



THE CORPORATION OF THE CITY OF COURTENAY

STAFF REPORT

To: Council

File No.: 1200

From: Chief Administrative Officer

Date: December 13, 2022

Subject: Procurement Policy and Delegation of Authority Update

PURPOSE:

To bring forward recommendations for the repeal and replacement of Bylaw No. 2676 and the repeal and replacement of the City's Purchasing Policy.

POLICY ANALYSIS:

Sections 229(1) and 263 of the Local Government Act (RSBC 2015) states that council may, by bylaw, delegate its powers, duties and functions to its officers and employees.

EXECUTIVE SUMMARY:

The City's delegation of purchasing authority bylaw and purchasing policy requires updating to reflect changes to trade agreements, best practices, and council's desire to include social procurement. The following are the highlights of the changes recommended in the proposed bylaw and procurement policy:

- Compliance with trade agreements;
- Updated roles and responsibilities for City staff;
- Greater guidance for the vendor community on the City's expectations of its suppliers;
- Improved sustainable procurement provisions and new language regarding social procurement;
- Updated procurement thresholds to support broader opportunities for local vendors;
- The addition of Indigenous Procurement language providing economic opportunities in support of reconciliation; and
- The incorporation of recommendations made by the former Auditor General for Local Government (AGLG).

CAO RECOMMENDATIONS:

THAT Council give first, second and third readings to the *Delegation of Purchasing Authority Bylaw No. 3082, 2023*; and

THAT the "*Procurement Policy, Council policy 1200.00.02-CP*" be approved.

Geoff Garbutt, M.PI., MCIP, RPP
City Manager (CAO)

BACKGROUND:

Procurement at the City of Courtenay is controlled centrally through the Purchasing Division. The Purchasing Division manages all medium to high value procurements and exercises oversight over small transactional procurement through the use of the City's Purchasing Card program and the issuance of Purchase Orders. Overall responsibility for the procurement function resides with the Chief Financial Officer. On September 27, 2021, Council included an updated procurement policy with the inclusion of social procurement as one of Council's strategic priorities.

The updated purchasing policy and delegation of authority bylaw are included in Appendix 1 and 2 respectively. The new policy framework represents a comprehensive refresh of the City's purchasing policy which was last updated in 2011. Over the past decade, perspectives on public procurement and best practices at the local government level have developed significantly. A summary of key changes to the policy is provided in Appendix 3.

Following the review of the existing policy and bylaw, the following goals and objectives were identified:

- the inclusion of social procurement;
- updated procurement thresholds to support local business and operational efficiencies;
- decentralization of contract signing authority to support efficiency and accountability;
- Find opportunities for Indigenous Reconciliation within the City procurement policy;
- modernization of the policy including:
 - compliance with the trade agreements;
 - inclusion of emerging procurement trends and best practices;
 - improved guidance internal and external to the organization; and
- maintain and ensure continued levels of transparency.

DISCUSSION:

The draft policy attached to this report is the result of a review of procurement practices at the City, consultation with staff as well as research from the following resources:

- the Canada Free trade Agreement (CFTA), New West Partnership Trade Agreement (NWPTA), and the Comprehensive and Economic Trade Agreement (CETA);
- policies of other local governments of similar size in BC;
- policies of government organizations in Canada and Australia;
- templates and materials provided by the BC Social Procurement Initiative (BCSPI); and
- reports and literature produced by the former Auditor General for Local Government (AGLG).

Trade Agreements

The governments of British Columbia and Canada have negotiated trade agreements to ensure fair, open, transparent and non-discriminatory procurement between the Canadian Provinces and Territories (including

local government entities) as well as the European Union. This has been done through the establishment of the following agreements:

- The New West Partnership Trade Agreement – an agreement between the provinces of British Columbia, Alberta, Saskatchewan and Manitoba;
- The Canada Free Trade Agreement – an agreement between the provinces of Canada and the federal government; and
- The Comprehensive and Economic Trade Agreement – an agreement between the federal government and the European Union.

These agreements establish rules and principles for government procurement that organizations are to follow once the value of a procurement hits a particular threshold. Notably, these agreements restrict the City’s ability to exercise local preference for contract awards whenever a procurement is conducted above these thresholds.

The thresholds that impact local government are as follows:

Procurement Type	Local Government Thresholds		
	NWPTA	CFTA	CETA
General Goods and Services	\$75,000	\$121,200	\$340,600
Construction	\$200,000	\$302,900	\$8,500,000

The trade agreements do not apply to any local government procurement falling below these thresholds. The policy included with this report has been drafted to comply with all requirements under these agreements.

Local First

While the new policy doesn’t explicitly favour local businesses, the updated procurement thresholds will reduce the burden on the City to solicit quotes or public bids for procurements that are below trade agreement thresholds. This favours local business by reducing the need for staff to go outside the local market for additional quotes and/or public bids.

