

# THE CORPORATION OF THE TOWNSHIP OF BROCK

## BY-LAW NUMBER 3148-2022-FI

### BEING A BY-LAW TO DEFINE THE PROCUREMENT POLICIES AND PROCEDURES FOR THE CORPORATION OF THE TOWNSHIP OF BROCK

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The Corporation of the Township of Brock, pursuant to Section 270 (1) of the *Municipal Act*, hereby enacts the following procurement policy:

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## 1. APPLICATION

This policy applies to the acquisition of goods and services by the Township of Brock.

## 2. DEFINITIONS

Words and phrases used in this policy have the following meanings, unless expressly stated otherwise:

- (a) **Bid** means a proposal, tender or other form of supplier submission to the Township in response to a RFx.
- (b) **Bidder** means a supplier that submits a Bid.
- (c) **Buying Group** means a cooperative arrangement in which individual members administer the procurement function for specific Goods or Services for the group and includes a buying group entity where the entity administers procurement for its members. Standing arrangements established by provincial, territorial, and federal governments that are open to municipalities are deemed to be Buying Group contracts under this policy.
- (d) **Contract** means a written agreement between the Township and a supplier for the procurement of Goods or Services by any contractual means, including purchase, lease, and rental, with or without an option to buy.
- (e) **Contract Value** has the meaning assigned in Section 5.3 (General Procurement Authority).
- (f) **Contractor** means a supplier that is a party to a Contract for the supply of Goods or Services to the Township.
- (g) **Council** means the Council of the Township and any Council committee delegated by Council to perform a function related to this policy.
- (h) **Department Head** means the head of a department operating within the Township regardless of their title and includes, for purposes of this policy, their authorized delegate.
- (i) **Expenditure Authority** means the authority to commit Township funds to the purchase of Goods and Services as set out in Sections 5.1 (General Expenditure Authority) and 5.2 (Exceptional Expenditure Authority).
- (j) **Extraordinary or Emergency Circumstance** means any of the following:
  - i. Any situation that presents an imminent or actual danger to the life, health, or safety of any person;
  - ii. Any situation that presents an imminent or actual danger of injury to or destruction of real or personal property;
  - iii. Any situation that presents an imminent or actual unexpected interruption of a public service essential to the community;
  - iv. An emergency as defined by the Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9 and the emergency plan formulated thereunder by the Township; and

- v. An imminent or actual spill of a pollutant as contemplated by Part X (Spills) of the Environmental Protection Act.
- (k) **Financing Lease** means a lease which allows for the provision of Goods or Services if the lease may or will require payment by the Township of financing, interest, bonuses, premiums or other charges or costs for the Goods or Services over time and upon terms.
- (l) **Formal Contract** means a long form Contract, prepared by the Township or by a supplier, that is signed by both the Township and the supplier.
- (m) **Goods** means tangible and intangible moveable property and includes supplies, equipment, materials, products, software, furniture, structures, and fixtures to be delivered, installed, or constructed.
- (n) **Informal Contract** means a document or written transaction, such as a credit card purchase, purchase order or written confirmation of proposal acceptance that commits the Township to purchase specified Goods and Services and that may, or may not be, signed by the Township.
- (o) **Invitational Competitive Process** means a competitive process where the Township invites selected qualified suppliers to submit a Bid without public advertisement.
- (p) **Non-Competitive Procurement** means the procurement of a Good or Service directly from a supplier without a competitive process.
- (q) **Prequalification Process** means a publicly advertised opportunity for suppliers to prequalify for participation in one or more subsequent procurement processes.
- (r) **Prequalified Supplier List** means a list of suppliers that have satisfied the requirements of a Prequalification Process and are prequalified to participate in future procurements covered by the list.
- (s) **Public Competitive Process** means a competitive process where the Township publicly advertises, on the Township's designated tendering website, an invitation to suppliers to submit a Bid in response to an RFX.
- (t) **RFX** means a document inviting suppliers to submit Bids with a view to being awarded a Contract for the purchase of Goods or Services, such as a Request for Prequalification (RFPQ), Request for Quotes (RFQ), Request for Tenders (RFT) or Request for Proposals (RFP).
- (u) **Services** means all services, including professional services and construction services, unless otherwise specified.
- (v) **Standing Arrangement** means an arrangement with a supplier pursuant to which the Township has the right to purchase Goods or Services over a period of time specified in the arrangement based on pre-established terms, including pricing and delivery requirements.
- (w) **Township** means the Corporation of the Township of Brock.

### **3. POLICY OBJECTIVES**

The objectives of this policy are to:

- (a) to describe the roles, responsibilities, authorities and accountabilities of the CAO, Treasurer and others involved in the procurement and contracting process;
- (b) promote openness, honesty, fairness, integrity, accountability, and transparency while obtaining the best value for money in the procurement of Goods and Services;
- (c) promote ethical conduct and avoid conflicts of interest – real, apparent, and potential – between suppliers and elected officials and staff;
- (d) promote goals of environmental sustainability and ensure accessibility requirements are met in procurement; and
- (e) ensure procurement processes are consistent with legal and trade agreement obligations.

