openings

- a) The Finance Department will determine appropriate bid closing and opening procedures.
- b) All Bids with estimates exceeding \$100,000 will be opened with unofficial results posted on the Procurement bidding site.
- c) Notwithstanding the provisions of this By-law s, the Municipality shall have the right to reject the lowest or any Bid at its sole discretion. The Municipality also reserves the right to reissue the bid document in its original format or modified as best suits the requirements of the Municipality.

SECTION 6 - PROCUREMENT TYPES

Any person acquiring Goods and Services, on behalf of the Municipality, shall do so in accordance with this By-law.

Method of Solicitation -The method of solicitation may take the form of one of the following:

- Request for Quotation (RFQ) - Informal and Formal Quotations
- Request for Tender (RFT)
- Request for Proposal (RFP)
- Request for Pre-Qualification (RFPQ)
- Request for Information (RFI)
- Expression of Interest (EOI)

6.1 Low Dollar Value Purchases – Less than \$35,000

A Department Director or Designate may procure Goods and Services if the following criteria are met:

- the estimated total value of the Goods and Services is less than \$35,000;
- it can be demonstrated the purchases were made at Fair Market Value;
- A direct invoice from the supplier is approved and signed by the initiating department director or designate.

6.2 Informal and Formal Quotations

Informal Quotations – Between \$35,000 - \$75,000

Where the requirement for Goods and Services can be specified and it is estimated that the total value is **\$35,000** or more, but less than **\$75,000**, the initiating Department

Director or Designate shall solicit and review a minimum of three written, fax, internet or email quotes from different Suppliers. All Suppliers must receive the same Bid criteria and instructions. Informal quotes shall be completed on the Informal Quotes Template as identified in Procurement Procedures. If the pricing is within the approved budget, the Department Director will request the Finance Department to issue a PO and attach copies of all the quotations.

A Request for Quotation may be called for lesser amounts if deemed beneficial by the Department Director or CAO and/or Director of Finance. If only one Bid is received, the Municipality may Award or exercise the right to cancel.

Department Directors shall receive informal quotes either via email or by signed letter on company letterhead, either of which may include attachments. The Department Director shall provide a copy of the informal quote to Department staff for document retention.

Request for Quotations or Request for Tender or Request for Proposal - Between \$75,000 - \$125,000

Where the requirement for Goods and Services can be specified and is estimated to be equal to or greater than a value of **\$75,000**, but less than **\$125,000**, the initiating Department Director shall issue a Request for Quotation, which includes required specifications, through the Bidding Website.

Requests for Quotation shall be called in accordance with this By-law and require a reply by a designated day and time as identified on the Bidding Website. An officer of the bidding company must sign the reply.

Sealed Bids are opened on the Bidding Website by the procurement representative in the Finance Department. Each sealed Bid received in response to a formal Request for Quotation is reviewed for completeness and accuracy by the initiating Department Director. The Department Director in consultation with, as necessary, the Finance Department and any external and internal consultants or experienced persons will select the successful Bid.

If the selected Bid is in accordance with the specifications and terms and conditions of the Request for Quotation, and is within 10% of budget, the Department Director may proceed with the purchase as approved by the CAO.

Copies of all the invoices with associated general ledger numbers are to be sent to the Finance Department for payment processing.

6.3 Request for Tender or Request for Proposal – Over \$125,000

For purchases with a total value greater than \$125,000, a Request for Quotation, Request for Tender, or Request for Proposal shall be issued, provided that:

- two (2) or more sources are considered capable of supplying the Goods and Services;

- the Goods and Services are adequately defined to permit the evaluation of Submissions against clearly defined criteria; and
- the Department Director, whose budget provides for the Procurement, shall provide the specifications, provisions, plans, relevant information, and supplemental general conditions for the Purchase.

All Tenders shall be called, opened, and awarded in accordance with this By-law and include terms and conditions for the Bid Solicitation.– Hand-delivered sealed Bids will be date and time stamped upon arrival and opened by the Director of Finance.

All Requests for Tenders shall be advertised in accordance with this By-law, except where a Request for Pre-Qualification (RFPQ) has previously been conducted. In this instance, only pre-qualified Suppliers shall be notified and Bids shall only be accepted from pre-qualified Suppliers.

All Purchases shall be authorized and executed in accordance with Appendix A.

If the Procurement is within the approved budget, is of a value greater than **\$125,000** and there are no challenges to the process by interested parties, the Department Director may proceed with the Procurement following approval from the CAO.

For Procurements with a total value **greater than \$250,000** and with no challenges to the process by interested parties, the Department Director will prepare a report to the Council for approval to proceed.

6.4 Request for Proposal (RFP)

A Request for Proposal (RFP) shall be issued when one or more of the following criteria applies:

- a) the Purchase is required as a result of a particular problem, requirements or objective;
- b) the selection of the Supplier depends more upon the effectiveness of the proposed solution, rather than the price alone; and
- c) the precise Goods and Services, or the specifications thereof, are not known or are not definable and it is expected that Suppliers will further define them.

