

THE CORPORATION OF THE MUNICIPALITY OF FRENCH RIVER

BY-LAW 2015-54

***as amended by By-law 2020-33, July 15, 2020**

BEING A BY-LAW TO ADOPT A PURCHASING POLICY TO GOVERN THE PURCHASE OF GOODS AND SERVICES BY THE MUNICIPALITY OF FRENCH RIVER

WHEREAS section 270 (1) of the *Municipal Act, 2001, S.O., 2001, c. 25* as amended, requires all municipalities and local boards to adopt and maintain a policy with respect to its procurement of goods and services;

AND WHEREAS this By-law establishes the authority and sets out the methods by which goods and services will be purchased and disposed of for the Municipality;

AND WHEREAS the Municipality will acquire goods and services in a manner that complies with this By-law and appropriate purchasing principles for the public sector, reflects a high standard of business ethics, does not favour or discriminate, is cost effective and results in best value for the Municipality;

NOW THEREFORE the Council of the Municipality of French River enacts as follows:

Table of Contents

1. GENERAL PROVISIONS	3
2. DEFINITIONS OF THIS BY-LAW	3
3. APPLICATION	5
4. RESPONSIBILITIES	5
5. RESTRICTIONS AND EXCEPTIONS	6
6. CAPITAL ASSETS	7
7. STANDARD PROCUREMENT METHODS	10
8. NEGOTIATION	11
9. EXTRAORDINARY CIRCUMSTANCE (EMERGENCY) PURCHASES	12
10. SOLE SOURCE PURCHASES	12
11. SINGLE SOURCE PURCHASES	13
12. UNSOLICITED BIDS	13
13. BID IRREGULARITIES / REJECTION	13
14. METHOD OF ENTERING INTO A PURCHASING AGREEMENT	14
15. CONTINGENCY MANAGEMENT	14
16. PAYMENTS	15
17. SIGNING AUTHORITY AND COUNCIL APPROVAL	15
18. ACCESS TO INFORMATION	16
19. DISPOSAL OF SURPLUS GOODS	16
20. INFLUENCE AND INTEGRITY	16
21. LEGISLATIVE TRADE AGREEMENTS AND LOCAL PREFERENCE	17
22. SCHEDULES	17
23. BY-LAW REVIEW	17
24. AUTHORITY	17
SCHEDULE "A" EXEMPT PURCHASES	18
SCHEDULE "B" - BID IRREGULARITIES	19
SCHEDULE "C" - PROCUREMENT THRESHOLDS	21
SCHEDULE "D" - SPECIAL TREATMENT	22
SCHEDULE "E" – Multi-year Project Planning Worksheet	23
SCHEDULE "F" – Credit Card Waiver Form	25

1. GENERAL PROVISIONS

1.1 The purpose of this By-law is to:

- a) Ensure the Municipality conducts fair, objective, transparent and consistent purchasing practices;
- b) Maintain the integrity of the procurement process by ensuring that, whenever possible, competitive methods of procurement will be utilized to obtain Best Value for the Municipality;
- c) Clearly define the circumstances which allow for non-competitive procurement;
- d) Ensure that the procurement process is conducted in a manner that enables departments of the Municipality to operate efficiently and effectively;
- e) Protect the interests of the Municipality, public and persons participating in the procurement process by providing a clear statement of how Goods and Services will be acquired;
- f) Clearly define the roles and responsibilities of those involved in the procurement process;
- g) Identifies signing authorities; and
- h) Outline the process for disposing of Surplus Goods.

2. DEFINITIONS OF THIS BY-LAW

2.1 In this By-law:

- a) **"Agreement to Bond"** means an insurance agreement by which a third party (a surety) guarantees that if a Contract is awarded to the Bidder, the Bidder is capable of furnishing Bonds as required;
- b) **"Best Value"** means the optimal value balance of cost and performance of Goods or Services having consideration for quality, timing, efficiency and lifecycle costs;
- c) **"Bid"** means an offer or submission from a Bidder or Proponent in response to a Bid Request;
- d) **"Bid Bond"** means an insurance agreement, accompanied by a monetary commitment, by which a third party (a surety) accepts liability and guarantees the Bidder will not withdraw the Bid. The Bidder will furnish Bonds as required, and if the Contract is awarded to the Bidder, the Bidder will accept the Contract as Bid, or else the surety will pay a specific amount;
- e) **"Bid Irregularity"** means a deviation from the requirements of a Bid Request, as set out in Schedule "B" of this By-law;
- f) **"Bid Request"** means a solicitation by the Municipality in a form as specified in section 6 of this By-law;
- g) **"Bidder"** means a person or entity that submits a Bid in response to a Bid Request;
- h) **"Bond"** means a form of financial protection against damages; a binding agreement executed by a Contractor and a third party (a surety) to guarantee the performance of certain obligations or duties to the Municipality;