### **4. ROLES AND RESPONSIBILITIES**

#### **4.1. General Responsibilities**

- (a) All Township staff and any other person authorized to purchase Goods and Services on behalf of the Township must comply with this policy and related procedures.

#### **4.2. Council**

- (a) Council's role in procurement is, generally, to establish the policy, approve the budget and modifications to the budget, receive reports on the Township's procurement and contracting activities and approve Contract awards.
- (b) Council has the ultimate authority for this policy including the authority to approve exceptions and amendments to this policy.

#### **4.3. Chief Administrative Officer (CAO)**

- (a) The CAO is accountable to Council for the proper administration of, and staff compliance with, this policy and related procedures.
- (b) Subject to the requirements of this policy, the CAO, as head of the Township administration, may exercise or override the authorities delegated to a Department Head under Section 5 (Delegation of Authority) as deemed appropriate.

#### **4.4. Treasurer**

- (a) The Treasurer is responsible for establishing the procedures and templates to be used by the Township for procurement and contracting that are consistent with this policy, applicable laws, and trade agreements and for approving the use of alternative forms of templates and agreements where appropriate.

- (b) The Treasurer is responsible for monitoring and recording expenditures against approved budgets and reviewing payments to Contractors as set out in this policy and related procedures.
- (c) The Treasurer will assist Township staff in the interpretation and application of this policy and related procedures.

#### **4.5. Department Head**

- (a) Department Heads are authorized to procure Goods and Services on behalf of the Township subject to the requirements of this policy.
- (b) Department Heads are accountable for, and must oversee, all procurement and contracting activities within their department to ensure compliance with this policy and other Township policies and related procedures.
- (c) Department Heads may delegate their authority to procure Goods and Services on behalf of the Township to staff within their department provided that Department Heads remain responsible even when their authority is delegated.

#### **4.6. General Prohibitions**

All persons undertaking procurements on behalf of the Township must not:

- (a) divide purchases to avoid the requirements of this policy by any method;
- (b) impose or consider, in the evaluation of Bids or awards of Contracts, local content or other economic benefits criteria that are designed to favour:
  - i. the Goods or Services of a particular geographic location; or
  - ii. the suppliers of a particular geographic location of such Goods or Services;
- (c) circumvent the requirements of this policy including, but not limited to, biasing specifications or scheduling events to prevent suppliers from meeting requirements; or
- (d) provide information to one supplier to give that supplier an advantage over other suppliers.

### **5. DELEGATION OF AUTHORITY**

#### **5.1. General Expenditure Authority**

The CAO and Department Heads are delegated the authority to expend Township funds in accordance with Council-approved budgets, subject to obtaining additional procurement and contracting approvals where required by this policy.

#### **5.2. Exceptional Expenditure Authority**

Each Department Head is authorized to expend Township funds in excess of their General Expenditure Authority without further approvals to address an Extraordinary or Emergency Circumstance provided that such expenditure must be limited to that

which is necessary to address the circumstance and must be reported to the Treasurer and CAO. The CAO shall ensure Council is notified of the Extraordinary or Emergency Circumstance as soon as possible and where the expenditure is in excess of \$50,000, the CAO shall ensure the Department Head submits a Council report as soon as possible.

**5.3. General Procurement Authority**

- (a) Expenditure Authority Must be Confirmed: A Department Head must confirm they have the required Expenditure Authority prior to initiating a procurement process.
- (b) Multi-Year Contracts: Where the duration of a proposed Contract, including optional extensions, will extend beyond the period of the last Council-approved budget and there is insufficient Expenditure Authority to cover the anticipated expenditures for the term of the Contract, the procurement process may only be initiated with the Treasurer’s prior approval. Treasurer’s approval will be deemed to provide Expenditure Authority for purposes of proceeding with the procurement.
- (c) Determining the Contract Value: Procurement and Contract approval thresholds in this policy are based on the Contract Value. The Contract Value is the estimated total expenditures under a Contract over the entire period of the Contract, including optional extension periods but exclusive of taxes.
- (d) General Procurement Authority: Department Heads are authorized to initiate competitive or non-competitive procurements with a Contract Value up to \$10,000 and to undertake competitive procurements within their expenditure authority. Department Heads must obtain additional approvals to undertake procurements outside the general authority as set out in this policy.

