



MUNICIPALITY OF **West Elgin**

THE CORPORATION OF THE MUNICIPALITY OF WEST ELGIN

BY-LAW NO. 2023-42

BEING A BY-LAW TO AMEND BY-LAW 2017-20 ADMINISTRATION
POLICY AD 1.2 – PURCHASING POLICY AND PROCEDURE

WHEREAS Section 8 of the Municipal Act, 2001, S.O. 2001, c.M.25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority;

AND WHEREAS it is deemed necessary to amend the West Elgin Purchasing Policy.

NOW THEREFORE the Council of the Corporation of the Municipality of West Elgin enacts as follows:

1. THAT the revised Administration Policy AD 1.2 - Purchasing Policy and Procedure as attached as Schedule "A" be adopted.
2. THAT the Mayor and Clerk are hereby authorized and directed to execute all documents necessary in that behalf and to affix the Seal of the Corporation of the Municipality of West Elgin.
3. THIS By-law shall come into force and effect on May 25, 2023.

Read a first, second and third time and finally passed this 25th day of May 2023.

Richard Leatham
Mayor

Heather Bouw
Clerk

SCHEDULE "A" to By-Law 2023-42

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Chapter:	Administration	Index No.	AD-1.2
Section:	Procurement	Effective Date:	Dec 31/04
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1 PURPOSE:

- 1.1 The Corporation of the Municipality of West Elgin will maintain an open and competitive process with respect to the purchase of goods and services and actively investigate new sources and methods of procurement for products and services to provide the most effective and efficient services.

2 POLICY:

- 2.01 This policy shall apply to all purchases of goods and services, lease and rental agreements and the disposal of surplus goods.

- 2.02 Goods and services that are not subjected to this policy are listed in Attachment "A".

2.03 Goals and Objectives

- (a) Establish clear objective specifications for all purchases;
- (b) Identify potential sources for purchases;
- (c) Recommend sole source justification in accordance with the policies;
- (d) Select successful bidders and suppliers in accordance with this policy;
- (e) Make recommendations to Council with respect to the awards of tenders as required by the policies and procedures;
- (f) Designate persons authorized to approve expenditures and their expenditure limits within their departments;
- (g) Review purchases upon delivery to ensure compliance with specifications; and
- (h) Comply with the approved purchasing policies and procedures of the Corporation.

2.04 Purchasing Principles

- (a) To procure by purchase, rental or lease the required quality and quantity of goods and services, including professional and consulting services, in an efficient and cost effective manner;
- (b) To encourage open competitive bidding on all acquisition and disposal of goods and services where practicable;
- (c) To consider all cost, including acquisition, operating and disposal cost, in evaluating bid submissions from qualified, responsive and responsible vendors, rather than basing a decision solely on the lowest bid price;
- (d) To give full consideration to the annual aggregate value or to consider the total project cost of specific goods and services that will be required by each Department as a whole prior to determining the appropriate acquisition method;
- (e) To monitor and report on the economic climate and legislative changes which may have an impact on the Municipality and to determine the appropriate actions to be taken through the purchasing policies and procedures;
- (f) To give consideration to local supplies where practical and ALL other things being equal;
- (g) To procure necessary goods and services with due regard to the preservation of the natural environment, to encourage vendors to supply goods made by a method resulting in the least damage to the environment and to encourage vendors to supply goods incorporating recycled materials where practicable; and
- (h) To ensure compliance with all Health and Safety regulations.

2.05 Authorization

Council has ultimate authority for all expenditures. Council delegates this authority by the authorization of budgets or by specific resolution. The Treasurer cannot pay for any item that has not been authorized by Council through budget appropriation or specific resolution. This purchasing policy provides guidelines outlining how spending authority is to be used.

2.06 The Accessibility for Ontarians with Disabilities Act (AODA)

In deciding to purchase goods or services through the purchasing process for the use of itself, its employees or the public; Council, to the extent possible, shall have regard to the accessibility for persons with disabilities to the goods or services. (Ontario Regulation 191/11)

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In accordance with the Ontario Regulation 429/07, Accessibility Standard for Customer Service, and the Ontario Regulation 191/11, the Integrated Accessibility Standards Regulation, the Municipality is required to train all third parties or persons who provide goods, services or facilities on behalf of the organization.