- i) **"Call for Bid"** means a formal request for an offer based on the terms and conditions of the Municipality's bid documents. A Call for Bid may be in the form of a Request for Quotation (RFQ), Request for Tender (RFT), Request for Proposal (RFP), Request for Pre-Qualification (RFPQ), Request for Information (RFI), Expression of Interest (EOI) or Offer to Sell (OTS); MB
- j) **"Contract"** means any agreement, regardless of form or title, for the purchase of Goods or Services in return for money or other consideration;
- k) **"Contractor"** means the selected Bidder or Proponent to whom the Contract for the purchase of Goods or Services is awarded and executed under the terms and conditions of the Contract;
- l) **"Department Heads"** means a Department Heads, Municipality Clerk, Municipality Solicitor, Fire Chief, Treasurer or respective Designate authorized by the CAO, who has responsibility for a specific business unit or department of the Municipality;
- m) **"Designate"** means a person authorized by the CAO or respective Department Heads to act on his or her behalf, for the purpose of this By-law;
- n) **"Goods"** means goods of all kinds, including both tangible and intangible goods, and shall include supplies, materials, equipment, structures and fixtures to be delivered, installed and/or constructed, and licences;
- o) **"Irrevocable Bid"** means a Bid or Proposal, whereby the Bidder and the Municipality are bound by a contractual obligation under both expressed terms of the Bid Request and implied terms based on the laws of competitive procurement. The inclusion of Bid deposit or Bid Bond in a Bid Request is the means or normal method by which the Municipality obtains an Irrevocable Bid.
- p) **"Proponent"** means a person or entity who submits a response to a Call for Bid;
- q) **"Proposal"** means the submission received or response to a Call for Bid;
- r) **"Purchasing Review Committee"** means the committee consisting of the Treasurer and respective Department Heads and other such persons as designated by the CAO or respective Department Heads that would be assembled to collectively review Bid Irregularities or other matters pertaining to a procurement process with the objective of recommending a solution or otherwise resolving an issue;
- s) **"Purchase Order"** means the Municipality's electronic written document to a Supplier or Contractor formalizing all the terms and conditions of a Contract;
- t) **"Real Property"** means land and its permanently affixed buildings or structures;
- u) **"Services"** means services of all kinds, including, but not limited to, labour, construction, maintenance and professional and consulting services;

- v) **"Selection Committee"** means a committee established as part of the RFP process and made up of Municipality staff and such others as selected by the Municipality, with a purpose to establish RFP evaluation criteria and review and evaluate Proposals;
- w) **"Supplier"** means the selected Bidder or Proponent to whom the Contract for the purchase of Goods or Services is awarded and executed under the terms and conditions of the Contract;

3. APPLICATION

- 3.1 This By-law shall apply to staff in all departments of the Municipality and shall be adopted in principle, by affiliate agencies, boards and commissions of the Municipality.
- 3.2 The acquisition of Goods or Services or disposal of Surplus Goods shall be authorized only when in compliance with this By-law.

4. RESPONSIBILITIES

- 4.1 All employees of the Municipality have a stewardship responsibility. All employees shall ensure that funds are used appropriately and for intended use. All employees shall exercise due diligence when generating, reviewing, and approving transactions that commit to the expenditure of funds.
- 4.2 The Finance Department shall have the authority and be responsible for:
 - a) Overseeing all procurement activities of the Municipality;
 - b) Providing advice, guidance and related services that may be required by departments for the purposes of fulfilling their procurement needs;
 - c) Developing, maintaining and continuously improving detailed processes, systems, templates, and practices to be used in the procurement process;
 - d) Providing training for department staff responsible for acquiring Goods and Services;
 - e) Determining the appropriate method for acquiring Goods or Services;
 - f) Managing formal Bid Requests including notification, receipt, opening, and compliance with stated terms and conditions;
 - g) Establishing project specific terms and conditions for Bid Requests and Contracts in consultation with department staff and Municipality Solicitor;
 - h) Standardizing Goods and Services in collaboration with departments, when and where appropriate;
 - i) Disposing of Surplus Goods;
 - j) Reporting to Council, as required;
 - k) Ensuring Municipality staff complies with this By-law and any non-compliance is reported, in writing, to the respective, Department Heads and the CAO; and
 - l) Ensuring no procurement activity or decision is contrary to this Bylaw.

4.3 The Department Heads (DH) shall be responsible for:

- a) Ensuring that all purchases are subject to budget limitations and any budget overages must be reported to council in a follow-up report
- b) All department procurement activity and authorization within the limits as stated in Schedule "C" of this By-law;
- c) Ensuring staff involved in procurement activity receive appropriate training;
- d) Ensuring sufficient funding has been authorized by Council;
- e) Preparing specifications, quantity requirements and scope of work to be used in the procurement of Goods and Services;
- f) Preparing departmental budget and related procurement requests;
- g) Consulting with the Municipality's Information Technology department if the procurement or part of, is comprised of computer hardware or software, an internet application, or licensing or maintenance, or will have implications for the Municipality's existing information technology infrastructure;
- h) Monitoring Contract expenditures;
- i) Receiving, accepting and authorizing payment of Goods or Services;
- j) Managing Contracts and documenting performance evaluation;
- k) Ensuring that all invoices including all backup documentation is submitted to the Finance Department within 15 days of receipt of goods or services.
- l) Ensuring departmental staff comply with this By-law and any noncompliance is reported, in writing, to the Department Head, the Treasurer and the, CAO; and
- m) Ensuring no procurement activity or decision is contrary to this Bylaw.

4.4 The Chief Administrative Officer (CAO) shall be responsible for:

- a) Ensuring that all purchases are subject to budget limitations and any budget overages must be reported to council in a follow-up report
- b) All procurement activity and authorization within the limits as stated in Schedule "C" of this By-law;
- c) Ensuring Department Heads comply with this By-law and any non-compliance is reported, in writing, to Council; and
- d) Providing additional restrictions concerning procurement activities where such actions are considered necessary and in the best interest of the Municipality.
- e) Taking appropriate action when non-conformances are of significant nature or recurring including disciplinary actions as per the employee policy manual.

5. RESTRICTIONS AND EXCEPTIONS

- 5.1 The open and competitive procurement procedures set out in this By-law shall not apply to the purchase of those items listed in Schedule "A", or as otherwise listed in this By-law.
- 5.2 Special Treatment shall be given to those items listed in Schedule "D", or as otherwise listed in this By-law.
- 5.3 Purchases shall be made only when funds are available in the Budget except when an extraordinary circumstance (Emergency) exists as determined by the CAO and Treasurer.

- 5.4 No Contract for Goods or Services may be divided into two or more parts to avoid the application of the provisions of this By-law.
- 5.5 No Contract shall be awarded to any person, company or corporation who or which has a claim, demand, action or other a legal proceeding against the Municipality or against who the Municipality has a claim, demand, action or other legal proceeding with respect to any previous or existing Contract, except in such circumstances as deemed necessary by the CAO.
- 5.6 Multi-year purchases or projects regardless of their value must be presented as per Schedule "E" – Multi-year Project Planning Worksheet and be approved by council.

