OFFICE CONSOLIDATION

This is a consolidation of the Town's by-law to enact a Purchasing By-law and replace by-law 2013-107 and any amendments thereto being By-law Number 2019-24 as amended by By-law 2025-013. The following consolidation is an electronic reproduction made available for information purposes only and is not an official version of the by-law. Official versions of all by-laws can be obtained from the Town Clerk by calling (905) 584-2272. If there are any discrepancies between this consolidation and By-law 2025-013 the by-law shall prevail.

THE CORPORATION OF THE TOWN OF CALEDON

BY-LAW NO. 2019-24

A by-law to enact a Purchasing By-law and repeal
by-law 2013-107 and any amendments thereto

WHEREAS the Municipal Act, 2001, s.270 (1), requires Ontario municipalities to adopt a policy for the procurement of goods and services;

AND WHEREAS the Council of The Corporation of the Town of Caledon deems it expedient to set out its policies with respect to its procurement of goods and services;

NOW THEREFORE the Council of The Corporation of the Town of Caledon ENACTS AS FOLLOWS:

Short Title

This by-law shall be known as the Purchasing Bylaw

Section 1: Purpose and Principles

1.1 Purpose

The purpose of this By-law is to detail the principles, procedures, roles and responsibilities for the Town's procurement operations.

1.2 Goals

The goals of this By-law are to ensure that the Town conducts it procurement operations in a manner that:

(a) encourages open, fair and transparent competitive procurement processes that afford equal access to all qualified suppliers;

(b) provides objective and equitable treatment of all suppliers;

(c) provides for reciprocal non-discrimination and geographic neutrality with respect to its trading partners in accordance with trade agreement obligations;

(d) achieves best value through consideration of the full range of procurement formats and the adoption of commercially reasonable business practices;

(e) effectively balances accountability and efficiency;

(f) encourages the acquisition of deliverables that conserve energy and help to preserve and protect the environment; and

(g) Is consistent and compliant with applicable legislation, including the Accessibility *for Ontarians with Disabilities Act, 2005*, S.O. 2005, c. 11 and the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56; and

(h) adheres to the highest standards of ethical conduct and protects the integrity of the Town and the public.

Section 2: Interpretation and Application

2.1 Definitions

In this By-law,

"**bid**" means a submission in response to a solicitation document, and includes proposals, quotations, or responses.

“**bidder**” means a supplier that submits a bid, and includes proponents and respondents.

“**CAO**” means the Chief Administrative Officer or designate, appointed by Council, to oversee the administrative management of The Corporation of the Town of Caledon.

“**CFO**” means the Chief Financial Officer or designate, appointed by Council.

“**Chief Librarian**” means the official appointed as the Chief Executive Officer by the Town of Caledon Public Library Board or his or her appointed designate.

“**competitive process**” means the solicitation of bids from multiple suppliers.

“**contract**” means a commitment by the Town for the procurement of deliverables from a supplier, which may be evidenced by an agreement executed by the supplier and the Town, or a purchase order issued by the Town to the supplier.

“**Contract Manager**” means an employee assigned to the management of a contract.

“**Council**” means the elected Council. The Corporation of the Town of Caledon.

“**deliverables**” means any goods, services or construction, or combination thereof.

“**Department**” means the department of the Town that is requisitioning the purchase of the deliverables, The Caledon Public Library shall be considered a department for the purposes of this document.

“**Director**” means the Director or General Manager who is responsible for a specific Department and includes, where appropriate in the context, the Chief Librarian.

“Environmental Procurement” means the procurement of product, materials and/or goods from an organization that either operates in an environmentally manner or produces products/services/materials that have positive environmental outcomes.

“**Invitational Procurement**” means any procurement of deliverables with a value below the Open Competition Threshold, except where the procurement is made through an existing Standing Offer or Qualified Supplier Roster.

“**Legal Services**” means the Town’s legal advisors.

“Library Board” means the Caledon Public Library Board, as established by Council as per the Ontario Public Libraries Act.

“**Manager of Purchasing**” means the employee who is responsible for the Purchasing and Risk Management Division.

“**Master Framework Agreement**” means a master agreement entered into between the Town and the prequalified suppliers that have been included on a Qualified Supplier Roster.

“**Non-Competitive Procurement**” means the acquisition of deliverables above the Open Competition Threshold without conducting an Open Competition.

“**Non-Standard Procurement**” means the acquisition of deliverables through a process or method other than the process or method normally required for the type and value of the deliverables. Non-Standard Procurement processes include Non-Competitive Procurements.

“**Open Competition**” means the solicitation of bids through a publicly posted solicitation document.

“**Open Competition Threshold**” means $50,000.

“**Open Framework Competition**” means the competitive process used to establish a Qualified Supplier Roster and provide for an ongoing application process during the term of the Qualified Supplier Roster.

“**procurement**” means the acquisition of deliverables by purchase, rental or lease.

"**Procurement Plan**" means the plan developed by a Department at the outset of an Open Competition.

"**Procurement Review Committee**" ("**PRC**") means the committee established by the Town under the Procurement By-law for the purposes of considering and making determinations on procurement-related matters, including determinations under the Procurement Protest Protocol and the Supplier Suspension Protocol.