3 **PROCEDURE:**

3.01 Definitions

- (a) "Agreement" means a formal written legal agreement or contract for the supply of goods, services, equipment or construction;
- (b) "Award" means the authorization to proceed with the purchase of goods, services or construction;
- (c) "Blanket Order" shall mean the agreement wherein a vendor will sell certain items to the Municipality for an agreed period of time with established terms and conditions;
- (d) "Bid" shall mean a submission from a prospective vendor in response to a request for the purchase of goods or services by the Municipality;
- (e) "Bidder" means any legal entity that submits a bid in response to a call for bids;
- (f) "Call for Bids" means a formal request for bids and includes a request for quotations, a request for tenders, and a request for proposals;
- (g) "Bid Deposit" shall mean a financial guarantee to ensure the successful bidder will enter into an agreement;
- (h) "Construction" means construction, reconstruction, demolition, repair or renovation of a building or structure and includes site preparation, excavation, drilling, soil investigation, the supply of products and materials and the supply of equipment and machinery if they are included in and incidental to the construction, and the installation and repair of fixtures to a building or structure.
- (i) "Consulting and professional services" means those services requiring the skills of a professional for a defined service and includes the services of architects, engineers, designers, surveyors, planners, accountants, auditors, management professionals, marketing professionals, software and information technology experts, financial consultants, lawyers, law firms, real estate agents and brokers, environmental planners and engineers, hydro geologists, transportation planners and engineers, communications consultants and any other consulting services which may be required by the Municipality of West Elgin.
- (j) "Contingency" means costs that are in addition to, or exceed the cost stipulated in a contract;
- (k) "Contract" means any form of binding agreement between two or more legal entities, award under this Purchasing Policy.
- (l) "Contractor" means any legal entity to whom a contract is awarded;
- (m) "Council" shall mean the Municipal Council of the Corporation of the Municipality of West Elgin;
- (n) "Emergency Purchase" shall mean a purchase made in a crisis situation where immediate action is required to prevent the possible loss of life or property;
- (o) "Formal Bid" shall mean a sealed bid submission;
- (p) "Generic" shall mean no specific brand or name shall be included as part of the specifications unless such a brand or name is required to identify the intent of a purchase, or proposal;
- (q) "Goods" means personal property, including raw materials, products, supplies, equipment and other physical objects of every kind and description but does not include real property;
- (r) "Labour and Materials Payment Bond" means a bond issued by a surety company to ensure that the contractor has paid his or her suppliers, which thereby protect the Corporation against items, which might be granted to suppliers, should the contractor not make property payments;
- (s) "Performance Bond" means a bond issued by a surety company executed in connection with a contract and which secures the performance and fulfillment of the undertakings, covenants, terms, conditions and agreements contained in the contracts;
- (t) "Proposal" means a submission received in response to a request for proposal, acceptance of which may be subject to further negotiation;
- (u) "Quotation" means a binding offer received in response to a request for quotations;
- (v) "Request for Proposals" means a request for proposals made pursuant to this Purchasing Policy;
- (w) "Request for Quotations" means a request for quotations made pursuant to this Purchasing Policy;
- (x) "Request for Tenders" means a request for tenders made pursuant to this Purchasing Policy;

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- (y) "Scope of Work" means the work that has been described in a contract that must be done to deliver the goods, services or construction with the specified features and functions and within the time specified as described in the contract;
- (z) "Sealed Bids" shall mean bids submitted in a sealed envelope to specified location, by a specified date;
- (aa) "Services" shall mean items such as telephone, gas, water, hydro, janitorial and cleaning service, consultant services, legal surveys, medical and related services, insurance, leases for grounds, buildings, office or other space required by the Corporation and the rental, repair or maintenance of equipment, machinery, or to other personal and real property;
- (bb) "Supplies" shall mean goods, wares, merchandise, material and equipment;
- (cc) "Supervisor" shall mean a head of a department operating within the Municipality of West Elgin, being the Superintendent of: Drainage, Recreation, Roads and shall include Magers and Fire Chiefs for the purposes of this policy;
- (dd) "Tender" shall mean a document, which sets out particular specifications for the commodity or service required. This can also refer to an offer in writing to execute some specified work or to provide articles at a specified rate;
- (ee) "The Corporation of the Municipality of West Elgin" herein is also referred to as the "Municipality" or "Corporation";
- (ff) "Treasurer" shall mean the Treasurer of the Municipality of West Elgin;
- (gg) "Vendor" shall mean any person or enterprise supplying goods or services to the Corporation of the Municipality of West Elgin.
- (hh) "Competitive Pricing" shall mean setting the price of a product or service based on what the competition is charging.

