

**CORPORATION OF THE TOWNSHIP OF ESQUIMALT**

**BYLAW NO. 3123**

**A Bylaw to delegate authority for Purchasing and Disposal**

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**WHEREAS** pursuant to the *Community Charter* the Municipality has the capacity, rights, powers and privileges of a natural person of full capacity including the power to enter into agreements;

**AND WHEREAS** the Council may, by bylaw, delegate its powers, duties and functions to its Officers and Employees;

**AND WHEREAS** it is desirable to delegate to certain Officers and Employees of the Municipality the authority to enter into agreements and contracts on behalf of the Municipality and to execute such agreements and contracts so as to bind the Municipality thereto;

**NOW THEREFORE**, the Council of the Township of Esquimalt in open meeting assembled enacts as follows:

1. Citation

This bylaw may be cited for all purposes as *the "PURCHASING AND DISPOSAL BYLAW, 2023, NO. 3123"*.

2. Definitions

For the purposes of this Bylaw:

"asset" includes without limitation supplies, equipment, furniture, fixtures, machinery and vehicles;

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

"delegated staff" means an employee provided with the written authority to act on behalf of a director or manager pursuant to section 7 (d);

"expenditure" means all amounts authorized to be paid in this bylaw and the annual budget within the Five Year Financial Plan adopted by Council and includes the purchase of goods and services within the monetary limits prescribed by this bylaw;

"goods and services" includes supplies, equipment, furniture, fixtures, machinery, vehicles, insurance, employee benefits, construction, labour and materials, legal and damage claims, maintenance, employment contracts, and professional and consulting services;

“invitations to tender” means a formal competitive process where sealed bids to supply goods and services are invited, accepted and publicly opened;

“purchase” means the acquisition of goods and services, real property or any interest therein by purchase, contract, lease, rental or otherwise;

“quotation” means a verbal or written submission from a supplier to provide goods and services which are not opened in public and may be subject to further negotiations;

“request for proposal” means a formal process where sealed proposals to supply goods and services that may or may not be fully defined or specified are invited, accepted and may be publicly opened;

“single source” means there is only one supplier that has the ability or capacity to provide specified goods and services to meet the Township’s requirements or that the Township is contractually obligated to use in the circumstances of a particular purchase;

“total costs” means the sum of all costs including contingencies and applicable taxes that are to be paid for the purchase of goods and services, or in the case of a contract, lease or rental agreement, the sum of all such payments for the term of such contract, lease or agreement;

“Township” means The Corporation of the Township of Esquimalt;

“unsuccessful bidder” means a supplier of goods and services that submits a quotation or request for proposal, or tender but is not selected once the evaluation decision has been made.

### 3. Delegation

Council hereby delegates to the officers and employees of the Township all of the powers, duties and functions of Council to make agreements respecting the Township’s activities, works or services, subject to the limitations on the delegated authority as set out in this bylaw to the extent provided herein.

### 4. General

(a) No purchase or expenditure shall be incurred or made on behalf of the Township, and no account shall be paid by the Township, except as provided in this bylaw or otherwise approved by Council.

(b) No contract shall be entered into and no purchase or expenditure shall be authorized or incurred unless Council has provided funds in the annual budget, as amended from time to time, and no expenditure shall be authorized or incurred in excess of the funds provided.

(c) No purchase or expenditure shall be made by the Township for the personal use of elected or appointed officials or officers or employees except as provided in a Township agreement, policy or otherwise approved by Council.

- (d) Purchases or expenditures are not permitted by an officer or employee of the Township unless the extent of the interest of such officer or employee has been fully disclosed and the Purchase has been approved by the Chief Administrative Officer. Any such purchase or expenditure made by the Chief Administrative Officer should be approved by Council.
- (e) Where purchases or expenditures of the same description are required in connection with one project, all of those purchases and expenditures shall be included in determining the total cost for the purposes of this bylaw and no requirement for purchases or expenditures shall be divided to avoid any provision of this bylaw.
- (f) Purchases of goods and services, reimbursements of expenses and refunds shall involve at least two staff in the ordering, receiving and/or approval process.

5. Unauthorized Purchases

Purchases or expenditures made outside the authority of this bylaw are the personal financial responsibility of the individual making the commitment. The Township reserves the right to recover all costs from the employee and consider appropriate disciplinary action.