Further, much of the language included in the updated policy harmonizes the City’s procurement requirements with other local governments in the Comox Valley. This harmonized approach to procurement will support the local market through standardized approaches to City procurement opportunities.

Social and Sustainable Procurement

Section 8 of the policy includes language new to the City to support sustainable procurement. This section has been drafted to include three main areas of focus at the city.

Environmental Responsibility (Section 8.1) will focus on ensuring broader focus to minimizing environmental harm is considered throughout the City’s purchasing practices. Ethical Responsibility (Section 8.2) will focus on ensuring goods purchased by the City are done with consideration towards fair trade products where

applicable, and ensuring proper employment standards are followed in the manufacturing of goods provided to the City.

Social Value (Section 8.3) provides a framework for achieving the City's social procurement goals. The policy has been drafted to provide preference to bidders who provide evidence to the city that they have policies, procedures and/or practices that support:

- a living wage;
- employment opportunities for barriered individuals and populations;
- diversification of the supply chain;
- goals that are in alignment with the strategic goals of the City; and
- corporate social responsibility initiatives.

Upon adoption of the policy. City staff will update procurement templates to ensure as many city procurements as possible include sustainability provisions. Some City procurements, such as low bid construction tenders, are not well suited for the inclusion of "soft" evaluation procedures and will not initially include social value considerations.

Indigenous Procurement

On June 7, 2021, the City received a letter from the K'ómoks Economic Development Corporation (KEDC) requesting additional consideration towards K'ómoks First Nation businesses and their joint venture partners. Through engagement and discussions between the City, KEDC and K'ómoks First Nation; staff have finalized the proposed language included in Section 9 of the policy.

The policy language will provide opportunities for direct award to businesses identified by K'ómoks First Nation under certain parameters. The language has been drafted to ensure the City can fulfill its trade agreement obligations, while providing meaningful opportunity to support reconciliation, economic opportunity and capacity building for K'ómoks First Nation.

FINANCIAL IMPLICATIONS:

None.

ADMINISTRATIVE IMPLICATIONS:

The main administrative implication of the updated policy framework is the broader organizational requirement around contract signing. Historically, contract signing has resided with the Chief Administrative Officer, Director of Finance and Manager of Purchasing. The updated delegation of authority bylaw includes provisions for managers, directors and the CFO to sign agreements for their respective departmental needs. The Purchasing Division will continue support the organization by:

- Drafting and negotiating trade contracts;
- Finalizing trade contracts;
- Collecting of signatures; and

- Ongoing monitoring and record keeping of agreements and respective risk management documentation.

The Purchasing Division will continue to draft, coordinate, facilitate and collaborate on all procurements requiring a public process as clearly outlined in the procurement policy.

ASSET MANAGEMENT IMPLICATIONS:

None.

STRATEGIC PRIORITIES REFERENCE:

We focus on organizational and governance excellence

- Policy focused on organizational efficiency and accountability.

We actively pursue vibrant economic growth

- Policy drafted to provide additional opportunity to local businesses.

- **AREA OF CONTROL:** The policy, works and programming matters that fall within Council's jurisdictional authority to act
- ▲ **AREA OF INFLUENCE:** Matters that fall within shared or agreed jurisdiction between Council and another government or party
- **AREA OF CONCERN:** Matters of interest that are outside Council's jurisdictional authority to act

OFFICIAL COMMUNITY PLAN REFERENCE:

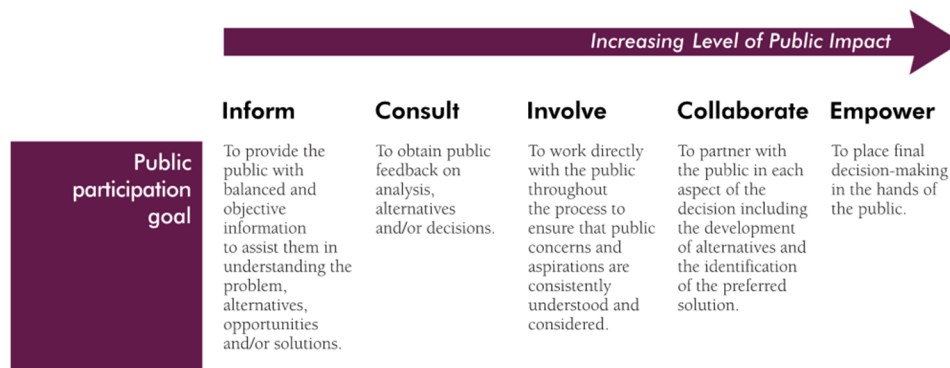
N/A

REGIONAL GROWTH STRATEGY REFERENCE:

N/A

CITIZEN/PUBLIC ENGAGEMENT:

Staff would inform the public based on the IAP2 Spectrum of Public Participation:



OPTIONS:

If proceeding with Option 1, staff recommend Council consider each motion separately.