"**procurement value**" means the total value of the deliverables being procured, and must include all costs to the Town, including, as applicable, acquisition, maintenance, replacement, disposal; and training, delivery, installation and extension options, less applicable rebates or discounts and exclusive of sales taxes.

"**Purchasing**" means the Purchasing Division that is responsible for purchasing deliverables for the Town.

"**purchasing card**" means a credit card provided by the Town to authorized officers and employees for use as a payment method to purchase directly from suppliers where permitted under applicable procedures and protocols and in accordance with any cardholder agreement.

"**Qualified Supplier Roster**" means a list of suppliers that have participated in and successfully met the requirements of a Request for Supplier Qualifications (RFSQ), and have therefore been pre-qualified to perform discrete work assignments involving the delivery of a particular type of deliverable. The suppliers that qualify for inclusion on the Qualified Supplier Roster will enter into a Master Framework Agreement and will be eligible to participate in Roster Competitions, as and when the goods or services are required.

"**Roster Competition**" means an expedited, second-stage competition between suppliers that have been included on a Qualified Supplier Roster for the selection of a supplier to perform a discrete work assignment during the term of the roster.

"**solicitation document**" means the document issued by the Town to solicit bids from bidders.

"**Standing Offer**" means a written offer from a pre-approved supplier to supply deliverables to the Town, upon request, through the use of an ordering process during a particular period of time, at a predetermined price or discount, generally within a pre-defined dollar limit. The Standing Offer does not create a contractual commitment from either party for a defined volume of business. The commitment to purchase against a Standing Offer is formed at the time a specific order is placed through the issuance of a purchase order to the supplier.

"**supplier**" means a person carrying on the business of providing deliverables.

"**Town**" means The Corporation of the Town of Caledon.

"**Treasurer**" means the person holding the management position of Treasurer.

"Vendor" means a legal entity with whom the Town or the Library Board has entered into a contract.

2.2 Application

This By-law applies to the procurement of all deliverables by the Town and the Caledon Public Library Board. Procurement includes the acquisition of deliverables by purchase, rental or lease.

This By-law does not apply to:

(a) payment of the Town's general expenses or the acquisition of goods and services set out in Schedule A;

(b) contracts or agreements relating to hiring of employees or employee compensation; or

(c) contracts or agreements for the sale, purchase, lease or license of land or existing buildings.

2.3 Adoption of By-law by Caledon Public Library Board

The Library Board has approved this By-law in its entirety and will adopt this By-law as its own. All library employees and Library Board Trustees shall comply with the provisions of this By-law. This will allow the Caledon Public Library to maximize its effectiveness and to collaborate in achieving common goals. The Chief Librarian will report directly to the Library Board regarding all procurement matters. While it is acknowledged that the Library Board is an independent body and is responsible for directing the disbursement of library funds, it is advantageous for the Library Board to adopt this By-law and streamline business processes with the Town.

2.4 Procurement Protocols and Procedures

Purchasing is responsible for developing and maintaining detailed protocols and procedures to support this By-law. These protocols and procedures are designed to ensure compliance with the Town's trade agreement obligations and the laws of public procurement. All procurements covered by this By-law must be conducted in accordance with all applicable protocols and procedures.

2.5 Contract Splitting

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

2.6 Emergency Purchases

Notwithstanding any other provisions of this By-law, where an emergency exists and prior approval of the Treasurer, Manager of Purchasing or CAO cannot be obtained, a Director, or their designate, may authorize any officer or employee to acquire required deliverables in an expedited manner.
For the purposes of this By-law, an emergency exists when an unforeseeable situation or event occurs that is a threat to any of the following:
(a) public health and/or safety;

(b) the maintenance of essential services;

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

(d) the security of the Town's interests.

Situations of urgency resulting from the failure to properly plan for a procurement do not constitute an emergency.
For emergency purchases with a procurement value of $50,000 or less, a written memorandum detailing the circumstances of the emergency purchase must be provided to the Manager of Purchasing within three (3) months of the purchase.

For emergency purchases with a procurement value of greater than $50,000, the CAO must provide a memorandum detailing the circumstances of the emergency purchase to Council as part of the next available bi-annual purchasing memorandum to Council.

2.7 Cooperative Purchasing

The Town may participate in cooperative or joint purchasing initiatives with other government agencies where such initiatives are determined to be in the best interests of the Town. Cooperative purchasing must be facilitated by the Purchasing Division. If the Town participates in such cooperative or joint purchasing initiatives, the Town may adhere to the policies of the entity conducting the purchasing process, provided that such policies comply in spirit with this By-law. If the Town is leading a cooperative or joint purchasing initiative, this By-law will be followed.

Section 3: Ethical Conduct and Conflicts of Interest

3.1 Conduct and Conflicts of Interest

The Town's procurement activities must be conducted with integrity and all individuals involved in the Town's procurement activities must act in a manner that is consistent with the goals of this By-law and in accordance with the codes of purchasing ethics established by the Ontario Public Buyers Association (OPBA), the Town's Employee Code of Conduct, Town policies and procedures and the *Municipal Conflict of Interest Act*, RSO 1990, cM.50, as amended.