6. CAPITAL ASSETS

- 6.1 Capital Assets are tangible assets that are purchased, constructed, developed or otherwise acquired and:
- a) Are held for use in the production or supply of goods, the delivery of services or to produce program outputs;
 - b) Have a useful life extending beyond one fiscal year and are intended to be used on a continuing basis; and
 - c) Are intended to be used on a continuous basis not intended for resale in the ordinary course of operations.
 - d) Capital assets also include betterments. Betterments are expenditures relating to the alteration or modernization of an asset that appreciably prolong the item's period of usefulness or improve its functionality.
 - e) To be considered an asset the costs or combined cost must be greater than \$5,000
 - f) All land acquisitions must be capitalized regardless of its cost.
 - g) For further clarification, tangible capital assets include:
 - land, buildings (including leasehold improvements), roads, bridges, streetlights, vehicles, equipment (office, heavy machinery, technology items including hardware and software, environmental equipment, recreational equipment, fire department equipment, etc.) , parks, storm sewers, sanitary sewers, landfill improvements, parking lots, drains and assets acquired by capital leases or by donations.
 - h) For further clarification, capital assets do not include:
 - intangible assets such as copyrights, trademarks, patents, easements and rights of way;
 - obsolete and surplus items;
 - Museum and gallery collections, other works of art.
- 6.2 All capital expenditures require the approval of Council either through resolution or adoption of the annual budget before any expenditures or commitment be made.
- a) Department Heads shall determine if and why the capital expenditure is necessary and financially viable or cost effective. Reasons may include but are not limited to:
 - i. Related to growth
 - ii. Renewal program
 - iii. Part of a strategic objective

- b) Although capital requests can be made at any time, Department Heads are expected to use all reasonably foreseeable capital requirements in the annual budget. The annual budget identifies the magnitude of proposed capital spending for the coming year.
 - c) The finance department may assist Department Heads to draft capital request reports to council which include consideration on the necessity of the capital expenditure, the alternatives including but are not limited to:
 - i. Repair Existing
 - ii. Rent
 - iii. Capital Lease
 - iv. Purchase
 - v. Subcontract
- as well as the financing alternatives including but are not limited to:
- i. Debenture or L.T. Debt
 - ii. Municipal Bonds
 - iii. Reserves
 - iv. Property Taxation
 - v. Other Sources: Grants, Public Donations, etc.

6.3 The capitalization of assets requires that Department Heads and/or Treasurer:

- a) Ensures that all costs required to make a capital asset operational have been recorded. Costs to capitalize include purchase price and other acquisition costs such as installation costs, design and engineering fees, legal fees, survey costs, site preparation costs, freight charges, transportation insurance costs and duties. The cost of a constructed asset would normally include direct construction or development costs (such as materials and labour), and overhead costs directly attributable to the construction or development activity (such as the costs of leased space used solely for the construction or development activities);
- b) Ensures that procedures are in place to differentiate between "betterments" which are capitalized, and "repairs and maintenance" which are expensed. Betterments improve the functionality or increase the useful life of an asset while repairs and maintenance primarily maintain the functionality of the asset. Where a cost cannot easily be differentiated between a repair and a betterment, the cost should be expensed in respecting the accounting principle of conservatism;
- c) Ensures that when capital assets are sold or traded-in, the historical cost and accumulated amortization amounts relating to the particular capital asset are removed from the appropriate general ledger accounts and a gain or loss on disposal is recognized to the extent that the asset's net book value differs from the sale proceeds or from the trade-in value;
- d) Distinguishes between a capital lease and an operating lease;
- e) Ensures that when capital assets become obsolete, impaired and/or are removed from service, and the long-term expectation is that the assets no longer have value or use to the municipality, the asset will be written down from the net carrying amount to its net realizable value. If the capital asset is subsequently returned to service, the asset must not be "written up" to its book value. Only betterments that have been made to bring the asset back into service should be added to the book value;
- f) Estimates the useful life of capital assets on a consistent basis; and
- g) Applies an appropriate amortization methodology in a rational and systematic manner, appropriate to the nature of the capital asset and its use by the department. This methodology should be developed by asset type.

- 6.4 A leasehold improvement is a betterment made to a leased property. Betterments are expenditures relating to the alteration or modernization of an asset that appreciably prolong the item's period of usefulness or improve its functionality.
- 6.5. The cost of property, equipment and other capital assets is essentially a long-term prepayment of an expense in advance of the use of the asset. As the economic service life of the asset expires, the cost of the asset is systematically allocated to operations as an expense called "amortization".
- a) Periodic amortization expense should be an allocation of the historical cost of the asset less expected salvage value, to operations in proportion to the economic benefits received each period from the use of the asset.
 - b) The service life of an asset should be determined on a basis that is linked with the expiration of the economic benefits. For example, service life may be measured in terms of years; total units of output; or total hours of operating time.
 - c) Where the appropriate measure of service life is "in years", it is recommended that the amortization of assets be on a straight-line basis for administrative simplicity.
 - d) Departments Heads are in the best position to estimate the expected life of an asset and Key Fiscal Indicator related to each asset or class of asset shall be set. The maximum amortization period should be limited to 40 years. As a guideline assets should be amortized over the following life spans:
 1. The original cost of land is not amortized;
 2. Buildings: 20 to 40 years;
 3. Roads: 10 to 40 years
 4. Bridges: 20 to 30 years
 5. Streetlights: 20 to 30 years
 6. Vehicles: 5 to 20 years
 7. Machinery and equipment: 3 to 20 years;
 8. Parks and Wharfs: 20 to 40 years;
 9. Storm Sewers: 30 to 40 years;
 10. Sanitary Sewers: 30 to 40 years;
 11. Landfill: 20 to 40 years;
 12. Parking Lots: 20 to 30 years;
 13. Leasehold improvements: over the useful life of the improvement or the lease term, whichever is shorter. The lease term would include any renewal option periods where extension of the lease is expected; and
 14. Betterments: over the useful life of the asset to which the improvement was made or the useful life of the betterment if significantly shorter.
 - e) Amortization shall be recorded annually and pro-rated to the first day of the month following the month that the asset was put into service.
 - f) The amortization method and estimate of the useful life of the remaining unamortized portion of a tangible capital asset should be reviewed on a regular basis and revised when the appropriateness of a change can be clearly demonstrated.
- 6.6 Management shall monitor actual and projected expenditures on a continuous basis against the approval amount and the current conditions of the capital project. Any significant differences will be brought to the attention of Council. Significant is defined as estimated to exceed 10% of the approved costs. A change order (changed purchase order) is required for the additional scope of work.