3.02 Limitations

- (a) Unless otherwise approved by Council, all purchases of goods and services must be approved in the annual budgets.
- (b) To ensure effective internal control and to promote efficient procurement of goods and services and lease and rental agreements, the procurement dollar value thresholds, approved authority, method of procurement and reporting requirements have been established and are presented in Attachment "A", attached.
- (c) Attachment "A" are considered to be the minimum standard and will become more formal and complex as the requirements and/or estimated value of the goods or services increase.
- (d) In the case where three written quotes cannot be obtained, Council shall have the option to accept a lesser number of quotations and authorize the purchase.
- (e) Petty Cash
 - (i) Petty cash is established to meet miscellaneous departmental expenses. The Treasurer approves the creation of petty cash funds and established reporting procedures for petty cash funds.
 - (ii) The maximum dollar amount for any single disbursement from the Purchasing Petty Cash Fund is \$100.00.
 - (iii) Disbursements from Petty Cash Funds must be properly documented and be for valid Municipal business purposes. Receipts should include a description of the business purposes of the transaction, goods or services purchased and the date.

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3.03 Tenders

(a) General

Each Department shall comply with the process outlined below for purchases exceeding \$50,000 and where precise specifications can be prepared.

(b) Tender Process

- (i) The Superintendent/Administrator shall prepare specifications and with the assistance of the Clerk the tender document;
- (ii) The Clerk shall receive the bids until the advertised deadline, bids shall be marked with the time and date upon receipt;
- (iii) Bids received after the deadline will not be opened and will be returned to the bidder unopened or if the bidder cannot be identified on the outside of the envelope, the unopened bid shall be retained on file for 90 days and then destroyed;
- (iv) The bids shall be opened in public with at least two Municipal staff in attendance, the names of the Proponents shall be disclosed and a written record of all bids shall be prepared;
- (v) The Superintendent/Administrator shall evaluate all the bids submitted;
- (vi) A report shall be submitted to Council, summarizing the bids and making recommendations.

(c) Financing Report on Tenders

If not authorized by the annual budget or over the budget amount, the Treasurer shall provide information on the sources of financing to Council as part of the reporting process.

(d) Exemptions

Notwithstanding the above, adherence to the Purchasing Policy is not required with respect to those items listed below or a transaction specifically authorized by resolution of Council to be exempt from the tender policy.

- (i) Purchasing for consulting services for a program where services (i.e. bridge inspection/evaluation) have been awarded to a consulting firm on an on-going basis when clearly identified in the budget;
- (ii) Purchase of replacement parts where the original equipment is the original equipment manufacturer is the sole provider of that equipment;
- (iii) Direct negotiation (Single Source Supply).

3.04 Requests for Quotations

- (a) A request for quotations may be issued where the estimated total cost does not exceed \$50,000 and the following criteria apply:

- (i) Two or more sources are available to supply the goods, services or construction;
- (ii) The goods services or construction are clearly ascertainable and permit the evaluation of bids against applicable specifications;
- (iii) The market conditions are such that bids can be submitted on a competitive pricing basis; and
- (iv) It is intended that the lowest cost responsive bid shall be accepted without negotiation.

- (b) Department Superintendent will solicit suppliers and make every effort to obtain a minimum of three written quotes.

- (c) Requests for quotations that exceeds fifty thousand dollars (\$50,000) upon bid opening shall be submitted to Council for approval.

3.05 Requests for Proposals

(a) General

Each Department shall comply with the process outlined below for purchases exceeding \$50,000 and where goods and/or services cannot be specifically stipulated or when alternative methods are being sought to perform certain functions or services.

