

THE REGIONAL MUNICIPALITY OF PEEL

BY-LAW NUMBER 45-2023

**A by-law to govern the procurement
and disposal of goods and services
and to repeal By-law 30-2018, as amended.**

WHEREAS subsection 270(1)(3) of the *Municipal Act*, 2001, S.O 2001, c.25, as amended, requires a municipality to adopt policies with respect to its procurement of goods and services;

AND WHEREAS, the Council of The Regional Municipality of Peel has deemed it desirable to set out its policies with respect to its procurement of goods and services;

AND WHEREAS, this By-law establishes the authority and sets out the policies and methods by which goods and services will be Procured and disposed of for the purposes of The Regional Municipality of Peel, subject to certain exceptions set out herein;

NOW THEREFORE, the Council of The Regional Municipality of Peel enacts as follows:

TABLE OF CONTENTS

		Page
PART I	PROCUREMENT GUIDING PRINCIPLES	3
PART II	DEFINITIONS	3
PART III	APPLICATION	8
PART IV	EXCEPTIONS AND SCHEDULE “A” PURCHASES	9
PART V	PROCUREMENT AUTHORITIES AND RESPONSIBILITIES OF DIRECTOR OF PROCUREMENT	10
PART VI	COMPETITIVE PROCUREMENT METHODS	14
PART VII	DIRECT NEGOTIATIONS	15
PART VIII	CONTRACT INCREASES	16
PART IX	EMERGENCY PROCUREMENTS	18
PART X	DISPOSAL OF PROPERTY	19
PART XI	PROHIBITIONS AND COMPLIANCE	20
PART XII	CONFLICT OF INTEREST	20
PART XIII	LOBBYING RESTRICTIONS	21
PART XIV	NO LOCAL PREFERENCE	22
PART XV	UNSOLICITED OFFERS	22
PART XVI	OFFICIAL POINT OF CONTACT AND COMMUNICATIONS	22
PART XVII	TIED BIDS	22
PART XVIII	NO COST PROCUREMENT	23
PART XIX	BIDDER DEBRIEFINGS AND DISPUTES	23
PART XX	AWARDS THAT REQUIRE REGIONAL COUNCIL APPROVAL	23
PART XXI	PROCUREMENT ACTIVITY REPORTING	24
PART XXII	GENERAL	24

SCHEDULE “A” EXCEPTIONS

SCHEDULE “B” PROCUREMENT APPROVAL AUTHORITIES

PART I - PROCUREMENT GUIDING PRINCIPLES

In the interpretation and application of this By-law, regard shall be had to the following guiding principles:

- 1.1 to maintain trust and confidence in the stewardship of public funds through objective, fair, transparent and efficient procurement processes;
- 1.2 to promote effective use of funds allocated by Regional Council through procurement methods, Disposals and decisions that achieve best value for money;
- 1.3 to promote procurement processes and decisions that are in compliance with applicable legislation and aligned with trade agreements that are binding upon Peel and that are consistent with the strategic objectives established for Peel;
- 1.4 to promote procurement practices that have regard for the accessibility of persons with disabilities; and
- 1.5 to integrate Sustainability considerations into the procurement decision-making process that achieve the desired outcomes of Peel.

PART II – DEFINITIONS

- 2.1 The words and phrases listed hereunder when used in this By-law and the schedules hereto shall have the following meanings ascribed to them:
 - (a) “Award” means authorization to proceed with the Purchase of Goods and Services from a chosen Vendor.
 - (b) “Best and Final Offer” means a multi-stage procurement process within a Request for Proposal that contemplates a final stage whereby Bidders may submit a best and final offer for Peel’s evaluation and final selection.
 - (c) “Best Value Bid” means the optimal balance of technical merit and cost determined in accordance with pre-set evaluation criteria disclosed in a Bid Solicitation for the purpose of making an Award. For Requests for Tenders and Requests for Quotations, the Best Value Bid is the lowest cost Compliant Bid meeting technical specifications and qualifications, and which has not otherwise been rejected by Peel pursuant to Peel’s rights under the Bid Solicitation. For Requests for Proposals, the best value is the highest ranked Compliant Bid following the evaluation of proposals. The determination of a Best Value Bid may consider, without limitation, a review of the Bidder’s references and past experience obtained in accordance with the Bid Solicitation, the Bidder’s past performance and litigation and claims history, and any previous failure on the part of the Bidder to accept a contract award, any of which may result in higher ultimate costs or other difficulties to Peel, and would not be deemed to provide the best value to Peel.

- (d) "Bid" or "Bidder Submission" means an offer or submission from a Bidder in response to a Bid Solicitation which is subject to acceptance or rejection by Peel.
- (e) "Bidder" means any proponent, respondent or other person or entity who has obtained official procurement documents for the purpose of submitting, or who has submitted a Bidder Submission in response to a Bid Solicitation.
- (f) "Bid Solicitation" means a formal request for Bids including a Request for Quotation, Request for Tender or Request for Proposal.
- (g) "Blanket Purchase Contract" means any contract for the Purchase of Goods and Services which will be required frequently or repetitively but where the exact quantity of Goods and Services required may not be precisely known or the time period during which the Goods and Services are to be delivered may not be precisely determined, but having a maximum limit on both the total price or value of all Goods and Services and the time period during which all Goods and Services are to be supplied under such contract.
- (h) "Board" means The Regional Municipality of Peel Police Services Board.
- (i) "Chief Administrative Officer" means the employee designated as such by Regional Council and any person who has been authorized to temporarily act as Chief Administrative Officer during an absence or vacancy in the office.
- (j) "Chief Financial Officer" means the Chief Financial Officer for Peel and any person who has been authorized to temporarily act as Chief Financial Officer during an absence or vacancy in the office.
- (k) "Compliant" means, in relation to a Bid or the Bidder making a Bid in response to a Bid Solicitation, that the Bid or the Bidder as the case may be, meets or has met in all material respects the specified requirements of the Bid Solicitation and is not liable to disqualification for failure to meet the specified requirements.
- (l) "Contract Increase" means a financial increase to an existing contract related to a change in scope that is unanticipated, or a requirement for additional Goods and Services than that which was originally contemplated at the time of contract Award.
- (m) "Delivered confidentially" means delivered under circumstances where:
 - i all or part of the Goods and Services relate to any matter of such kind as may be considered by Regional Council, in the absence of the public; or
 - ii the Goods and Services include the creation of records, the disclosure of which could be denied upon receipt of a request under the