**5.4. Non-Competitive Procurement Authority**

- (a) The following procurement and contract approvals must be obtained as a condition of proceeding with a non-competitive procurement:

<b>Approval of Non-Competitive Procurement and Contracts</b>	
<b>Contract Value</b>	<b>Approval Authority</b>
Up to \$10,000	Department Head
Over \$10,000-100,000	CAO, in consultation with the Treasurer
Over \$100,000	Council, subject to receipt of written justification and joint recommendation of CAO and Department Head

Extraordinary or Emergency Circumstance	Department Head, in consultation with CAO and Treasurer
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- (b) Once the approval to pursue a non-competitive procurement is granted, there is no requirement for further approvals to enter into a Contract with the proposed supplier.

### 5.5. Contract Award Approval Authority (Competitive Procurement)

- (a) Following a competitive procurement process, the following approvals must be obtained as a condition of proceeding with the award of Contract:

Contract Value	Contract Award Approval
0-\$100,000	Department Head
Over \$100,000	CAO, in consultation with the Treasurer
Exceptional Situations (see below)	Council

Exceptional Situations: Council approval to proceed with a Contract award is required in the following exceptional situations:

- The resulting Contract Value exceeds the Expenditure Authority by \$25,000 or 15% of the approved budget amount, whichever is greater;
- Staff do not recommend awarding the Contract to the highest ranked compliant Bidder at the conclusion of a competitive process;
- Council approval is required by statute or by a third party, such as a funding agency; or
- The CAO recommends that Council approval be sought.

### 5.6. Contract Signing Authority

- (a) All Contracts must be signed as provided in the Township's Delegation of Powers and Duties by-law.
- (b) Where contract signing authorities are not provided for in the Delegation of Powers and Duties by-law, the following signing authorities apply to all Formal Contracts and amendments to Formal Contracts made pursuant to this policy:

Contract Value	Contract and Contract Amendments
0-\$250,000	Co-signed by Department Head and CAO or Treasurer



Over \$250, 000	Co-signed by Mayor and Clerk
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**5.7. Contract Extension, Amendment and Termination Authority**

- (a) Authority to Extend the Term of a Contract: Department Heads are authorized to extend the duration of a Contract if the following conditions are met: (a) the Department Head has the required Expenditure Authority; and (b) the Contract includes an option to extend the term.

A Contract that does not include an option to extend may only be extended if a non-competitive procurement process is authorized in accordance with this policy or an amendment to add Goods or Services to a Contract is otherwise permitted by this policy.

- (b) Authority to Add Goods or Services to a Contract (e.g. change orders and use of contingency): Department Heads are authorized to amend Contracts to add Goods or Services without a further competitive process provided the following conditions are met: (i) the Department Head has the required Expenditure Authority; and (ii) the Contract either includes an option to add the class of Goods or Services or the addition of Goods or Services is deemed by the Department Head with the CAO’s approval, to be necessary for the completion of the original project.

Where the conditions in this paragraph are not met, the Contract may only be amended to add Goods or Services if (a) a non-competitive procurement process is authorized in accordance with this policy or (b) the value of the amendment is under \$100,000 and the amendment is approved by the CAO.

- (c) Authority to Terminate Contracts: Contracts may only be terminated by the Township prior to the Contract expiration date with the CAO’s approval.

**5.8. Invoice Payment Approval Authority**

- (a) All invoices must be verified and approved for payment by the applicable Department Head prior to payment. By approving an invoice, the Department Head is confirming the Goods or Services have been received and conform with the requirements of the Contract or, in the case of advanced payments, the payment is being made as contemplated by the Contract.
- (b) Prior to releasing payment, the Treasurer or their delegate must verify invoices for clerical accuracy and availability of funds based on the Expenditure Authorities provided for in this policy.
- (c) The Treasurer may authorize payment of invoices which have been verified in accordance with this policy. Where an invoice requires the expenditure of funds exceeding the Expenditure Authority, the Treasurer may release payment and the Treasurer will report to Council on the variances as deemed appropriate.

**5.9. Sub-Delegation of Authority**

- (a) A person delegated authority pursuant to this policy may sub-delegate their authority.

- (b) The person delegated an authority pursuant to this policy remains accountable for a sub-delegate’s compliance with this policy and related procedures.
- (c) A sub-delegated authority may not be further sub-delegated.

**6. PROCUREMENT AND CONTRACTING PROCESSES**

**6.1. Competitive Procurement by Default**

- (a) A competitive procurement process must be used to procure Goods or Services with a Contract Value exceeding \$10,000 unless a non-competitive procurement process is permitted by this policy or the Good or Service is listed as an exclusion in Schedule A (Exclusions).