Where it is not possible to prepare precise specifications, the Department Director will issue an RFP. An RFP will include evaluation criteria and weighting such as, but not limited to qualification, experience, strategy, approach, methodology, facilities, and equipment.

The RFP shall clearly distinguish those requirements that are deemed mandatory or non-mandatory and shall clearly outline how these items will be evaluated. All RFPs shall be called, opened and awarded in accordance with this By-law.

RFPs will be submitted as specified in the Bid Solicitation. No exemptions will be permitted.

All RFPs will be evaluated based on the evaluation criteria and process outlined in the Procurement Process established by the Municipality.

RFPs shall be advertised in accordance with this By-law, except where a list of pre-qualified Suppliers has been compiled in accordance with this By-law.

If the Procurement is within the approved budget and there are no challenges to the process by interested parties, the Department Director may proceed with the purchase.

All Purchases shall be authorized and executed in accordance with Appendix A.

6.5 Pre-Qualifications and Expressions of Interest

Request for Pre-Qualification (RFPQ) and Vendor of Record

Department Directors may conduct a Request for Prequalification (RFPQ) to develop a list of Suppliers (Vendor of Record (VOR)) that may be eligible to submit a Bid on subsequent Bid Solicitations or to develop a roster in accordance with this By-law.

If purchases from the same supplier exceed the aggregate \$100,000 or more per year, Department Directors are required to follow the RFPQ process for the Supplier to become a vendor of record and invoices will not be paid until such process has been completed. The Finance Department will monitor Supplier activity and advise Department Directors before the \$100,000 limit is reached.

Prequalification may be considered in the following circumstances:

- a) the work will require substantial project management by the Municipality and could result in a significant cost to the Municipality if the Supplier is not appropriately experienced;
- b) The goods and Services to be purchased must meet national safety standards;
- c) the work involves complex, multi-disciplinary activities, specialized expertise, equipment, materials or financial requirements;
- d) miscellaneous repairs and services as required by the Municipality such as plumbers, electricians, and drywall contractors;
- e) there could be a substantial impact on the Municipality's operations if the work is not satisfactorily performed the first time; or
- f) any other circumstances deemed appropriate by the Finance Department or respective Department Director.

An RFPQ shall be provided to potential Suppliers establishing the criteria for pre-qualification which may include, but are not limited to:

- a) experience on similar work (firm and staff assigned);
- b) references provided from other customers for similar work;
- c) verification of applicable licenses and certificates;

- d) health and safety policies and staff training; and
- e) financial capacity.

Supplier Bids will be evaluated and ranked. A short list of pre-qualified Suppliers may be invited to participate in the second step of the two-step Procurement process, being a Request for Proposal or a Request for Tender.

An RFPQ is not a legal offer but only an invitation for Suppliers to make offers to the Municipality.

Each VOR list will be updated and reviewed every three (3) years.

All RFPQs shall be conducted in accordance with submission instructions in the Bid Solicitation and this By-law.

Request for Expressions of Interest

Department Directors or Designates may conduct a Request for Expressions of Interest (RFEOI) for the purpose of determining the availability of Suppliers, compiling a list of Suppliers or determining the potential scope of work. An RFEOI may be used as a specific pre-condition of any method of Procurement used by the Municipality.

The receipt of an Expression of Interest by the Municipality does not create any obligation between the potential Supplier and the Municipality.

6.6 Request for Information

A Request for Information (RFI) can be used to identify Supplier interest and measure if there is enough interest to justify a full Request for Proposal Competition.

An RFI requests detailed information such as, but not limited to, company background, interested Suppliers, what they can offer and what they can do for the Municipality.

A reply to the RFI is required by a designated date and time to the Department Director who initiated the request and signed by an Officer authorized to legally bind the Supplier. Any resulting Bid Solicitation will be processed and advertised in accordance with this By-law.

6.7 Construction Tender/Bid Calls After Budget Adoption

Following the adoption of the budget by Council and the receipt of any necessary approval from outside agencies, the Department Director may call Tenders for budgeted Municipality construction projects and the acquisition of equipment.

6.8 Conditional Tender/Bid Before Budget Adoption

The Department Director may obtain, prior to the adoption of the budget by the Municipal Council, Sealed Bids for additional and replacement equipment, provided that the documents include a clause specifically stating that the acceptance of a bid and placing of the order is subject to budget approval by Municipal Council and the items specified are subject to change in quantity and/or deletion.

6.9 Election Recess Procedures

Where a matter, which would otherwise require Council approval pursuant to this By-law, but approval cannot be granted because approval is required:

- a) prior to the next regular scheduled Council meeting;
- b) during the recess required to conduct municipal elections; or
- c) there is a failure to obtain a quorum at a Council meeting where a contract approval was on the agenda for such a meeting; then t the following are restricted acts per S.275 (3) of the Act in relation to this Procurement By-law:
 - i. The disposition of any real or personal property of the municipality which has a value exceeding \$50,000 at the time of disposal; and
 - ii. Making any expenditures or incurring any other liability that exceeds \$50,000

6.10 Co-operative Bid Calls

Notwithstanding anything else contained in this By-law, the Department Director may join or participate with other units of government, as a named agency, including local boards, commissions and agencies, in co-operative purchasing and bulk buying of Goods and Services, if it is in the best interests of the Municipality to do so. If the Town participates with another such unit of government in co-operative purchasing the policies of the entity issuing the co-operative Bid Solicitation shall apply.