*Municipal Freedom of Information and Protection of Privacy Act,
R.S.O. 1990, c.M.56.*

- (n) "Department Head" includes the Chief Administrative Officer and any officer or employee of Peel who is designated as a Commissioner or Department Head, or any person who has been authorized to temporarily act as either of the above.
- (o) "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, or where any other condition under Part VII of this By-law applies.
- (p) "Direct Purchase" means a non-competitive procurement method and refers to the direct order and Purchase of Goods and Services from a Vendor valued at \$25,000 or less, exclusive of taxes.
- (q) "Director" means an employee of Peel who is designated as a Director and any person who has been authorized to temporarily act as a Director during an absence or vacancy in the office.
- (r) "Director of Procurement" means an employee designated as such by Peel and any person who has been authorized to temporarily act as Director of Procurement during an absence or vacancy in the office.
- (s) "Dispose" means the sale, exchange, transfer or gift of Goods owned by Peel which are surplus to its needs and "Disposal" and "Disposed" shall have similar meanings.
- (t) "Emergency" means an unforeseeable/ uncontrollable situation or impending situation where it has been determined that a threat to public health, life, property or the environment exists such that the immediate Purchase of Goods and/or Services to rectify or address the situation is essential. The unforeseeable or impending situation may be caused by the forces of nature (natural disasters), a disease or other health risk, an accident, an act whether intentional or otherwise, or a humanitarian crisis resulting from war and/or political unrest, and includes, but is not limited to, a period of time during which an emergency has been declared to exist in all or part of the Peel pursuant to the *Emergency Management and Civil Protection Act*, R.S.O. 1990, Chapter E. 9, as amended, or its successor or similar legislation.
- (u) "Goods" includes any tangible or intangible personal property and all legal or equitable rights or interest in or to the same, and includes all materials, equipment, fixtures and structures to be delivered, installed or constructed at or upon any real or leasehold property but does not include any lease, right or permission relating to the use or occupation of real property notwithstanding that such lease, right or permission may be classified in law as personal property.

- (v) "Goods and Services" includes either Goods alone or Services alone or any combination thereof.
- (w) "Informal Request for Quotation" means a request by Peel seeking Bids from potential Vendors to obtain Goods and Services up to \$50,000 to obtain low dollar value of Goods and Services expeditiously and cost effectively.
- (x) "Irregular Result" means a result in a Bid Solicitation process in which:
 - i the Best Value Bid exceeds the approved budget allocation; or
 - ii the Best Value Bid is deemed to be an Unbalanced Bid and not in the best interests of Peel.
- (y) "Negotiated RFP" means a Request for Proposal which allows for consecutive or concurrent negotiations to be conducted with Bidders on any of the contract terms including, but not limited to, the technical specifications, commercial terms and/or prices following the process outlined in the Request for Proposal.
- (z) "Peel" means The Regional Municipality of Peel.
- (aa) "Prescribed" means prescribed by a Procurement Procedure.
- (bb) "Price or Value" means in relation to any quantity or amount of Goods and Services the Purchase price if known or the total estimated cost to Purchase the particular Goods and Services at the relevant time, exclusive of all applicable taxes and delivery charges and in relation to Goods and Services Purchased by way of rental agreement or lease, shall mean the lesser of:
 - i an amount which would otherwise be the Purchase price exclusive of all applicable taxes and delivery charges, if the Goods and Services were acquired other than by rental agreement or lease; and
 - ii an amount equal to the total of all rental or lease costs for the term of the rental agreement or lease.
- (cc) "Procure" or "Purchase" includes the acquisition of any legal or equitable interest, right or title in Goods and Services or the making of any contract or offer for Goods and Services and includes the lease of Goods and Services; and "Procured" "Procuring" "Purchased" and "Purchasing" shall have similar meanings.
- (dd) "Procurement" means the procurement function of Peel including the Director of Procurement and those employees who report either directly or indirectly to the Director of Procurement.
- (ee) "Procurement Procedures" means Procurement Procedures established by the Director of Procurement under Part V of this By-law.

- (ff) "Purchase Order" means a document sent from an authorized employee of Procurement or person authorized to Procure under an approved delegation of authority pursuant to 5.2, to a Vendor to confirm a specific Purchase of Goods and Services.
- (gg) "Regional Council" means the Council of The Regional Municipality of Peel, including the Chair.
- (hh) "Request for Expression of Interest" means a request by Peel seeking responses from potential Vendors for the purpose of determining the interest of the marketplace in providing Goods or Services contemplated to be procured by Peel.
- (ii) "Request for Information" means a request by Peel seeking responses from potential Vendors for the purpose of gathering information from the marketplace to develop or refine a scope of work or Services contemplated to be procured by Peel.
- (jj) "Request for Prequalification" means a request by Peel preceding a Request for Proposal, Request for Quotation or a Request for Tender seeking Bids from potential Vendors where it is deemed that the nature and complexity of the work involved warrants the time and effort required to pre-select the most experienced and qualified Vendors.
- (kk) "Request for Proposal" means a request by Peel seeking Bids from potential Vendors to obtain Goods and Services of a unique or complex nature where all or part of the requirements cannot be precisely defined, and with the expectation that the Best Value Bid resulting from an evaluation of criteria which includes a combination of price, technical and/or other factors 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, and includes a Best and Final Offer and a Negotiated RFP.
- (ll) "Request for Quotation" means a request by Peel seeking Bids from potential Vendors to obtain Goods and Services with a value not exceeding \$100,000, excluding taxes, whenever the requirements can be precisely defined, with the expectation that the Best Value 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.
- (mm) "Request for Tender" means a request by Peel seeking Bids from potential Vendors to obtain Goods and Services with a value greater than \$100,000, excluding taxes, whenever the requirements can be precisely defined, with the expectation that the Best Value 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.
- (nn) "Requisition" includes both any document, whether electronic or printed, Prescribed for use in initiating the Purchase of required Goods and Services and the activity of initiating the Purchase of required Goods and

Services; and “requisitioning” and “requisitioned” shall have similar meanings.