**6.2. Competitive Procurement Processes**

- (a) The following are the required competitive procurement strategies and permitted contracting approaches used for procuring Goods or Services, subject to exceptions as may be provided for in this policy or the procedures:

<b>Contract Value</b>	<b>Competitive Procurement Process</b>	<b>Contracting Approach</b>
Up to \$10,000	Informal Competitive Process (where practical)	Informal Contract
Over \$10,000 and up to \$50,000	Informal Documented Competitive Process <u>Optional</u> Invitational Competitive Process Public Competitive	Informal Contract  <u>Optional</u> Formal Contract
Over \$50,000 and up to \$100,000	Invitational Competitive Process  <u>Optional</u> Public Competitive Process	Informal Contract  <u>Optional</u> Formal Contract
Over \$100,000	Public Competitive Process	Formal Contract, unless otherwise approved by Treasurer

- (b) \$0 - \$10,000 Informal Competitive Process (where practical): For requirements with a Contract Value of up to \$10,000, while not mandatory, Department Heads are encouraged, where practical, to request verbal or written quotes or compare published prices of qualified suppliers prior to making a selection. Department Heads must be prepared to justify a decision to forego such measures.
- (c) Over \$10,000 and up to \$50,000 Informal Documented Competitive Process: For requirements with a Contract Value over \$10,000 and up to \$50,000, Department

Heads must, in writing, request written quotes from a minimum of 3 qualified suppliers prior to making a selection. Department Heads must provide reasons and request approval from the CAO to obtain quotes from fewer than 3 suppliers.

- (d) Over 50,000 up to \$100,000 Invitational Competitive Process: For requirements with a Contract Value over \$50,000 and up to \$100,000, Department Heads must invite a minimum 3 qualified suppliers to respond to an RFx however there is no requirement to advertise the opportunity. Department Heads must provide reasons and request approval from the CAO to invite fewer than 3 suppliers.
- (e) Over \$100,000 Public Competitive Process: For procurements with a Contract Value over \$100,000, the Department Head must conduct a public competitive procurement process by advertising an RFx on the tendering website designated by the Township for this purpose.

### **6.3. Standing Arrangements**

- (a) Where the Township anticipates it will have a recurring need for specific Goods or Services but is unable to commit to specific quantities in advance, Department Heads may establish Standing Arrangements with one or more suppliers. To establish a Standing Arrangement, a public competitive process must be used regardless of the Contract Value.
- (b) A Standing Arrangement must include all terms and conditions applicable to subsequent procurements, including the price of the Goods or Services and delivery requirements. If standing arrangements are established with multiple Contractors for the same Goods or Services, clear ranking methods and call-up procedures must be specified in the arrangement.

### **6.4. Prequalified Supplier Lists**

- (a) Department Heads may establish Prequalified Supplier Lists for the purposes of future purchases of specific Goods or Services by conducting a publicly advertised Prequalification Process.
- (b) Once a Prequalified Supplier List is established, purchases may be made from the prequalified suppliers by Invitational Competitive Process for Contract Values up to \$365,000 without undertaking a public competitive process. Purchases with a Contract Value of \$365,000 or more must be advertised and interested suppliers must be provided an opportunity to first be added to the Prequalified Supplier List where time permits.

### **6.5. Cooperative Purchasing (Buying Groups)**

- (a) The Township may join one or more Buying Groups or purchase from an existing Buying Group Contract with the Treasurer's approval.
- (b) Once the Treasurer has approved the Township's participation in a Buying Group or Buying Group contract, a Department Head may purchase from an existing Buying Group contract or participate in a procurement process administered by the Buying Group without undergoing a separate competitive procurement process.

- (c) A Buying Group contract is deemed to be a competitively awarded Contract. Approvals to award the Contract or to purchase from a Buying Group Contract must be obtained as set out in this Section 5.5 (Contract Award Approval Authority) prior to committing the Township to purchase any Goods or Services.

#### **6.6. Non-Competitive Procurement Justifications**

- (a) Contract Value Under \$10,000. The Township may use a non-competitive procurement process if the Contract Value is under \$10,000 and the Department Head determines it is not practical to seek quotes.
- (b) No Compliant Bids Received. The Township may use a non-competitive procurement process if a competitive process was conducted and (i) no Bids were submitted; (ii) no suppliers satisfied the conditions for participation; or (iii) no submitted Bids met the essential requirements of the RFX. In these circumstances, the non-competitive procurement process must be based on substantially the same requirements and specifications that were set out in the RFX.
- (c) Only One Supplier. The Township may use a non-competitive procurement process if the Goods or Services can be supplied only by a particular supplier and no reasonable alternative or substitute Goods or Services exist for any of the following reasons: (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 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.
- (d) Additional Deliveries. The Township may use a non-competitive procurement process 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: (i) 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 (ii) would cause significant inconvenience or substantial duplication of costs for the Township.
- (e) Commodity Market Goods. The Township may use a non-competitive procurement process for Goods purchased on a commodity market such as electricity, postal services, postage, water, fuel, natural gas, furnace oil.
- (f) Prototype and Pilot Projects. The Township may use a non-competitive procurement process if the Township procures a prototype or Good or Service to be developed in the course of a contract for research, experiment, study, or original development, but not for subsequent purchases of the Good or Service in regular production.
- (g) Exceptionally Advantageous Conditions – Unusual Disposals. The Township may use a non-competitive procurement process for purchases made under exceptionally advantageous conditions that only arise in the very short term in the case of unusual

disposals such as those arising from liquidation, receivership, or bankruptcy, but not for routine purchases from regular suppliers.