6. Authorized Purchases

- (a) The Chief Administrative Officer has overall responsibility to ensure compliance with this bylaw.
- (b) Directors are responsible for ensuring that this bylaw is followed within their areas of control. In this regard, Directors shall ensure that:
  - i. Expenditures comply with the Township's Financial Plan
  - ii. Sufficient analysis and discussion has taken place
  - iii. The risk of fraud, embezzlement and error is minimized.
- (c) Directors may assign purchasing authority to employees within their department, subject to the limits set out below. The Finance Department must be advised, in writing, of all assignments of purchasing authority to delegated staff.
- (d) Purchasing approval limits are:
 

i. Council	over \$250,000
ii. Chief Administrative Officer	up to \$250,000
iii. Director	up to \$100,000
iv. Manager	up to \$25,000
v. Delegated Staff	up to \$5,000
- (e) Notwithstanding these approval limits, the Chief Administrative Officer may direct staff to submit any contract or agreement to Council for approval.

- (f) For purchases up to a total cost of \$5,000 purchases may be made directly from a supplier. Written quotations are recommended but not required.
- (g) For purchases up to a total cost exceeding \$5,000 and less than \$25,000, quotations, either written or by telephone, are required.
- (h) For purchases up to a total cost exceeding \$25,000 and less than \$100,000, written quotations from at least three (3) suppliers are required. Invitations to Tender or requests for proposal may also be used.
- (i) For purchases exceeding \$100,000, invitations to tender or requests for proposal must be used.
- (j) All Invitations to Tender and Requests for Proposal must be internally reviewed prior to being issued. This review must be performed and documented by a Director or the Chief Administrative Officer.
- (k) In compliance with the Agreement on Internal Trade and the New West Partnership Trade Agreement, all procurements of goods and services valued at \$75,000 or greater, and all procurements of construction projects valued at \$200,000 or greater, require open and non-discriminatory procedures.
- (l) All Invitations to Tender and Requests for Proposal are to be posted on the Township's website as well as BC Bid and any other electronic tendering system chosen.

## 7. Specifications

- (a) The Township considers the economic and environmental value of goods and services being purchased. When assessing value, factors such as, but not limited to, quality, cost, training, maintenance, delivery, warranties, performance, and sustainability may be considered. The purchaser must ensure that evaluation criteria are developed for all chosen factors and that the evaluation procedure in place is fair and objective.
- (b) Purchasers are responsible for preparing specifications that can be easily interpreted by all qualified suppliers. In addition, unless it can be demonstrated that there are valid technical, operational or financial reasons for not doing so, specifications must be prepared that can be fulfilled by more than one product or supplier.
- (c) The Township intends to continue a shift towards goods and services that are environmentally sound. While evaluation criteria will be tailored to each specific competition, purchasers are encouraged to consider goods and services that will have the least possible negative environmental impacts. This could include, but not be limited to, value added evaluation criteria in Requests for Proposal.
- (d) All quotations, requests for proposal and invitations to tender shall be completed using an appropriate standardized template. Where industry

standards are available (e.g. MMCD, CCDC), these templates are to be utilized if appropriate for the acquisition of an item or service.

#### 8. Weighted Evaluation Criteria

- (a) Where price is not the only consideration, departments must determine in advance the criteria and method of evaluation that will be used to assess the relative merits of quotations, invitations to tender or requests for proposal.
- (b) If multiple evaluation criteria are used, cost must be one of the criteria and must represent at least 30%, but not greater than 50%, of the total evaluation score.
- (c) Where a recommended purchase is not the lowest cost option, a report justifying the selection shall be submitted for the approval of the appropriate Director, the Chief Administrative Officer, or Council depending on the level of purchasing authority described in Section 7 of this bylaw.

#### 9. Single Source Purchases

- (a) A Director may negotiate a purchase for their department without inviting competitive quotations or proposals from suppliers if it can be demonstrated that:
  - i. The compatibility of an item with existing equipment, facilities or services is considered
  - ii. The item is required to cope with an emergency
  - iii. An item is purchased for testing and trial use
  - iv. An item is currently rented with a contract that has a purchase option and the purchase option is deemed beneficial to the Township
  - v. An item is offered for sale by tender, auction or negotiation and it can be demonstrated that purchasing the item is clearly in the best interest of the Township.
- (b) Any purchase made under subsection 9 (a) requires the approval of:
  - i. The Director, if the total cost does not exceed \$100,000
  - ii. The Chief Administrative Officer, if the total cost does not exceed \$250,000
  - iii. Council, if the total cost exceeds \$250,000

#### 10. Use of Local Suppliers

- (a) The Township supports local businesses by encouraging local purchasing decisions.
- (b) If, after considering the evaluation criteria and all submissions are considered equal, geographical location will be the deciding factor based on the following order:
  - i. Within the Township of Esquimalt
  - ii. Within the Capital Regional District
  - iii. Within the Province of British Columbia
  - iv. Within Canada
  - v. Outside Canada

- (c) The Township may participate in cooperative purchasing initiatives with other government or broader entities where there are economic advantages for doing so, provided that:
  - i. the method of procurement used by the other public body is a competitive method consistent with that as set out in this bylaw; and
  - ii. the awarding, reporting and execution of contracts resulting from the cooperative purchasing is consistent with that as set out in this bylaw.