- (oo) “Services” includes all professional and consulting services, all services in relation to real property or personal property including without limiting the foregoing the delivery, installation, construction, maintenance, repair, restoration, demolition or removal of personal property and real property and all other services of any nature and kind save and except only services to be delivered by an employee of Peel in accordance with terms of employment.
- (pp) “Sustainability” means meeting present needs without compromising the ability of future generations to meet their own needs by taking actions now to improve our collective environmental, social, and economic well-being.
- (qq) “Sustainable Procurement” means the integration of Sustainability considerations into procurement processes and decisions in support of the desired Sustainable outcomes of Peel Region, while obtaining the best value for Goods and Services.
- (rr) “Tied Bid” means two or more Compliant Bids which score equally after evaluation, or otherwise are equal, and which are the Best Value Bids received in accordance with procurement policies and procedures.
- (ss) “Unbalanced Bid” shall include, without limitation, a Bidder Submission which is deemed to not reflect a realistic breakdown of the costs of each or any portion of the Goods and Services to be delivered under the Bid Solicitation.
- (tt) “Unsolicited Offer” is an offer and/or communication from a Vendor that has not been requested through the regular procurement process, advising Peel of their ability or desire to undertake Peel requirements. Unsolicited offers can be new or innovative ideas that could assist Peel in achieving its goals.
- (uu) “Vendor” means an individual, corporation, or organization offering Goods and Services including but not limited to contractors, consultants, suppliers and service providers and organizations.
- (vv) “Vendor of Record” means a procurement process, typically established through a Request For Proposal, that short lists a group of qualified Vendors to provide Goods or Services on an as-required basis to one or more divisions or departments within Peel for a defined period based on terms and conditions and pricing, as set out in the Bid Solicitation document and may also be called request for roster prequalification, standing offer, multi-use or a roster list.
- (ww) “Vendor Performance Management” means Peel’s program which involves the evaluation of Vendor performance by employees of Peel, the maintenance of the records relating to such evaluation, and the use of such records to determine a Vendor’s eligibility to participate in future procurements and to evaluate a Vendor’s eligibility for Award.

Part III – APPLICATION

- 3.1 Except as set out in Part IV below or otherwise specifically exempted or restricted under this By-law, all Goods and Services required for the purposes of Peel shall be Purchased and Disposed of in accordance with the provisions of this By-law.
- 3.2 For the Purchase of Goods and Services required by The Regional Municipality of Peel Police Services Board, the Director of Procurement and authorized employees of Procurement may conduct procurements on behalf of the Board in accordance with the Board's procurement policies as may be in effect from time to time however where the Purchase of Goods or Services on behalf of the Board is for, or relates to, a Peel owned asset, including but not limited to real property, building or fleet, the provisions of this By-law shall apply.

PART IV – EXCEPTIONS AND SCHEDULE “A” PURCHASES

- 4.1 This By-law shall not apply to the Purchase of Goods and Services where:
- (a) Regional Council by resolution directs that any particular Purchase or Disposal of Goods and Services shall be carried out in some other manner;
 - (b) any applicable law of the Province of Ontario or of Canada requires that the Purchase or Disposal be carried out in some other manner;
 - (c) Peel provides any form of assistance directly, including grants, loans, guarantees, fiscal incentives, funding or subsidy related to a Regional program, operation, or capital project;
 - (d) Peel provides any form of assistance through a Regional Council approved or endorsed Provincial or Federal government funding program, unless otherwise required by such program; or
 - (e) the Goods and Services are out in Schedule “A” to this By-law, which may contain conditions to which the exceptions set out in Schedule “A” are subject.
- 4.2 A resolution adopted under 4.1(a):
- (a) shall be a matter of public record;
 - (b) shall state that Regional Council is satisfied that it is necessary in the public interest that the procurement or Disposal be carried out otherwise than in accordance with the provisions of this By-law and give the reason or reasons for so concluding; and
 - (c) need not identify the nature of the Goods or Services to be Procured or Disposed of.

- 4.3 Before adopting a resolution under 4.1.(a) Regional Council or the Board, as the case may be, shall afford the Director of Procurement an opportunity upon reasonable notice to be heard concerning the proposed resolution.
- 4.4 Where the circumstances mentioned in subsection 4.1(a) or 4.1(b) occur, the procurement or Disposal of those Goods and Services shall be carried out in accordance with the resolution or the applicable law, as the case may be, to the extent required, and the provisions of this By-law shall in all other respects continue to apply to such procurement or Disposal with all necessary modifications.
- 4.5 Notwithstanding 4.1 of this By-law, those Goods and Services set out in Schedule "A" may be Purchased under the authority of this By-law without adhering to the other requirements of this By-law, and the Director of Procurement is authorized to issue a Purchase Order for those Goods and Services.
- 4.6 Despite the provisions of 4.5 of this By-Law, the Director of Procurement may request that the Purchase of any particular Goods and Services under Schedule "A" adheres to the provisions of this By-law where reasonable and appropriate to do so, and in the best interest of Peel.

