

CITY OF TIMMINS

BY-LAW NO. 2018-8235

BEING A BY-LAW to repeal City of Timmins By-law No. 2008-6603 as amended and to authorize the Corporation of the City of Timmins to establish a purchasing policy for the City of Timmins.

WHEREAS pursuant to the Municipal Act, 2001, Section 10(2)(3), provides that a single-tier municipality may pass by-laws respecting the following matters: Financial management of the municipality and its local boards.

AND WHEREAS Section 11(2)(3) provides that by-laws may be passed respecting matters within its sphere of jurisdiction such as the financial management of the municipality and its local boards.

NOW THEREFORE the Council for the Corporation of the City of Timmins enacts as follows:

1. THAT By-law 2008-6603 as amended be repealed and replaced by the attached Appendix "A" as the Purchasing Policy for the City of Timmins.
2. That the Mayor and Director of Corporate Services & Treasurer are hereby authorized to sign and execute the said policy on behalf of the Corporation and to affix thereto the Official Seal of the Corporation.

READ a first, second and third time and finally passed this 19th day of June 2018.

READ a third and final time and enacted and passed this 19th day of June 2018.



MAYOR



CLERK



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CERTIFIED TRUE COPY
OF BY-LAW NO. 2018-8235



CLERK

(SGD) STEVEN BLACK

MAYOR

CLERK

**THE CORPORATION OF THE CITY OF TIMMINS
BY-LAW NUMBER 2018-8235**

**BEING A BY-LAW TO DEFINE THE PURCHASING POLICIES FOR THE PROCUREMENT OF
GOODS AND/OR SERVICES FOR THE CITY OF TIMMINS**

WHEREAS this By-law established the authority and sets out the methods by which the City of Timmins will procure goods and/or services subject to certain exceptions set out herein;

The following local boards and corporations are bound by this By-law and this By-law shall apply with necessary modification to such local boards and corporations. All references to Council shall mean the governing body of each of the following local boards and corporations:

- Timmins Police Services Board
- Timmins Public Library
- Timmins Economic Development Corporation
- Timmins Victor M. Power Airport
- Mattagami Region Conservation Authority

For all purposes of this By-Law and this Section, all references to the Chief Administrative Officer and Director of the Department of the City shall mean the following persons associated with the relevant local board and corporation:

- Timmins Police Services Board – Chief of Police or designate
- Timmins Public Library – Chief Executive Officer or designate
- Timmins Economic Development Corporation – Chief Executive Officer or designate
- Timmins Victor M. Power Airport – Airport Manager or designate
- Mattagami Region Conservation Authority – MRCA Manager or designate

Application of the procedures and requirements of this By-Law will be in conjunction with the internal purchasing procedures and is subject to any and all other applicable By-laws and Acts, as amended.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF TIMMINS
ENACTS AS FOLLOWS:**

In this By-law and in Appendix A – Purchasing Policy Exemptions and Appendix B – Bid Irregularities and Appendix C – Levels of Approval authority, attached to this By-law:

1. DEFINITIONS:

“Award” means the selection of a Bidder and their goods and/or services as accepted by the City;

“Agreement to Bond” or “Surety’s Consent” means a letter or other form issued by a bonding agency licensed to operate by the Government of Canada or the Province of Ontario advising that, if the Bidder is successful, the bonding agency will issue the required bonds;

“Bid” means the Bidder’s offer to sell to the City;

“Bidder” or “Proponent” means a person, supplier, vendor, contractor, developer or professional, who submits a Bid to the City;

“Bid Deposit” means currency, certified cheque, bank draft, bond surety issued by a surety company, Irrevocable Letter of Credit, or other form of negotiable instrument submitted by a bidder

as evidence of their commitment to enter into an Agreement to do the work outlined in the Bid Solicitation;

“Bid Document” means a Request for Tender, Request for Quotation, Request for Proposal or other document that states the City’s desire to buy or to consider buying and Bidders/Proponents offer to sell to the City, the goods and/or services defined in the Specification and/or Scope of Work;

“Bid Irregularity” means a deviation between the requirements of a Bid Document request and the information provided in the Bid response;

“Bidding System” means an electronic bidding system for the secure transmission of bidding documents, bid data and related documents in connection with the procurement of goods and/or services;

“Blackout Period” means the period between the closing of a response to a call for bids and the time the contract Award has been approved;

“Blanket Order” is a term contract or agreement between the City and a supplier and is used to address recurring purchases of goods and/or services required frequently or repetitively and for a specific time frame and over a certain dollar threshold. The specific goods and/or services to be purchased over the time period will be as accurate an estimate as practical and based, to the extent possible, on previous usage adjusted for any known factors that may cause change;

“Certificate of Clearance” means a certificate issued by an authorized official of the Workplace Safety and Insurance Board (WSIB) in compliance with the Workplace Safety and Insurance Act, 1997, specifically Part XII, section 141, 141.1 and 141.2, as applicable and as amended;

“Certificate of Insurance” means official original documents issued by an insurance company acceptable to the City and licensed to operate by the Government of Canada or the Province of Ontario certifying that the bidder is insured in accordance with the City’s insurance requirements as noted in the bid document;

“City” means The Corporation of the City of Timmins;

“Contract” or “Agreement” means a binding agreement between two or more parties that creates an obligation to provide a particular goods and/or services;

“Council” means the Council of The Corporation of the City of Timmins;

“Council Approved Budgets” means Council approved department budgets including authorized revisions, or where applicable, Council approved budgets of local boards or utilities to which this By-law applies;

“Designate” means a person provided with the written authority to act on another person's behalf, notice of which shall be filed with the City Treasurer;

“Director” means the head of any City Department.