The Department Director or Manager Procurement may acquire any Goods and Services from an existing government contract if it is deemed by the Department Director or Manager Procurement to be in the best interests of the Municipality.

6.11 Emergency Purchases

- a) Where an Emergency, Special Circumstance, or a situation arises requiring immediate procurement of Goods and Services essential to prevent serious delays in the work of any Department or which might involve danger to life, health or safety of employees or the public, or to prevent property damage, then the Director of the Department shall provide the reasons that an Emergency or such situation exists and shall approve any requisition document issued under such conditions. For

an amount exceeding \$250,000, the Department Director shall issue an information update to the CAO and Council.

- b) Where the Emergency Operation Centre (EOC) has been activated or an emergency situation has been declared, the Municipality EOC plan shall supersede this By-law. Where feasible, all Goods and Services acquired during an EOC activation or a declared Emergency are to be processed on a purchase order and managed and documented through the use of a transaction log report. For amounts exceeding \$250,000, the CAO shall submit an information update to the Council.
- c) Any information updates to Council shall endeavor to provide details as to what Supplier(s) were engaged and the costs incurred as a result of procuring Goods and Services to resolve the Emergency or Special Circumstance or situation in 9.11(a).
- d) Subsequent to the resolution of Emergency or Special Circumstance, all transactions require a purchase requisition to be entered to complete the Procurement process. The Department Director shall complete the Emergency Procurement Form and forward it to the Director of Finance for informational purposes.

6.12 Sensitive incumbent Supplier relationships

Where there is an incumbent Supplier on a Contract which is of a highly sensitive nature due to the risk associated with financial loss, confidentiality or the handling of sensitive information, a report shall be forwarded to the applicable standing committee of Council and Council to seek direction on the type of procurement process to be followed for the acquisition of the Goods and Services.

SECTION 7 - SOLE SOURCE PURCHASES

Bid Solicitations are not required for Sole Source Purchases, provided any of the following conditions apply:

- a) the compatibility of a Purchase with existing equipment, product standards, facilities or services is a paramount consideration;
- b) there is an absence of competition for technical reasons and the goods and/or services can only be supplied by a particular Supplier and Sole Source is being recommended;
- c) an unforeseeable situation of urgency exists and the Goods and Services cannot be obtained in time by means of open procurement procedures;
- d) the Municipality has a rental contract with a purchase option and such a purchase option is beneficial to the Municipality;
- e) for matters involving security, police matters or confidential issues, in which case a Purchase may be made in a manner that protects the confidentiality of the Supplier or the Municipality;
- f) there are no bids in response to a Bid Solicitation; and/or
- g) the Supplier is selected from a roster for Professional Services that has

been developed in accordance with this By-law.

All Purchases and related Contracts made under this section shall be authorized in accordance with Appendix A.

SECTION 8 - DIRECT NEGOTIATION

Notwithstanding that Direct Negotiation may be a component of another procurement process, Direct Negotiation may be used for Purchases of Goods and Services when any of the following criteria apply:

- a) the required Goods and Services are in short supply;
- b) competition is prevented due to the existence of any patent right, copyright, technical secret or control of raw material;
- c) a Sole Source is being recommended;
- d) two (2) or more identical Bids are received and suppliers are informed in advance that a direct negotiation is occurring;
- e) the Lowest Compliant Bid received meeting all mandatory specifications exceeds the budget amount;
- f) the extension of an existing Contract would be advantageous in relation to the purposes and guidelines of this By-law;
- g) only one (1) Bid is received in response to a Bid Solicitation;
- h) a roster for Professional Services has been developed in accordance with this By-law;
- i) when negotiating rebates based upon the annual purchase value with Suppliers;
- j) when negotiating improved discounts for quick payments of invoices;
- k) when suggesting alternative products, offering equal or higher performance at lower costs;
- l) when negotiating better warranties; and no-charge extra and/or there is Council authorization to do so.

All Purchases and related Contracts made under this section shall be authorized in accordance with Appendix A.

SECTION 9 - LEASING

In certain circumstances, it may be economically advisable for the Municipality to enter into a financing lease to acquire the rights to use capital property and equipment rather than an outright purchase.

All leasing shall be authorized in accordance with Appendix A.