Option 1: THAT Council give first, second and third readings to the *Delegation of Purchasing Authority Bylaw No. 3082, 2023 (Recommended)*

AND

THAT the "*Procurement Policy, Council policy 1200.00.02-CP*" be approved. **(Recommended)**

Option 2: THAT Council refer the policy and bylaw back to staff and provide direction.

Prepared by,



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Reviewed by:



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Chief Financial Officer

Concurrence by,



Geoff Garbutt, M.Pl., MCIP, RPP
City Manager (CAO)

Attachments: Appendix 1 – Procurement Policy #1200.00.02-CP
Appendix 2 – Delegation of Authority Bylaw #3082
Appendix 3 – Summary of Policy Changes

Section: Finance - Purchasing	Policy # 1200.00.02-CP
Subject: Procurement	Revision # 0

1. PURPOSE

The purpose of the procurement policy is to set out the responsibilities and accountability associated with the effective, efficient, sustainable, and economical acquisition of goods and services. The policy applies to all City divisions and includes all purchases, leases and rentals using operating, capital and restricted funds of the City.

2. POLICY STATEMENT

It is the policy of the City to acquire goods and services through a public process whenever practical and efficient. Resulting award determinations will be focused on best value with consideration towards total lifecycle cost, quality, expertise, as well as environmental and social sustainability.

3. DELEGATION OF AUTHORITY

3.1 Delegation of Authority

Council has delegated the authority to execute contracts and purchase agreements to staff as outlined in City of Courtenay Delegation of Purchasing Authority Bylaw No. 3082, 2023.

4. EXCEPTIONS

4.1 Emergencies

In an unforeseen circumstance that requires immediate action, such that inaction would result in harm to a person or harm or damage to real or personal property of any type, the methods and procedures set out within this policy may be waived as approved expressly by the CAO or designate. A report summarizing the emergency procurement will be presented to Council following the emergency as soon as practical.

4.2 Exemptions

All exemptions that exist in NWPTA, CFTA, CETA or their successors shall apply to this policy. In general these exemptions include:

- procurement of health, social and treasury services;
- services provided by lawyers and notaries;
- purchases from philanthropic institutions, prison labour or persons with disabilities;
- purchases from a public body or non-profit organization;
- goods, services or construction are required to respond to an unforeseeable situation of urgency as laid out in Section 4.1;
- goods intended for resale to the public; and
- in the absence of a receipt of any responses to a Public Competitive Process.

5. AUTHORITIES AND RESPONSIBILITIES

5.1 Roles and Responsibilities

Procurement activities not requiring a Public Competitive Process are the responsibility of each division, which are delegated the authority for acquiring goods, equipment, services and construction for all operational and capital requirements per City Bylaw number 3082 and this policy.

Procurement processes requiring a Public Competitive Process are the responsibility of the Purchasing Division which will ensure the procurement is conducted in accordance with this policy, common law and any trade treaty requirements.

The Officer responsible for financial administration for the City or their delegate is responsible and accountable for the management of the acquisition of goods and services, protection and disposal of assets.

The purchasing officer for the City is the Manager of Procurement and Risk or delegate, who is responsible for the implementation of the day-to-day administration of the procurement policy, and will establish and employ such practices, processes, procedures or methods as are determined appropriate to the efficient and effective operation of procurement.

5.2 Authority for Procurement Transactions

Procurement Transactions cannot be completed unless the need has first been identified, budgeted for and approved by Council in the Financial Plan. Council may wish to approve the method of procurement during the adoption of the Financial Plan, otherwise all Procurement Transactions shall be completed according to this policy.

Market research procurement methods may take place when the interest is to develop a budget and Scope of Work for approval by Council.

Contract awards as well as change orders exceeding the City approved Financial Plan will either be:

- a. held until the Council approves a Financial Plan amendment; or
- b. cancelled due to insufficient budget and may be reissued under a refined Scope of Work.

Minor or insignificant overages may be funded through relevant reserves as approved by the CFO.

5.3 Commitment Authority Thresholds

Staff have been delegated authority to complete Procurement Transactions through City Bylaw number 3082 as amended from time to time.

Persons with spending, commitment and signing authority have the following responsibilities:

- a. Ensure the value of the contract or change order is within the approved Financial Plan.
- b. Ensure that the City is able to meet its obligations within the terms of the contract and that it is likely the other party can meet their obligations.
- c. Ensure that the contract complies with WorkSafeBC legislation, labour legislation, privacy legislation, employee collective agreements, tax legislation, and other legislative and regulatory requirements.
- d. Be aware of any financial and other benefits that are expected to flow to the City as a result of the agreement (i.e. a rebate offered by a vendor).
- e. Review intellectual property requirements; and

f. consider physical, bodily injury and personal injury indemnities and risk exposure.