All participants in a procurement process, including any outside consultants or other service providers participating on behalf of the Town, must declare any perceived, possible or actual conflicts of interest as soon as it's known.

"Conflict of Interest," when applied to the activities of the Town and its employees, members of Council, consultants or service providers, means a real or seeming incompatibility between one's private interests and one's public or fiduciary duties.
No person shall accept, directly or indirectly, from any potential supplier, anything of any value including rebates, gifts, meals, money or special privileges.

No preference will be given to providers or suppliers who provide charitable donations, in kind services, sponsorship, advertising, unsolicited products or samples to the Town or who demonstrate the operation of such products or samples.

Personal purchases are prohibited.

3.2 Vendor Conduct and Conflicts of Interest

The Town requires its vendors and suppliers to act with integrity and conduct business in an ethical manner. All suppliers participating in a procurement process or providing deliverables to the Town must declare any perceived, possible or actual conflicts of interest and must conduct themselves in accordance with the Town's Vendor Code of Conduct.

The term "Conflict of Interest," when applied to suppliers, includes any situation or circumstance where:

(a) in the context of a procurement process, the supplier has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or having access to, confidential information of the Town that is not available to other suppliers; (ii) communicating with any person with a view to influencing preferred treatment in the procurement process (including but not limited to the lobbying of decision makers involved in the procurement process); or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of an open and competitive procurement process or render that process non-competitive or unfair; or

(b) in the context of performance under a potential contract, the supplier's other commitments, relationships or financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement; or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

Where a supplier is retained to advise, assist or participate in connection with the development of a solicitation document or the preparation of the requirements or specifications for inclusion in a solicitation document, that supplier will not be allowed to respond or assist any other entity in responding to that solicitation document.

The Town may refuse to do business with any supplier that has engaged in illegal or unethical bidding practices, has an actual or potential conflict of interest or an unfair advantage or fails to adhere to ethical business practices.

Section 4: Roles and Responsibilities

4.1 Role and Responsibilities of Council

It is the role of Council to establish policy and approve expenditures through the Town's budget approval process. Through this By-law, Council delegates to the Town's officers and employees the authority to incur expenditures in accordance with approved budgets through the procurement of deliverables in accordance with the rules and processes set out in this By-law and applicable protocols and procedures. Council may provide strategic direction and guidance on major projects prior to the commencement of the procurement process; however, Council will not generally be involved in the day-to-day procurement operations or individual procurement processes, except to the extent that the approval of Council is required under this By-law or in the event that an exception to this By-law is required.

4.2 Roles and Responsibilities of Officers and Employees

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

4.2.1 CFO, CAO and Treasurer

Notwithstanding any other provisions of this By-law, the CFO, CAO and Treasurer have the authority to require that certain procurements receive Council approval and may provide additional restrictions concerning procurements where they consider such action to be necessary and in the best interests of the Town.

4.2.2 The Manager of Purchasing

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

(a) ensuring the consistent application of this By-law and the provision of procurement services in an efficient and diligent manner;

(b) developing procurement strategies and continually analyzing business requirements and spending patterns to identify opportunities for more strategic sourcing;

(c) researching, developing, maintaining, updating and communicating procurement protocols, procedures and templates;

(d) addressing any issues or concerns that arise in respect of a procurement process and seeking guidance, support and advice of Legal Services, as required; and

(e) providing appropriate orientation, training and tools to employees involved in procurement activities.

4.2.3 Directors and Chief Librarian

It is the role of the Departments to ensure that their requirements for deliverables are met in accordance with the principles and objectives of this By-law. In fulfilling this role, Directors are responsible for:

(a) providing the delegation of authority to designated employees under this by-law and for providing such authority in writing;

(b) budgeting and planning for procurements;

(c) ensuring that their Department complies with this By-law and all applicable protocols and procedures, encouraging sound procurement practices; and

(d) ensuring the provision of appropriate education and training to employees involved in procurement activities.

Directors will be held accountable for any decision to proceed with a procurement process or transaction that is not conducted in accordance with this By-law or does not have the approval of Purchasing.

4.2.4 Contract Managers

Contract Managers are responsible for:

(a) preparing specifications, quantity requirements and scope of work for procurements;

(b) encouraging full, open and fair competition;

(c) ensuring that deliverables conform with contract terms, conditions and specifications throughout the term of a contract; and

(d) managing the contract up to completion of the performance of all contractual obligations of the Vendor and the Town, including payment and obtaining necessary approvals for such actions as early termination or contract amendments.

4.2.5 Department Employees

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

4.2.6 Purchasing Employees

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

4.3 Procurement Review Committee

The Town will establish a Procurement Review Committee for the purpose of making determinations under the Procurement Protest Protocol and the Supplier Suspension Protocol, and for considering and providing input on other procurement matters that may be referred to it by the Manager of Purchasing. The Procurement Review Committee should generally consist of the Manager of Purchasing and at least two other senior- level officers or employees of the Town.