SECTION 10 - SUPPLIER PERFORMANCE EVALUATION

- a) on an annual basis and at the completion of every Contract for Goods and Services of \$50,000 or greater, the Client Department shall complete a Supplier Performance Evaluation Form. The Responsible Director of the Department shall ensure this performance evaluation is completed for these Contracts. Such evaluation shall be completed and a copy will be forwarded to the CAO and Director of Finance.
- b) in the event of a Supplier's unsatisfactory performance as determined by the Municipality in its absolute discretion, including the Supplier's refusal to perform or to complete performance of a Contract at any time during the term of any Contract, the Director or an Authorized Delegate of the responsible Department shall complete and forward a copy of the Supplier Performance - Incident Reporting Form as soon as reasonably possible after the occurrence.
- c) documented unsatisfactory performance on any Contract will be used to determine the eligibility of a Supplier to continue to provide Goods and Services to the Municipality on a current Contract and to determine their ability to participate on future Contracts. Any Supplier may be excluded from a bidding process due to unsatisfactory performance, where in the opinion of the Procurement Sub-Committee or Council, the commercial relationship between the Municipality and such Supplier has been impaired.
- d) the Municipality's Infrastructure & Engineering Services Department shall be responsible for the Supplier performance evaluation process with respect to linear construction Contracts issued by that department, in a format which includes feedback from area residents and elected officials.
- e) in the event of a Supplier's breach of a Contract, the Manager of Procurement in consultation with the responsible Department shall have the discretion to either:
 - i. re-issue the RFQ, RFT or RFP; or
 - ii. negotiate and enter into a new Contract for the remainder of the Contract with the second lowest bidder of the original RFT or RFQ, or the next qualified Proposal of the original RFP, whichever is in the best interests of the Municipality.

SECTION 11 - UNSOLICITED PROPOSALS

Unsolicited proposals received by the Municipality shall not be reviewed by any Municipality employee.

SECTION 12 - REPORTING

Reports to Council regarding Procurement are required when:

- a) a purchase is greater than those identified by Appendix "A";
- b) the acquisition exceeds the budgeted amount by 10%;

- c) less than three Bids were received, if required;
- d) the recommended Bid does not meet major specifications;
- e) Procurements required without a competitive bidding process;
- f) before making unspecified budget expenditures;
- g) steps taken when accessibility criteria/features during Procurement practices are not realistic or doable; and/or
- h) the Finance Department conducts performance evaluations for poor performing Professional and Consulting services.

The report will be initiated by the requisitioning Department Director and reviewed by the Finance Department. The report will include background information regarding the purpose for the procurement, the circumstances requiring Council's consideration for the procurement, and, if possible, a recommendation or recommended options for Council's consideration.

Upon approval by Council, the Department Director shall authorize the purchase and/or a Contract shall be executed as authorized by Council.

SECTION 13 - ADVERTISING

Advertising for tenders, quotations or proposals shall be posted on the Municipality website, www.erin.ca. They may also be advertised in local newspapers that have general circulation within the Municipality and/or commercial/trade publications as deemed appropriate by Finance and Department Directors. The ability of the Municipality to cancel Request for Tenders/Quotations/Proposals will be explicit in all the forms where it was originally advertised.

SECTION 14 - DISPOSAL OF SURPLUS GOODS

Where any goods or equipment defined as a capital asset are considered to be obsolete or un-repairable, the Department Director shall notify the Finance Department and issue a report declaring the item(s) to be surplus, except where the replacement of goods has already been approved as a trade in as part of the procurement process.

Surplus items may be disposed of through formal auction, internet offering, Request for Tender, Request for Quotation, or trade-in, whichever is in the best interest of the Municipality at the discretion of the Department Director, as approved by the Director of Finance to ensure all transactions meet pecuniary interest legislation.

All Assets disposed of shall be accepted as is or where is and without warranty or guarantee. The new owner shall assume all risk and expense associated with these Assets.

Where the item has limited market value, the Department Director may, to the benefit of the Municipality, dispose of the item in a manner other than the ones listed above.

Any revenue from the sale of scrap material or other items shall be credited to the appropriate account by the Finance Department.