5.4 Authority for Procurement Method

Where not outlined within this policy in consultation with the CAO, staff of the City will approach Council with a recommendation to determine the method to be used to procure the goods or services required.

5.5 Responsibility for the Scope of Work or Specifications

Each Division is responsible for defining the needs of the procurement in the Scope of Work or Specifications.

Divisions may seek assistance from consultants or the Purchasing Division and may utilize market research techniques as described in Section 10.1.

Consultants assisting in the development of a City procurement will not be permitted to compete for the resulting opportunity.

To ensure fairness, direct contact with vendors should be avoided when preparing a Scope of Work or Specifications.

Scope of Works and Specifications should be generic and not specific to any one vendor to ensure competition is not reduced.

Scope of Works and Specifications substantially deviating from that which was presented and approved in the Financial Plan are to be reviewed by the CFO prior to a public procurement taking place. The CFO may determine that a Financial Plan amendment is required prior to the respective procurement being issued.

6. PROCUREMENT THRESHOLDS AND METHODS

The following thresholds will guide the method of procurement used to purchase goods or services.

Goods and General Services

Value	Procurement Method (minimum)	Issued By
> \$10,000	Single informal quote	Each Division
\$10,000 - \$75,000	Request three written quotes	Each Division or Purchasing Division
\$75,000 +	Public Competitive Process	Purchasing Division

Professional and Consulting Services

Value	Procurement Method (minimum)	Issued By
<\$50,000	Single written quote/proposal or request three written quotes/proposals	Each Division
\$50,000 - \$75,000	Request three written quotes/proposals or Public Competitive Process	Purchasing Division
\$75,000 +	Public Competitive Process	Purchasing Division

Construction

Value	Procurement Method (minimum)	Issued By
<\$50,000	Single written quote	Each Division

\$50,000 - \$200,000	Three written quotes	Purchasing Division
\$200,000 +	Public Competitive Process	Purchasing Division

7. ETHICAL CONSIDERATIONS

7.1 Conflict of Interest and Confidentiality

Staff or anyone in a position that could influence the evaluation of bids, tenders, quotes and proposals received in response to a Public Competitive Process shall conduct evaluations with the removal of bias, positive or negative, against both existing and potential vendors. For any Public Competitive Process, any and all qualified vendors within jurisdictions covered by trade treaties shall be treated transparently, fairly, equally and without discrimination.

City staff with a real or perceived conflict of interest in a vendor or a potential vendor must report this interest immediately to the Purchasing Division. The Purchasing Division will review the interest and may remove the staff member from involvement in the procurement.

City staff and non-staff evaluating quotes, offers, bids, tenders and proposals will not disclose any information gained during the course of their evaluation except to other City staff who may in the normal course of City business have a need for such information.

City staff and non-staff participating on an evaluation committee will be required to sign a declaration of non-conflict of interest and confidentiality statement.

7.2 Supplier Code of Conduct

All suppliers, vendors and individuals offering goods or services to the City are expected to comply with the code of conduct detailed below. Failure to follow this code of conduct may result in the termination of a contract and disqualification from future opportunities.

Professionalism

All employees, volunteers, agents, and contractors, sub-contractors or vendors under agreement or contract with the City are required to:

- Carry out their responsibilities in a professional and competent manner.
- Be aware of and abide by the British Columbia Human Rights Code.
- Not engage in any action or conduct or make any comment, gesture, or contact which a reasonable person would regard as likely to cause offence or humiliation to anyone, whether in the workplace or any other location.
- Act, and be perceived by the public to act, in a fair and impartial manner in the performance of their duties or provision of services.
- Not make any public comments that denigrate, disparage, or are disrespectful of the City, employees, and elected officials.
- Conduct themselves in a friendly, courteous, and professional manner when dealing with the public in accordance with the City's "Respectful Workplace Policy".
- Refrain from engaging in any other practice that could unfavorably reflect upon the City as identified solely by the City.

7.3 Lobbying

No bidder/proponent/vendor or anyone involved in preparing bids or proposals shall lobby any elected official or staff of the City in an effort to secure a contract. During a competitive procurement process all communications are to be made through the Purchasing Division unless the procurement document explicitly states otherwise. Vendors found to be lobbying

for a contract award will be disqualified from consideration for the procurement and may be disqualified from future procurement opportunities. The following will be deemed as inappropriate communication during an active procurement:

- a. commenting on, or attempting to influence views on, the merits of the vendor's submission, or in relation to submissions of other vendors;
- b. influencing, or attempting to influence, the evaluation and ranking of submissions, the selection of the vendor, or any negotiations with the preferred vendor;
- c. promoting the vendor or its interests in the services, including in preference to that of another vendor;
- d. commenting on or criticizing aspects of the procurement, the evaluation process or the scope of services, including in a manner which may give the vendor a competitive advantage over other vendors; and
- e. criticizing the responses of other vendors.