- (h) Winner of Design Contest. The Township may use a non-competitive procurement process if a Contract is awarded to a winner of a design contest provided that: (i) the contest has been publicly advertised and organized in a fair and transparent manner; and (ii) the participants are judged by an independent jury.
- (i) Confidential or Privileged Goods or Services. The Township may use a non-competitive procurement process if Goods or Services regarding matters of a confidential or privileged nature are to be purchased and the disclosure of those matters through a competitive process could reasonably be expected to compromise government confidentiality, result in the waiver of privilege, cause economic disruption, or otherwise be contrary to the public interest.
- (j) Extraordinary or Emergency Circumstance. The Township may use a non-competitive procurement process to obtain Goods or Services required in the event of an Extraordinary or Emergency Circumstance.

#### **6.7. Contract Award Notice (> \$100,000)**

- (a) Where a Contract is awarded with a Contract Value above \$100,000, whether through a public competitive process or a non-competitive procurement process, the Township will publish a Contract award notice on the Township's designated tendering website no later than 72 calendar days after the Contract award.
- (b) The Township may elect not to publish the award of Contract where a non-competitive procurement process was justified for reasons of Confidential or Privileged Goods or Services and does not need to publish the award of a Contract where the Contract is excluded pursuant to Schedule A (Exclusions).

#### **6.8. Bidder Debriefing**

- (a) The Township shall, on request by an unsuccessful Bidder, provide a debriefing during which the Bidder will be provided the reasons why the Township did not select their Bid.

#### **6.9. Supplier Complaints**

- (a) A supplier that wishes to challenge a procurement decision made by the Township is required to provide a written complaint within 5 business calendar days of attending a debriefing or, if the supplier is not a Bidder, within 10 business calendar days of (i) becoming aware of the basis for a procurement complaint or (ii) date of publication of award.
- (b) Any complaint must be in writing and shall include the following details:
  - A precise statement of the relevant facts;
  - An identification of the issues to be resolved;
  - The Supplier's argument and supporting documentation; and
  - The Supplier's requested remedy.

- (c) The Treasurer will ensure a review of the complaint is undertaken, and a response to the Supplier's complaint is made within 20 business calendar days.

#### **6.10. Contract Management**

- (a) The Department Head is responsible for ensuring the proper management of Contracts awarded by the department and to ensure Goods or Services are provided and paid for in accordance with the terms of the Contract.

#### **6.11. Record Retention**

- (a) The Department Head is responsible for ensuring that all documentation relating to a procurement and contracting is properly filed in accordance with the applicable procedures.
- (b) Documentation and reports regarding procurement processes and Contract awards must be preserved in accordance with the Township's retention schedules and for a minimum period of at least 3 years from the contract award date.

### **7. ETHICAL CONDUCT**

#### **7.1. Employees and other Persons Acting on behalf of the Township**

- (a) Employees and others involved in procurement and contracting activities on behalf of the Township:
- must comply with the principles and ethical behaviors outlined in the Township's Employee Code of Conduct;
  - must maintain and practice, to the highest degree possible, business ethics, professional courtesy and competence in all procurement and contracting activities;
  - must reject any and all offers of favours, gifts, gratuities, and loans regardless of value;
  - must undertake all procurement activities without positive or negative bias;
  - must strive to obtain the maximum value for each dollar of expenditure;
  - must protect confidential or proprietary supplier information that is submitted in connection with a procurement process or Contract;
  - may only use Township Contracts for the purchase of Goods and Services for the benefit of the Township and not for their personal benefit, or any one else's benefit; and
  - must promptly declare any direct or indirect financial or personal interest in a procurement or potential Contract to the applicable Department Head or the Treasurer. Where it is determined that a conflict of interest exists and that the conflict cannot be managed, such person shall be excluded from involvement with the procurement.

- (b) Employees must not bid on Township RFX processes or act as supplier to the Township.

## **7.2. Council Members**

- (a) Council members are required to respect the principles and ethical behaviors outlined in the Township's Council Code of Conduct.
- (b) Without limiting Council's authority as the Township's governing body and to preserve the integrity of the procurement process, unless assigned a specific role in a procurement process:
  - individual members of Council, including the Mayor, must remain at arm's length from staff and suppliers in the procurement process and refrain from either intervening or interfering in the procurement process, the evaluation of Bids, selection of suppliers, or staff recommendations; and
  - individual members of Council should not receive or review any information or documents related to a particular procurement during the procurement process.