SECTION 15 – CODE OF CONDUCT FOR BIDDERS AND SUPPLIERS

- a) Suppliers shall certify that they prepared and submitted their Bids independently without any connection, knowledge, comparison of figures or arrangements with any other company, firm or person making a Bid for the same work and that the Bid is in all respects fair and without collusion, bid-rigging, price-fixing, bribery, fraud or other similar behavior or practices prohibited under the Criminal Code, the Competition Act or other Applicable Law.
- b) Suppliers shall not misrepresent their qualifications and experience, or the qualifications and experience of their sub-contractors, where applicable, in relation to any Bid Request.
- c) Suppliers shall not misrepresent the quality, origin, performance, technical attributes, functionality or suitability for a purpose of any Goods and Services including their products or the products of the sub-contractors, where applicable, in relation to any Bid Request or Contract.
- d) Suppliers must declare and fully disclose with their Bid any actual or potential conflicts of interest or unfair advantage related to the preparation of their Bid or where the Bidder foresees an actual or potential conflict of interest in the performance of the Contract, should they be awarded the Contract.
- e) Suppliers awarded a Contract must declare and fully disclose to the Contract Manager any actual or potential conflicts of interest or unfair advantage related to the performance of the Contract or where the Supplier foresees an actual or potential conflict of interest in the performance of the Contract.
- f) Suppliers shall disclose to the Procurement Officer any affiliations or other relationships with other suppliers that might be seen to compromise the principle of fair competition, including any proposed or existing subcontracting relationships.
- g) no Supplier shall offer anything of any value, tangible or intangible including but not limited to rebates, gifts, meals, money or special privileges of any kind to Municipal employees, or otherwise attempt to influence or interfere with the duties of employees in relation to a Procurement process or management of a Contract.
- h) no Supplier shall offer anything of any value, tangible or intangible including but not limited to rebates, gifts, meals, money or special privileges of any kind to Council, or otherwise attempt to influence or interfere with Procurement process or Contract.
- i) Suppliers shall at all times comply with Municipality policies for ethical conduct, including the Supplier Code of Conduct and the Respectful Workplace Policy.
- j) Suppliers shall at all times maintain confidentiality of any confidential Municipality information disclosed during a Procurement process or in the performance of any Contract.
- k) Suppliers shall pay, in full, all outstanding payments (and, where applicable, interest and costs) owing to the Municipality by such Supplier, after the Municipality has made demand for payment of same;
- l) Suppliers shall follow reasonable directions of the Municipality;
- m) Supplies shall cure a default under any Contract with the Municipality as and when

- required by the Municipality;
- n) Suppliers shall enter into a Contract with the Municipality after the Supplier's Bid has been accepted by the Municipality;
 - o) Suppliers shall not,
 - 1. over-bill or double-bill;
 - 2. retained a known over-payment or fail to notify the Municipality of an over-payment or duplicate payment;
 - 3. bill for items not supplied;
 - 4. bill for items of one grade, while supplying items of an inferior grade;
 - 5. submit false or misleading information to the Municipality;
 - 6. act in conflict with the Municipality's interests;
 - 7. misappropriated any property or right of the Municipality, in any form; or
 - 8. commit any other form of sharp or deceptive practice;

Any Supplier found to be in breach of this Section 18 is subject to disqualification from bidding and termination of any Contracts they may have with the Municipality.

SECTION 16 – SUPPLIER ELIGIBILITY

- (1) Without limiting or restricting any other right or privilege of the Municipality and regardless of whether or not a Bid otherwise satisfies the requirements of a Request for Pre-qualifications, RFP or RFT, the Municipality may reject any Bid from a Supplier where,
 - (a) in the opinion of the Municipality, the commercial relationship between the Municipality and the Supplier has been impaired by the act(s) or omission(s) of such Supplier including but not limited to any one or more of the following having occurred within the five year period immediately preceding, or any time after and prior to Award, the date of the respective Bid Solicitation:
 - (i) contravened the Code Conduct for Bidders and Suppliers in Section 15 of this By-Law;
 - (ii) the Supplier being involved in Litigation with the Municipality;
 - (iii) act(s) or omission(s) resulting in a claim by the Municipality under any security submitted by the Supplier on a RFP or RFT, including but not limited to a bid bond, a performance bond, or warranty bond;
 - (iv) the Supplier's unsatisfactory performance as determined by the Municipality in its absolute discretion, including the Supplier's refusal to perform or to complete performance of a Contract with the Municipality;
 - (v) the Supplier having unlawfully or unreasonably threatened, intimidated, harassed, or otherwise interfered with an attempt by any other prospective Supplier to bid for a Contract or to perform any Contract awarded by the Municipality to that Supplier;
 - (vi) the Supplier having discussed or communicated, directly or indirectly, with any other Supplier or their agent or representative about the preparation of the Supplier's Bid including, but not limited to, any connection, comparison of figures or arrangements with, or knowledge of any other Supplier making a Bid for the same work except in the

instance of a Joint Venture where one is permitted.

- (vii) the Supplier having threatened, intimidated, harassed, assaulted or committed battery against, or otherwise harmed or interfered with an official, employee, representative, agent or independent consultant or contractor of the Municipality in the performance of his or her duties or in any way attempted to influence such persons;
 - (viii) any other act or omission by the Supplier that the Municipality deems to impair the commercial relationship between the Municipality and the Supplier.
- (b) in the opinion of the Municipality, there are reasonable grounds to believe that it would not be in the best interests of the Municipality to enter into a Contract with the Supplier, including but not limited to:
- (i) the conviction of that Supplier or any person with whom that Supplier is not at arm's length within the meaning of the *Income Tax Act (Canada)* of an offence under any taxation statute in Canada;
 - (ii) the conviction or finding of liability of that Supplier under the *Criminal Code* or other legislation or law, whether in Canada or elsewhere and whether of a civil, quasi-criminal or criminal nature, of moral turpitude including but not limited to fraud, theft, extortion, threatening, influence peddling and fraudulent misrepresentation;
 - (iii) the conviction or finding of liability of that Supplier under any environmental legislation, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Supplier for the environmental well-being of the communities in which it carries on business;
 - (iv) the conviction or finding of liability of that Supplier relating to product liability or occupational health or safety, whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Supplier for the health and safety of its workers or customers;
 - (v) the conviction or finding of liability of that Supplier under the financial securities legislation whether of Canada or elsewhere, where the circumstances of that conviction evidence a gross disregard on the part of that Supplier for its stakeholders.