Section 5: Procurement Approval and Contracting Authorities

5.1 Procurement Methods and Authority Schedule

The Schedule of Procurement Methods and Authority, attached as Schedule B to this By-law, sets out the delegated authorities for:

(a) administering a procurement process;

(b) approving the award of a contract;

(c) entering into a contract through the execution of a legal agreement and/or the issuance of a purchase order; and

(d) approving amendments to existing contracts.

5.2 Conditions of Delegated Authority

Delegated approval and contracting authorities are subject to all of the following conditions:

(a) No procurement may be initiated unless approved funding in an amount sufficient to cover the procurement value is available, or the procurement is made conditional upon funding approval by Council.

(b) No contract award may be approved unless approved funding in an amount sufficient to cover the procurement value is available, or the contract award is made conditional upon funding approval by Council.

(c) No contract award may be approved unless the procurement process was conducted in accordance with this By-law and all applicable protocols and procedures and, where a competitive process was conducted, the award is made to the top-ranked bidder established in accordance with the evaluation and selection process set out in the solicitation document.

(d) No contract may be entered into, either through the issuance of a purchase order or the execution of an agreement, unless the contract award has been approved in accordance with this By-law.

(e) No contract may be entered into, either through the issuance of a purchase order or the execution of an agreement, unless approved funding for the acquisition:

(i) has been authorized by Council in the acquiring Department's or Caledon Library Board's operating or capital budget; or

(ii) special funding for the acquisition has been approved by Council

(f) No agreement may be executed unless the agreement and any ancillary documents have been prepared in a form satisfactory to Legal Services.

5.3 Council Authority

If any of the applicable conditions of delegated authority are not met, Council approval must be obtained before proceeding with any procurement or contracting activity.
Council approval is required where indicated in the Schedule of Procurement Methods and Authority, attached as Schedule B.
Despite any other provision of this by-law, Council approval will be required prior to the award of a contract where:

(a) this By-law, or any applicable procedure or protocols, is being waived; or

(b) there is an irregularity or unresolved challenge in connection with the procurement process and, in the opinion of the CAO or CFO, the award of the contract is likely to expose the Town to legal, financial or reputational risk.

5.4 Caledon Public Library Board Authority

The Chief Librarian is authorized to order library collection materials for the Library Board. Material may consist of music, games, books, periodical, newspaper, videos and research or learning supports in borrowable, searchable, downloadable, online and/or streaming formats deemed suitable as part of the library collection. The Chief Librarian shall:

(a) make purchases within approved budgets and

(b) seek approval from the Library Board for purchases over $50,000.00 (Fifty Thousand Dollars) prior to initiating any procurement as confirmed in the Schedule of Procurement Methods and Authority, attached as Schedule B

(c) prepare and present to the Caledon Library Board a report summarizing all purchases between $10,000 and $50,000 twice annually

(d) The Library Board may participate in cooperative or joint purchasing initiatives with other libraries or government agencies where such initiatives are determined to be in the best interests of the Library. Cooperative purchasing must be facilitated by the Purchasing Division. If the Library Board participates in such cooperative or joint purchasing initiatives, the Library Board may adhere to the policies of the entity conducting the purchasing process, provided that such policies comply in spirit with this By-law. If the Library Board is leading a cooperative or joint purchasing initiative, this By-law will be followed.

Section 6: Procurement of Deliverables

6.1 Procurement Planning

Prior to initiating any procurement process, the Department must

(a) ensure that the deliverables are legitimately required for Town purposes;

(b) consider short and long-term requirements with respect to quantities and time lines, or total project cost considering the life span of the program;

(c) consider the cost of ongoing maintenance, support, and licensing requirements;

(d) Consider environmental criteria in the purchasing of goods and services in accordance with the environmental procurement protocol and guideline and consult with the Manager, Energy and Environment.

(e) consult with staff responsible for accessibility to ensure purchases meet accessibility legislation;

(f) where deliverables of the same kind or type are required in connection with one project, ensure that all of those deliverables are included in determining the estimated value of the procurement, for all contemplated phases of the project;

(g) confirm availability of funding; and

(h) allow sufficient time to complete the procurement process, including time for:

(i) developing proper specifications and business requirements;

(ii) obtaining internal reviews;

(iii) conducting a competitive process, as required; and

(iv) obtaining necessary approvals.

6.2 Market Research

Where the Department is uncertain about the deliverables required or where there is insufficient internal knowledge about the market, the Department must consult with Purchasing about conducting a Request for Information (RFI) process. An RFI process must be openly posted in order to gather market research from prospective bidders. It must not be used as a prequalification tool.

6.3 Supply Arrangements for Recurring Requirements

Before initiating a procurement, Departments must consider the availability of existing supply arrangements. If the deliverables will be required on a frequent or regularly recurring basis, and there is no existing supply arrangement, the Department must consult with Purchasing about the possibility of establishing a Standing Offer or Qualified Supplier Roster.
Standing Offers may be established by Purchasing for standardized deliverables to be purchased by all Departments, where the requirements for deliverables are recurring and predictable over an extended period of time, the requirements are standard and clearly defined at the time of establishment of the Standing Offer, and it is possible to set pricing for the deliverables for the duration of the Standing Offer.