PART V - PROCUREMENT AUTHORITIES AND RESPONSIBILITIES OF DIRECTOR OF PROCUREMENT

- 5.1 Unless otherwise provided in accordance with this By-law, the Director of Procurement and the authorized employees of Procurement shall act as agents for Peel for the procurement of all Goods and Services, and shall be responsible for providing all necessary advice and services required for such procurements in accordance with a method of procurement authorized under this By-law. In doing so, the Director of Procurement may delegate to authorized employees of Procurement, such portions of authority delegated to him or her under this By-law, provided that such delegation shall not exceed the limits of the authority of the Director of Procurement under this By-law, including the financial limits delegated to him or her in Schedule "B".
- 5.2 The Director of Procurement, with the approval of the Department Head or a Director responsible for the employees concerned may delegate to an employee or non-Procurement division employees that have undergone the delegated procurement authority application and training process in accordance with Procurement policies, all or part of the authority to act as agent for the Purchase of Goods and Services having a Price or Value up to a designated amount not to exceed the amount indicated in Schedule "B", and the authority may be limited to a particular class of Goods and Services and upon such other terms and conditions as may be appropriate.
- 5.3 In the case of the procurement of Goods or Services having a value of less than \$25,000, the requirements of this By-law as to the method of procurement do not apply provided that such procurement is undertaken:

- 5.4
- (a) in compliance with any applicable Procurement Procedures established under 5.8; and
 - (b) in a manner, which in the judgement of the Director of Procurement or of the employees authorized to make such Purchase, best achieves the objectives of this By-law.
- 5.5 In discharging his or her responsibilities and exercising his or her authorities under this By-law, the Director of Procurement shall:
- (a) be accountable and report to the Chief Administrative Officer;
 - (b) be subject to the direction, consistent with the requirements of this By-law, of Department Heads, concerning the need for specifications of Goods and Services to be Procured;
 - (c) adhere to policies communicated by the Chief Administrative Officer provided always that such policies are consistent with the provisions of this By-law;
 - (d) undertake a comprehensive review of this By-law every five (5) years and report to Regional Council accordingly;
 - (e) review and publish Procurement policies and procedures on an ongoing basis; and
 - (f) have regard to the code of Purchasing ethics established by the National Institute of Governmental Procurement and the Supply Chain Management Association of Canada and shall ensure such codes are communicated to employees involved in the procurement process, particularly those with delegated authority.
- 5.6 Before communicating or adopting a policy under 5.4(c) the Chief Administrative Officer shall afford the Director of Procurement an opportunity upon reasonable notice to be heard concerning the proposed policy.
- 5.7 Where in the opinion of the Director of Procurement circumstances give rise to an issue of adherence or non-adherence to the requirements of this By-law which cannot be resolved to his or her satisfaction, he or she shall report on such circumstances to Regional Council.
- 5.8 The Director of Procurement may, and is encouraged, to enter into arrangements with area municipalities, local boards, buying groups and other public bodies or authorities for the procurement of Goods and Services on a co-operative or joint basis where there are economic advantages in doing so, provided that, under any such approved arrangement:
- (a) the method of procurement used is a competitive method being the same or similar to a Request for Quotations, Request for Tender, or Request for Proposals; and

- (b) adequate arrangements for the provision of necessary advice and services in accordance with the method of acquisition have been made; and
- (c) a record, similar to the record required under 5.10, will be provided prior to the authorization of the procurement.

5.9 The Director of Procurement will establish procurement policies and procedures consistent with this By-law and the objectives set out in Part I relating to:

- (a) the form, content and use of forms, whether electronic or printed, including Requisitions, Purchase Orders, Bid bonds, labour and material and payment bonds, and other forms of guarantee or surety, the Bid Solicitation, and other contract documents;
- (b) the identification of those Goods and Services which, notwithstanding their individual Price or Value and having regard to the frequency of Purchase and nature of those Goods and Services, are more effectively acquired or Disposed of by a method applicable to Goods and Services of a higher Price or Value or through co-operative Purchasing;
- (c) the implementation of financial controls meeting the audit requirements of Peel to ensure that those responsible for requisitioning and Purchasing Goods and Services are held accountable for their decisions;
- (d) methods of acquisition or Disposal which will more effectively achieve the objectives of this By-law where alternative methods are permitted hereunder, and the process to be followed in the issuing of Bid Solicitations, receipt and evaluation of Bids and the process to be followed in relation thereto;
- (e) Sustainable Procurement, including the use and consideration of procurement criteria in the acquisition of Goods and Services that have regard for meeting present needs without compromising the ability of future generations to meet their own needs by taking actions now to improve our collective environmental, social, and economic well-being;
- (f) Bid Solicitation, including policies and procedures with respect to electronic bidding and that include compliance with applicable laws and alignment with trade agreements binding on Peel;
- (g) irregularities contained in Bids and acceptable rectifications;
- (h) the development, conduct, use and application of a Vendor Performance Management program;
- (i) procedures governing Bidder disputes;
- (j) in-house bids; and
- (k) any other aspect of process or procedure not specifically provided for in this By-law.

- 5.10 No procurement of Goods and Services shall be authorized unless:
- (a) the authorization is sought in compliance with this By-law and any applicable Procurement Procedures;
 - (b) a method of procurement permitted under this By-law has been used;
 - (c) the form and content of all documents forming part of the Purchase contract including the Bid Solicitation, Purchase Order, form of agreement, contract or other terms and conditions have been reviewed by Procurement or an agent to whom authority has been delegated under 5.2 and an appropriate person in the department responsible for requisitioning the Goods and Services; and
 - (d) the procurement has been approved by the appropriate authority under Schedule "B" to this By-law.
- 5.11 A record shall be prepared for and reviewed by the person who may authorize the procurement under Parts VI, VII, VIII which may be in the form of a report setting out in sufficient detail the circumstances regarding compliance with 5.9(a) to 5.9(d) inclusive, and any other matter or thing which the person or body authorizing the procurement ought to take into consideration, including but not limited to, price escalations and extension terms contemplated in the Contract, and other pre-approvals as may be required, before authorizing the procurement.
- 5.12 Where any Goods and Services are to be delivered confidentially, whether or not they are Procured using Direct Negotiation, the Chief Administrative Officer, or any employee designated by them, may act as agent and provide the necessary advice and services which would otherwise be provided by Procurement under 5.1 and shall make the record required under 5.10. All such acquisitions shall be reported annually and confidentially by the Chief Administrative Officer to Regional Council.
- 5.13 Where the procurement of Goods and Services has been authorized in accordance with this By-law all documents forming part of the Purchase contract, including any Purchase Order, form of agreement or contract or other terms and conditions, shall be executed by the signing officers duly authorized in that regard pursuant to Peel's Document Execution By-Law, as amended, provided that where a Purchase Order in the Prescribed form is to be issued to the Vendor indicating the acceptance or awarding of the contract or as part of the documentation forming the contract of Purchase, the Purchase Order may be authorized by:
- (a) the Director of Procurement;
 - (b) an employee in Procurement authorized by the Director of Procurement; or
 - (c) any person authorized to do so under an approved delegation of authority pursuant to 5.2.

