



## **Alternative Dispute Resolution – Contract Dispute Protocol**

### **1. Purpose**

The purpose of this protocol is to set out a process for the Town and its Suppliers/Vendors to follow when there is a contract dispute.

### **2. Scope of the Contract Dispute Process**

The contract dispute protocol process provides an opportunity for the Town and its Vendors to remedy any contract dispute in an expedient manner. The process is intended to help resolve issues that involve no significant factual or interpretive disagreement between the parties. It is not intended to resolve fundamental disputes over facts or legal rights and obligations or to establish a mechanism to adjudicate such disputes. The process provided for in this protocol is separate and distinct from any dispute resolution processes that may be provided for under applicable trade agreements. If a proponent wishes to dispute a matter or bring a complaint under an applicable trade agreement, the proponent must follow the process set out in the trade agreement, which may differ from the process set out in this protocol.

### **3. Restrictions**

The progress of any project shall not be delayed by a request for use of the ADR Bid Dispute Process, unless recommended by the involved Director and the Chief Administrative Officer.

### **4. Contract Dispute Review Committee**

The Town will establish a Contract Dispute Review Committee (the "CDRC") for the purpose of making determinations under this protocol. The CDRC will consist of the Manager of Procurement, Legal & Risk Manager or Town's solicitor, Director of the respective department (or designate) and the Chief Administrative Officer (CAO).

### **5. Contract Dispute Protocol Process**

5.1 The department director and/or contract administrator shall contact and verbally attempt to resolve the dispute by working directly with the Vendor's lead contract administrator or, if applicable, on-site supervisor.

5.2 The department director/or contract administrator shall issue a Town prescribed vendor performance report to the Vendor outlining the contract dispute issue(s) not resolved in the previous step and the Vendor shall fill out the vendor section of the report and supply it back to the department director and/or contract administrator outlining their response to the dispute issue(s) and proposed corrective action plan

within ten (10) days of the report being sent. The department director and/or contract administrator will review, approve (if acceptable) or work to agree on an appropriate corrective action plan within ten (10) days of the report being provided back to from the Vendor and monitor the compliance of the Vendor to the agreed upon corrective action plan. A copy of the completed report shall be issued to Procurement for record.

5.3 Should the previous step not be successful, the department director and/or contract administrator shall in writing within ten (10) days of the failed previous step, request a written explanation from the Vendor for the non-compliance with the approved corrective action plan with a deadline to supply the written explanation and action plan back within ten (10) days of the written communication being sent.

5.4 Should the previous step not result in receipt of an excusable explanation, the sufficiency of which shall be determined at the sole discretion of the department director and/or contract administrator, or a failure to receive a written explanation, then a formal meeting may be requested by the Town within ten (10) days of the deadline to submit such written explanation. At the point that the request for the meeting is made, the Town's department director and/or contract administrator and Vendor shall both provide a written summary of their position to the CDRC for review. Within fourteen (14) days of the request, or such later date as may be mutually agreed upon, the meeting will take place between the Vendor and the CDRC.

5.5 Following the meeting between the Vendor and the CDRC, the CDRC will make a determination in respect of the contract dispute and issue a response to the Vendor as follows:

- (a) If the CDRC finds that the Vendor's position in respect of the dispute does not have merit, then it will issue a response to the Vendor indicating that the CDRC has reviewed its position and provide reasons for its determination; or
- (b) If the CDRC finds that the Vendor's concerns in respect of the contract dispute have merit, then it will determine the appropriate resolution to the matter. In making its determination, the CDRC may consider any factors it considers relevant for the purpose of making a determination.

5.6 The determination made by the CDRC is the final determination under the Contract Dispute Protocol process. If the Vendor is not satisfied with the response of the CDRC, the Vendor may consider its other options, including challenges under applicable trade agreements and/or governing laws.