Qualified Supplier Rosters may be established by Purchasing to pre-qualify suppliers that will be invited to compete for discrete work assignments, as and when required, involving the delivery of a particular type of deliverables.

6.4 Standardization

Standardization identifies a specific requirement, manufacturer or brand that best fits the Town's needs. No standard shall be established without a competitive process and Council approval. All employees will adhere to standardization decisions.

6.5 Procurement Value

It is important to accurately estimate the value of the procurement to ensure compliance with the appropriate requirements of this By-law. Departments must refer to applicable protocols and procedures for additional guidance on determining the procurement value.

6.6 Procurement Method

Different types of procurement processes may be used depending on the nature, value and circumstances of the procurement. Applicable protocols and procedures must be followed to identify the appropriate procurement method.

6.7 Initiating Procurement

Unless specifically permitted under this By-law or the procurement protocols or procedures, Departments are not permitted to procure deliverables or engage with potential suppliers regarding the procurement of deliverables without the involvement of Purchasing.

A procurement must be initiated in accordance with applicable protocols and procedures and the process must be administered in accordance with the Schedule of Procurement Methods and Authority in Schedule B.

6.8 Applicable Protocols and Procedures

The procurement process must be conducted in accordance with this By-law and the applicable protocols and procedures maintained by Purchasing. The specific roles and responsibilities of those involved in the various stages of a procurement process are described in the protocols and procedures.

6.9 Standard Procurement Methods

Depending on the nature, value and circumstances of the procurement, the Town may procure deliverables through the following standard procurement methods.

(a) Ordering from Standing Offer

When a Standing Offer is available, its use is mandatory for all Departments. Purchases be made in accordance with the terms of the Standing Offer and any applicable procedures and will reflect the pre-negotiated prices and terms and conditions of the Standing Offer.

(b) Roster Competition

If the deliverables are available under an existing Qualified Supplier Roster, the goods and services must be acquired through a Roster Competition in accordance with the terms of the Master Framework Agreement and applicable protocols and procedures.

(c) Invitational Procurement

Where the procurement value is below the Open Competition Threshold and the deliverables are not covered under an existing Standing Offer or Qualified Supplier Roster, the authority to conduct an Invitational Procurement is delegated to a Director. The Director may authorize specific individuals within the Department to conduct Invitational Procurements and may assign specific spending authority limits. The Director is responsible and accountable for ensuring that Invitational Procurements are conducted in accordance with applicable protocols and procedures.

If a Department anticipates making multiple purchases of the same deliverables and the total value of those procurements may exceed the Open Competition Threshold, the Department must contact Purchasing to discuss the possibility of setting up a Standing Offer or Qualified Supplier Roster.

(e) Open Competition

An Open Competition, in which bids are solicited from all interested suppliers through a publicly posted solicitation document, is the standard method of procurement when the procurement value equals or exceeds the Open Competition Threshold. Open Competitions may also be used to establish Standing Offers.

Open Competitions may include two-stage procurement processes in which a prequalification process is conducted by soliciting and evaluating submissions from all interested suppliers in order to establish a short-list of prequalified suppliers that will be eligible to submit a bid in response to a second-stage solicitation document. A two-stage procurement process may be used whenever determined appropriate by the Manager of Purchasing, in consultation with the Department.

Open Competitions must be conducted by Purchasing in accordance with applicable protocols and procedures.

(f) Open Framework Competition

In the case of goods or services that are required on a regular or repetitive basis by one or more Department(s), an Open Framework Competition should be used to establish a Qualified Supplier Roster in accordance with the applicable protocols and procedures.

6.10 Non-Competitive Procurement

Non-Competitive Procurement means the acquisition of deliverables with a value exceeding the Open Competition Threshold without conducting an Open Competition. Non-Competitive Procurement is only permitted under the specific circumstances set out in the Non-Competitive Procurement Protocol and must be approved in accordance with the Non-Competitive Procurement Protocol.

Under no circumstances will a Non-Competitive Procurement be used for the purpose of avoiding competition among suppliers or in a manner that discriminates against or advantages suppliers based on geographic location.

6.11 In-house Bids

In-house Bids may be permitted in accordance with Article 25.04 of the Collective Agreement between the Town and the Canadian Union of Public Employees and its Local 966.

If any procurement process will involve the consideration of in-house bids, all potential bidders shall be made aware of this fact in the solicitation document.

6.12 Unsolicited Offers

Unsolicited offers shall not be considered.

If it is determined that there is a legitimate need for the deliverables offered by way of an unsolicited offer, then a procurement process shall be conducted in accordance with this By-law.

6.13 Contract Finalization

Contracts must be finalized, approved and entered into in accordance with this By-law and the applicable protocol(s) governing the procurement process. A contract must not be entered into unless all applicable protocols have been followed and all required procurement approvals have been obtained. The contract must be in place prior to the delivery or provision of the deliverables.

6.14 Purchasing Card (P-Card)

The purchasing card (P-Card) program is meant to complement existing processes and streamline low value purchases. P-cards must be used in accordance with the Purchasing Card (P-Card) Protocol and must not to be used for personal use or to avoid or bypass this By-law or payment procedures including the Town's expense reimbursement procedure.