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- (b) Process:
- (i) The Request for Proposal will be acquired through a selection process based on a detailed description of the project through the terms of reference. Awards for Requests for Proposal will be based on a list of evaluation criteria prepared by the Manager/C.A.O. in advance;
 - (ii) The Clerk shall receive the bids until the specified deadline;
 - (iii) Bids received after the deadline will not be opened and will be returned to the bidder unopened or if the bidder cannot be identified on the outside of the envelope, the unopened bid shall be retained on file for 90 days and then destroyed;
 - (iv) The proposals shall be opened in public with at least two Municipal staff in attendance, the names of the Proponents shall be disclosed and a written record of all bids shall be prepared;
 - (v) The Manager/C.A.O. shall evaluate all the proposals submitted and prepare a report to be submitted to Council, summarizing the proposals and making recommendations.

3.06 Department On-Going Needs

- (a) The basis of this section is to provide staff with authorization to maintain municipal equipment and property, undertake approved maintenance projects in accordance with the approved municipal budget.
- (b) Three written quotations shall be received for items used on an ongoing basis by departments, such as equipment parts and repair, pipes, chemicals and submitted to Council for approval.
- (c) New quotations shall be requested at the minimum of every three years or as rates change.
- (d) The following, if appropriate, shall be included in the quotation document:
 - (i) Length of time firm price/fee is in effect.
 - (ii) Qualifications of contractor
 - (iii) Specifications appropriate to the items
- (e) Superintendents/C.A.O. may order in bulk from the approved source as long as the total amount is within the approved budget limits.

3.07 Advertising

- (a) Advertising for tenders or proposals shall be placed in at least one local publication or newspaper, if appropriate, and the Municipal Website at the discretion of the C.A.O. In compliance with the Inter-Provincial Trade Agreement 1997, all Construction Tenders over \$100,000.00 must be advertised on an approved electronic Internet.
- (b) Invitation to Tender

Tender documents may be forwarded to a specified list of companies/suppliers with a request to submit a tender in the case of:

 - (i) Purchases for supply and replacement of road material, not exceeding \$100,000.00.
 - (ii) Sidewalk construction/replacement
 - (iii) Vehicle replacement
 - (iv) Municipal drain construction
 - (v) As approved by the C.A.O.
- (c) Request for quotations will be forwarded to a specified list of companies/supplies with a request to submit a written quotation.

3.08 Leases/Lease Purchase and Rental Agreements

- (a) Process

Following the same limits as specified in Attachment A, the process outlined in the Leasing Policy shall be followed.
- (b) Authorizing Signatures

Documents shall be authorized by Council and signed by the Mayor and C.A.O..

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3.09 Sole Source Procurement

(a) General

The procurement of materials, parts, supplies, equipment or services without competition, is done under exceptional and limited circumstances.

(b) Conditions Required for Sole Source Purchasing

The following conditions may result in the necessity to engage in sole source purchasing:

- (i) When the expertise of an individual organization or individual is deemed to be specifically required by the municipality.
- (ii) When competition is precluded because of the existence of patent rights, copyrights, secret processes, control
- (iii) When the procurement is for electric power or energy, gas, or other utility services where it would not be practical to allow a contractor other than the utility company itself to work upon the system.
- (iv) When the procurement is for technical services in connection with the assembly, installation or servicing of equipment of a highly technical or specialized nature.
- (v) When the procurement is for parts or components to be used as replacements in support of equipment specifically designed by the manufacturer.
- (vi) When the contractor is already at work on the site and it would not be practical to engage another contractor.

(c) Process for Sole Source Purchasing

The following process shall be followed prior to initiating a sole source purchase:

- (i) Sole source items require detailed documentation from the requisitioning department to justify their purchase and to ensure that the cost charged by the vendor is reasonable.
- (ii)

LIMITS Up to \$20,000 \$20,001 to \$50,000 Over \$50,000	APPROVAL Superintendent/Treasurer/Fire Chief C.A.O. Council
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3.10 Purchasing In Emergencies

(a) Emergency Conditions

Emergency includes:

- (i) An imminent or actual danger to the life, health or safety of an official or an employee while acting on the Municipality's behalf;
- (ii) The following approval limits shall apply:
 1. An imminent or actual danger of injury to or destruction of real or personal property belonging to the Municipality;
 2. An unexpected interruption of an essential public service;
 3. An emergency as defined by the *Emergency Management Act*, R.S.O. 1990, c.E.9, and the emergency plan formulated thereunder for the Municipality;
 4. a spill of a pollutant as contemplated by Part X of the *Environmental Protection Act*.