- 6.7 Department Head shall ensure that the Capital Asset purchased meets expectation (quality control) and documentation with authorization of such is required before releasing final payment.

7. STANDARD PROCUREMENT METHODS

7.1 The method of purchasing Goods and Services shall be in accordance with the standard procurement methods described in this section as recommended by the Treasurer and shall be advertised, reported, approved and the Contract executed in accordance with Schedule "C" of this By-law. The procurement limits are based on annual purchases of the same product or services. No requirement for goods and services may be divided into two or more parts to avoid the provisions of this policy. In the case of multi-year supply and/or service contracts, for the purpose of determining authorized spending limits in this policy, the value of the procurement shall be deemed to be the total anticipated annual expenditures over the potential life of the contract including any extensions or renewals.

a) LOW VALUE PURCHASE ("LVP")

- i) A LVP may be used for the procurement of Goods or Services not covered under an existing Contract and having a purchase value up to the limit as stated in Schedule "C" of this By-law.
- ii) The respective Department Head shall authorize specific individuals to make LVP and assign a limit of spending authority.
- iii) These purchases may be made utilizing a Purchase Order, petty cash, or Municipal Purchasing Card.
- iv) These purchases are within the discretion of the respective Department Heads who shall also determine the need for competitive quotes and/or that purchases demonstrate good value for the Municipality.
- v) LVP may be facilitated by Finance Department at the request of the department.

b) REQUEST FOR QUOTATION ("RFQ")

- i) A RFQ is used for the procurement of Goods or Services where the Municipality has defined the requirements, a clear solution exists, and the estimated purchase value is within the limits as stated in Schedule "C" of this By-law.
- ii) The Intention is to award to the lowest compliant Bidder, although the lowest or any bid may not necessarily be accepted.
- iii) Departments may directly request quotations for Goods or Services with a purchase value up to the limit as stated in Schedule "C" of this By-law. Purchases in excess of this limit must be administered by the Finance Department.
- iv) Public advertising is discretionary up to the limit as stated in Schedule "C" of this By-law.

c) REQUEST FOR TENDER ("RFT")

- i) A RFT is used to obtain Irrevocable Bids for the procurement of Goods or Services and where the Municipality has defined the requirements, a clear solution exists, and estimated value is within the limits as stated in Schedule "C" of this By-law.
- ii) The intention is to award to the lowest compliant Bidder without negotiation (subject to section 7 of this By-law), although the lowest or any Bid may not necessarily be accepted.
- iii) A RFT shall be undertaken and administered by the Finance Department.

- iv) An evaluation plan shall be set up prior to the issuance that contains:
 - a. Evaluation Panel Member
 - b. Evaluation Process
 - c. Criteria and Weighting
 - v) Notice of a RFT shall be at a minimum by public advertising including the municipal web site, bidding, merx and if deemed appropriate newspapers.
 - vi) Bids in response to a RFT shall be received by the Finance Department. At a time specified within the Bid Request on the closing date, the Bid envelope shall be opened publicly, and prior to internal review, each Bidder's name and unofficial Bid total amount shall be publicly read.
- d) **REQUEST FOR PROPOSAL ("RFP")**
- i) A RFP is used for obtaining competitive Proposals in situations where the requirement cannot be expressly stated or defined and/or where a solution is requested dependent on:
 - a. the effectiveness of the proposed solution based on several stated criteria as opposed to the price alone;
 - b. a possibility existing where negotiation with one or more Proponents may be required with respect to any aspect of the Contract; or
 - c. the precise scope of Goods or Services is not known, or not definable, and it is expected that the Proponent will further define them.
 - iv) An evaluation plan shall be set up prior to the issuance that contains:
 - a. Evaluation Panel Member
 - b. Evaluation Process
 - c. Criteria and Weighting

7.2 Cooperative Purchasing

- (a) a Department Head and the CAO, jointly, may choose to participate in cooperative purchasing initiatives with other levels of government, other municipalities, members of the broader public sector, government agencies or public authorities where, in their opinion, it is in the best interests of the Municipality to do so and where the purpose, goals and objectives of this By-law are substantially complied with.
- (b) The policies of the organization calling the cooperative Bid Solicitation are to be the accepted policy for that particular purchase.

8. NEGOTIATION

- 8.1 Negotiation may be used for the procurement of Goods or Services where the proponent meets quality expectation and:
- a) where no Bids were received in a proper, publicly issued Bid Request;
 - b) where only one Bid is received; it exceeds the amount budgeted for the purchase; and the Bidder is willing and prepared to enter into negotiations with the Municipality;
 - c) where instructions within a Bid Request expressly allow for negotiations to occur with the low Bidder;

- d) where the highest evaluated Proponent upon completion of the evaluation, and as a condition of award. If a negotiated settlement cannot be reached, the Municipality may proceed to negotiate with the next highest evaluated Proponent;
- e) where an Extraordinary Circumstance (Emergency) exists as determined by CAO and Treasurer;
- f) where a Sole Source or Single Source purchase is conducted; or
- g) where authorized by Council to do so.