#### 11. Contracts

- (a) All service contract arrangements should be completed using the Township's Agreement for Consulting Services template. Any formal documentation from the supplier, such as cost schedules, shall be attached as an appendix to the completed contract template.
- (b) All Contracts shall be reviewed by the responsible Director prior to finalization and signing of the contract. Contracts may be reviewed by the Director of Financial Services to confirm that WorkSafeBC clearances and contractual insurance requirements meet the Township's needs and expectations.

#### 12. Emergency Purchases

- (a) In cases of emergency, a purchase or expenditure may be required to restore or maintain acceptable levels of community services or to prevent further damage, serious delays, or injury. In such instances, it may be authorized in accordance with this section.
- (b) In such instances, the preparation, documentation and analysis set out in the usual purchasing procedures may not be possible. Oral authorization to bypass normal purchasing procedures, including single source purchasing, may be acceptable. All required purchasing documentation, authorization and reporting, is to be completed as soon as possible after the emergency.
- (c) Where the total cost of the purchase or expenditure does not exceed \$25,000 per incident, a Manager may authorize the transaction.
- (d) Where the total cost of the purchase or expenditure exceeds \$25,000 but does not exceed \$100,000 per incident, a Director may authorize the transaction.
- (e) Where the total cost of the purchase or expenditure exceeds \$100,000 per incident, the Chief Administrative Officer may authorize the transaction.

13. Reports to Council

Notwithstanding anything in this bylaw, a report shall be submitted to Council by a Director prior to authorizing a purchase or expenditure in each of the following circumstances:

- i. The total cost of the purchase or expenditure is \$250,000 or more; or
- ii. The term of the proposed contract is for a period longer than five (5) years with an aggregate value over \$250,000, or where the renewal, or option of renewal, of the contract would result in an aggregate term of longer than five (5) years; or
- iii. The purchase or expenditure requires the initiation of an alternate approval process, the assent of the electors, or a partnering agreement; or
- iv. Where a purchase or expenditure is not authorized by this bylaw.

14. Petty Cash Funds

- (a) Notwithstanding anything in this bylaw, petty cash funds may be established for departments in amounts approved by the Director of Financial Services and not exceeding \$250.00 in the case of any one department, except for those departments that have multiple locations, in which case the petty cash funds must not exceed \$250.00 for each location.
- (b) A Director or Manager shall authorize expenditures from such funds not exceeding \$50.00 with respect to any one purchase.
- (c) All petty cash disbursements must be supported by a fully completed petty cash voucher with an attached receipt. Petty cash funds shall not be used for personal purposes, payment of wages (including contracted services) or payment of business travel expenses.
- (d) Petty cash funds shall be reimbursed only upon delivery of receipts or other evidence satisfactory to a Director or Manager. All petty cash reimbursements will be made by cheque payable to the fund custodian.
- (e) All requests to establish petty cash funds, or to change the fund amount, shall be made to the Director of Financial Services.
- (f) Petty cash funds are subject to audit without notice by the Financial Services Department and the Township's external auditors.

15. Purchasing Cards

- (a) Purchasing cards shall not be used by anyone other than the person whose name appears on the card. Each cardholder is responsible for the purchase activity of their card, and they are responsible for documenting all charges as directed by the Director of Financial Services. In the event their card is lost, stolen or destroyed the cardholder must notify the credit card company and the Director of Financial Services immediately.

- (b) Purchasing cards should be subject to the following restrictions:
  - i. A purchasing card may be used for purchases with a total cost not exceeding \$1,000 per transaction. This restriction does not apply to expenses associated with an approved convention, conference, seminar, or training, e.g. registration fees, airfare, accommodation, etc.
  - ii. Purchasing cards shall not be used for the acquisition of approved capital items without approval by the Director of Financial Services.
  - iii. Purchasing cards shall not be used for personal purposes, including the initiation of cash advances.
- (c) The Finance Department is responsible for reviewing the performance of the purchasing card program on a regular basis, to ensure that the recorded purchases comply with the provisions of this bylaw.
- (d) Each Director shall submit requests for purchasing cards to the Director of Financial Services. Credit limits for each card will be related to departmental needs and determined individually after consultation between the Director and the Finance Department. Each Director is responsible for ensuring that the purchasing cards of employees leaving the employment of the Township are promptly returned to the Finance Department.

16. Cheque Requisition Form

A cheque requisition form is generally used in circumstances where there is no invoice. Examples of this situation include local grant payments or refunds to members of the public.