## **7.3. Suppliers**

- (a) Suppliers are required to comply with the principles and ethical behaviours outlined in the Township's Supplier Code of Conduct attached as Schedule B to this policy.

## **8. SUPPLIER SUSPENSION**

- 8.1.** A supplier may be suspended by the CAO from future participation in Township procurements, or a Bid disqualified from a supplier on grounds such as:
  - a violation of the Supplier Code of Conduct attached as Schedule B to this policy;
  - significant or persistent deficiencies in performance of any substantive requirement or obligation under a prior Contract;
  - bankruptcy or insolvency;
  - being engaged in a dispute or litigation, past or current, with the supplier.

## **9. FINANCING LEASE CONTRACTS**

- 9.1.** Where a Contract involves a Financing Lease, the requirements set out in Schedule C (Financing Leases) apply.

## **10. GREEN PROCUREMENT**

- 10.1.** Through procurement and contracting, the Township will endeavor to promote goals of environmental responsibility and sustainability by incorporating green procurement requirements where practical and feasible.

## 11. ACCESSIBILITY

- 11.1. As required by the Township's Accessibility Policy, the Township will incorporate accessibility criteria, including the requirement to use accessible formats, into specifications unless it is not practical to do so.
- 11.2. **Accessibility** has the meaning assigned in the Ontario Public Service Diversity and Inclusion Lexicon and is a general term used to describe the degree of ease that something (e.g., device, service, and environment) can be used and enjoyed by persons with a disability. The term implies conscious planning, design, or effort to ensure it is barrier free to persons with a disability, and by extension, highly usable and practical for the general population as well.
- 11.3. **Accessible format** indicates the document is in compliance with the Accessibility for Ontarians with Disabilities Act (AODA), Web Content Accessibility Guidelines (WCAG 2.0) Level AA and will have passed all the accessibility checkers. In addition, the clear print writing, accessible design, and Canadian Press (CP) Style guidelines must be followed.

## 12. SURPLUS GOODS

- 12.1. Department Heads shall identify any Goods which are no longer used, or which have become obsolete, worn out or incapable of being used by the Township. These Goods are referred to in this Section as **Surplus Goods**.
- 12.2. The Department Head shall have the authority to transfer Surplus Goods from one department to another department.
- 12.3. The Department Head shall have the authority to sell Surplus Goods which have become unsuitable for use by the Township or to exchange or trade the same for new Goods.
- 12.4. Sale of surplus Goods shall be made to the highest responsive Bidder and the sale shall be made in accordance with the provisions of this policy where applicable. Notwithstanding the foregoing, Department Heads, with the approval of Council, may donate Surplus Goods to non-profit community groups provided the articles serve to preserve the Township's culture and heritage for the enjoyment of future generations.

## 13. INFORMATION REPORTS TO COUNCIL

- 13.1. For information purposes, the Treasurer shall submit a semi-annual report to Council on all Contract awards, contract extensions and other contract amendments, resulting in a Contract Value of \$100,000 or higher that were undertaken since the previous report.



**14. POLICY REVIEWS AND AMENDMENTS**

**14.1.** All changes to this policy require the approval of Council except for changes of an administrative nature, such as the change in title of a position. A formal review of the policy must be undertaken by the Treasurer at least once every 5 years.

**15. FORCE AND EFFECT**

**15.1.** This By-law shall come into force and effect as of September 26, 2022.

**15.2.** That By-law number 1912-2001-FI, as amended, is hereby repealed as of September 26, 2022

**ENACTED AND PASSED THIS 26TH DAY OF SEPTEMBER, 2022.**

Original Signed

\_\_\_\_\_

John Grant, Mayor

Original Signed

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Clerk/Deputy CAO, Fernando Lamanna

## **SCHEDULE A – EXCLUSIONS**

Contracts for Goods and Services and payment of the expenses listed below are excluded from the competitive procurement requirements and public notices required by this policy.

If a contract is excluded by virtue of this Schedule A, the competitive and public notice requirements in this policy shall not apply to any Good or Service supplied pursuant to that contract.

### **A. General Exclusions**

- (a) Goods or Services financed primarily from donations that require the procurement to be conducted in a manner inconsistent with this policy.
- (b) Procurements by the Township on behalf of an entity not covered by this policy.
- (c) Procurements under a commercial agreement between the Township which operates sporting or convention facilities and an entity not covered by this policy that contains provisions inconsistent with this policy.
- (d) Acquisition of Goods or Services for the purpose of commercial sale or re-sale by the Township.
- (e) Procurement of Goods or Services from philanthropic institutions, non-profit organizations, prison labour, or natural persons with disabilities.
- (f) Procurement of Goods or Services for the specific purpose of providing international assistance, including development aid, provided that the Township does not discriminate on the basis of origin or location within Canada of goods, services, or supplier.