PART VI - COMPETITIVE PROCUREMENT METHODS

- 6.1 Unless otherwise provided in accordance with this By-law, the procurement of all Goods and Services shall be authorized in accordance with the provisions of Schedule "B" to this By-law. Any person Procuring Goods and Services on behalf of Peel shall do so using a Request for Expression of Interest, Request for Information, Request for Prequalification, Request for Proposal, Request for Quotation (including Informal Request for Quotation) or Request for Tender, Vendor of Record procurement method. A Best and Final Offer or Negotiated RFP may be used, where appropriate, as part of a Request for Proposal process. The procurement methods referenced above may be utilized individually or in combination with one another as may be appropriate in the circumstances.
- 6.2 Goods and Services may be Purchased under a Blanket Purchase Contract, which shall be entered into in accordance with the provisions of this By-law applicable to the procurement of Goods and Services having a Price or Value equal to the total estimated cost of all the Goods and Services to be supplied under the Blanket Purchase Contract.
- 6.3 Notwithstanding anything in this By-law, where any Goods are available from a departmental inventory or under a Blanket Purchase Contract which are the same as or are a reasonable substitute for any required Goods, the Goods from the inventory or under the Blanket Purchase Contract shall be used unless the Purchase of the Goods from another source is approved by the Director of Procurement.
- 6.4 Notwithstanding anything in this By-law:
- (a) where there is no regular meeting of Regional Council scheduled during a period of time that is more than 21 days after the date of the previously scheduled regular Regional Council meeting, the Chief Financial Officer is authorized to make Awards that would otherwise be required to be made by Regional Council pursuant to the provisions of this By-law or any Procurement Procedures, where the Chief Financial Officer deems the making of the Award reasonably necessary to carry on the business of Peel; and
 - (b) during any periods of time that Regional Council's actions are restricted under section 275 of *the Municipal Act, 2001*, as amended, the Chief Financial Officer is authorized to make Awards that would otherwise be required to be made by Regional Council pursuant to the provisions of this By-law or any Procurement Procedures, where the Chief Financial Officer deems the making of the Award reasonably necessary to carry on the business of Peel.
- 6.5 Bid Solicitations may align with trade agreements binding on Peel, and shall include clear specifications, evaluation criteria and terms and conditions that can be applied in a fair, transparent and consistent manner.

PART VII – DIRECT NEGOTIATIONS

7.1 Unless otherwise provided in accordance with this By-law, and subject to compliance with the thresholds and approval authorities set out in Schedule “B”, Goods and Services may be Procured using the Direct Negotiation method only if one or more of the following conditions apply:

- (a) the required Goods and Services are reasonably available from only one particular Vendor by reason of the scarcity of supply in the market or the existence of copyrights, patents or other exclusive rights, held by any particular Vendor or the need for compatibility with Goods and Services previously acquired and there are no reasonable alternatives or substitutes;
- (b) the required Goods and Services will be additional to those supplied by a Vendor under an exhausted contract (where the contract term has expired and the Purchase Order has been expended) and a change of Vendor for such additional Goods or Services:
 - i cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, Services or installations Procured under the initial procurement; and
 - ii would cause significant inconvenience or substantial duplication of costs for Peel;
- (c) an attempt to Procure the required Goods and Services has been made in good faith using a method other than Direct Negotiation under 6.1 which has failed to identify a successful Vendor and it is not reasonable or desirable that a further attempt to Procure the Goods and Services be made using a method other than Direct Negotiation;
- (d) the Goods and Services are required as a result of an Emergency, which would not reasonably permit the use of a method other than Direct Negotiation;
- (e) the required Goods and Services are to be supplied by a particular Vendor due to an absence of competition for technical reasons and no reasonable alternative or substitute Goods or Services exist;
- (f) the required Goods and Services are to be delivered confidentially;
- (g) the required Good or Service to be Procured is a prototype or a first Good or Service that is developed at Peel’s request in the course of, and for, a particular contract for research, experiment, study, or original development. Original development of a first Good or Service may include limited production or supply in order to incorporate the results of field testing and to demonstrate that the Good or Service is suitable for production or supply in quantity to acceptable quality standards, but does not include quantity

production or supply to establish commercial viability or to recover research and development costs; or

- (h) the Goods and Services have a value of less than \$25,000.