(2) For the purposes of subsections (2), (5), (6), (8), (9) and (10) of this SECTION 16, a reference to a Supplier shall also include: an officer, a director, a majority or controlling shareholder, or a member of the Supplier, if a corporation; a partner of the Supplier, if a partnership; any operation to which the Supplier is an affiliate of or successor to, or an officer, a director or a majority or controlling shareholder of such corporation; a Joint Venture; and any person with whom that the Supplier is not at arm's length within the meaning of the *Income Tax Act (Canada)*.

(3) In the circumstances described in subsections (2) and (9), the Municipality may, in addition or in the alternative to rejecting a Bid from a Supplier, ban a Supplier from competing for or being awarded any Contract for a period of up to ten years.

(4) Without limiting or restricting any other right or privilege of the Municipality, the Municipality may refuse to enter into a Contract with a Supplier where any of the circumstances described in (2)(a), (2)(b) or (9) of this SECTION 19 have occurred

within the five year period preceding the date on which the refusal to enter into the Contract is approved by Council. In addition, or in the alternative to refusing to enter into the Contract, the Municipality may ban a Supplier from competing for or being awarded any Contract for a period of up to ten years as approved by Council

- (5) Except with the prior express written consent of the Municipality,
- (a) a Supplier and its representatives shall not act on behalf of the Municipality with respect to any matter, issue or in connection with any property in which the Supplier or any employee or subcontractor of the Supplier has a direct or indirect pecuniary interest, including any contingent interest;
 - (b) a Supplier shall not act in any case where there may be any conflict of interest between it and the Municipality, and each Supplier shall notify the Municipality, in writing, immediately of any potential conflict of interest that may arise prior to the award of any contract and fully disclose any details thereof;
 - (c) before submitting any Bid to act on behalf of the Municipality, the Supplier shall exercise reasonable due diligence to confirm that there is no conflict of interest within the contemplation of this subsection; and
 - (d) failure on the part of a Supplier to declare a conflict of interest to the Municipality and to obtain the Municipality's prior express written consent to waive the conflict of interest shall result in the Supplier being ineligible to Bid and shall form a basis for rejection of a Bid submitted to the Municipality.
- (6) Where the Contract is awarded to a Supplier who has made an unauthorized amendment to the Municipality's pre-printed forms (e.g. *Form of Proposal* or *Form of Tender*) or other documents submitted as part of the Supplier's Bid, then within a reasonable time of the Municipality discovering that unauthorized amendment, the Municipality may,
- (a) permit the Supplier to withdraw an unauthorized amendment to the Municipality's *Form of Proposal* or *Form of Tender*, at no cost to the Municipality;
 - (b) cancel or terminate the Contract without any compensation whatsoever to the Supplier by giving written notice to that effect to the Supplier;
 - (c) recover from such Supplier any amounts the Municipality paid to the Supplier and all costs, expenses, damages and losses incurred or accrued by the Municipality as a result of the unauthorized amendment; or
 - (d) ban such Supplier from competing for or being awarded any Municipality Contract for a period of up to ten years where, in the opinion of Council, the change was made by the Supplier as part of a deliberate attempt to deceive and such deception has resulted in an impairment of the commercial relationship between the Municipality and such Supplier, or any combination of the foregoing.
- (7) No Lobbying and Single Point of Contact
- (a) A Supplier and its representatives are prohibited from engaging in any form of public comment, political statement or other lobbying, of any kind whatsoever, that may or could influence the outcome of the Bid Solicitation and therefore

shall not:

- (i) advocate any interest that is affected, actually or potentially by the Bid Solicitation process or individuals involved in the Bid Solicitation process, including seeking to influence the outcome of the Bid Solicitation process or subsequent Award other than through the submission of a Bid;
- (ii) make any public comment, respond to questions in a public forum, or carry out any activities to publicly promote or advertise their qualifications, their service or product, or their interest in a Bid Solicitation;
- (iii) communicate with the Municipality regarding a Bid Solicitation except through the Procurement Administrator or Designate identified in the Bid Solicitation, who shall be the single point of contact for that Bid Solicitation. Having a single point of contact for the Bid Solicitation is intended to allow all other persons involved with the Bid Solicitation on behalf of the Municipality to avoid any perception of a conflict of interest and to conduct the procurement set out in the Bid Solicitation in as fair and objective a manner as possible;
- (iv) make any attempt to contact, directly or indirectly, any of the following persons, with respect to a Bid Solicitation,
 1. any member of an evaluation team;
 2. any member of a costing team;
 3. any expert, independent consultant or other advisor assisting the Municipality;
 4. any elected Municipality official;
 5. any staff of the Municipality or its advisors; or
 6. any other persons connected in any way with the procurement document,

until such time when the Bid Solicitation is cancelled or awarded. If paragraph 7 is not adhered to in any instance, the bidder shall be disqualified from the bidding process.