### **B. Excluded Professional Services**

- (a) Health or social services.
- (b) Services that may, under applicable law, only be provided by licensed lawyers or notaries.
- (c) Services of expert witnesses or factual witnesses used in court or legal proceedings.
- (d) Financial services respecting the management of government financial assets and liabilities (i.e., treasury operations), including ancillary advisory and information services, whether or not delivered by a financial institution.

### **C. Non-Procurement Transactions**

- (a) Employment contracts.
- (b) Non-legally binding agreements.
- (c) Insurance premiums.
- (d) Payments of debts.

- (e) Procurement or acquisition of fiscal agency or depository services (banking services).
- (f) Any form of financial assistance, such as grants, loans, equity infusions, guarantees, and fiscal incentives.
- (g) Agreements between enterprises that are controlled by or affiliated with the same enterprise, or between one government body or enterprise and another government body or enterprise.
- (h) Acquisition or rental of land, real property payments including land, buildings, leasehold interests, easements, encroachments and licenses, or the like. The landlord's or seller's provision of related services, such as the fit up of premises will also be excluded.
- (i) Management of third-party claims against the Township, negotiation of legal settlements and grievance settlements.
- (j) Binding orders, judgments or decisions of an arbitrator, tribunal, or court. Given that these payments are mandatory, approval from the Department Head which is funding the payment is required.
- (k) Refundable travel expenses.
- (l) Other Township and employee related expenses, such as: memberships in professional organizations (professional dues), staff attendance at seminars, testing or examination fees, workshops, courses, training, trade shows or conferences.

## **SCHEDULE B - SUPPLIER CODE OF CONDUCT**

### **A. Introduction**

The following describes the minimum standards of business conduct the Township expects from every supplier, including supplier's owners, employees, agents, partners, and subcontractors who provide goods or services to the Township.

### **B. Standards of Conduct**

#### **Honesty, Integrity, and Professionalism**

Suppliers must treat all persons honestly, fairly, professionally and with courtesy and at all times act responsibly and diligently in the performance of their duties.

Suppliers must respond to the Township's solicitations in an honest, fair, and comprehensive manner that accurately reflects their ability to satisfy the requirements in the bid solicitation document.

#### **Workplace Well-Being**

The Township is committed to protecting the health and safety of all employees and others working or otherwise interacting with the Township, to protect against illness, injury, incidents of discrimination, violence, and harassment. Consistent with the Township's commitment, suppliers must ensure, provide, and maintain a safe and healthy work environment to all persons in the workplace or in the Township's facilities that is free from risks of illness or injury, and of incidents of discrimination, violence, and harassment.

#### **Intimidation of Other Suppliers**

No supplier may threaten, intimidate, harass, or otherwise interfere with any attempt by another prospective supplier to bid for a contract or to perform any contract awarded by the Township.

#### **Conflicts of Interest**

Suppliers are required to promptly disclose any potential, actual or apparent conflict of interest (as defined below) when dealing with the Township. Where the conflict can not be sufficiently mitigated or avoided, the Township may suspend a supplier from participating in a procurement process or terminate the Contract.

A **conflict of interest**, in relation to the procurement or the contract with the Township is where a supplier's conduct or their commitments, relationships or financial interests could, could be seen to, compromise the fairness of the procurement process or otherwise impair or be incompatible with the effective performance of suppliers' contractual obligations and may include:

- (a) engaging family members, friends, or business associates of any staff or public office holder at the Township which may have, or appear to have, any influence on the procurement process, or subsequent performance of the contract;
- (b) communicating with any person to obtain preferred treatment in the procurement process;
- (c) engaging current or former staff or public office holders at the Township to take part in the preparation of the bid or the performance of the contract, if awarded;

- (d) prior involvement by the supplier or affiliated persons in developing the specifications or other evaluative criteria for the bid solicitation document;
- (e) access to related confidential information by the supplier or affiliated persons that is not readily available to other prospective suppliers;
- (f) any other conduct that compromises, or could be seen to compromise, the integrity of the procurement process; and
- (g) with regard to the performance of the contract, any current or former relationship that would cast doubt on the supplier's ability to provide independent and unbiased advice to the Township.

### **Confidentiality**

Suppliers must maintain the confidentiality of all non-public information disclosed to the supplier as part of the procurement process. Any misuse by a bidder of confidential information belonging to the Township or another bidder shall be grounds for disqualification of the bid.

### **Compliance with Laws**

Suppliers must comply with applicable laws during the bidding process, including the Competition Act, and any law that applies to suppliers as contractors to the Township or in any other capacity.