9. EXTRAORDINARY CIRCUMSTANCE (EMERGENCY) PURCHASES

- 9.1 Notwithstanding the provisions of this By-law, an Extraordinary Circumstance (Emergency) purchase may be conducted when an event or circumstance occurs that is determined by the respective Department Head and approved by the CAO and Treasurer to be a risk to:
- a) public health;
 - b) essential services of the Municipality;
 - c) the welfare of persons or of public property; or
 - d) the security of the Municipality's Interests and the occurrence requires the immediate delivery of Goods or Services and time does not permit for a competitive Bid Request.
- 9.2 An Extraordinary Circumstance (Emergency) purchase shall be authorized within the limits as stated in Schedule "C" of this By-law.
- 9.3 With the exception of a Low Value Purchase, the Treasurer shall approve and facilitate all Extraordinary Circumstance (Emergency) purchases. Where impractical, a follow-up purchase requisition shall be submitted to the Finance Department.
- 9.4 Where an Extraordinary Circumstance (Emergency) purchase exceeds the limits of the CAO and requires authorization of Council, the CAO shall have authority to approve such purchase and a follow-up information report to council shall be completed.

10. SOLE SOURCE PURCHASES

- 10.1 A Sole Source purchase may be conducted for Goods or Services without a competitive Bid Request:
- a) where the required Goods or Services are covered by an exclusive right such as a patent, copyright, exclusive licence or distributorship; or
 - b) where a statutory or market based monopoly exists.
- 10.2 A Sole Source purchase shall be authorized within the limits as stated in Schedule "C" of this By-law.
- 10.3 With the exception of a Low Value Purchase, the Finance Department shall approve and facilitate all Sole Source purchases.

11. SINGLE SOURCE PURCHASES

- 11.1 A Single Source purchase may be conducted for Goods or Services without a competitive Bid Request where:
- a) the Goods or Services required are in short supply due to market conditions;
 - b) to ensure compatibility with previously acquired Goods and Services; and there are no reasonable alternatives, substitutes or accommodations;
 - c) to avoid violating warranties and guarantees of existing Goods and Services;
 - d) standardization of Goods or Services is beneficial to the Municipality with respect to operation, functionality, and service capacities Municipality; and such purchases have previously been acquired through a competitive Bid Request; and a defined timeline has been established to review such standardization;
 - e) the amendment to an existing Contract would be more cost effective and beneficial to the Municipality;
 - f) where, for reasons of security or confidentiality, it is in the best interest of the Municipality to do so;
 - g) no bidders have responded to a proper, publicly issued Bid Request;
 - h) Goods are purchased for testing or trial use and there is a clearly established deadline for the testing or trial period that does not exceed 12 months; or
 - i) the Municipality has a rental Contract with a purchase or rental extension option and such purchase or rental extension is beneficial to the Municipality;
- 11.2 A Single Source purchase shall be authorized within the limits as stated In Schedule "C" of this By-law.
- 11.3 With the exception of a Low Value Purchase, the Finance Department shall approve and facilitate all Single Source purchases.

12. UNSOLICITED BIDS

- 12.1 An Unsolicited Bid or Proposal means Bid or Proposal submitted by a Supplier or Contractor in the absence of a Bid Request from the Municipality, which may be submitted in response to a perceived need but not in response to a Bid Request.
- 12.2 An Unsolicited Bid or Proposal received by the Municipality shall be reviewed by the Treasurer. Any procurement activity resulting from the receipt of an unsolicited Bid or Proposal shall comply with the provisions of the Single Source or Sole Source requirements of this By-law.

13. BID IRREGULARITIES / REJECTION

- 13.1 Any Bid Irregularities shall be addressed in accordance with Schedule "B" of this By-law.
- 13.2 If a formal competitive Bid contains a Bid Irregularity, the Treasurer may, at his or her discretion, refer the issue to the Purchasing Review Committee to determine acceptance or rejection of the Bid.

- 13.3 The Treasurer shall reject a Bid if it is determined that:
- a) the Bidder has not complied with and/or satisfactorily performed the requirements of a previous Contract; or
 - b) the Bidder does not have sufficient ability, experience, capital or plant to execute the Contract and to do so within the time stated.

14. METHOD OF ENTERING INTO A PURCHASING AGREEMENT

- 14.1 Credit Cards are issued to Department Heads and the Mayor where appropriate and at the discretion of the Finance Department and CAO, to allow for an efficient method of acquiring Low Value Purchases. Credit Cards are issued subsequent to have read, understood and agreed to the waver form in Schedule "F"
- a) The Credit Card shall not to be used for expenditures of a personal nature.
 - b) Purchases made by Purchasing Card are subject to the requirements of this By-law and the Purchasing Card Policy and Procedures, as amended from time to time.
 - c) Any abuse or misuse of the Municipality credit cards may lead to the revocation of the credit card privileges and the employee may be subject to discipline, up to and including termination.
- 14.2 Purchase Orders are required on all purchases exceeding the Direct Purchase Limit.
- a) Standing purchase orders are used for goods or services purchased on an ongoing basis or on a contractual basis.
 - b) Standing purchase orders are issued at the beginning of the year or at the beginning of the contract to ensure that funds are committed for the year or length of contract and not available for any other use.
 - c) Purchase orders are required even when a contract exists
- 14.3 Contracts shall be required for the purchase of Goods or Services and executed by a written agreement in accordance with limits as stated in Schedule "C" of this By-law or in situations where circumstances warrant such.
- a) The respective Department Head shall be responsible for monitoring Supplier and Contractor performance and documenting evidence of such performance in accordance with the Municipality's Vendor Performance Policy, as amended from time to time.

15. CONTINGENCY MANAGEMENT

- 15.1 Where the expenditure limit of a Contract that required Council approval is expected to exceed the awarded amount:
- a) the respective Department Heads may approve the overage so long as the amount of the cumulative overages for the Contract is less than ten percent (10%) of the value of the Contract, and the project remains within the approved project budget;
 - b) the CAO may approve the overage so long as the amount of the cumulative overages for the Contract is less than fifteen percent (15%) of the value of the Contract, and the project remains within the approved project budget.