PART VIII – CONTRACT INCREASES

8.1 Unless otherwise provided in this By-law, and subject to compliance with the thresholds and approval authorities set out in Schedule “B”, Contract Increases shall comply with the following:

- (a) No Contract Increase shall be made unless it is in the best interest of Peel.
- (b) Contract Increases are subject to the identification and availability of sufficient funds in appropriate accounts within Regional Council approved budgets and Department Heads shall ensure that the requirements of applicable Peel by-laws dealing with financial management principles and any other financial policies relating to funding have been met. Where additional funding from Regional Council is required for a Contract Increase, the respective Department Head shall be responsible to secure Regional Council approval for additional funds before the Contract Increase is reviewed and approved by authorized employees of Procurement.
- (c) Unless otherwise set out below, Contract Increases may be approved by either the Chief Financial Officer, the Director of Procurement or their delegate, in accordance with this section, if:
 - i the Contract Increase is not contrary to Part I - Procurement Guiding Principles, as set out in this By-law;
 - ii the Contract Increase is reasonably necessary in order to carry on the business of Peel and is in the best interests of Peel, taking into consideration all relevant factors, including but not limited to, the remaining duration of the existing contract, overall cost impact of the Contract Increase to Peel and current market conditions; and
 - iii in the case of a competitive bid solicitation, the Contract Increase:
 - A. does not exceed 20 per cent of the value of the original contract award amount (approval of the Director of Procurement, or their delegate is required);
 - B. exceeds 20 per cent of the value of the original contract award amount but the cumulative value of all Contract Increases does not exceed \$100,000 (approval of the Director of Procurement, or their delegate is required);
 - C. exceeds 20 per cent of the value of the original contract award amount but the cumulative value of all Contract Increases does

not exceed \$250,000 (approval of the Chief Financial Officer is required).

- (d) If the Contract Increase (including the value of any prior Contract Increases) exceeds 20 per cent of the value of the original contract award amount and the cumulative value of all Contract Increases exceeds \$250,000, a report to Regional Council outlining sufficient information to support the proposed changes and why it is necessary to continue with the current arrangement must be submitted by the Department Head for Regional Council review and approval.
- (e) In the case of a Direct Negotiation, the Contract Increase:
 - i does not exceed 20 per cent of the value of the original contract award amount (approval of the Director of Procurement, or their delegate is required);
 - ii exceeds 20 per cent of the value of the original contract award amount but the revised total value of the contract does not exceed \$100,000 (approval of the Director of Procurement, or their delegate is required);
 - iii exceeds 20 per cent of the value of the original contract award amount but the revised total value of the contract does not exceed \$250,000 (approval of the Chief Financial Officer is required).
- (f) If the Contract Increase (including the value of any prior Contract Increases) exceeds 20 per cent of the value of the original contract award amount and the revised total value of the contract exceeds \$250,000, a report to Regional Council outlining sufficient information to support the proposed changes and an explanation as to why competitive bids and/or proposals cannot be obtained and why it is necessary to continue with the current arrangement must be submitted by the Department Head for Regional Council review and approval.
- (g) Notwithstanding the requirements of Section 8.1(c), the Director of Procurement may authorize payments for Contract Increases to the original Purchase necessary for work required to address unforeseen circumstances or any final contract payment related to the original Purchase contract, if the sufficient funds and budget is available.

- 8.2 In addition to the approvals set out in Section 8.1, the Chief Financial Officer together with the Department Head are authorized to assess and approve requests for Contract Increases, including but not limited to increases to the unit or lump sum pricing or surcharges, to offset impacts resulting from external factors beyond the control of the parties, such as market volatility in the price and/or supply of commodities, and/or rising inflation, legislative or regulatory changes, or other similar external impacts on the costs of the Goods and Services under the contract, if:

- (a) the Contract Increase is not contrary to Part I - Procurement Guiding Principles, as set out in this By-law;
- (b) the Chief Financial Officer together with the Department Head are deems the Contract Increase to be reasonably necessary in order to carry on the business of Peel and in the best interests of Peel, taking into consideration all relevant factors, including but not limited to, the remaining duration of the existing contract, overall cost impact of the Contract Increase to Peel, current market conditions;
- (c) the Contract Increase to the existing contract is not for price increases related to factors that could have reasonably been contemplated by the Vendor at the commencement of the contract including but not limited to, fluctuations in fuel or delivery costs, inflation;
- (d) the Chief Financial Officer has received confirmation from the Department Head, that there is sufficient funding available for the increase within the Program's approved capital or operational budget(s).

PART IX - EMERGENCY PROCUREMENTS

- 9.1 Notwithstanding anything in this By-law, and subject to compliance with the thresholds and approval authorities set out in Schedule "B", Emergency procurements may be authorized as follows:
 - (a) where the total value of the Emergency procurement is greater than \$25,000 to \$100,000, the Director requiring the procurement, together with the Director of Procurement, shall be authorized to approve the procurement, in accordance with applicable Procurement Procedures;
 - (b) where the total value of the Emergency procurement is greater than \$100,000, the Department Head requiring the procurement, together with the Chief Financial Officer, shall be authorized to approve the procurement, in accordance with applicable Procurement Procedures;
- 9.2 Notwithstanding subsections 9.1(a) and 9.1(b), if an Emergency procurement is required so imminently (for instance, outside regular business hours) such that prior Procurement approval cannot reasonably be obtained, then the Program Director or Department Head, as applicable, alone shall be authorized to proceed with the Direct Negotiation, and report the procurement as soon as practical to the Director of Procurement or the Chief Financial Officer, as applicable and in accordance with applicable Procurement Procedures;
- 9.3 The threshold dollar amounts used to determine the Emergency procurement authority levels, as outlined in subsections 9.1(a) and 9.1(b), and in Schedule "B" to this By-law, shall be based on the total cumulative value of the Goods and Services Procured pursuant to the original contract, excluding applicable taxes, throughout the duration of the Emergency response;
- 9.4 Notwithstanding subsection 8.1(e), where Goods and Services have been Procured as an Emergency procurement, no additional, similar or related Goods

and Services shall be Procured from the same Vendor by Direct Purchase or Direct Negotiation, unless new authority is obtained in accordance with the Emergency procurement authority levels, as outlined in subsections 9.1(a) and 9.1(b), and in Schedule "B" to this By-law;

- 9.5 Notwithstanding any provisions contained in this By-law pertaining to Emergency procurements, if at any time the Director of Procurement or Chief Financial Officer deems there to be sufficient time to reasonably permit the solicitation of competitive Bids or to seek Regional Council authority for a Direct Negotiation for the Purchase of Goods or Services, the Director of Procurement or Chief Financial Officer may direct that the Goods and Services be Procured through a Bid Solicitation process or that the Award be approved by Regional Council, as applicable;
- 9.6 Goods and Services Procured as an Emergency procurement shall be acquired by the most expedient and economical means. Procurement staff will provide advice and support to expedite any procurement documents and contracts necessary to respond to an Emergency; and
- 9.7 All Emergency procurements and their cumulative contract values shall be reported to Regional Council in accordance with Part XXI - Procurement Activity Reporting of this By-law.

