

THE CORPORATION OF TAY VALLEY TOWNSHIP

BY-LAW NO. 2017-026

PROCUREMENT POLICY

WHEREAS, Section 9 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the Municipal Act or any other Act;

AND WHEREAS, Section 5 (3) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipal power, including a municipality's capacity, rights, powers and privileges under Section 9, shall be exercised by by-law unless the municipality is specifically authorized to do otherwise;

AND WHEREAS, Section 270 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality shall adopt and maintain a policy with respect to its procurement of goods and services.

AND WHEREAS, through the *Accessibility for Ontarians with Disabilities Act, 2005*, S.O. 2005, CHAPTER 11, Ontario is working to make the province fully accessible to people with disabilities by 2025;

AND WHEREAS, Section 5 (1) of Ontario Regulation 191/11 - Integrated Accessibility Standards requires the municipality as a designated public sector organization to incorporate accessibility design, criteria and features when procuring or acquiring goods, services or facilities, except where it is not practicable to do so;

NOW THEREFORE BE IT RESOLVED THAT, the Council of the Corporation of Tay Valley Township enacts as follows:

1. GENERAL REGULATIONS

1.1 THAT, the Procurement Policy, attached hereto as Schedule "A", be adopted.

2. BY-LAW REPEALED

2.1 THAT, By-Law No. 2013-076 is hereby repealed.

2.2 THAT, all by-laws or parts thereof and resolutions passed prior to this by-law which are in contravention of any terms of this by-law are hereby rescinded.

**THE CORPORATION OF TAY VALLEY TOWNSHIP
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3. ULTRA VIRES

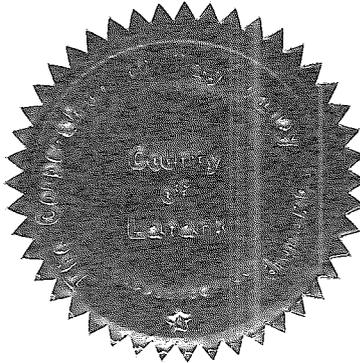
Should any sections of this by-law, including any section or part of any schedules attached hereto, be declared by a court of competent jurisdiction to be ultra vires, the remaining sections shall nevertheless remain valid and binding.

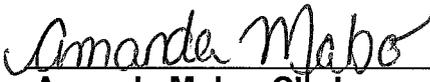
4. EFFECTIVE DATE

ENACTED AND PASSED this 11th day of April, 2017.



Keith Kerr, Reeve





Amanda Mabo, Clerk

THE CORPORATION OF TAY VALLEY TOWNSHIP
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SCHEDULE "A"



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SUBJECT: PROCUREMENT POLICY

1.0 PURPOSE

1.1 This policy is intended to provide guidelines for the acquisition of goods, services and facilities, including the procurement processes to be used and the circumstances under which the various procurement processes are to be used, and the goals and objectives of the policies and processes.

2.0 LEGISLATIVE AUTHORITY

2.1 Section 270 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended, provides that a municipality shall adopt and maintain a policy with respect to its procurement of goods and services.

3.0 DEFINITIONS

"Approved Budget" – shall mean a budget approved by the Council for the current fiscal year.

"Authority" – shall mean the delegated right to conduct the tasks outlined in this policy as directed by Council.

"Blanket Purchase" – shall mean agreements between the Township and one or more suppliers under which the supplier agrees to supply a certain class of items for an agreed period of time and price and within the approved budget amount for such items. The purpose of a blanket purchase is to allow an authorized requisitioner to deal directly with a supplier.

"CAO" – shall mean the Chief Administrative Officer (CAO) or designate duly appointed by the Municipality as prescribed in Section 229 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

"Clerk" – shall mean the Clerk or designate duly appointed by the Municipality as prescribed in Section 228 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

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“Contract” – shall mean a written binding agreement between the Township and the party providing the goods, services and facilities at a specified price.

“Council” – shall mean the Council of the Township.