(b) Process for Emergency Purchases

Where, in the opinion of the C.A.O. or designate, an emergency occurs:

- (i) The Treasurer may authorize a purchase in excess of the pre-authorized expenditure limit; and
- (ii) Any purchase issued under such conditions together with a source of funding provided by the Treasurer shall be justified and reported to the next meeting of Municipal Council.

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3.11 Co-operative Purchasing

- a) The Municipality may participate with other levels of government, municipalities, boards, agencies, commissions or public sector entities where such plans are determined to be in the best interest of the Municipality;
- b) If the Municipality participates with levels of government, municipalities, boards, agencies, commissions or public sector entities where such plans are determined to be in the best interests of the Municipality, the Municipality shall adhere to the policies of the agency calling the co-operative bid.

3.12 Advertisement

- a) Unless vendors have been pre-qualified, all bids for goods and services over \$100,000 in value will be advertised in a local newspaper and on Municipal website.

3.13 Contractor Performance

- a) Chief Administration Officer (C.A.O.) shall be responsible for monitoring the performance of contractors and shall advise the Council in writing with documented evidence where the performance of a contractor has failed to comply with a contract or other Municipal requirements.

3.14 General

(a) Separate Invoices

The submission of separate invoices in an attempt to circumvent this policy is not allowed.

(b) Bid Sureties

Security is not required on the majority of purchases made by the Municipality. If security is required, the bid invitation will indicate the kind and amount. When a bid deposit is required, a bid will not be accepted without it. The principal types of security that may be required are as follows:

(i) Bid Deposit

A certified cheque drawn on a responsible bank doing business in Canada. Personal or company cheques are not acceptable. The deposit must be made payable to the Municipality, in the amount specified in the bid package and enclosed with the bid. The bid deposit will be forfeited to the Municipality should the successful bidder fail to accept the award. Bid deposits are returned to the unsuccessful bidders promptly after the award and acceptance by the successful bidder.

(ii) Performance Surety

A Performance Bond and a Labour and Materials Payment Bond in the amount specified in the bid invitation are required only from the successful bidder. Performance bonds are retained by the Municipality until all items, equipment and/or services specified in the contract has been completed to the satisfaction of the Municipality. The Performance Bond will be forfeited to the Municipality should the successful bidder fail to comply with the terms and conditions as set forth in the specifications and award.

(iii) Letter of Credit

A Letter of Credit in the amount of the value of the contract may be required from the successful bidder depending upon the requirements of the contract. The Municipality will stipulate the form of the letter of credit (attached as Attachment "B").

(c) Insurance

Where installation, repair or service is undertaken on Municipal property, it will be necessary for the vendor to provide an insurance certificate evidencing the insurance coverage as may be required, and naming the Municipality as an additional insured. Bid documents will clearly indicate insurance requirements to be provided by the successful bidder. The minimum requirement being \$2,000,000.00 (2 million dollars).

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- (d) **General Liability and Property Damage Insurance**
The policy must contain an endorsement to the effect that the policy or policies will not be altered, cancelled or allowed to lapse without thirty days prior written notice to the Municipality.

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

- (i) The removal or weakening of support of any property, building or lands whether such support be natural or otherwise;
- (ii) The use of explosives for blasting;
- (iii) The vibration from pile driving or caissons work, provided that the coverage for any such loss or damage shall be \$5,000,000.00.

- (e) **Confidentiality of Bids/Quotations/Proposals**
All records and information pertaining to tenders, proposals and other sealed bids, which reveal a trade secret or scientific, technical, commercial, financial or other labour relations information, supplied in confidence implicitly or explicitly, shall remain confidential. All information received by the municipality is subject to the *Municipal Freedom of Information and Protection of Privacy Act*.

- (f) **Errors in Bids/Quotations/Proposals**
Vendors are responsible for the accuracy of their quoted prices; in the event of an error between a unit price and its extension, the unit price will govern. Quotations may be amended or withdrawn by the bidder in writing up "to closing date and time" by the signing officer of that company.