“Electronic Bidding (Facsimile, Email or Internet)” means a method of issuing Solicitations and/or receiving Bids where the process of issuing and/or receiving Bids by facsimile, email or internet is considered appropriate;

“EOI” means Expression of Interest, a process whereby the City uses a focused market research

tool to determine Bidder interest in a proposed procurement;

“Evaluation and/or Selection Committee” means an evaluation committee of staff, which may include the Purchasing Manager, and/or outside consultant(s), established by the Director of the Department, to evaluate submission(s) according to the evaluation criteria in the Bid document;

“Goods and/or services” includes supplies, equipment, furniture, fixtures, construction, maintenance and service contracts and professional and consulting services but does not include real property;

“In House Offer to Sell” means a response to a Procurement Solicitation made by a Department and authorized by the Manager of the Department where the provision of the Goods, Services or Construction will be provided by the employees of the Corporation of the City of Timmins;

“Irrevocable Letter of Credit” means an irrevocable letter on the financial institution’s standard form containing a request that the party, to whom it is addressed, pay the bearer or a person named therein money as a result of failure to perform or fulfill all the covenants, undertakings, terms, conditions and agreements contained in the contract;

“Labour and Material Bond” means a bond issued by a surety company on the City standard Form of Bond to ensure that the contractor will fulfill its obligations to its employees, subcontractors and suppliers and thereby protects the City. Any changes to the standard Form shall require approval of the Purchasing Manager.

“MFIPPA” means Municipal Freedom of Information and Protection of Privacy Act;

“Official Documents” means the mandatory documents required by the City from the Vendor before execution of a contract i.e. Certificate of insurance, WSIB Certificate, Health & Safety Declaration, Bonding, etc.

“Performance Bond” means a bond issued by a surety company on the City standard Form of Bond executed in connection with a contract and which secures the performance and fulfillment of the undertakings, covenants, terms, conditions and agreements contained in the contract. The City, at its option, may accept renewable bonds. Any changes to the standard Form shall require the approval of the Purchasing Manager;

“Personal Property” means tangible or intangible property, other than real property, movable property subject to ownership, with exchange value;

“Proposal” or “Submission” means an offer submitted in response to an invitation to a supplier to provide goods and/or services, on certain terms and conditions;

“Proponent” means a party submitting a Proposal;

“Purchase” means the acquisition of goods and/or services;

“Purchase Order” or “PO” means a document issued to a vendor formalizing the terms and conditions to purchase goods and/or services;

“PO Amendment” means any change to the original approved scope and/or value of a contract and/or purchase where the total cost of goods, services, or construction **exceeds \$25,000**;

“Purchasing Manager” means the Purchasing Manager of The Corporation of the City of Timmins;

“Quotation” means an offer from a supplier to provide to or purchase from the City goods and/or services;

“Real Property” includes lands, buildings, tenements and any interest, estate, right or easement in lands;

“Request for Proposal or RFP” is a bid solicitation method used when it is expected that negotiations with one or more bidders may be required with respect to any aspect of the requirements, or that other factors will be considered in the selection of the contract in addition to price;

“Request for Quotations or RFQ” means a form of Bid Solicitation whereby the City publishes the specifications, terms, conditions and details concerning the proposed Agreement, to submit Bids in response to detailed specifications;

“Request for Tender or RFT” is a process whereby the City publishes the specifications, terms, conditions and details concerning the proposed Agreement;

“Request for Information or “RFI” means a non-binding solicitation of input from interested parties with respect to a possible future procurement process. This is a common procurement practice used to obtain product/service details, comments, feedback or reactions from potential suppliers/contractors prior to the issuing of a call for bid. A firm price or cost information is not required. Feedback may include best practices, industry standards, technology issues, etc;

“Request for Prequalification or “RFPQ” means a request for the detailed submission of the experience, financial strength, education, background and personnel from individuals, firms or Corporations who may, from time to time, qualify to supply goods and/or services to the City, but which does not create any contractual obligation between the respondent submitting the pre-qualification submission and the City, but which may be a pre-condition to submitting a further bid or proposal to the City;

“Set-off” means the ability of a debtor to reduce the amount of one’s debt by an amount the creditor owes to the debtor;

“Submission” means a bid document received from a supplier of goods and/or services in response to an advertisement requesting bids;

“Supplier” means a person or company from whom the City may purchase or lease goods and/or services.

“Single Sourcing” means the procurement of goods and/or services from a particular vendor rather than through the solicitation of Bids from multiple vendors who can also provide the same/similar goods and/or services;

“Sole Sourcing” means the procurement of goods and/or services that are unique to a particular vendor and cannot be obtained from other source;

“Surplus Goods” means usable or unusable property, which has been declared excess/surplus/damaged by a Department of the City of Timmins;

“Tender” means an offer from a Bidder to provide goods and/or services in response to a RFT, the acceptance of which will results in the formation of a binding contract between the City and the Bidder submitting the Tender;

“Total Cost” or “Total Dollar Value” means the total cost or values stated in this policy, **do not** include any non-refundable taxes;

“Treasurer” means the City Treasurer of The Corporation of the City of Timmins;

“User Department” means the Department within The Corporation of the City of Timmins that requires the goods and/or services and for which the director of their designate is the contact for the purposes of the procurement process;

“Vendor” means a party that supplies goods and/or services to the City of Timmins.

2. OBJECTIVES:

To purchase and supply the proper equipment, materials, supplies and services when needed, with the best quality, the best quantity, at the best price, from the best source and at the best time using a competitive process that is open, transparent and fair to all.

- To improve service and support to all City Departments.
- To maximize value of dollars spent.
- To promote sound inventory management.
- To reduce operating cost by the effective use of available time.
- To maintain effective purchasing controls.
- To strengthen public relations through proper communications with contractors and suppliers.
- To comply with legal and legislative requirements.
- To ensure a standardized approach to procurement.

3. AUTHORIZATIONS:

The City of Timmins Council has ultimate authority to all expenditures. Council provides the authority to staff for the initiation and completion of procurement processes as per Appendix “C” – Levels of Approval Authority attached to and forming part of this policy.

4. CODE OF ETHICS:

Goal: To ensure ethical, professional and accountable procurement.

Members of Council or of a Committee, appointed officers and employees of the City, directly or indirectly involved at any stage of any purchase of goods and/or services on behalf of the Corporation shall, at minimum, adhere to the following principles.

- a) **Open and honest dealings with everyone who is involved in the procurement process. Procurement activities should be open and accountable to the greatest extent possible.**

This includes all businesses with which this City contracts or from which it purchases goods, services and construction, as well as all members of our staff and of the public who utilize the services of the Purchasing Services.

- b) **Fair and impartial award recommendations for all contracts and tenders. Contracting procurement activities must be fair, transparent and conducted with a view to obtaining the best value for public money.**

This means that we do not extend preferential treatment to any Prospective Vendor, including local companies.