7.4 Gifts

City staff shall avoid accepting gifts, discounts or other favours from vendors of moderate or material value. Immaterial gifts can be accepted provided they do not result in personal gain for the receiver or result in favourable treatment of any vendor.

7.5 Transaction/Contract Splitting

City staff shall not split transactions or procurements in an effort to fall below thresholds set out in Section 6.

8. SUSTAINABLE PROCUREMENT

In an effort to leverage procurement dollars to benefit the community and society; the City may include the consideration of sustainability in Best Value Procurements.

Sustainability may include attention to environmental, ethical and corporate social responsibility as well as social value.

Sustainability considerations will be balanced against best value requirements for each individual procurement. The weighting toward sustainability in each procurement may be based on the marketplace, Scope of Work and/or level of risk inherent with the procurement.

When evaluating sustainability factors, City staff may look to third party verification and certifications when awarding points and may also look to utilize reference checks to verify the content of a submission.

8.1 Environmental Responsibility

When evaluating environmental responsibility in City procurements, points may be awarded where proponents:

- Minimize environmental harm, including end of life impacts.
- Maximize resource efficiency (e.g. reduce energy and water consumption and minimize waste).
- Minimize carbon emissions.

8.2 Ethical Responsibility

When evaluating ethical responsibility, points may be awarded where proponents:

- Maximize fair trade opportunities.
- Ensure sound working conditions throughout the supply chain that meet or exceed provincial, national or international employment standards.

8.3 Social Value

When considering social value, points may be awarded where proponents:

- Maximize contracting or sub-contracting opportunities for indigenous businesses.
- Maximize employment opportunities for K'ómoks First Nation or indigenous populations.
- Commit to paying a Living Wage to all staff directly employed by the proponent.
- Maximize employment, training and apprenticeship opportunities among local, disadvantaged, equity-seeking or marginalized individuals and populations.
- Maximize the diversification of the supply chain by including non-profit organizations, social enterprises and small-medium enterprises.
- Contribute to the strengthening of the community by supporting the social goals and objectives of the City.
- Include any corporate social responsibility initiatives undertaken by the organization that contribute to social wellbeing.

9. INDIGENOUS PROCUREMENT

The City is committed to true and lasting reconciliation with Indigenous peoples. The City aims to reduce barriers to City procurement opportunities and better support participation by K'ómoks First Nation businesses. This policy aims to help build capacity for K'ómoks First Nation, their business partners and members.

In the spirit of reconciliation, the City is committed to supporting the long-term economic interests, development, and capacity building of the K'ómoks First Nation. Directed Procurement Opportunities for any City capital project valued in excess of \$1 million may be utilized for the benefit of K'ómoks First Nation economic interests. Directed Procurement Opportunities may include the use of direct awards and select competitive procurements.

Directed Procurement Opportunities will be governed by the following principles:

- Awarded contracts must be at reasonable and fair market value;
- Awarded contracts must meet the City's expectations with respect to qualifications, safety and performance standards for the work;
- The contracting party must be a business identified by K'ómoks First Nation as a K'ómoks First Nation Designated Business;
- When identifying Directed Procurement Opportunities, the City will consider company-wide business and operational factors such as security of supply, competitive market impacts, and ongoing program costs and efficiencies;
- The City will endeavor to award up to 10% of the project construction budget through Directed Procurement Opportunities; and
- Subject to the City's limitations included in the New West Partnership Trade Agreement, no individual Directed Procurement Opportunity will exceed \$200,000 for

construction or \$75,000 for general goods and services. For clarity, multiple Directed Procurement Opportunities may be awarded in an effort to award up to 10% of the project construction budget.

Contract opportunities for K'ómoks First Nation Designated Businesses outside of these arrangements are also available through the City's general procurement processes. The City will consider broader opportunities for K'ómoks First Nation as described in Section 8.3 of this policy.

10. PROCUREMENT AND AWARD METHODS

10.1 Procurement Methods

Market Research Methods

Market research methods are public solicitations that do not result in the award of City business. They are utilized to assess the marketplace for potential City opportunities and to offer the market transparent and fair input into a resulting competitive procurement process.

a. Request for Information

To request general information regarding goods and/or services provided by vendors, and to invite input regarding the development of procurement strategies. May also request a response for high level budgetary considerations.

b. Request for Expressions of Interest

To determine the market interest in a competitive solicitation process.