The Manager of Purchasing will have final approval over the issuance of all Purchasing Cards.

Directors will be accountable and responsible for all cardholders and their transactions within their department.

Cardholders will be held liable for any misuse or wilful disregard of policies or operating procedures which result in a loss of money, fraud or collusion.

Section 7: Supplier Relations and Contract Management

7.1 Procurement Protests

Suppliers may formally protest the outcome of a procurement process. Procurement protests must be managed and responded to in accordance with the Procurement Protest Protocol.

7.2 Contract Management

All contracts for deliverables must be managed by the Department in accordance with applicable protocols and procedures. Master Framework Agreements will be managed by Purchasing.

7.3 Unexpected Contingencies and Contract Amendments

Contract amendments must not be used to expand a contract beyond what was contemplated under the terms of the contract and the original procurement process, or to circumvent the need to procure additional deliverables through a competitive process in accordance with this By-law
If, as a result of unexpected contingencies, a contract amendment results in a net increase to the contract value previously approved, the amendment must be approved in accordance with the Schedule of Procurement Methods and Authority in Schedule B.

7.4 Contract Renewal

Where a contract contains an option for renewal, the Manager of Purchasing, in consultation with the Director will determine whether such option should be exercised provided that:

(a) the Vendor's performance has been satisfactory in accordance with the Vendor Performance Evaluation Protocol;

(b) the Director agrees that the exercise of the option is in the best interests of the Town; and

(c) funds are approved and available in an appropriate account.

7.5 Contract Termination

A contract may only be terminated prior to its expiry date with the approval of the Department Director in consultation with the Manager of Purchasing and Legal Services.

7.6 Vendor Performance

The performance of a Vendor under contract must be monitored and tracked in accordance with the Vendor Performance Evaluation Protocol.

7.7 Vendor Suspension

Vendors can be suspended from participating in future procurement processes in accordance with the Vendor Suspension Protocol.

Section 8: Procurement Recordkeeping

8.1 Supplier Information

The Town must ensure that supplier information submitted in confidence in connection with a procurement process or contract is adequately protected. Purchasing and the Departments must ensure that all bids and contracts are kept in a secure location and only accessible by those individuals directly involved with the procurement or management of the contract.

The disclosure of supplier information shall be made only by the appropriate officers in accordance with the provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and the *Personal Health Information Protection Act*, as amended.

8.2 Procurement Records

The maintenance, release and management of all procurement records must be in accordance with the Town's policies and procedures on document management, records retention and access to information.

Department is responsible for ensuring that all documentation relating to a procurement up to $49,999.99 in value is properly filed and maintained in a procurement project file.

Purchasing is responsible for ensuring that all documentation relating to a procurement valued at $50,000 and greater is properly filed and maintained in a procurement project file.

Documentation and reports regarding procurement processes and contract awards (including Non-Standard Procurements) and data necessary to trace the process conducted must be maintained for a minimum period of at least three (3) years from the contract award date or such longer period as may be required under the Town's records retention policies and procedures.

Section 9: Disposal of Surplus Goods and Equipment

9.1 Disposal of Surplus Goods and Equipment

Except where otherwise required by Council for specific goods or equipment, surplus goods and equipment shall be disposed of by the Manager of Purchasing in accordance with the following:

(a) Any Director may declare material, equipment, furnishings and vehicles owned by the Town to be surplus and shall then advise the Manager of Purchasing of any such items.

(b) Items declared surplus and having a cash value may be disposed of by the Manager of Purchasing by the most advantageous means, which may include:

(i) redistribution throughout the Town;

(ii) redistribution to other public bodies or government organizations;

(iii) redistribution to a recognized charitable organization in Caledon registered as such with Canada Revenue Agency (Charities Directorate);

(iv) public auction;

(v) the issuance of a request for offers to purchase; or

(vi) trade in at fair market value as part of the procurement of other similar items or items required by the Town.

(c) Refuse items shall be disposed of.

Funds received from the disposal of surplus items shall be credited to the appropriate accounts, as determined by the Finance Division of the Finance and Infrastructure Services Department.

No elected official, Library Board member or employee of the Town or Library Board, or any relative of that elected official, Library Board member or employee, shall be permitted to purchase any surplus goods except by submitting a successful bid at public auction or by sealed offer.

Section 10: Compliance Monitoring and Reporting

10.1 Compliance Monitoring

Non-compliance with this By-law may expose the Town to the risk of:
(a) supplier complaints;

(b) reputational damage;

(c) damage to political relations;

(d) bid disputes; and

(e) legal challenges.

Directors are required to observe and address non-compliance with this By-law within their Departments. Where instances of non-compliance are identified, the Director is expected to notify the Manager of Purchasing and obtain advice with respect to mitigating potential risks to the Town arising from the non-compliance.

The Manager of Purchasing is responsible for monitoring compliance across the organization. Based on the results of compliance monitoring, reports outlining instances of non-compliance may be issued by the Manager of Purchasing to the relevant Director.