### **Gifts and Entertainment, Anti-Bribery and Corruption**

No payments, gifts or other benefits or inducements may be given, directly or indirectly, to any person directly or indirectly involved, or that may become involved, in a procurement process or contract-related decision for the purpose of influencing decisions in the Township or the supplier's favour or securing any other improper advantage.

Suppliers must ensure that the requirements of all applicable anti-corruption laws are met, including, but not limited to, Canada's Corruption of Foreign Public Officials Act.

Suppliers are expected to ensure that payments made to agents or other third parties are not used, in whole or in part, to influence municipality decisions or secure any other improper advantage.

### **Collusion and Bid Rigging**

By submitting a bid, a supplier is certifying to the Township that: (a) the prices in their bid have been arrived at independently from those of any other bidders; (b) the prices in their bid have not been knowingly disclosed by the bidder, and will not knowingly be disclosed by the bidder prior to award, directly or indirectly to any other bidder or competitor; and (c) no attempt has been made, nor will be made, to induce any other person to submit, or not to submit a bid, for the purpose of restricting competition.

A violation of this provision may violate the Competition Act; and if there is a violation, it may result in the imposition of serious fines and possibly imprisonment pursuant to that Act.

## **Public Statements**

Suppliers shall not publish, issue, or make any statements or news release, electronic or otherwise, concerning a Township procurement process or contract without the express prior consent of the Township. For certainty, suppliers shall not make any public statements concerning theirs or any other bid, the evaluation of the bid, or the award of the contract or cancellation of a procurement process or in relation to activities under any contract.

Suppliers to the Township are strictly prohibited from making any public statements relating to Township matters or decisions, engaging with the Township's constituents or councillors on Township matters, and taking a public position in relation to issues of municipal interest, without the Township's express prior written consent.

## **Lobbying**

Bidders must not engage in any form of political or other lobbying whatsoever with respect to a procurement process or any contract, or otherwise attempt to influence the outcome of a procurement process directly or indirectly by any manner whatsoever other than by submitting a bid.

## **C. Consequences**

Breaches of this Supplier Code of Conduct are taken seriously. A failure to comply with this Supplier Code of Conduct may result in a supplier suspension from bidding on Township contracts or termination of a contract, in whole or in part and may include removal of the supplier from the Township's prequalified supplier list. The Supplier Code of Conduct is not to be read in lieu of but in addition to the supplier's obligations as set out in any contracts between the Township and the supplier. In the event of a conflict between the Supplier Code of Conduct and a contract, the terms of the contract shall govern.

## **SCHEDULE C – FINANCING LEASES**

1. The Township may only enter into a Financing Lease if:
  - (a) a by-law authorising the Financing Lease is passed;
  - (b) before the by-law authorizing the Financing Lease is enacted, the Township has adopted a statement of the Corporation's lease financing policies and goals; and
  - (c) the Financing Lease includes a schedule of all fixed amounts of payment, if any, required under the lease and that may be required under any possible extensions or renewals of the lease.
2. The statement required by paragraph 1 (b) shall include at a minimum a discussion of the financial and other risks for the Township of the Financing Lease.
3. Before entering into a Financing Lease, the Treasurer shall:
  - (a) Prepare a report to Council with a recommendation, assessing, in the opinion of the Treasurer, the costs and financial and other risks associated with the proposed Financing Lease including:
    - A comparison between the fixed and estimated costs and the risks associated with the proposed Financing Lease, and those associated with other methods of financing;
    - A statement summarizing the effective rate or rates of financing for the Financing Lease, the ability for lease payment amounts to vary, and the methods or calculations, including possible financing rate changes, that may be used to establish that variance under the Financing Lease;
    - A statement summarizing any contingent payment obligations under the Financing Lease that in the opinion of the Treasurer would result in a material impact for the Township, including lease termination provisions, equipment loss, equipment replacement options and guarantees and indemnities;
    - A summary of the assumptions applicable to any possible variations in the Financing Lease payment and contingent payment obligations; and
    - Any other matters the treasurer or Council consider advisable.
  - (b) obtain legal advice and financial advice with respect to the proposed Financing Lease and if the scope of the proposed transaction warrants it, ensure that the legal and financial advice is from a source independent from the advice ordinarily obtained by the Township for legal and financial matters;
  - (c) provide an opinion about whether the costs of the financing for the proposed Financing Lease are lower than other methods of financing available to the Township, and whether the risks associated with the Financing Lease are reasonable.

4. The costs and risks associated with a proposed Financing Lease in a report made under paragraph 3(a) above shall be assessed as of the date the report is made.
5. If at any time after a report under 3(a) is made but before the Financing Lease is executed, the Treasurer becomes of the opinion that a changed circumstance with respect to the Financing Lease may result in a material impact to the Township, the Treasurer shall as soon as is reasonably possible update the report and present it to Council.
6. A report made under section 3 shall summarize the information required by that section for the entire term of the Financing Lease, including any possible extensions or renewals.