- c) **A high standard of personal integrity on the part of all those designated as procurement representatives for this Corporation.**

Employees involved with procurement activities must act, and be seen to act, with integrity and professionalism. Honesty, care and due diligence must be integral to all procurement activities within and between the organization, suppliers and other stakeholders. Respect must be demonstrated for each other and for the environment. Confidential information must be safeguarded. Participants must not engage in any activity that may create, or appear to create, a conflict of interest, such as accepting gifts or favours, providing preferential treatment, or publicly endorsing suppliers or products.

Members of Council or of a Committee, appointed officers and employees of the City are expressly prohibited from accepting, directly or indirectly, from any person, company or corporation to which any purchase order or contract is, or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the sole use and benefit of the City.

Lobbying by Bidders to Council members will be prohibited during the blackout period. This provides a fair process to all Bidders during the review process and protects staff and politicians from allegations of attempting to influence decisions when making awards. If a staff or Council member is aware of lobbying by a Vendor during a blackout period, they should notify their immediate supervisor, or in the case of Council, the CAO, as well as advising the Purchasing Manager.

5. RESPONSIBILITIES OF PURCHASING MANAGER/TREASURER:

The Purchasing Manager, under the direction of the City Treasurer, is responsible for the management, organization and administration of the purchasing function, including ensuring compliance with the purchasing policies and procedures. The Purchasing Manager shall have the authority to develop and maintain procedures to implement this policy. The Purchasing Manager is responsible for issuing formal quotations, requests for proposals and tenders for all goods and/or services, etc., and for arranging the disposal of surplus goods.

6. DELEGATION OF RESPONSIBILITIES:

The Chief Administrative Officer of the City and/or the City Treasurer may designate a person to act in their place in the event that they are unavailable to perform their duties under this Purchasing Policy.

7. EXCEPTIONS:

Where, in the opinion of Purchasing, circumstances occur giving rise to an issue of non-adherence to the requirements of the By-law which cannot be resolved to the satisfaction of the Purchasing Manager, the Purchasing Manager shall advise the Director of Finance and Treasurer who shall have the authority to determine the appropriate action.

8. EXEMPTIONS:

Competitive bid solicitation is not required for items set out in Appendix "A" - Purchasing Policies Exemptions. Note, Items 17. - Insurance and 18. - WSIB will apply to these exemptions, if applicable. The purchase of Goods and Services listed in Appendix "A" to this By-law may be made provided that sufficient funds are available and identified in appropriate accounts within Council Approved Budgets.

9. BLANKET ORDERS:

- i. The Department shall employ a procurement method contained in this policy for the acquisition of the goods and/or services;
- ii. More than one Supplier may be selected when it is in the best interest of the City and the Bid solicitation process allows for more than one awarded Supplier;

- iii. Purchasing action initiated by a Department for frequently used goods and/or services shall be made with the Supplier(s) listed in the Blanket Order.
- iv. The bid documents shall list the expected quantity of the specified goods and/or services to be purchased over the time period of the agreement and will be as accurate an estimate as practical and be based, to the extent possible, on previous usage adjusted for any known factors that may change usage.

10. PURCHASING PROCEDURES:

- (a) The Purchasing Manager shall have the authority to develop and maintain procedures to implement to this policy.
- (b) The purchasing procedures shall be approved by the Treasurer and used as direction to staff when purchasing goods, services or construction in compliance with this policy.
- (c) The award of a contract shall be made by way of written agreement, or as a purchase order.
- (d) A purchase order is to be used when the resulting contract requires only the City's standard contractual terms and conditions.
- (e) A formal agreement is to be used when the resulting contract is complex and will contain terms and conditions other than the City's standard contractual terms and conditions.
- (f) It shall be the responsibility of the Director of the Department or designate in charge of the particular procurement solicitation, with the Purchasing Manager and/or the City solicitor, to determine if it is in the best interests of the City to establish a formal agreement with the supplier.
- (g) Where it is determined that a formal agreement is required, the formal agreement shall be reviewed and approved for execution by the City solicitor.
- (h) Where a formal agreement is required, the Director of the Department or designate shall execute the agreement in the name of the Corporation of the City of Timmins, or it's agencies, boards or commissions, if applicable.
- (i) Where a formal agreement is issued, the Purchasing Manager may issue a purchase order incorporating the formal agreement.
- (j) Where a formal agreement is not required, the Purchasing Manager shall issue and execute a purchase order incorporating the relevant terms and conditions.
- (k) All agreements shall adhere to the Corporation of the City of Timmins standard terms and conditions.

11. LOW VALUE PURCHASE (LVP):

Where the total cost **does not exceed \$9,999** for the purchase of goods, services and construction, the purchase must be completed using one of the following methods and in accordance with the policies and procedures associated with each and in accordance with the Purchasing By-law, Appendix C – Levels of Approval Authority and Purchasing Procedures. **Note: If applicable, City staff must obtain and retain evidence of WSIB & Insurance prior to allowing work to commence on City property.**

12. REQUESTS FOR QUOTATIONS (FORMAL):

Request for Quotation (formal) procedures may be used where purchases are **greater than \$10,000 but equal to or less than \$49,999** and shall be authorized as follows:

- (a) The Director of the Department shall prepare specifications.
- (b) Formal quotations must be solicited through Purchasing Services. Telephone solicitations may be used if required due to time constraints or other contingencies.
- (c) The Purchasing Manager shall receive quotation submissions until the deadline specified in the bid document.
- (d) The City may elect to receive Bids electronically and the procurement process will be stated in the bid call document.
- (e) After closing, quotations shall be opened by the Purchasing Manager or a designate on the following work day or as soon thereafter as possible.
- (f) The Purchasing Manager prepares a summary of all bids received.
- (g) The Director of the Department and/or the Purchasing Manager shall evaluate all bids submitted and award to the lowest quotation meeting the requirements of the City. Purchasing Services prepares the PO and retains the official documents, if applicable.
- (h) It is intended that provided all of the other requirements of the City are met, price will be the most important criteria in selecting the winning quotation. However, the City reserves the right to take into account other criteria, if appropriate.

13. PREQUALIFICATION (RFPQ):

Prequalification is used to prequalify potential bidders for subsequent participation in the competitive bidding process. Prequalification must be specifically set out and provided for in the tender or RFP process. Responses from the bidders are to be evaluated based on the selection criteria set out in the tender/RFP process, both qualitative and technical. From the list of bidders, a list of prequalified bidders is generated.