15.2 Where the expenditure limit of a Contract that required Council approval is expected to exceed the awarded amount by fifteen percent (15%) or greater, the matter will be referred to Council for consideration.

16. PAYMENTS

16.1 The Municipality of French River abides by a Net 45 policy from the date of receipt of goods or services. Payment should be made on or around 45 days

16.2 The Department Head has the responsibility to demonstrate that goods and services are received and meets the quality expectation through proof of receipt by marking packing slips, signed work orders, receiving slips, time sheets.

16.3 Deposits can be made upon approval of an order to a maximum of 40% of the value of the goods or services. Treasurer or CAO approval required.

16.4 Holdbacks are required on all operational or capital work that extends over a period of three months, that exceed \$25,000 or as deemed by the Treasurer or CAO as included in the contract.

16.5 Payments of holdbacks will be released upon satisfactory quality of goods or services received as per the term of the contract as agreed by the Department Head.

16.6 All payments shall be authorized by one elected official and one senior officer as appointed by Council resolution. (See section 19 herein)

17. SIGNING AUTHORITY AND COUNCIL APPROVAL

17.1 Signing authorities shall be appointed by Council resolution.

17.2 The Mayor and one Councillor shall be authorized as Elected Officials and the CAO, Clerk and the Treasurer shall be authorized as senior officers.

17.3 Two signatures, one Elected Official and one senior officer are required on all contracts, cheques, transfer of funds, mortgages, loan agreements and any other documents of a financial or legal nature

17.4 The award of a contract requires approval of Council:

- a) in accordance with the limits as stated in Schedule "C" of this Bylaw;
- b) where the signing authorities deem necessary to have obtain a council resolution; or
- c) where this By-law is being waived.

18. ACCESS TO INFORMATION

18.1 The disclosure of information received relevant to the issuance of a Bid Request or the award of Contracts shall be made available in accordance with the provisions of the Municipality's policy under the *Municipal Freedom of Information and Protection of Privacy Act, (R.S.O. 1990, Chapter M.56)*, as amended from time to time.

19. DISPOSAL OF SURPLUS GOODS

19.1 "Surplus Goods" means any items no longer having any use to the Municipality or in excess of the needs of the Municipality that have become available for transfer, sale, or disposal.

19.2 A Department Head may advise the Treasurer that items including, but not limited to, furnishings, equipment, vehicles, supplies, and other goods and materials, and excluding Real Property, have become obsolete, worn out or unusable or are surplus to the needs of their department including, obsolete supplies, scrap materials, and vehicles but excluding real property;

19.2 The Treasurer will first offer the surplus items to other departments. Items not required by other departments and surplus to the Municipality's needs, will be declared as Surplus Goods by the Finance Department.

19.3 The Treasurer, in conjunction with the respective Department Head, will determine a reasonable sale value, which may include a third party appraisal. Surplus Goods having a residual value will be disposed of, as determined by the Treasurer, by way of:

- a) public auction;
- b) request for bids;
- c) trade-in at fair market value as part of the acquisition of similar items required by the Municipality; or
- d) charitable donation to a recognized, registered organization;

19.4 Where Surplus Goods have little or no value, the Treasurer may dispose of the items directly through a recycling process or applicable waste stream.

19.5 No staff member, Councillor or local board member of the Municipality shall personally obtain any Surplus Goods unless it is obtained through a public process.

20. INFLUENCE AND INTEGRITY

20.1 No person, company, corporation, organization or representative of the Municipality shall attempt in any way, either in private or public, to influence the outcome of Bid Request.

20.2 The Bid or Proposal of any person, company, corporation or organization that attempts to influence the outcome of a Bid Request may be disqualified and the person, company, corporation, or organization may be subjected to suspension or exclusion in accordance with the Vendor Performance Policy. An employee of the Municipality that attempts to influence the outcome of a Bid Request will be subject to discipline measures up to and including termination.

21. LEGISLATIVE TRADE AGREEMENTS AND LOCAL PREFERENCE

21.1 All procurement activities shall be in compliance with all legislated national and international trade agreements (e.g. Canada Free Trade Agreement (CFTA), Canada-European Union Comprehensive Economic and Trade Agreement (CETA) and Canada-United States-Mexico Agreement (CUSMA)).

21.2 The Discriminatory Business Practices Act (R.S.O. 1990, Chapter D.12), as amended and the Canada Free Trade Agreement prohibit local preference in acquiring Goods and Services.

22. SCHEDULES

22.1 Schedules "A", "B", "C", "D", "E" and "F" to this By-law form an Integral part of this By-law.

23. BY-LAW REVIEW

23.1 This By-law shall be reviewed by Council every five years and at such time major revisions are made.

24. AUTHORITY

24.1 That the following Policies are hereby repealed:

- a) Official Signing Authority Policy A-1
- b) Capital Acquisition Policy E-1
- c) Procurement Policy E-2

24.2 This By-Law shall come into force and take effect on the day it is passed.

**READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS
THIS 9th DAY OF SEPTEMBER, 2015.**

SCHEDULE "A" EXEMPT PURCHASES

The methods of procurement described in this By-law do not apply to the following items:

1. All payment and allowances as determined in the employee policy manual including but not limited to:
 - a. Training, Education and Professional Credentials/ Representation, Meetings, Conferences, Workshops / Travel Expenses
 - b. Cell phone allowance
 - c. Expense reimbursement
 - d. Clothing allowance
2. Employer's General Expenses
 - a. Payroll deductions remittances
 - b. Benefits
 - c. Licenses (vehicles, firearms, elevators, etc.)
 - d. Debenture payments
 - e. Grants to agencies
 - f. Damage claims
 - g. Tax remittances
3. Professional and Special Services
 - a. Legal fees and other professional services related to litigation or legal matters
 - b. Appraisal fees
 - c. Insurance Deductibles
4. Utilities
 - a. Water and Sewer
 - b. Hydro
 - c. Heating Fuel
 - d. Telephone (excluding cellular)
5. Vehicle Equipment Fuel / Gas
6. Lease, sale or purchase of Real Property
7. Freight (Special Treatment to be followed within the limits as stated in Schedule "D" of this By-law)

Exempt Purchases are subject to budget limitations and any budget overages must be reported to council in a follow-up report completed by the Department Head or CAO.