“Emergency” – shall mean a situation where immediate purchase of goods or services is essential to prevent serious delays, further damage, or to restore minimum services.

“Firms” – shall mean the company, group, business or individuals conducting business and supplying goods, services and facilities.

“Goods, services and facilities” – shall mean the supplies, materials, work, equipment, vehicles, property, construction, etc. which the Township is intending to obtain, including the services of consultants.

“Head of Council” – shall mean the Reeve or Mayor of the Township.

“Personal Purchase” – shall mean a purchase of goods, services and facilities, the requirement for which is not for the Township or any of its purposes, but is personal to the person requesting the purchase.

“Professional and Consulting Service” – shall mean a person or firm, who by virtue of particular expertise is hired by the Township to undertake a specific task or assignment that may include designing specifications and preparing plans or programs.

“Purchases” – shall mean the acquisition of goods or services for which the Township will undertake to pay, regardless of the cost being funded or subsidized by other levels of government.

“Senior Staff” - shall include the CAO, Clerk, Treasurer, Planner and Public Works Manager.

“Tender” – shall mean a written offer received from a supplier of goods, services and facilities in response to a public advertisement or to an invitation to bid.

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“Total Acquisition Cost” – shall mean the total cost of ownership, operation or purchase or lease to the Township. This cost is arrived at after all factors such as price, quality, services, terms and conditions and warranties, including taxes and discounts have been considered.

“Township” – shall mean the Corporation of Tay Valley Township.

“Treasurer” – shall mean the Treasurer or designate duly appointed by the Municipality as prescribed in Section 286 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended.

“Quotation” – shall mean a verbal or written (whichever is specified) offer received from a supplier to sell or buy goods, services and facilities in response to a direct request.

5.0 GOALS AND OBJECTIVES

The goals and objectives of this Procurement Policy and each of the purchasing processes are:

- 5.1 To encourage competition among suppliers.
- 5.2 To ensure fairness among bidders.
- 5.3 To maximize savings to taxpayers.
- 5.4 To ensure service and product delivery, quality, efficiency and effectiveness.
- 5.5 To ensure openness, accountability and transparency while protecting the financial interests of the Township.
- 5.6 To consider all aspects of the purchased goods, services and facilities including the total acquisition costs, life-cycle costs, cost-benefit to the Township rather than strictly price.
- 5.7 To outline the roles and accountabilities of Council, Senior Staff and their delegates.

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5.8 To ensure that procurement is anticipated in the budget process and that mechanisms are in place to deal with situations outside the budget process (e.g. emergencies, unforeseen events, etc.).

6.0 PURCHASING POLICIES

- 6.1 The Township shall acquire its goods, services and facilities through the application of the highest standard of business ethics.
- 6.2 The Township shall incorporate accessibility design, criteria and features when procuring or acquiring goods, services or facilities, except where it is not practicable to do so.
- 6.3 Where it is not practicable to incorporate accessibility design, criteria and features when procuring or acquiring goods, services or facilities, upon request, an explanation shall be provided.
- 6.4 The Township shall require a declaration from all other persons who provide goods, services or facilities on behalf of the Township that they are compliant with the Accessibility for Ontarians with Disabilities Act and its Regulations.
- 6.5 Acceptance of any supplier will be based on the following considerations: geographic location, service, guarantee, reputation, availability, quality, expertise, qualifications, experience, accessibility, as well as price.
- 6.6 The Township may participate with other units of government, or their agencies, or public authorities, in cooperative purchasing ventures or joint contracts on the basis of the lowest acceptable overall tender when the best interest of the Township would be served thereby, and in keeping with the provisions of this policy.