The Director must address the identified compliance concerns and submit a written confirmation of actions taken to the Manager of Purchasing. Ongoing concerns with respect to compliance will be subject to internal audit.

10.2 Audit

All procurement activities will be subject to audit by the Treasurer.

10.3 Reporting

The Manager of Purchasing will prepare and submit to Council a semi-annual memorandum summarizing the Town's procurement activities, including contracts awarded in amounts over $50,000.00.

10.4 Periodic Review

A detailed evaluation of this By-law shall be held every four years, or on a more frequent basis as the Manager of Purchasing sees fit or as per Council's direction.

Repealment

By-law 2013-107 being a bylaw to enact a Purchasing Bylaw and all amendments thereto are hereby repealed.

Enactment

This By-law shall come into full force and effect on the day of its passing.

Enacted by the Town of Caledon Council this 30 day of April, 2019.

"Allan Thompson"

Allan Thompson, Mayor

"Carey Herd"

Carey Herd, Clerk

Schedule A to Bylaw 2019-24

Exemptions from By-law

This By-law does not apply to the payment of the Town's general expenses or the acquisition of the following goods and services:

1. Training and Education
(a) conferences
(b) courses
(c) seminars
(d) conventions
(e) memberships
(f) periodicals
(g) magazines
(h) subscriptions
(i) staff training
(j) staff development
(k) staff workshops
(l) books

2. Refundable Employee Expenses
(a) advances
(b) meal allowances
(c) payroll, benefit premiums, remittances and payroll deductions
(d) reimbursable expenses incurred by employees or elected officials in accordance with Town policies and procedures

3. Utilities
(a) postage and courier services
(b) water and sewage charges
(c) telephone service
(d) cable television service
(e) hydro
(f) gas

4. Professional and Special Services
(a) committee fees
(b) counseling services
(c) legal services, including all fees and disbursements
(d) other professional services related to pending/on-going litigation or legal matters
(e) witness services
(f) arbitrators and mediators
(g) commissions
(h) Insurance Services
(i) claims, including all fees and disbursements
(j) transcript fees
(k) forensic auditors
(l) annual audit fees
(m) honouraria
(n) providers of entertainment, artistic and recreational services
(o) facilitators, instructors and speakers

5. Library
(a) Items required for library collections including but not limited to music, games, books, periodicals, newspapers, videos and research or learning supports in borrowable, searchable, downloadable, online and/or streaming formats.
(b) Purchases, fundraising and disposal made through The Friends of the Caledon Public Library organization

6. Other General Expenses
(a) debenture payments
(b) banking and bank charges
(c) tax remittances
(d) permits, development charges
(e) refunds, donations, gifts or grants
(f) licences (hardware, software, software maintenance, vehicles, elevators, radios)
(g) charges to or from other public entities
(h) police services
(i) real estate and realty appraisers
(j) Office space, hall rentals and leases
(k) freight charges and brokerage fees
(l) original works of art

Schedule B to Bylaw 2019-24

Procurement Methods and Authority

Amended by By-law 2025-013, effective February 25th, 2025

Procurement Value/Type (amounts shown exclude HST)	**Procurement Method**	**Who has authority to administer the process**	**Who has authority to approve the contract award and sign the contract**	**Who is responsible for maintaining the agreement and supporting documentation?**
Standard Procurements $0.01 - $10,000	Invitational – minimum one written quote	Department Staff authorized by their Commissioner or Chief Librarian	Department Manager, Director or Commissioner, or Chief Librarian other than the individual that administered the process	Department
Standard Procurements $10,000.01 - $100,000	Invitational – minimum three written quotes	Department Staff authorized by their Commissioner or Chief Librarian	Department Manager or Director, or Commissioner, or Chief Librarian other than the individual that administered the process	Department
Standard Procurements $100,000.01 and greater	Open Competition – public bid	Purchasing Department	Department Commissioner, or Director or Chief Librarian, and Manager of Purchasing	Purchasing
Non-Standard Procurements – Single and Sole source contracts up to $100,000	Direct Negotiations	Purchasing Department	Department Commissioner or Chief Librarian approval required Department Commissioner or Director or Chief Librarian, and Manager of Purchasing signing authority	Department
Non-Standard Procurements – Single and Sole source contracts $100,000.01 - $500,000	Direct Negotiations	Purchasing Department	CAO approval required Department Commissioner or Director or Chief Librarian, and Manager of Purchasing signing authority	Purchasing
Non-Standard Procurements - Single and Sole source contracts $500,000.01 and greater	Direct Negotiations	Purchasing Department	Council approval required Department Commissioner or Director or Chief Librarian, and Manager of Purchasing signing authority	Purchasing
Vendor of Record (any value)	Open Competition – public bid	Purchasing Department	Department Commissioner or Director or Chief Librarian, and Manager of Purchasing	Purchasing
Co-operative Procurement (any value)	Open Competition – public bid	Purchasing Department	Department Commissioner or Director or Chief Librarian, and Manager of Purchasing	Purchasing
Emergency Purchase Up to $100,000	Direct Negotiations	Purchasing Department	Department Commissioner approval required Department Commissioner or Director or Chief Librarian, and Manager of Purchasing signing authority	Purchasing
Emergency Purchase $100,000 and greater	Direct Negotiations	Purchasing Department	CAO approval required Department Commissioner and Manager of Purchasing signing authority	Purchasing
Open Competition to establish Standing Offer or Qualified Supplier Roster	Open Competition – public bid	Purchasing Department	Department Commissioner or Director or Chief Librarian, and Manager of Purchasing	Purchasing