SCHEDULE "B" - BID IRREGULARITIES

	Irregularity	Response
GENERAL		
1	Late submission	Rejection.
2	Unsealed Envelope/Package	Rejection.
3	Failure to have a representative in attendance in person or electronically and registered at a mandatory site meeting.	Rejection.
4	Failure to include the applicable form of Tender, Quotation, Proposal with submission	Rejection.
5	Forms that compose the submission documents are not completed in their entirety.	Rejection unless in the opinion of the Department Head and Treasurer, the missing information is minor in nature.
6	More than one submission from the same submitter and not identified as an alternative or optional submission, and no withdrawal notice has been received.	The submission package bearing the most recent date/time stamp will be considered with the later submission considered to be withdrawn, and returned to the submitter.
7	Bids containing minor, obvious clerical errors that do not result in any ambiguity with respect to the overall submission.	Two business days to correct and initial
8	Authority to bind the Corporation or signature missing.	Rejection.
9	Other minor irregularities	The Department Head and Treasurer shall have authority to waive irregularities where it considers it to be in the best interest of the Municipality.
10	Any irregularity herein	Despite the provisions contained Council may waive any irregularity where it considers it to be in the best interest of the Municipality.
PRICING		
11	Incomplete or partial price details where all items are mandatory to be bid.	Rejection.
12	Unit price has been changed.	Rejection.
13	Pricing appears to be unbalanced to the extent that it would have a significant adverse effect to the Municipality if awarded.	Rejection.

BID DEPOSIT		
14	Bid Deposit or Bid Bond not submitted with bid	Rejection.
15	Bid Deposit or Bid Bond not in Rejection. acceptable form.	Rejection.
16	Bid Deposit or Bid Bond amount is insufficient.	Rejection.
17	Surety provider and/or Bidder's authorized signature missing from Bid Bond.	Rejection.
18	Effective period of Bid Bond is less than the irrevocable period stipulated in the bid document.	Rejection.
AGGREEMENT TO BOND		
19	Agreement to Bond not submitted with Bid	Rejection.
20	Agreement to Bond not provided in acceptable form.	Rejection
21	Agreement to Bond amount is Insufficient.	Rejection.
22	Surety provider and/or Bidder's authorized signature missing from Agreement to Bond	Rejection.
STATUTORY DECLARATION		
23	Statutory Declaration not submitted with Bid	Two business days to submit.
24	Statutory Declaration not in the form specified.	Two business days to submit.
25	Statutory Declaration not witnessed.	Two business days to submit.
POST AWARD NOTIFICATION		
26	Failure to execute required bonding or security within the prescribed time line.	Rejection and Bid Deposit forfeiture.
27	Failure to execute a Contract within the prescribed period.	Rejection and Bid Deposit forfeiture.
28	Failure to provide supporting document, as specified within the Bid Request and with the prescribed period.	Rejection and Bid Deposit forfeiture.

Rejection = Returned unopened with explanation. Opened and returned only when bid is unsealed or the submitter's name is not clearly identified on the package,

SCHEDULE "C" - PROCUREMENT THRESHOLDS

Purchases are subject to budget limitations and any budget overages must be reported to council in a follow-up report completed by the Department Head or CAO

Purchase Threshold (excludes HST)	Purchase Method	Method / Advertising	Approval	Agreement Method
Up to \$500	Direct Purchase	<ul style="list-style-type: none"> _ No competitive process required _ Public Advertising not required 	<ul style="list-style-type: none"> _ Employee designated by Department Head _ Department Head _ Treasurer _ CAO 	<ul style="list-style-type: none"> _ Departmental Credit Card OR _ On account with Purchase Order
\$500 to \$5,000	Low Value Purchase	<ul style="list-style-type: none"> _ Competitive quote at the discretion of the Department Head (informal - verbal) _ Public Advertising not required 	<ul style="list-style-type: none"> _ Department Head _ Treasurer _ CAO 	<ul style="list-style-type: none"> _ On account with Purchase Order OR _ Departmental Credit Card with Purchase Order
\$5,000 to \$15,000	Informal Request for Pricing	<ul style="list-style-type: none"> _ Minimum of three written quote to be obtained (via email or fax) _ Public advertising is discretionary 	<ul style="list-style-type: none"> _ Treasurer _ CAO 	<ul style="list-style-type: none"> _ On account with Purchase Order OR _ Agreement/Contract with Purchase Order
\$15,000 to \$25,000	Request for Quotation (RFQ) Request for Proposal (RFP)	<ul style="list-style-type: none"> _ Minimum of three written quote to be obtained (RF document to be prepared using the approved template or professionally prepared format, approved by Finance Department or CAO, tracked with RF# and issued) _ Public advertising is mandatory 	<ul style="list-style-type: none"> _ Treasurer _ CAO 	<ul style="list-style-type: none"> _ On account with Purchase Order AND _ Agreement/Contract with Purchase Order
Over \$25,000	Request for Tender (RFT) Request for Proposal (RFP)	<ul style="list-style-type: none"> _ Minimum of three written quote to be obtained (RF document to be prepared, using the approved template or professionally prepared forma, approved by council, tracked with RF# and issued) _ Public advertising is mandatory 	<ul style="list-style-type: none"> _ CAO if within Budget _ Council 	<ul style="list-style-type: none"> _ On account with Purchase Order AND _ Agreement / Contract with Purchase Order

EXTRAORDINARY CIRCUMSTANCE (EMERGENCY) PURCHASE:

- No competitive process required, - Requires approvals in accordance with the limits stated above
- Purchases exceeding the limits of the CAO and requires authorization of Council, the CAO shall have authority to approve such purchase and a follow-up report to council shall be completed.