7.0 PURCHASING PROCESS

Subject to any alternate direction that may be given from time to time by Council, the following processes shall be employed for the purchase of goods, services and facilities:

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Where it is estimated that goods, services and/or facilities will cost:

- 7.1 \$2,000 or less such purchase does not require formal tendering or written quotations. However, Senior Staff will attempt to obtain competitive prices.
- 7.2 More than \$2,000 and not more than \$20,000, Senior Staff shall have authority to purchase goods and/or services, provided the item falls within the relevant annual budget estimate, and that at least three price quotations are requested.
- 7.3 More than \$20,000, Senior Staff in consultation with Council shall call tenders in accordance with the provisions of this policy.
- 7.4 Professional consulting services estimated to cost more than \$2,000 shall be requested through a competitive Request for Proposal process.
- 7.5 Corporate Credit Card – Staff members may be provided with a Corporate Credit Card by making application to the Treasurer. The cardholder will be subject to a card limit of \$5,000 or less. Use of the Corporate Credit Card shall be subject to the following limitations:
 - 7.5.1 The card will not be used to obtain cash advances;
 - 7.5.2 Credit cheques will not be provided to the cardholder.
 - 7.5.3 Monthly statements will be reconciled on a timely basis and accompanied with all purchase receipts which are appropriately signed and which are attached in the order as itemized on the statement.

8.0 EMERGENCY PROCEDURES

- 8.1 Notwithstanding, the provisions of this policy shall be disregarded for goods, services and facilities that may be required in the event of a declared emergency situation.
- 8.2 Where the expenditure relating to the declared emergency is anticipated to exceed \$2,000, Senior Staff must first obtain the approval of the Head of Council.
- 8.3 Any purchase of goods or services having a value of greater than \$2,000 incurred in the event of an emergency, shall be reported at the next applicable Committee/Council meeting.

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9.0 PURCHASE ORDER

- 9.1 The Township does not utilize a formal purchase order document. Written authorization on Township letterhead to a contractor to order goods or services will be provided as required.
- 9.2 Blanket purchase authority may be issued by Senior Staff to cover the purchase of estimated requirements for various goods, services and facilities for a specified period of time and a specified dollar limit. All blanket purchases must be within the approved budget limit and may be renewed, with Council approval, for the next budget year.
- 9.3 Designated staff are authorized to purchase from the assigned vendors goods, services and facilities covered on the blanket purchase authority, subject to any terms and conditions noted.

10.0 NEGOTIATED PURCHASES

The provisions of this policy may be suspended in whole or in part by the CAO to allow purchase by negotiation when any of the following conditions apply:

- 10.1 When due to market conditions and/or in the judgment of the CAO, the goods, services and facilities required are in short supply.
- 10.2 Where there is only one source of supply for the goods, services and facilities to be purchased; or where Senior Staff have been unable to procure three quotations when required to do so by this policy.
- 10.3 Where two or more identical bids have been received.
- 10.4 Where the lowest bid meeting specifications or tender terms and conditions substantially exceeds the estimated cost.
- 10.5 When all bids received fail to comply with the specifications or tender terms and conditions and it is impractical to recall tenders or quotations.
- 10.6 When the extension of an existing contract would prove more cost effective or beneficial.

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11.0 AUTHORITIES

- 11.1 Council must approve the funding source for all expenditures through the annual current or capital budget.
- 11.2 Expenditures which would exceed the total approved budget must be approved by Council.
- 11.3 Where it appears additional funds will be required to complete a project approved in the budget, and where funds appear to be available within the current year budget, the funds may be made available;
 - 11.3.1 by the Treasurer if the additional funds total \$2,000 or less. The Treasurer shall forthwith report such transactions to Committee/Council;
 - 11.3.2 by Council if the additional funds total more than \$2,000.

12.0 PAYMENTS

- 12.1 Senior Staff or designate shall approve payment by signing all invoices representing charges to their respective departments, indicating the accounting distribution of the expenditure. Senior Staff, before approving payment, shall ensure that the following have been checked and found correct:
 - The properly authorized staff member has initialed the invoice.
 - Quantity and quality of goods received are as invoiced.
 - Pricing is correct.
 - Calculations are correct.
- 12.2 The Treasurer may pay all accounts for routine purchases of goods, services and facilities within the limit of the budget including those listed in Appendix "A".
- 12.3 The Treasurer may pay all accounts for properly authorized expenditures in addition to those outlined in Appendix "A", without the prior approval of Council.