The Director or their designate shall select preferably a minimum of three potential bidders as the short list for the competitive bid process. When, in the opinion of the Director of the Department, there are less than three qualified potential bidders, a report will be provided detailing the circumstances of the decision in a report for approval by the Chief Administrative Officer.

14. REQUEST FOR TENDER (RFT):

Request for Tender procedures shall be used where purchases are **equal to or greater than \$50,000** and shall be authorized as follows:

- (a) Where the process is based on precisely defined requirements for which a clear or single solution is assumed to exist, then the Director of the Department shall prepare the specifications and requirements for tenders and forward same to the Purchasing Manager for review and approval.
- (b) The Purchasing Manager advertises and makes available a request for tender on the City's Bidding System Website. Additional means of advertisement may be employed from time to time as deemed appropriate by the Purchasing Manager.
- (c) The Purchasing Manager shall receive the bids until the deadline specified in the bid document.
- (d) The City may elect to receive Bids electronically and the procurement process will be stated in the bid call document.

15. REQUEST FOR PROPOSAL (RFP):

Request for Proposal procedures shall be used when:

- other factors will be considered in the selection of the contract in addition to price;
 - or when it is expected that negotiations with bidders may be required with respect to any aspect of the requirements for the provision of goods and/or services;
 - or where a unique proposal or solution designed to meet broad outcomes to a complex problem or need is required;
 - where there is no clear or single solution.
- (a) The Director of the Department shall prepare specifications and criteria and forward same to the Purchasing Manager for review and approval.
- (b) Requests for Proposals may be sent by the Purchasing Manager to specific bidders (a minimum of three bidders, where possible). The City may elect to receive Bids electronically and the procurement process will be stated in the bid call document;
- (c) The Purchasing Manager advertises and makes available a Request for Proposal on the City's Bidding System Website. Additional means of advertisement may be employed from time to time as deemed appropriate by the Purchasing Manager.
- (d) The Purchasing Manager shall receive the proposal submissions until the date and time specified in the proposal document. Proposal submission will be opened by the Purchasing Manager or a designate on the following work day or as soon thereafter as possible.

A Request For Proposal Should Include the Following:

- A work statement or performance specification;
- Time frames in which the work is to be completed;
- Specific criteria (including mandatory criteria and technical standards) and weighting factors to be used in evaluating the proposal;

A Two (2)-Envelope Approach may be utilized with RFP's. In the two (2) envelope approach, step one (1) consists of a request for qualitative and/or technical information, without the pricing requirement, and step two (2) consists of reviewing sealed proposal prices from only those proponents whose technical and/or qualitative requirements have been rated most acceptable, i.e., achieved a set threshold score on step one (1).

Where the total cost of the Proposal is greater than \$10,000 but equal to or less than \$49,999:

A report will be prepared with a recommendation for award and retained on file in the user Department and be available upon request. Prior to the issuance of the Purchase Order, the successful Vendor shall provide the official documents (if applicable) to Purchasing Services for approval and retention. After receipt and approval of the official documents, Purchasing Services shall issue a purchase order to the successful vendor stating directly on the PO, "the City's RFP document, any Addenda and the successful Vendor's submission will be appended to the Purchase order issued for this work and shall form the agreement".

Evaluation Committee

In some instances, an Evaluation Committee will be established by the Director of the Department to review the proposals.

16. COUNCIL APPROVAL AND INFORMATION REPORTS:

(a) Despite any other provisions of the By-Law, the following Contract Awards are subject to Council approval:

- i. any contract award where the Total Acquisition Cost is greater than the Council Approved Budget;
- ii. any contract award where the Total Acquisition Cost is included in Council Approved Budget but **greater than \$100,000**;
- iii. any Multi-Year Contract Award where the Annual Acquisition Cost exceeds the Council Approved Budget;
- iv. any Multi-Year Contract Award where the Term including any optional extension terms exceeds five years and the Annual Acquisition Cost **is \$50,000 or more**, and;
- v. any Contract Amendment that would cause a Contract to exceed Council Approved Budgets

(b) In circumstances where Council has approved a Contract for the Non-Competitive Purchase of Goods, Services or Construction, the maximum term shall be five years unless Council approves otherwise by resolution.

(c) Approval by Council of the Contracts referred to in subsection (a) shall be by resolution.

17. INSURANCE:

Each time a Vendor is hired to do work for the City, evidence of insurance coverage satisfactory to the City must be obtained from the Bidder's insurance agent or broker. Such insurance must indemnify the City of Timmins from any and all claims, demands, losses, costs or damages resulting from the performance of a Supplier's obligations under the Contract.

The appropriate insurance coverage and value shall be determined by Purchasing Services in consultation with the User Department ensuring an adequate level of protection to the City. Standard types of insurance coverage include, but not limited to, general liability, automobile liability, professional errors and omission liability and environmental liability and the project must name the City of Timmins as an additional insured.

The type and value of the insurance coverage will be relevant to the goods and/or services being purchased.

All bid documents must indicate the insurance requirements to be provided by the successful Bidder.

Prior to execution of a contract, or in the case of a direct hire through the User Department and before commencement of work, the Vendor must supply a Certificate of Insurance confirming the required coverages.

The Successful Vendor is required to keep the insurance coverage in full force throughout the course of the work (including the warranty period) or executed contract and will not allow the policy to lapse or change without providing thirty days' notice to Purchasing Services, or if applicable, the User Department.

18. HEALTH & SAFETY/WORKPLACE SAFETY AND INSURANCE BOARD (WSIB):

Contractors providing goods and/or services to the City must comply with and be held accountable for meeting the requirements of the Occupational Health and Safety Act.

Each time a Contractor is hired to complete work for the City of Timmins, regardless of the dollar value of the work, the Contractor must supply the City with a valid WSIB Certificate of Clearance prior to any work commencing and throughout the term of the contract.

19. STANDARD DOCUMENTATION:

As a risk mitigation strategy, standard formats and language, with the exception of specifications, has been developed and continues to be monitored and changed in the bid document templates available from and controlled by Purchasing Services and based upon feedback from User Departments, case law decisions, legal review, best practices, etc.

In the situations where it is more appropriate for bid documents to be prepared by a third party, it is the responsibility of the User Department to ensure that the third party receives a copy of this policy and the City's standard language or templates and incorporates all necessary information in the bid documents.