SINGLE SOURCE/SOLE SOURCE:

- No competitive process required - Requires approvals in accordance with the limits stated above
- Documentation to be provided to explain the compliance with section 9 or 10 of this policy

SCHEDULE "D" - SPECIAL TREATMENT

Freight:

Authorised Freight carriers are:

- Purolator
- Manitoulin If your package is over 75 lbs

Shipping requires the waybill or shipping document to be matched with shipper's invoice before submission.

If these two shipping alternatives do not meet your needs please document the reason on your purchase order.

Gifts:

From Time to Time gifts are required. Health and Safety gifts are authorized through the budget process. Any other gifts such as: retirement of an employee, Condolence gifts, require two authorization from the signing authorities to a limit of \$100.00each.

Office supplies, cleaning supplies

Office and cleaning supplies including water and coffee supplies to be ordered by the relevant authority as required as per price list obtained and approved annually.

Aggregate Supplies

Price list to be obtained at the beginning of every year, approved by DH who ensures it is in line with industry pricing and should be sourced from the closest location to the job site to ensure efficient use or resources.

SCHEDULE "E" – Multi-year Project Planning Worksheet



Municipality of French River Budget Request Planning Worksheet

Printed on: 2/7/2015

Item # -

Request Name:
Location:
Expected Start Date:

Department:
Budget code:
Expected End Date:

Capital

Operational

Description:

Financial Benefits

Non- Financial Benefits:

Key performance indicators:



Municipality of French River
 Budget Request
 Planning Worksheet

Printed on: 2/7/2015

Expenditures	2015	2016	2017	2018	>4yrs	Total
Salaries, Wages and Benefits						
Materials						
Administration materials						
Direct Materials						
Contracted Services						
Administration services						
Representation (Advertising, Promotion, Training, Accommodations, Meals, Travel)						
Engineering						
Subcontracting						
Rent (Use of facilities)						
Financial Expenses						
Interest on LTD						
Amortization						
Capital						
Other:						
TOTAL COSTS						

Funding	2015	2016	2017	2018	>4yrs	Total
Operations						
Reserves						
Fund Raising						
Provincial Subsidies						
Federal Subsidies						
Financed (debt or debenture)						
Private Sector Funding						
Other Non for profit funding						
Other:						
TOTAL Funding						

Prepared by: _____
 Date: _____

Reviewed by: _____ (treasurer)
 Date: _____

Resolution / Bylaw #: _____

SCHEDULE "F" – Credit Card Waiver Form

Policy Regarding Use of Municipality-Issued Credit Cards

The Municipality will issue credit cards to certain employees for use in their jobs; this policy sets out the acceptable and unacceptable uses of such credit cards. Use of Municipality-issued credit cards is a privilege, which the Municipality may withdraw in the event of serious or repeated abuse.

All purchases must remain under \$500 per transaction. Any amount above \$500 should be charged to the Treasury MasterCard as additional limits and controls are in place.

Any credit card the Municipality issues to an employee must be used for Municipal business purposes only, in conjunction with the employee's job duties. Employees shall not use the credit cards for any non-business, non-essential purpose, i.e., for any personal purchase or any other transaction that is not authorized or needed to carry out their duties. Employees must pay for personal purchases (i.e., transactions for the benefit of anyone or anything other than the Municipality) with their own funds or personal credit cards. Receipts from the purchase must be handed in to the finance department no later than 15 days of receiving the MasterCard Monthly Statement. If a receipt is not submitted or if the information on the receipt is not detailed enough to determine the validity of the purchase, it will be deemed as an employee personal purchase.

The Municipality will not regard expenses for one's own business-related use, such as lodging and meals while on Municipality-approved business trips, as personal purchases, as long as such expenses are consistent with the Municipality's travel and expense reimbursement policy.

If any employee uses a Municipal credit card for personal purchases or any other type of unauthorized transaction in violation of this policy or goes beyond the employee's authorization to make business-related purchases, the cost of such purchase(s) or transaction will be the financial responsibility of that employee, and the employee shall reimburse the Municipality either via deductions from pay until the unauthorized amount is fully repaid or direct reimbursement. Such deductions will be in the amount of the unauthorized purchase(s) and may not take the employee's pay below minimum wage for the pay period(s) in question; any balance remaining will be deducted in full from subsequent paychecks until the wage advance is fully repaid.

In addition to financial responsibility and liability for wage deductions, any purchases an employee makes with a Municipal credit card in violation of this policy will result in disciplinary action, including termination of employment, depending upon the severity and repeat nature of the offense.

If suspicious of a security breach, the card holder must change the security PIN of the credit card at the Noelville Caisse Populaire immediately. Then advise the finance department at your earliest convenience. If the card is thought to be stolen, the card holder must inform the finance department immediately.

Initial _____

Agreement for Wage Deductions Associated with Improper Use of Municipality-Issued Credit Cards

I, _____ (name), hereby certify that I understand and agree to abide by the Municipality's policy regarding use of Municipality-issued credit cards, a copy of which I have received, and which has been explained to me. I agree that if I make any personal purchases or any purchase that I cannot justify with the proper receipt (i.e., transactions for the benefit of anyone or anything other than the Municipality) in violation of that policy, the amount of such purchases is an advance of future wages payable to me, that the Municipality may deduct that amount from my next paycheck, and that if there is a balance remaining after such deduction, the Municipality may deduct the balance of the wage advance from my future paychecks until the amount is repaid in full. I further agree that if I make any non-personal transactions in violation of the policy in question, i.e., incur financial liability on the Municipality's part that is not within the scope of my duties or my authorization to make business-related purchases, I am financially responsible for any such expenses and agree to reimburse the Municipality via wage deductions for such amounts until the unauthorized amounts are fully repaid. Such deductions will be in the amount of the unauthorized purchase(s).

Signature of Employee

Date

Employee's Name - Printed

Treasurer

Date