- (b) A Supplier who has been awarded a Contract shall not engage in any contact or activities in an attempt to influence any elected Municipality official or Municipality staff with respect to the purchase of additional enhancements, requirements, options or modules. A Supplier may communicate with the Municipality and Municipality staff for the purposes of administration of the Contract during the term of the Contract.

The determination of what constitutes an attempt to influence shall be at the sole discretion of the Municipality, acting reasonably, and is not subject to challenge.

- (c) The restrictions outlined in subsections (a) and (b) do not preclude the Supplier from pursuing its remedies.

- (8) Where the Procurement Administrator has demonstrated and is satisfied that there is sufficient evidence of act(s) or omission(s) described in this SECTION 16 on the part of a Supplier, the Procurement Administrator may impose an interim ban upon the Supplier from competing or being awarded any Contract, under the following circumstances:

- (a) while an investigation is being conducted by the Procurement Administrator;

- (b) while there is documented poor performance or non-performance that has not been resolved to the Municipality's satisfaction and which has impaired the commercial relationship between the Municipality and the Supplier such that the Supplier ought to be precluded from submitting bids on other contracts until the Supplier performance issues have been rectified; or
- (c) when a Supplier has been found to be in breach of a Contract and which breach has impaired the commercial relationship between the Municipality and the Supplier such that an interim ban is necessary in order to preclude the Supplier from submitting bids on other contracts pending Litigation or a final ban.

The interim ban may be imposed for a period of up to 12 months. The Procurement Sub- Committee's decision shall be final with respect to the interim ban.

- (9) Where an interim ban is imposed under subsection (10), the Procurement Administrator shall, prior to the expiry of the interim ban, report to the appropriate standing committee of Council the status of the investigation and any recommendations for further action.

SECTION 17 – CANCELLING AND REISSUING BID REQUESTS

Bid Solicitations may be cancelled and reissued at the sole discretion of the Municipality.

SECTION 18 – NON-COMPLIANCE WITH THE PROCUREMENT POLICY

Upon non-compliance with this By-law, the relevant Department Director in consultation with the Procurement Administrator will authorize the use of a Non- Compliance with the Procurement Policy Form which outlines the circumstances behind the non-compliance issue. This process is to be used when there is a violation of this By-law consisting of one or more of the following:

- (a) the contracting of a Supplier to provide Goods and Services, not in accordance with the requirements of this By-law;
- (b) the receipt of an invoice by the Municipality from a Supplier, for Goods and Services previously acquired outside the Procurement required under this By-law;
- (c) where it can be proven that the actions or non-actions of an employee, or employee group, results in the requirement to initiate Procurement pursuant to Section 6.11 of this By-law;
- (d) splitting of purchases contrary to this By-law; and,
- (e) any and all other significant violations of this By-law.

SECTION 19 - LEGAL CLAIMS

No Bid will be accepted from any Supplier who has a claim or instituted a legal proceeding against the Municipality or against whom the Municipality has a claim or instituted a legal proceeding with respect to any previous Contract, without prior approval by Council.

SECTION 20 - ACCESS TO INFORMATION

The disclosure of information received relevant to the issue of Bid Solicitations or Awards shall be made by the appropriate officers in accordance with the provisions of the Municipal Freedom of Information and Protection of Privacy Act, R.S.O. 1990, as amended.

SECTION 21 - GOODS AND SERVICES EXEMPT FROM PROCUREMENT BY-LAW

The procurement methods described in this By-law do not apply to the following goods and services:

- (a) The Town Clerk has the authority to purchase goods, services and equipment considered necessary or advisable to carry out the requirements of the Municipal Elections Act, R.S.O. 1996. The Town Clerk shall whenever possible be guided by the provisions of this By-Law and the Procurement Policy and Procedures.
- (b) Councilor/Employee Training and Education, including:
 - i. Registration, accommodation and tuition fees for conferences, conventions, courses and seminars;
 - ii. Magazines, books and periodicals;
 - iii. Memberships; and
 - iv. Staff development or workshops.
- (c) Refundable Councilor/Employee Expenses, including:
 - i. Meal allowances;
 - ii. Travel; and
 - iii. Miscellaneous Expenses.
- (d) Employee/Employer's General Remittances/Expenses, including:
 - i. Payroll Deduction Remittances;
 - ii. Council/Committee/Employee Remuneration;
 - iii. Licenses/Memberships;
 - iv. Debenture Payments;
 - v. Agencies;
 - vi. Damage Claims; and
 - vii. Insurance Premiums.
- (e) Other, including:
 - i. Wellington County/School Boards/Conservation Authority Levies;
 - ii. Utilities;
 - iii. Postage;
 - iv. Bailiff or collection agencies;
 - v. Provision of professional and skilled services to individuals as a part of approved budgets;
 - vi. Licensing; and

- vii. Any payments required to be made by the Municipality under statutory authority.