20. PURCHASE ORDER AMENDMENTS AND REVISIONS:

- (a) No amendment or revision to a purchase order shall be made unless the amendment is in the best interest of the City.
- (b) No amendments to the price and/or scope of a purchase order where the total cost of the purchase of goods and/or services **exceeds \$25,000** shall be agreed to without corresponding authorization as per Appendix C.
- (c) Amendments to the price and/or scope of a purchase order are subject to the identification and availability of sufficient funds in appropriate accounts within City council approved budget including any authorized revisions.

DIRECTOR & TREASURER APPROVAL REQUIRED	Where the total PO amendments (including any previous amendments) does not exceed 10% of the original PO amount.
DIRECTOR, TREASURER & CAO APPROVAL REQUIRED	Where the total PO amendments (including any previous amendments) are greater than 10% and do not exceed 20% of the original PO amount.
COUNCIL APPROVAL REQUIRED	Where the total PO amendments (including any previous amendments) exceed 20% of the original PO amount. Where an irregularity precludes the award of a contract to the bidder submitting the lowest bid and the total acquisition cost exceeds \$50,000

21. OTHER TYPES OF PROCESSES:

As a preliminary step to other competitive bidding processes, including tenders and requests for proposals, the following may be utilized:

- (a) **A Request for Expression of Interest (EOI).** This is a request to potential vendors to determine vendor interest in any proposed purchase. It may also be issued together with a request for qualifications where the proposed purchase is well defined and the types of qualifications are reasonably well known.
- (b) **A Request for Information (RFI).** This is to be used in determining what products and services are available to scope out business or other requirements and/or estimate project costs prior to commencement of a competitive bid process.
- (c) **Extension of a Previous Purchase (using a competitive bid process):** In the event that the purchase is a direct extension of a previous purchase which was purchased using a competitive bid process and the previous supplier will be considered appropriate as a single or sole source of procurement due to the particular nature of the extension, then the Director of the Department, in consultation with the City Treasurer and the Purchasing Manager may declare a competitive process is not required and they may proceed under a single source project up to a maximum of the total cost of **up to \$25,000** without Council approval and **above the total cost of \$25,000** with Council approval.
- (d) **Co-operative Purchasing:** Where the City is purchasing, together with other municipalities or other public authorities or governmental agencies.
- (e) **In House Offer to Sell:** May be used for the procurement of goods, services or construction in circumstances where the Chief Administrative Officer deems it appropriate.
- (f) **Contract without Budgetary Appropriation:** Where a requirement exists to initiate a project for which goods, services or construction are required and funds are not contained within the Council approved budget to meet the proposed expenditures, the Director of the Department or designate shall, prior to commencement of the purchasing process, submit a report to Council containing:
 - i. information surrounding the requirement to contract;
 - ii. the terms of reference to be provided in the contract; and
 - iii. information on the availability of funds within existing estimates, which were originally approved by Council for other purposes, or on the requirement of additional funds.

22. GUARANTEES OF CONTRACT EXECUTION AND PERFORMANCE:

- (a) The Director or their designate and Purchasing Manager may require that a bid be accompanied by a Bid Deposit to guarantee entry into a contract.
- (b) In addition to the security referred to above in 16(a), the successful bidder may be required to provide:
 - i. a Performance Bond to guarantee the faithful performance of the contract normally in the amount of 50% or 100% of the contract price,
 - ii. a Labour and Material Bond to guarantee the payment for labour and materials to be supplied in connection with the contract normally in the amount of 50% of the contract price;
 - iii. and/or an irrevocable letter of credit.

23. EXCLUDED BIDDERS/OTHER FACTORS:

- (a) The City may, in its sole and absolute discretion, reject any bid if the bidder or any affiliated or associated person, firm or corporation (as defined under the Business Corporations Act (Ontario), including any officer or director or shareholder, is or has been engaged either directly or indirectly in any legal action against the City, its elected or appointed officers or employees in relation to any other contract or service or any matter arising from the City exercising its powers, duties and functions.
- (b) The City is entitled to include in its evaluation criteria any past experience that the City has had with the Bidder (including performance records) or any related or affiliated organizations have had with the Bidder, whether favourable or unfavourable, including specifically any contracts, contract disputes, litigation, or other experience or dealings whatsoever including the reputation that the Bidder may have with any such entities.
- (c) The City may exercise set-off against any Supplier providing goods, services or construction to the City where it is determined that such Supplier is indebted to the City, regardless of how such indebtedness arises, and the City may re-direct payments otherwise due to such Supplier towards repayment of outstanding amounts owed to the City.

24. DISCLOSURE OF INFORMATION:

Any information supplied in any bid or proposal which has been specifically designated to be, or is intended to be, and the City is aware is intended to be treated as confidential, shall be treated as confidential information subject, however, to the City's obligations to disclose such information, if required, in accordance with the Municipal Freedom of Information and Protection of Privacy Act. At the opening of any tenders, the only information which shall be disclosed is the identity of the bidders and the price submitted, but no further information shall be disclosed unless the City elects to do so at its option. Pertaining to the Request for Proposal, after closing and before the official award, the only information which shall be disclosed is a list of the identity of the bidders in alphabetical order. After the award, refer to the item 25. Dispute Resolution and Debriefing.

25. DISPUTE RESOLUTION AND DEBRIEFING:

Wherein the spirit of this policy is to promote a sense of fairness and transparency, in the event of possible dissatisfaction or request for a bid debriefing, the following process will be followed:

- i. The City reserves the right to debrief (or to not debrief) both the successful and unsuccessful Bidders.
- ii. The Bidders will be required to submit a request in writing by email to the Purchasing Manager no later than twenty (20) calendar days following the date of the posting of the award notification. The notice must clearly state the contract details and the nature of the perceived problem or a request for a debriefing. Any request that is not received within the twenty (20) calendar day time limit may not be acknowledged nor answered.
- iii. The Purchasing Manager shall respond to same in writing by email, and attempt to provide the information requested, however, to the City's obligations to disclose such information, if required, in accordance with the Municipal Freedom of Information and Protection of Privacy Act. The City will not disclose submission information from the other Bidders, unless required to do so based on MFIPPA or legal advice.
- iv. The intent of the debriefing information session is to aid the Bidder in presenting a better submission in subsequent procurement opportunities. Any debriefing information provided is not for the purpose of providing an opportunity to challenge the procurement process.