Non-Competitive Methods

c. Direct Award and Notice of Intent (NOI) to Award

The award of City business directly to a vendor for a low value procurement or where it can be demonstrated that only one vendor can supply the good or service. A NOI is used to provide public notice of the City's intent to direct award, where the City cannot strictly demonstrate that there is only one vendor as required under this Section. If a successful challenge is received, an appropriate procurement process may be undertaken. NOIs will be posted to the City bid site as well as BC Bid for any direct award in excess of \$75,000 for goods and services, or \$200,000 for construction.

To proceed with a direct award where more than one quote is required, specific details, in writing, must be provided to the Manager of Procurement and Risk justifying the requirement for direct award according to the following exceptions:

- i. the requirement is for a work of art;
- ii. the protection of patents, copyrights, or other exclusive rights;
- iii. due to an absence of competition for technical reasons;
- iv. the supply of goods or services is controlled by a supplier that is a statutory monopoly
- v. to ensure the compatibility with existing goods, or to maintain specialized goods that must be maintained by the manufacturer of those goods or its representative;
- vi. work is to be performed on property by a contractor according to provisions of a warranty or guarantee held in respect of the property or the original work;

- vii. work is to be performed on a leased building or related property, or portions thereof, that may be performed only by the lessor;
 - viii. for additional deliveries by the original supplier of goods or services that were not included in the initial procurement, if a change of supplier for such additional goods or services:
 - a. cannot be made for economic or technical reasons such as requirements of interchangeability or interoperability with existing equipment, software, services or installations procured under the initial procurement; and
 - b. would cause significant inconvenience or substantial duplication of cost for the procuring entity;
 - ix. for goods purchased on a commodity market;
 - x. for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of disposals such as those arising from used equipment, liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers; or
 - xi. if goods or consulting services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through an open tendering process could reasonably be expected to compromise the City's confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.
- d. Informal Quote
A quote that has been requested by phone or email and may be received verbally, via fax or email.
- e. Written Quote
A formal quote offering goods or services. May include terms and conditions.

Competitive Methods

Competitive methods are formal procurements for goods or services that will be publically available on the City's bid page, BC Bid and potentially other public tendering systems. Once a Public Competitive Process has been undertaken all vendors covered under the CFTA and the NWPTA who submit compliant responses will be considered in a fair and transparent manner without discrimination.

- f. Request for Proposals (RFP)
A process to acquire services (primarily) where price is not the only consideration in selecting a contractor. The award is value-based and awarded to the proponent with the highest score and offering best overall value.
- g. Invitation to Tender (ITT)
To acquire construction and other services where price is typically the only deciding factor. Used when the work to be undertaken can be specified in detail and must be adhered to by the contractor. Award is generally to the lowest compliant bidder.
- h. Request for Standing Offers (RSO)
To acquire offers for goods or services that are required on an ongoing basis as needed. Award determinations may be either price-based or value-based.
- i. Request for Qualifications (RFQu)

To create a pre-qualified list of vendors who are eligible to participate in subsequent procurement processes. May also be utilized for professional service agreements. Award determinations include qualitative factors only and price would not normally be considered.

j. Request for Quotations (RFQ)

To acquire goods or services for low value purchases. Award determinations may be either price based or value based.

k. Request for Corporate Supply Arrangement or Master Standing Agreements

To acquire goods or services on behalf of a collaborative or co-operative buying group or purchasing consortium. Award is either price based or value-based.

10.2 Award Methods

The following award methods will be used when finalizing a purchase commitment. The staff member authorizing the award will be responsible for deciding on the type of award and may seek consultation from the Purchasing Division. Each Division is responsible for managing their respective contracts and agreements following the award.

- Purchasing Card

Used for low value purchases, foreign exchange purchases within spending thresholds, and as permitted by the City purchasing card directive.

- Purchase Order

Generally used to purchase goods or equipment of low to high value or a service of low value with minimal risk and a defined Scope of Work.

- Contract / Agreement

Should be used for purchasing all types of general, professional and construction services. May require legal review for complex or high value contracts.

- Change Orders / Contract Amendment

Used to update, alter, extend or otherwise modify a contract. Changes to contract value must be within the approved Financial Plan or, if exceeding the financial plan, have received Council approval to amend the Financial Plan.

- Corporate Supply Arrangements and Master Standing Agreements

Used by a buying group to form a contract for goods or services.

11. VENDOR PERFORMANCE MANAGEMENT

In an effort to ensure open and transparent communication with existing vendors, Contract Managers will actively monitor the performance of vendors and contractors and work directly with vendors to resolve any minor or isolated moderate performance issues. In instances where severe performance issues or an unsatisfactory accumulation of minor or moderate performance issues occur, Contract Managers are to contact the Purchasing Division and a formal vendor performance review will be undertaken. In most cases (excepting the most extreme instances), vendors will be provided an opportunity to respond and resolve any performance issue(s) identified in a vendor performance review.