SECTION 22 - PROCUREMENT BY-LAW REVIEW

The Finance Department shall submit an annual procurement information report to the Council to provide a summary of the Municipality's procurement activities for the following:

- a) the circumstances and details of any emergency purchase(s) with a procurement value equal to or greater than \$25,000; and
- b) The circumstances and details of all non-standard procurements with a procurement value equal to or greater than \$25,000.

The Finance Department, in consultation with the CAO and Department Directors, shall conduct a detailed review of this By-law on an as-required basis, but no longer than five years following its passage.

The review is to take into consideration current and future professional practices, industry standards, market conditions, Federal/Provincial Government directions/policies, technological developments and advancements and the impact that any recommended changes may have on potential suppliers to the Municipality.

The review findings are to be reported to Council for consideration.

SECTION 23 - PROCUREMENT DOCUMENTATION/FORMS

Conflict of Interest Guidelines will be included in all competitive bidding documents. A Privacy Statement, as required under The Municipal Freedom of Information and Protection of Privacy Act, will be included in all competitive bidding documents.

APPENDIX A – AUTHORITY TO AWARD

| Method of Procurement | Contract Value | Authority |
|--|------------------------|-----------------------------------|
| Direct Purchase Low dollar value / Informal Quote | Under \$35,000 | Manager or Department Director |
| Informal Request for Quotation. (Minimum 3 suppliers) | \$35,000 to \$75,000 | Manager or Department Director |
| Request for Quotation / Tender / Proposal | \$75,000 to \$125,000 | Department Director |
| Direct Negotiation/Non-Competitive (Sole Source Procurement) | \$75,000 to \$125,000 | CAO |
| Request for Tender / Proposal / Negotiation | \$125,000 to \$250,000 | CAO |
| Request for Tender (Formal bid solicitation) Request for Proposal | Greater than \$250,000 | Council |

**"Authority" means those positions listed, and includes any position which is higher in the Municipality's reporting structure.

**Dollar Ranges exclude taxes and freight

NOTE: Purchase Order requests to Finance Department for any purchase greater than \$5,000

APPENDIX B – BID IRREGULARITIES

| | |
|--|--|
| Late Bid | Automatic Rejection |
| Failure to attend a mandatory site visit | Automatic Rejection |
| Supplier not previously qualified under related prequalification process where applicable | Automatic Rejection |
| Bid Bond – not submitted or not in the acceptable form | Automatic Rejection |
| Amount of Bid Bond – incorrect and/or insufficient | 48 Hours to rectify (after staff review) |
| Agreement to Bond – not submitted or not in the acceptable form. | Automatic Rejection |
| Agreement to Bond – amount is incorrect and/or insufficient | 48 Hours to rectify (after staff review) |
| Partial Submissions – Part Bids – all items not bid | Acceptable only if Bid Solicitation allows for partial items to be bid on, otherwise automatic rejection. |
| Qualified Bids – Bids qualified or restricted by an attached statement | Automatic rejection unless, in the opinion of the Authority, the qualification or restriction is trivial or not significant. |
| Bids Containing Minor Clerical Errors | Manager of Purchasing and Authority shall have the authority to waive irregularities, which they jointly consider to be minor. |
| Mistakes in Tendering – on the application of the tenderer and the demonstration of an error in the bid or the tenderer's calculation sheets | Following consultation with the bidder, where applicable and requested, the Authority and the Manager of Purchasing may allow the Bid to be withdrawn and the Bid Bond returned. |
| Other Minor Irregularities | Manager of Purchasing and the Authority shall have authority to waive irregularities, which they jointly consider to be minor. |
| Any Irregularity | Despite the provision herein contained, Council may waive any irregularity where it considers it to be in the best interest of the Town of Erin. |



THE CORPORATION OF THE TOWN OF ERIN

By-Law # 24 – 49

A By-law to confirm the proceedings of Council at its Regular Meeting held October 24, 2024.

Whereas, it is deemed expedient that the proceedings of the Council of the Corporation of the Town of Erin (hereinafter referred to as “Council”) at its meeting held on **October 24, 2024** be confirmed and adopted by by-law;

Now Therefore, the Council of the Corporation of the Town of Erin hereby enacts as follows:

1. That the proceedings and actions of the Council at its Regular Meeting held on **October 24, 2024** in respect to each report, motion, resolution or other action passed and taken by the Council at its meeting, is hereby adopted, ratified and confirmed, as if each resolution or other action was adopted, ratified and confirmed by separate by-law.
2. That the Mayor and the proper officers of the Corporation of the Town of Erin are hereby authorized and directed to do all things necessary to give effect to the said action, or to obtain approvals where required, and, except where otherwise provided, the Mayor and the Clerk are hereby directed to execute all documents necessary in that behalf and to affix the corporate seal of the Corporation of the Town of Erin to all such documents.

Passed in open Council on October 24, 2024.

Mayor, Michael Dehn

Town Clerk, Nina Lecic