PART X - DISPOSAL OF PROPERTY

- 10.1 On an annual basis or at such time as may be Prescribed by the Director of Procurement, all Goods of Peel which have become surplus to its needs and that are to be Disposed of, shall be listed with reasonable particularity and such lists shall be provided to Procurement.
- 10.2 Subject to 10.5 and any methods of Disposal Prescribed, surplus Goods shall be sold, exchanged or otherwise Disposed of by the Director of Procurement or an authorized employee in Procurement, using such methods of Disposal and on such terms as are likely to achieve the highest net revenue or benefit or the reduction or avoidance of net cost from the disposition.
- 10.3 Procurement shall ensure that before any Goods are Disposed of, all Peel departments have been advised of availability of the Goods and have been given an opportunity to acquire the same. Opportunity to Purchase surplus Goods may be given to other public agencies in such manner as may be Prescribed by Procurement Procedures.
- 10.4 A report shall be submitted in accordance with the requirements of 10.2 to Regional Council or a Committee thereof summarizing the particulars of the disposition of all surplus Goods pursuant to this By-law.
- 10.5 The Director of Procurement, with the approval of the Department Head responsible for the employees concerned, may delegate to an employee or employees not in Procurement, all or part of the responsibility and authority for the Disposal of Goods under 10.2 and the preparation of the report on the

disposition of those Goods required under 10.4 on such terms and conditions as may be appropriate including but not limited to:

- (a) the use of any forms or methods of Disposal Prescribed under this By-law; and
- (b) the keeping of records and timely provision of records and information to Procurement.

PART XI- PROHIBITIONS AND COMPLIANCE

- 11.1 All persons involved in the acquisition of Goods and Services provided for in this By-law shall act in a manner consistent with the requirements and objectives of this By-law. Any employee who knowingly contravenes the requirements and objectives of this By-law is committing an act of misconduct and may be subject to disciplinary action.
- 11.2 No procurement of Goods and Services or any arrangements with respect to the procurement shall be made where quantity or delivery is divided or in any other manner arranged so that the Price or Value of Goods and Services to be acquired or the individual estimated value of Goods to be Disposed is artificially reduced. Without limiting the foregoing, where Goods and Services of the same kind or type are required in connection with one project, all of those Goods and Services shall be included in determining the Price or Value for the purposes of this By-law.
- 11.3 No Goods and Services shall be Requisitioned under this By-law by any person unless:
 - (a) the Goods and Services are legitimately required for the purposes of Peel , or for any other local board or other agency on whose behalf the Purchase is being undertaken; and
 - (b) to the best of that person's knowledge and belief, the funds for the Purchase of the Goods and Services are available within an approved budget or the Requisition is expressly made subject to funding approval and, to the extent that they may be required, funds are available from any other local board, municipality or other agency on whose behalf the Purchase of Goods and Services is also being made.

PART XII - CONFLICT OF INTEREST

- 12.1 No Goods and Services shall be Procured from a member of Regional Council, or an appointed officer, employee of Peel or any spouse (including common law spouse), parent, grandparent, sibling, child, grandchild, niece, nephew, uncle or aunt of a member of Regional Council, or an appointed officer, employee or member, other than those services normally required under terms of employment where that person is an employee of Peel unless, in addition to compliance with all other provisions of this By-law, the Purchase has been approved by the Chief Administrative Officer.
- 12.2 No member of Regional Council, or an appointed officer, employee of Peel or any spouse (including common law spouse), parent, grandparent, sibling, child, grandchild, niece, nephew, uncle or aunt of an employee or member shall be permitted to Purchase any surplus Goods to be Disposed of except by successfully bidding on the same at a public auction but in no case if the duties of that member of Regional Council, appointed officer or employee include making decisions regarding the Disposal of such Goods or activities relating to the conduct of the auction.
- 12.3 Members of Regional Council, appointed officers and employees of Peel shall not knowingly cause or permit anything to be done or communicated to anyone which is likely to cause any potential Vendor or contractor to have an unfair advantage or disadvantage in obtaining a contract for the supply of Goods and Services to Peel or any other municipality, local board or public body involved in the procurement of Goods and Services either jointly or in co-operation with Peel.
- 12.4 No member of Regional Council, appointed officer, or employee of Peel shall knowingly cause or permit anything to be done which will jeopardize the legal validity or fairness of any procurement of Goods and Services under this By-law or which is likely to subject Peel to any claim, demand, action or proceeding as a result of such act or omission.

PART XIII - LOBBYING RESTRICTIONS

- 13.1 Bidders, their employees, agents, and any others involved in a procurement process provided for in this By-law shall not, during a Bid Solicitation or Direct Negotiation process or any subsequent award, engage in any form of political or other lobbying whatsoever or seek to influence the outcome of the procurement process or subsequent Award. This restriction extends to all of the employees or appointed officers of Peel and members of Regional Council.
- 13.2 Peel may reject any Bid by a Bidder that engages in such lobbying, without further consideration, and may terminate that Bidder's right to continue in the procurement process.
- 13.3 During a Bid Solicitation process or any subsequent award, all communications shall be made to Peel's designated official point of contact as specified in the Bid Solicitation. No Bidder or person acting on behalf of a Bidder or group of Bidders shall contact any member of Regional Council, Chair, Board or an appointed

officer, consultant or any employee of Peel to attempt to seek information or to influence the Award.

- 13.4 Members of Regional Council, the Board, appointed officers and employees of Peel shall refer any inquiries about a Bid Solicitation or Direct Negotiation process to the Director of Procurement.