Vendors may be subject to termination of a contract or disqualification from future business if there is sufficient evidence of consistent failure to meet the standards specified by the City. The City will maintain vendor performance files as required. Information in this file will be supplied by the Contract Manager to the Purchasing Division. Vendors may be evaluated

based on price, quality of the product or service, contract adherence and performance, customer service and their responsiveness to requests from the City. Upon reasonable notice in writing to the vendor involved, and after a reasonable opportunity for response, a vendor can have their contract terminated and can be disqualified for a period not exceeding five years from participation in a solicitation for goods or services.

Notwithstanding the above, vendors or proponents shall be disqualified when:

- a serious breach of contract indicating an unwillingness to perform the services in accordance with the terms and conditions, Scope of Work or Specifications;
- a record of unsatisfactory performance of one or more contracts in accordance with the terms and conditions, Scope of Work, or Specifications;
- an inducement to an official or employee of the City by a vendor or proponent in an attempt to influence a contract award; or
- a conviction for a criminal offense of a person, director, official or such person relating to obtaining or attempting to obtain a contract or subcontract.

A written decision shall be issued to the vendor or proponent disqualified or suspended setting out the City's reason for disqualification or suspension.

Vendor or proponent disqualification will be approved by the CAO.

12. OTHER PRACTICES

12.1 Unsolicited Proposals

The City will accept unsolicited proposals for unique, innovative products or services that will result in demonstrated savings to the City. Unsolicited proposals are to be sent to the Purchasing Division and will be reviewed. Any award will be based on the requirements described in this policy and the requirement for a Public Competitive Process may not be precluded by the receipt of an unsolicited proposal.

12.2 Single Bid / Proposal

When only one bid or proposal is received in response to a competitive procurement method, City staff or representatives shall evaluate the response to ensure fair value will be acquired. Once City staff are confident that the response represents fair value, the contract may be awarded.

Should City staff find that the response does not represent fair value, staff may elect to negotiate or cancel and reissue the procurement.

12.3 Collaborative Procurement

The City may look to work with other procuring entities within the region, province or otherwise in an effort to maximize value and achieve economies of scale. When considering a collaborative procurement opportunity the City shall evaluate:

- the impact to the local vendor community and its ability to submit a potential response to a competition; and
- the collaborative procurement group's ability to represent the values and meet the strategic goals of the City in relation to the procurement.

12.4 Service Delivery

Agreements between the City and other local governments for the management of direct service delivery for a City function, must obtain Council approval.

12.5 Land Acquisition and Disposal

All acquisitions and disposals of land shall be approved by Council.

12.6 Records Management

All records associated with a Public Competitive Process are subject to the Freedom of Information and Protection of Privacy Act and the City will endeavor to maintain related records in a manner consistent with the procedure established by the Records Management Manual for Local Government Organizations, as published by the Local Government Management Association of British Columbia.

13. DEFINITIONS

In this Policy:

“Best Value Procurement” means a procurement that considers factors other than only price.

“CAO” means the Chief Administrative Officer of the City or in the absence of the Chief Administrative Officer their designate.

“CETA” means the Comprehensive Economic and Trade Agreement between Canada and the European Union and any of its successors.

“CFO” means the Chief Financial Officer of the City or in the absence of the Chief Financial Officer their designate.

“CFTA” means the Canada Free Trade Agreement between the federal government and the provinces and territories of Canada and any of its successors.

“City” means the City of Courtenay.

“Contract Manager” means the manager from a City Division responsible for administering the contract.

“Division” means a department or branch of the City.

“Financial Plan” means City approved budget and five year financial plan adopted by the City each year as a result of the City’s financial planning process.

“Directed Procurement Opportunities” means procurement opportunities focused to K’ómoks First Nation which may include direct awards, select competitive procurements and/or set asides.

“K’ómoks First Nation Designated Business(es)” means businesses identified in writing by K’ómoks First Nation that are eligible for Directed Procurement Opportunities. Any designated business must meet the City’s requirements for qualifications, safety and performance, and have market competitive pricing.

“Living Wage” means the living wage identified for the Comox Valley by the www.livingwageforfamilies.ca website.

“Low Bid Procurement” means a procurement that considers price as the predominant deciding factor from qualified bidders.

“NWPTA” means the New West Partnership Trade Agreement between the provinces of British Columbia, Alberta, Saskatchewan and Manitoba and any of its successors.

“Procurement Transactions” means all functions that pertain to the acquisition of goods or services.

“Public Competitive Process” means a procurement where the City will request competitive bids and/or proposals from the public marketplace.

“Scope of Work” means a description of work or services that is to be performed by a vendor.

“Specifications” means a description of a good or finished product that is to be delivered by a vendor.