CONTRACT AMENDMENT Amendment of existing contract for deliverables resulting in increase to the value of the contract	
Total Cumulative Increase to Original Contract Value* **	**Approve Contract Amendment**
The lesser of 15% of the original contract value or $100,000 within Council approved budget	Department Director, Manager of Purchasing and Treasurer
In excess of 15% of the original contract value or $100,000 or any amount over the Council approved budget	Council

*Employee must have Manager or Director approval prior to initiating the procurement process and has also read and understood the Town's procurement protocols and Purchasing Bylaw.
**Employee awarding and signing the contract must be different than the employee that administered the process.
***Amount of increase is the cumulative total of value of all increases to the original contract value; if previous amendments were approved, the value of those amendments must be included in the total amount of increase.
If a recommended award amount is higher than the Council approved budget, Council approval is required prior to award for all awards.

SCHEDULE C TO BY-LAW 2019-24 HEDGING POLICY

1. This hedging policy is to be interpreted and applied in accordance with the requirements of the *Municipal Act, 2001* ("the Act") and any regulations passed thereunder ("the regulations"). Terms used in the by-law have the meanings applicable to those terms in the corresponding sections of the Act and the Regulations.

2. The purpose of this policy is to adopt a statement of the Town's commodity price hedging policies and goals. Section 6(1) of O.Reg. 653/05 requires the adoption of such a statement before the Town may enter into commodity price hedging agreements.

Statement of Commodity Price Hedging Policies and Goals

1. The Town will consider commodity price hedging agreements as a means of fixing, directly or indirectly, or enabling the Town to fix, the price or range of prices to be paid by the Town for the future delivery of some or all of the commodity or the future cost to the Town of an equivalent quantity of the commodity, where it is advantageous for the Town to do so.

2. In determining whether a particular commodity price hedging agreement is advantageous for the Town, the following considerations will be taken into account:

   (1) Any and all projects of the Town are projects for which commodity price hedging agreements will be appropriate;

   (2) If, at the time, it is the opinion that fixed costs and estimated costs of the Town will be reduced by virtue of the use of such an agreement;

   (3) If, at the time, it is the opinion that the future price or cost to the Town of the applicable commodity will be lower or more stable than it would be without the agreement;

   (4) If, at the time, the project includes a detailed estimate of the expected result of using such an agreement;

   (5) If, at the time, it is the opinion of the Treasurer that the financial and other risks to the Town that would exist with the use of such an agreement will be lower than the financial and other risks to the Town that would exist without such an agreement; and

   (6) If, at the time, it is the opinion that the agreement contains adequate risk control measures relating to such an agreement, such as, limited credit exposure based on credit rating and/or on the degree of regulatory oversight and/or on the regulatory capital of the other party to the agreement, a standard agreement, and ongoing monitoring with respect to the agreement.

SCHEDULE D TO BY-LAW 2019-24
LEASING POLICY

1. This policy is to be interpreted and applied in accordance with the requirements of the *Municipal Act, 2001* ("the Act") and any regulations passed thereunder ("the regulations"). Terms used in this by-law have the meanings applicable to those terms in the corresponding sections of the Act and the Regulations.

2. The purpose of this policy is to adopt a statement of the Town's lease financing polices and goals. Section 9(1) of O. Reg. 604/06, as amended, requires the adoption of such a statement before a municipality may enter into a financing lease.

Statement of Lease Financing Policies and Goals

1. The Town will consider financing leases as a means of obtaining municipal capital facilities where it is advantageous to the Town to do so, recognizing that the normal process for acquiring municipal capital facilities is not to engage in lease transactions but instead to purchase municipal capital facilities when funds are available.

2. In determining whether a particular financing lease transaction is advantageous to the municipality, the following considerations will be taken into account:

   (a) The financial risks and benefits of the lease transaction;
   (b) The non-financial risks and benefits of the lease transaction, such as the ability to proceed with a public works project at an earlier date than would otherwise be possible; and,
   (c) The legal elements of the transaction, including the legality of the terms and provisions of any proposed agreement or agreements, and any other legal considerations affecting the lease transaction.
   (d) It is the intention of the Town to take full advantage of any special provisions, exemptions, or exceptions which may be contained in the Regulations regarding non- material financing leases.

Non-Material Financing Leases

1. It is recognized that certain categories of financing leases will not involve costs or risks that will significantly affect, or would reasonably be expected to have a material effect on the Town’s future debt obligations and commitments and the annual debt repayment limit prescribed for the Town. The Treasurer shall from time to time, in consideration with O. Reg. 604/06, propose to Council certain varieties of financing leases to be so classified and, where Council shares the opinion of the Treasurer that such leases do not involve such a material risk, it shall pass a Resolution to that effect.