17. Travel Expense Forms

- (a) The Monthly Business Travel Expense Report shall be used to claim all expenses for travel and allowances on municipal business other than for attendance at conferences and seminars. Allowable expenses include personal vehicle use, parking, business meals, bus fares, taxi fares, etc.
- (b) The Conference and Seminar Expense Form shall be used to claim all expenses for registration, travel, accommodation, and meals associated with attendance at an approved convention or seminar that have not been paid directly or paid using a purchasing card.
- (c) All expense forms shall include the signature of the claimant as well as their Director or Manager prior to being submitted to the Finance Department for processing.
- (d) For a list of eligible expenditures please refer to Council Policy ADMIN-11 Travel Allowances – Municipal Staff, Council Appointees and Volunteers.



18. Purchase Orders

- (a) Purchase orders may be issued for all purchases of goods and services other than purchases made with petty cash, a purchasing card, or where the invoice is received at the same time the order is placed and the goods and services are received.
- (b) Other exemptions from the purchase order requirement include:
  - i. Recurring monthly or annual charges
  - ii. Fees for exams, courses, conventions, seminars
  - iii. Postage, copier and telecommunications fees
  - iv. Additional exemptions granted by the Finance Department
- (c) Prior to submission of each invoice to the Finance Department for payment, any issued purchase order shall be compared to the invoice quantity and cost to ensure there are no discrepancies. After review, the yellow copy of the purchase order shall be attached to the invoice prior to being submitted to the Finance Department for payment.
- (d) In order to facilitate year end cut off procedures, purchase orders issued towards the end of each calendar year shall be examined to determine whether the purchase relates to the current year.
- (e) Purchase orders for goods and services that have not been received in full during the fiscal year shall be a commitment in the following fiscal year to the extent not completed.

19. Foreign Currency Purchases

- (a) In instances where the purchase of goods and services is required from a supplier requiring a non-Canadian currency payment, the invoice should be provided to Finance Department for the generation of a foreign currency wire transfer.
- (b) Foreign currency purchases may be made with a purchasing card in accordance with the purchase restrictions identified in subsection 16 of this bylaw.

20. Appeals

- (a) A proponent must advise the Chief Administrative Officer in writing within five business days of the event causing the issue, stating the nature and basis of their appeal.
- (b) The Chief Administrative Officer, within five business days of receiving written notification, shall convene a meeting of the appropriate municipal staff to attempt to resolve the proponent's concerns.
- (c) Within five business days of this meeting, the Chief Administrative Officer will advise the proponent in writing of the administrative decision on their appeal.

21. Disposal of Obsolete or Damaged Assets

- (a) Each Director shall provide to the Director of Financial Services an itemized list of any assets which are obsolete, damaged or surplus to their department's needs.
- (b) All obsolete, damaged or surplus assets shall be treated in the following order of priority:
  - i. Offered as trade in on a replacement asset;
  - ii. Offered to other departments within the Township, at their net value as determined by the Director of Financial Services and the Director;
  - iii. Disposed of by means of public auction or advertised for public tender on the Township website and sold to the highest bidder;
  - iv. Donated, without competition, to any non-profit organization, subject to the approval of the Director of Financial Services.
- (c) Where assets declared obsolete, damaged or surplus are determined to have a value which is less than the cost of disposition, such assets shall be disposed of by the least-cost method available, taking into account any environmental implications of the disposal.
- (d) No employee of the Township shall be permitted to purchase any assets to be disposed of by the Township except by successfully bidding on the same at a public auction or where permitted by a Township policy, but such an exception shall not apply if the duties of that employee include making decisions regarding the disposal of such assets or activities relating to the conduct of the auction.

22. Payment of Accounts

Except as otherwise provided, the Director of Financial Services is authorized to pay all accounts for purchases and expenditures where they have been made in accordance with this bylaw or have otherwise been approved by Council or the Chief Administrative Officer.

23. Freedom of Information

Freedom of Information ("FOI") and Protection of Privacy legislation applies to all purchasing records. Any such records may be the subject of an FOI request and may be released to a third party pursuant to the FOI legislation by the Township's FOI Head.

24. Repeal of Bylaw

Bylaw No. 2845, cited as "*PURCHASING AND DISPOSAL BYLAW, 2014, No. 2845*" and any amendments thereto, are hereby repealed.

READ a first time by the Municipal Council on the 6<sup>th</sup> day of November, 2023.

READ a second time by the Municipal Council on the 6<sup>th</sup> day of November, 2023.

READ a third time by the Municipal Council on the 6<sup>th</sup> day of November, 2023.

ADOPTED by the Municipal Council on the 27<sup>th</sup> day of November, 2023.



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BARBARA DESJARDINS  
MAYOR



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DEBRA HOPKINS  
CORPORATE OFFICER