THE CITY OF COURTENAY

BYLAW NO. 3082

A bylaw to provide for the delegation of authority for purchasing goods and services

WHEREAS under section 154 of the *Community Charter*, Council may, by bylaw, delegate its powers, duties and functions, including those specifically established by an enactment, to its officers and employees;

AND WHEREAS Council of the City of Courtenay wishes to delegate to its officers and employees certain powers, duties and functions;

AND WHEREAS Subject to the *Community Charter* unless a power, duty or function of Council has been expressly delegated by this bylaw or another City bylaw, all of the powers, duties and functions of Council remain with Council.

NOW THEREFORE Council of the City of Courtenay in open meeting assembled, hereby enacts as follows:

Repeal

1. Bylaw No. 2676 as “Delegation of Authority Bylaw No 2676, 2011”, and amendments thereto, is hereby repealed.

Definitions

2. In this bylaw:
 - a. “Assistant Managers” means any employee of the City that holds a position of assistant manager or their designate(s).
 - b. “CAO” or “Chief Administrative Officer” or “City Manager” means the chief administrative officer of the city or designate.
 - c. “CFO” means the Chief Financial Officer of the City or designate.
 - d. “City” means the Corporation of the City of Courtenay.
 - e. “Council” means the Council of the Corporation of the City of Courtenay.
 - f. “Director” means any employee of the City that holds a position of director and includes the fire chief and their designate(s).
 - g. “Manager” means any employee of the City that holds a position of manager, deputy fire chief or executive assistant or their designate(s).
 - h. “Supervisors” means any employee of the City that holds the position of supervisor or foreman or their designate(s).

Procurement Transaction Authority Delegation

3. Council hereby delegates to the City's officers and employees the powers, duties and function of Council to enter into transactions relating to the City's activities, works or services, subject to the approved financial plan and the limitations on that delegated authority set out in Schedule "A" of this bylaw and the Procurement Policy adopted by Council which may be amended from time to time.

Delegation

4. A delegation of power, duty or function under this bylaw includes a delegation to a person who has, from time to time, been appointed to act on behalf of the delegate or is appointed by Council to act in the capacity of the delegate in the delegate's absence.
5. In the absence of a delegate, the power delegated under this bylaw may be exercised by a person who has been appointed to act in the capacity of the delegate, or the director of that person's division. In the absence of a director, the powers delegated under this bylaw may be exercised by the City Manager or the person designated as acting City Manager.

Limits on expenditures

6. Despite the authority granted in section 3, an officer or employee of the City must not enter into an agreement of a capital nature under which the City would incur a liability payable after the end of the then current year for a term that is for more than five years, including all rights of renewal and extension.
7. An expenditure made by a person to whom Council has delegated authority under this bylaw must be within the City's approved financial plan.

Citation

This Bylaw No. 3082 may be cited for all purposes as "City of Courtenay Delegation of Purchasing Authority Bylaw No. 3082, 2023."

Read a first time this ____ day of _____, 2023

Read a second time this ____ day of _____, 2023

Read a third time this ____ day of _____, 2023

Finally passed and adopted this ____ day of _____, 2023

Mayor Bob Wells

Corporate Officer, Adriana Proton

Schedule A – Schedule of Delegated Authority Approval Limits

Delegated Authority	Approval Limit (excluding value added taxes)
Assistant Managers or Supervisors	\$10,000
Managers	\$25,000
Directors	\$100,000
Director and CFO or CAO	Over \$100,000

Appendix 3 – Summary list of updates to the Procurement Policy

- Added social procurement considerations (Section 8.3).
- Improved language around environmental and ethical procurement. (Sections 8.1 and 8.2)
- New Indigenous procurement section providing economic development opportunities to K’ómoks First Nation businesses and their joint ventures. (Section 9)
- Purchasing and contract commitment authorities moved into the delegation of authority bylaw.
- Decentralized contract signing to staff at the City with continued procurement support and oversight.
- Increased procurement thresholds (Section 6) to support broader opportunities for local businesses:

Three Quote Thresholds	Old Policy	New Policy
General Goods and Services	\$2,500	\$10,000
Professional and Consulting Services	\$2,500	\$50,000
Construction	\$2,500	\$50,000

Public Procurement Thresholds	Old Policy	New Policy
General Goods and Services	\$25,000	\$75,000
Professional and Consulting Services	\$25,000	\$75,000
Construction	\$25,000	\$200,000

- Sole sourcing provisions that mirror the trade agreements (Section 10.1c).
- Updated references to applicable trade agreements (Section 4.2).
- The addition of language regarding conflict of interest for staff (Section 7.1).
- The addition of a supplier code of conduct (Section 7.2).
- Added language regarding lobbying of staff and council (Section 7.3).
- New language regarding vendor performance management (Section 11).
- Other minor edits and additions to support best practices.