26. GREEN POLICY:

The City will endeavor to preserve and green Timmins's environment while maintaining economic, social, cultural and community health. The City is dedicated to meeting the needs of the community today while ensuring a desirable future for future generations.

27. LOCAL PREFERENCES:

The *Discriminatory Business Practices Act of Ontario* prohibits discriminatory business practices based on, and not limited to, the geographical location of the persons employed in or engaging in business. The City adheres to the provisions of the *Discriminatory Business Practices Act* and therefore does not award contracts based solely on local preference, nor does it include a local preference as an evaluation criteria. Not only is it against the law, it is not good business practice, since it limits fair and open competition for all vendors and is therefore a detriment to obtaining the best possible value for each tax dollar. There may be instances where location and distance is a legitimate factor, for example, the location of a service depot for warranty or repair service and its proximity to the City is a factor for scoring or awarding a contract. Where there is a legitimate reason to do so, this shall not constitute local preference.

28. PROHIBITED ACTIONS:

- a) Divisions of a contract and/or purchase order – No employee of the City shall divide a purchase, contract or PO Amendment or change order to avoid the requirements of the Tender, Proposal, Quotation or Purchasing Card procedures as noted herein. Nor shall the purchases be split in order to circumvent prescribed spending authority dollar limits as outlined in this policy;
- b) Asking a supplier to alter the invoice date or shipping date from what would otherwise be shown to accommodate City accounting needs;
- c) Creating a purchase order after the goods, service or construction has been received;
- d) Submitting an Invoice to accounts payable without a purchase order number (excluding Purchasing Policy Exemptions - Appendix A);
- e) No contract for services shall be awarded where the services would result in the establishment of an employee – employer relationship;
- f) No employee shall purchase, on behalf of the City any goods, services or construction, except in accordance with this By-law;
- g) Where an employee involved in the award of any contract, either on his own behalf or while acting for, by, with or through another person, has a pecuniary interest, direct or indirect, in the contract, the employee:
 - I. shall immediately disclose the interest to the Director of the Department involved in the award of the contract and shall describe the nature thereof;
 - II. shall not take part in the award of the contract; and
 - III. shall not attempt in any way to influence the award of the contract
- h) An employee has a potential pecuniary interest in any contract in which the City is concerned, if:
 - I. the employee or his or her spouse or same-sex partner:
 - i. is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public that has a pecuniary interest in the contract;
 - ii. has a controlling interest in or is a director or senior officer of, a corporation that offers its securities to the public that has a pecuniary interest in the contract, or;
 - iii. is a member of an unincorporated association or partnership, that has a pecuniary interest in the matter; or
 - II. the employee or his or her spouse or same-sex partner is in the employment of a person, unincorporated association, corporations or partnership that has a pecuniary interest in the contract;
- i) All persons who provide or prepare on behalf of the City contract specifications for goods, services or construction and which goods, services or construction are intended to be the

subject matter of a procurement solicitation, shall not be permitted to submit a response to the procurement solicitation for the said goods, services or construction.

Periodic reviews to ensure compliance may be performed and all compliance issues will be reported to the City Treasurer.

29. DISPOSAL OF SURPLUS GOODS:

The Purchasing Manager shall coordinate the disposal of all surplus goods. Items deemed surplus to the City shall be disposed of by first offering them to other departments, and if not required by any City Department, it shall be disposed of in the most suitable manner that will take into consideration the type of material being disposed and the cost-benefit to the City.

Where the goods to be disposed are deemed to be of significant value, such as the case with vehicles, they shall be disposed of by means of public Auction.

An employee who has the responsibility of declaring goods surplus or obsolete, or for sending items to a public auction shall not bid on or personally obtain any goods that the employee has declared as surplus.

No Council member or employee shall be permitted to receive surplus or obsolete goods with value of **greater than \$200.00** except by purchase at public auction, public tender, trade or advertised sale.

30. NON-COMPETITIVE PURCHASES (SOLE SOURCE, SINGLE SOURCE, EMERGENCY):

30.1 - Sole Sourcing:

The procurement may be conducted using a Sole Source process if the goods and/or services are available from only one supplier by reason of:

- a. Statutory or market based monopoly;
- b. Competition is precluded due to the application of any Act or legislation or because of the existence of patent rights, copyrights, license, technical secrets or controls of raw material; or
- c. The complete item, service, or system is unique to one supplier and no alternative or substitute exists.

30.2 - Single Sourcing:

Single source means that there is more than one source of supply in the open market, but only one source is recommended due to predetermined and approved specifications.

The procurement may be conducted using a single Source process if the goods and/or services are available from more than one source but there are valid and sufficient reasons for selecting one supplier in particular, as follows:

- (a) An attempt to acquire the required goods and/or services by soliciting competitive bids has been made in good faith, but has failed to identify any, willing and compliant, competitive supplier;
- (b) The confidential nature of the requirement is such that it would not be in the public interest to solicit competitive bids;
- (c) There is a need for compatibility of a purchase with existing equipment, facilities and services is of a paramount consideration;

- (d) In the event that the purchase is a direct extension of a previous purchase which was purchased using a competitive bid process;
- (e) The required goods and/or services are to be supplied by a particular supplier(s) having special knowledge, skills, expertise or experience;
- (f) Where it is necessary to arrange interim contractual arrangements following the expiration or breach of a contract;
- (g) The goods are purchased under circumstances which are exceptionally advantageous to the City, such as in the case of a bankruptcy or receivership;
- (h) Where it is advantageous to the City to acquire supplies (new or used) that are offered for sale by tender, auction or negotiation;
- (i) It is advantageous to the City to acquire the goods and/or services from a supplier pursuant to the procurement process conducted by another public body;
- (j) It is advantageous to the City to acquire the goods and/or services directly from another public body or public service body;
- (k) Another organization is funding or substantially funding the acquisition and has determined the supplier, and the terms and conditions of the commitment into which the City will enter are acceptable to the City;
- (l) Where due to abnormal market conditions, the goods and/or services required are in short supply.