3.15 Disposal of Obsolete, Damaged or Surplus Equipment

- (a) **General**
It shall be the responsibility of the Superintendent/C.A.O. to identify and dispose of obsolete, damaged, or surplus equipment in a timely manner.
- (b) **Process for Disposal**
The following process shall be used to dispose of obsolete, damaged or surplus equipment:
- (i) All obsolete, damaged or surplus equipment shall first be offered to other departments within the Municipality.
 - (ii) Where obsolete, damaged or surplus equipment is offered to but not required by any Municipal department, it shall be disposed of by advertisement for public tender and sold to the highest bidder
 - (iii) That should it be determined, by the C.A.O. as being beneficial by the municipality, equipment may be sold at a public auction.
 - (iv) Where equipment has been declared obsolete, damaged or surplus by the Superintendent/Fire Chief/C.A.O. and declined by other departments within the Municipality and is determined by the Treasurer to have little or no value the equipment is advertised to municipal staff as being for sale and sold to the highest bidder.
 - (v) Where municipality equipment is declared surplus that is of a specialized nature (such as radio communications, etc.), public advertisement and sale by tender is not required. The C.A.O. is authorized to negotiate with interested parties and report to Council.

4 **ADMINISTRATION:**

- 4.01 The Treasurer, C.A.O., Superintendents shall follow the policy and procedure outlined herein.

5 **ATTACHMENTS:**

- 5.01 Attachment "A" – Levels of Contract Approval Authority

- 5.02 Attachment "B" – Goods and Services Not Subject to Purchasing Policy

Council authorization: By-law 2004-78

By-law 2005-63

By-law 2011-70

By-law 2013-73

By-law 2014-61

By-law 2017-45

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ATTACHMENT “A”

LEVELS OF CONTRACT APPROVAL AUTHORITY

In the case of multi-year supply and/or service contracts, the pre-authorized expenditure limit shall refer to the estimated total expenditure under the contract.

Dollar Value (excluding taxes, duty or shipping)	Approved Authority	Procurement Process	Source of Bid	Report to Council Required
\$20,000 or less	Superintendent/Treasurer/Fire Chief	Charge to the Municipality	Purchase made from the competitive marketplace	No
Greater than \$20,000 but less than \$50,000	C.A.O. and Treasurer	Informal or Formal Quotations - Sec. 3.04	Minimum of three (3) quotes where reasonably possible by invitation or open competition	No if within 10% of the approved budget allocation
\$50,000 or less	C.A.O. and Treasurer	Consulting or Professional Services	Purchases made from the competitive marketplace	No
Greater than \$50,000	Municipal Council	Quotation, Tender or Request for Consulting or Professional Services	Tenders that meet qualifying criteria - Sec. 3.03 OR Request for Proposal - Sec. 3.05	Yes

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ATTACHMENT "B"

GOODS AND SERVICES NOT SUBJECT TO PURCHASING POLICY

1. Training and Education including:
 - i. Conferences
 - ii. Courses
 - iii. Conventions
 - iv. Magazines
 - v. Memberships
 - vi. Periodicals
 - vii. Seminars
 - viii. Staff development
 - ix. Staff workshops
 - x. Staff relations
2. Refundable Employee/Council Expenses including:
 - i. Cash Advances
 - ii. Meal Allowances
 - iii. Travel Expenses
 - iv. Accommodation
3. Employer's General Expenses including:
 - i. Payroll Deduction Remittances
 - ii. Medicals
 - iii. Insurance Premiums
 - iv. Tax Remittances
4. Licenses, certificates and other approvals required.
5. Purchase of computer hardware and operating software.
6. Ongoing maintenance for existing computer hardware and software.
7. Engineering and planning consulting services
8. Legal services on an ongoing basis
9. Other Professional and Special Services up to \$20,000 including:
 - i. Additional non-recurring Accounting and Auditing Services
 - ii. Legal Services for hearings (such Ontario Municipal Board)
 - iii. Banking Services where covered by agreements
 - iv. Group Benefits
10. Utilities
 - i. Postage
 - ii. Water and sewer charges
 - iii. Hydro
 - iv. Gas