PART XIV - NO LOCAL PREFERENCE

- 14.1 In accordance with Peel's Local Preference Procurement Policy and trade agreements that are binding upon Peel, Goods and Services shall not be afforded preferential treatment under this By-law or in any Bid Solicitation based on location or origin of the Goods and Services.

PART XV – UNSOLICITED OFFERS

- 15.1 Peel employees or members of Regional Council shall not accept an Unsolicited Offer and/or communicate with respect to a potential Unsolicited Offer. The Vendor shall be advised to direct all Unsolicited Offers to the Director of Procurement.
- 15.2 The Director of Procurement will direct the Unsolicited Offer to the appropriate Department Head and Chief Financial Officer and Commissioner of Corporate Services, who will assess such offers on the basis of whether they align with Peel's strategic goals and objectives, do not circumvent Peel's regular procurement processes, and if the scale and scope of the Unsolicited Offer aligns with the requirements and funding ability of Peel.
- 15.3 If it is determined that there is a legitimate need for the Goods, Services and/or construction offered by way of the Unsolicited Offer and that funding is available, then the applicable procurement process will be conducted in accordance with this By-law and any applicable policies and procedures.
- 15.4 Peel will not accept Unsolicited Offers for any Good or Services for which an active Bid Solicitation has been issued, is open for the receipt of Bids or is currently under evaluation for award.

PART XVI – OFFICIAL POINT OF CONTACT AND COMMUNICATIONS

- 16.1 An official point of contact shall be named in all Bid Solicitations, to respond to all communications in respect of the Bid Solicitation from the time of issuance, during the competitive process, and up to and including the announcement of Award. The official point of contact shall be the employee in Procurement indicated in the Bid Solicitation.
- (a) Communications for the purposes of 16.1 are communications between a Bidder, its employees and agents, the broader Vendor community, and members of Regional Council, Board, appointed officers and employees of Peel as they relate to the particular Bid Solicitation.

- (b) A Bid Solicitation may provide for the disqualification of any Bidder or failure to limit communications to the official point of contact.

PART XVII –TIED BIDS

- 17.1 In the case of two Tied Bids, the successful Bidder will be determined by a coin toss conducted by the Director of Procurement or designate, in accordance with Procurement Procedures. The award shall then be made to the winner of the coin toss. In the event that there are three or more Tied Bids, the Director of Procurement or designate, in the presence of Regional staff, shall conduct a lottery draw. The Award shall then be made to the winner of the lottery.

PART XVIII – NO COST PROCUREMENT

- 18.1 A “no cost” procurement is a procurement where Peel will not bear any costs. These types of procurements include:
 - (a) revenue generating opportunities, and/or
 - (b) cost pass through to a third party.
- 18.2 “No cost” procurements shall be acquired in the same manner and using the same procurement methods and corresponding approval requirements as procurements that have a cost to Peel, depending on the value of the no-cost procurement.

PART XIX – BIDDER DEBRIEFINGS AND DISPUTES

- 19.1 All requests for a formal or informal Bidder debriefing to obtain feedback on why a Bid was not successful must be received by Peel and directed to the official point of contact named in all Bid Solicitations or the Director of Procurement. A request for a Bidder debriefing will not alter an Award decision.
- 19.2 All Bidder disputes, whether addressed to councillors or employees, shall be referred to the Director of Procurement for resolution, or as may otherwise be required in accordance with any applicable procurement policy or procedure. Objections to a recommendation for Award must be in writing. The Director of Procurement shall review the objection and, where the Award has not already been made, determine, in consultation with Peel’s Legal Services where necessary, whether the Award should proceed. In such circumstances, the Director of Procurement or Chief Financial Officer may direct that the Award be made by Regional Council. In such case, the Director of Procurement and the Department Head on whose behalf the Bid Solicitation was issued and the Regional Solicitor shall report to Regional Council with respect to the recommendations for Award. The Director of Procurement or designate shall inform the Bidder of his/her right to make a deputation and shall advise the Bidder to contact the Regional Clerk’s Office for further information on the deputation process.

PART XX - AWARDS THAT REQUIRE REGIONAL COUNCIL APPROVAL

- 20.1 Notwithstanding anything in this By-law, Regional Council approval of an Award is required:
- (a) where indicated pursuant to Schedule “B”;
 - (b) where there is an Irregular Result;
 - (c) at the discretion of the Director of Procurement or Chief Financial Officer.

PART XXI- PROCUREMENT ACTIVITY REPORTING

- 21.1 On a regular basis, the Director of Procurement shall report to Regional Council providing a summary of procurement activities. The report will include, but is not limited to, information on the following activities:
- (a) contract Awards;
 - (b) Disposal of surplus Goods and equipment;
 - (c) Emergency procurements including all contract increases to Emergency procurements;
 - (d) Awards of contract price increase requests due to market volatility and/or rising inflation as outlined in Section 8.2;
 - (e) Awards during Regional Council recesses;
 - (f) non-compliance with this By-law;
 - (g) Awards based on unforeseen circumstances; and
 - (h) final contract payments related to the original purchase contract.

PART XXII – GENERAL

- 22.1 In interpreting this By-law a reference to the singular number shall be deemed to refer to the plural and vice versa, as the context may require.
- 22.2 Schedules “A” and “B” attached hereto shall form part of this By-law.
- 22.3 This By-law may be referred to as the “Peel Procurement By-law, 2023”.
- 22.4 If any section or sections of this By-law or parts thereof are found by any adjudicator of competent jurisdiction to be invalid or beyond the power of Regional Council to enact, such section or sections or parts thereof shall be deemed to be severable and all other section or part of the By-law shall be deemed to be separate and independent there from and shall continue in full force and effect unless and until similarly found invalid or beyond the power of Regional Council to enact.

- 22.5 By-law 30-2018, and any amendments, shall be repealed effective on the coming into force and effect of this By-law.
- 22.6 This By-law takes effect on the 1st day of November, 2023.

READ THREE TIMES AND PASSED IN OPEN COUNCIL this 12th day of October, 2023.

Regional Clerk

Regional Chair