30.3 - Sole and Single Sourcing – Approval and Reporting

Awards which qualify to be considered as a Single Source or Sole Source process require the following approval:

- For purchases where the total cost **is equal to or less than \$25,000** the Director of the Department in consultation with the Purchasing Manager may declare a competitive process is not required and a written report indicating this compelling rationale that warrants a non-competitive selection will be attached to the purchase order.
- For purchases where the total cost **is greater than \$25,000** the Chief Administrative Officer may authorize the purchase, and a report shall be submitted by the CAO quarterly to Council setting out details of any purchases made pursuant to this authority and the circumstances justifying the action taken.
- In circumstances where Council has approved a Contract for the acquisition of a good, service or construction where a procurement solicitation has been restricted to a single source of supply, the maximum term of such Contract shall not exceed five years.

30.4. - Emergency Purchases:

For the purposes of this section, “Emergency” means an event or occurrence that the Department Director deems an immediate threat to:

- Public Health;
- The maintenance of essential City service; or

The welfare and protection of persons, property, or the environment; and the event or occurrence necessitates the immediate need for goods and/or services to mitigate the emergency and time does not permit for a competitive procurement process.

A list of pre-qualified suppliers will be used to select the suppliers, whenever possible.

Emergency Purchases approval and reporting:

- (a) Where the total cost of the purchase **is equal to or less than \$24,999**, the Director of the Department in consultation with the Purchasing Manager may authorize the purchase.
- (b) Where the total cost of the purchase **is equal to or greater than \$25,000**, the Chief Administrative Officer may authorize the purchase, and a report shall be submitted by the CAO quarterly to Council setting out details of any purchases made pursuant to this authority and the circumstances justifying the action taken.

31. ACCESSIBILITY FOR ONTARIANS DISABILITIES ACT, 2005:

Pursuant to the Accessibility of Ontarians with Disabilities Act, 2005, City Council has adopted a plan that focuses on accessibility issues and the development of strategic actions to remove (where possible) and prevent barriers to access for people with disabilities. All competitive bids will incorporate measures to ensure that customer service is available to everyone, including persons with disabilities.

32. ACQUISITION COST:

Where this By-law prescribes dollar limits, the contract amount shall be the estimated costs of acquisition less any rebates.

EFFECTIVE DATE

THIS BY-LAW SHALL COME INTO FORCE AND TAKE EFFECT IMMEDIATELY ON AND AFTER PASSING THEREOF.

Read a first, second and third time and finally passed this ____ day of _____.

STEVE BLACK, MAYOR

STEPH PALMATEER, CITY CLERK



THE CORPORATION OF THE CITY OF TIMMINS

BY-LAW NUMBER 2018-8235

APPENDIX "A" - PURCHASING POLICY EXEMPTIONS

APPENDIX "B" – BID IRREGULARITIES

APPENDIX "C" – LEVELS OF APPROVAL AUTHORITY

The purpose of this section is to set out the circumstances under which a Bid Solicitation process is not required.

1. **Training and Education**

- (a) Conferences
- (b) Courses
- (c) Conventions
- (d) Magazines
- (e) Periodicals
- (f) Memberships
- (g) Seminars
- (h) Subscriptions

2. **Refundable Employee**

- (a) Advances
- (b) Meal Allowances
- (c) Miscellaneous — Non Travel
- (d) Travel Expenses
- (e) Travel Allowances

3. **Employer's General Expenses**

- (a) Payroll Deduction Remittance
- (b) Workers Safety Insurance Board payments
- (c) Medical
- (d) Licences (vehicles, etc.)
- (e) Debt Payments
- (f) Grants to Agencies
- (g) Damage claims
- (h) Legal settlements
- (i) Arbitration awards
- (j) Tax Remittances
- (k) Charges to and from other government bodies

4. **Professional and Special Services**

- (a) Committee Fees
- (b) Honorariums
- (c) Medical Professional Services
- (d) Temporary Help
- (e) Rail Crossing Maintenance provided by CN or CP
- (f) Purchases from other levels of Government
- (g) The purchase of Real Property
- (h) Financial assistance
- (i) Legal and Insurance Fees
- (j) Any additional exceptions, expressly permitted in any applicable Trade Agreements, as amended

5. **Utilities**

- (a) Postage
- (b) Water, Wastewater
- (c) Hydro
- (d) Gas
- (e) Telephone
- (f) Cable Television

APPENDIX "B" BID IRREGULARITIES - APPLICABLE TO HARD COPY BIDDING

<u>Irregularity</u>	<u>Response</u>
<ul style="list-style-type: none"> Late bids 	<ul style="list-style-type: none"> Late bids will not be accepted and will be returned unopened. Bids will be deemed to have been received when the package has been stamped with the time and date of receipt by the Purchasing Manager or their designate.
<ul style="list-style-type: none"> Specified Bid submission label not used or package not sealed 	<ul style="list-style-type: none"> Optional rejection at discretion of City
<ul style="list-style-type: none"> Bids not completed in ink or by typewriter 	<ul style="list-style-type: none"> Automatic rejection
<ul style="list-style-type: none"> Original ink signature missing from signature page(s) 	<ul style="list-style-type: none"> Automatic rejection
<ul style="list-style-type: none"> Qualified bids (bids qualified or restricted by an attached or added statement) 	<ul style="list-style-type: none"> Automatic rejection, unless specified and allowed for in the Tender
<ul style="list-style-type: none"> Bids received on documents other than those provided in the Bid Document. 	<ul style="list-style-type: none"> Automatic rejection
<ul style="list-style-type: none"> Agreement to Bond <ul style="list-style-type: none"> a) signature of bidder and/or bonding company missing b) not in the form specified c) not provided. 	<ul style="list-style-type: none"> Automatic rejection Automatic rejection Automatic Rejection
<ul style="list-style-type: none"> Bid Deposit <ul style="list-style-type: none"> a) Not provided or not in form specified b) Bid Deposit of insufficient amount c) Cheque not certified when cheque has been submitted as the Bid Deposit d) Signature of bidder and/or bonding company missing when Bid Bond submitted 	<ul style="list-style-type: none"> Automatic rejection Automatic rejection Automatic rejection Automatic rejection
<ul style="list-style-type: none"> All Addendum(s) not signed (if issued) and submitted with bid submission 	<ul style="list-style-type: none"> Optional rejection by the City, unless otherwise specified in the Bid document.
<ul style="list-style-type: none"> Incomplete bids (all items not bid) 	<ul style="list-style-type: none"> Automatic rejection, unless allowed for in the Bid document.

<ul style="list-style-type: none"> Bids containing minor clerical errors 	<ul style="list-style-type: none"> Bidders may be allowed a reasonable time to correct and initial errors. The City reserves the right to waive initialling and accept the Bid or reject the Bid. The City shall determine what is "minor" in its sole discretion or reject the Bid.
<ul style="list-style-type: none"> Un-initialled changes to the bid documents which are minor (e.g. Bidder's address is amended by over-writing but not initialled) 	<ul style="list-style-type: none"> Bidders may be allowed a reasonable time to correct. The City reserves the right to waive initialling and accept Bid or reject the Bid.
<ul style="list-style-type: none"> Unit prices in the Itemized Bid have been changed but not initialled 	<ul style="list-style-type: none"> Bidders may be allowed a reasonable time to correct. The City reserves the right to waive initialling and accept the Bid or reject the Bid.
<ul style="list-style-type: none"> Other mathematical errors which are not consistent with unit prices 	<ul style="list-style-type: none"> Unit prices shall govern and the Bid will be corrected accordingly. The City reserves the right, in its sole and absolute discretion, to correct the mathematical error(s) and accept Bid as corrected or reject the Bid.
<ul style="list-style-type: none"> Failure to return the documents as specified 	<ul style="list-style-type: none"> Where complete documents are specified in the bid document, automatic rejection
<ul style="list-style-type: none"> Isolated pages are missing 	<ul style="list-style-type: none"> Where the missing pages would not otherwise be associated with any other irregularity identified, the Bidder may be allowed a reasonable time to supply the missing pages where in the opinion of the City, the missing page(s) would not directly affect the bid submitted. The City reserves the right to waive the extra pages and accept the Bid, or to reject the Bid outright.
<ul style="list-style-type: none"> Withdrawal of bids 	<ul style="list-style-type: none"> Withdrawal of bids after the closing time will not be allowed.
<ul style="list-style-type: none"> Tie bids 	<ul style="list-style-type: none"> The successful bidder shall be determined by coin toss in the presence of the Director of the Department, Director of Finance, and the Purchasing Manager and if greater than \$10,000 the vendors shall be present.
<ul style="list-style-type: none"> Statements A,B and C 	<ul style="list-style-type: none"> Missing document(s) shall be automatic rejection Incomplete or unclear Statement "A" or "B" may be allowed reasonable time to correct at the option of the City or the City may reject the Bid. Statement "A" or "B" when marked "N/A", "n/a" or left blank shall be automatic rejection. Statement "C" if unsigned or marked "N/A", or marked "not applicable", or left blank shall be automatic rejection. Statement "C" if incomplete may be allowed a reasonable time to provide the missing information at the option of the City or the City may reject the Bid.

APPENDIX "B" BID IRREGULARITIES - APPLICABLE TO ELECTRONIC BIDDING ONLY

Note: All other provisions under the "Appendix B - Bid Irregularities Applicable to Hard Copy Bidding" shall apply, except for the specifically enumerate provisions below.

Late Bid	Automatic rejection. Electronic Bidding system shall not accept late Bid submissions.
Bid submitted in other than the original Bid Form format.	Automatic rejection
Bid Form not signed	Automatic rejection. The Electronic Bidding system shall not accept bids unless the Bidder has checked a box confirming authority to submit a bid on behalf of the Bidder.
All Addendum(s) not acknowledged (if issued).	Automatic rejection, unless specified and allowed for in the Bid document.
Bid Deposit a) Not provided or not in form specified in the Bid document. b) Bid Deposit of insufficient amount c) Cheque not certified when specified in the Bid document	Automatic Rejection Automatic Rejection Automatic Rejection
The Owner is unable to verify Digital Bond(s).	Upon request by the Owner, the Bidder shall be given reasonable time to either; remedy the verification to the Owner's satisfaction or to submit the original Bid Deposit and/or Undertaking to provide a Bond or Letter of Credit form to the Owner or the Bid shall be rejected.
Tie Bids	The successful bidder shall be determined by coin toss in the presence of the Director of the Department, Director of Finance, and the Purchasing Manager and if greater than \$10,000 the vendors shall be present.

APPENDIX "C" - LEVELS OF APPROVAL AUTHORITY

Total Cost" or Total Dollar Value means the sum of all costs excluding any non-refundable taxes.

Total Dollar Value	Tool/Procurement Process	Approval Authority	Policy Section
Low Value Purchase (LVP) - Equal to or less than \$9,999	Petty Cash or PO issued by Purchasing	Director of the Department	11
Greater than \$10,000 but equal to or less than \$49,999	RFQ Formal RFP Competitive process through Purchasing Services PO issued by Purchasing	Director of Department and Purchasing Manager (jointly)	13 16 9
Equal to or greater than \$50,000.	RFP RFT Formal Contract and PO issued by Purchasing	Director of Department and Purchasing Manager (jointly)	16 15 9
Equal to or less than \$24,999	Emergency Purchase PO issued by Purchasing	Director of Department and Purchasing Manager with report attached to PO	30.4
Equal to or greater than \$25,000	Emergency Purchase PO issued by Purchasing	CAO authorizes, quarterly report to Council	30.4
Equal to or less than \$24,999	Sole Sourcing or Single Sourcing PO issued by Purchasing	Director of Department and Purchasing Manager with report attached to PO.	30.3
Equal to or greater than \$25,000	Sole Sourcing or Single Sourcing Formal contract and/or PO issued by Purchasing	CAO authorizes, quarterly report to Council	30.3
Any budgeted amount greater than \$100,000	PO issued by Purchasing	Council Approval Required	16
Where the total PO amendments (including any previous amendments) does not exceed 10% of the original PO amount.	Authorization required subject to availability of sufficient funds in appropriate account and budget	Director of Department and Treasurer approval required	20
Where the total PO amendments (including any previous amendments) is greater than 10% and does not exceed 20% of the original PO amount	Authorization required subject to availability of sufficient funds in appropriate account and budget	Director of Department, Treasurer & CAO approval required	20
Where the total PO amendments (including any previous amendments) exceed 20% of the original PO amount.)	Authorization required subject to availability of sufficient funds in appropriate account and budget	Council Approval Required	20
Where an irregularity precludes the award of a contract to the bidder submitting the lowest bid and the total acquisition cost exceeds \$50,000	PO issued by Purchasing	Council Approval Required	20
Note: All work on City of Timmins property requires evidence of WSIB & Liability Insurance			