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13.0 QUOTATION/TENDERING PROCESS

13.1 Quotation Process: More than \$2,000 to and including \$20,000

Quotations shall be requested for goods, services and facilities (excluding professional or consulting services) in the following manner:

- 13.1.1** At least three firms supplying the goods or services shall be contacted and provided with all pertinent information, and shall be requested to submit a written quotation. Where more practical, verbal quotations properly documented by Senior Staff shall be obtained.
- 13.1.2** Where three quotations cannot be obtained, the quotes received along with a staff report stating why the number of suppliers is limited shall be referred to the CAO for treatment under Section 10.2 of this policy.
- 13.1.3** All requests for quotation shall include a day and time by which the quotation must be submitted.
- 13.1.4** The document requesting a quotation shall include the following statement *"the lowest or any quotation will not necessarily be accepted"*.
- 13.1.5** Senior Staff may award the quotation provided the goods, services and facilities are within the budget allotment for such goods and/or services.
- 13.1.6** If the goods, services and facilities were not budgeted, or permission was not obtained from Council, then Senior Staff shall submit a report and recommendation to Committee/Council for approval.
- 13.1.7** Keeping the purchasing principles in mind, if the lowest quotation is not recommended, an explanatory report shall be submitted to Committee/Council by Senior Staff.
- 13.1.8** Total bid prices will be made available upon request after the quotation opening has taken place.
- 13.1.9** The Township's "Notice to All Contractors" respecting the Statement on Occupational Health and Safety (Appendix "B"), shall accompany the letter to the successful bidder confirming the awarding of the quotation.

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13.2 Tender Process: More than \$20,000

Tenders shall be received for goods, services and facilities (excluding professional and consulting services) in the following manner:

13.2.1 Tenders shall be called by one or more of the following three methods:

- Advertise in at least one major construction/trade publication
- Advertise in a newspaper(s) having general circulation in the Township. *This does not prevent tenders from being advertised in more than one newspaper.*
- By invitation to not fewer than three potential qualified bidders. Committee/Council approval must first be obtained if this is the only manner in which tenders are to be called.

13.2.2 All tender advertisements shall contain the following information, where applicable:

- the name of the Township
- the contact telephone number
- the type of good, service, or project
- the name of the Clerk, as designated to receive the tender
- the date and time of the closing of the tender
- the location where tender documents, plans, specifications, or other details may be obtained
- the fee, if any for contract documents
- the following statement *"the lowest or any tender will not necessarily be accepted"*.

13.2.3 The Township shall supply to prospective bidders:

- the official forms of tender
- the Township's "Notice to Contractors" respecting the Statement on Occupational Health & Safety (Appendix "B")

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13.2.4 A list of prospective bidders shall be maintained by the Township. A public listing of those firms requesting tender documents for a specific project shall also be maintained. A listing of the actual bidders for a specific project shall be recorded and not released until the tender documents have been opened.

13.2.5 All tenders received shall be sealed in the envelope provided with the tender, and shall be:

- initialed upon receipt, dated, including the time at which the document was received, and placed unopened in a secure location.
- notwithstanding, where appropriate, tenders may be submitted by fax or email. If a tender submitted by fax or email is awarded the contract, the original document must be submitted to the Township.

13.2.6 Any tender received after the deadline shall be initialed, dated, including the time received, and returned by the Clerk unopened immediately after the tender opening. A covering letter advising that the tender was received after the deadline shall accompany the return.

13.2.7 Tenders may be withdrawn, provided such withdrawal is done in writing and provided it is requested before the closing date and time. Tenders confirmed as withdrawn will be returned unopened to the bidder after the opening of the tenders has been completed. Withdrawal notices will be read at the time that the tenders are unopened.

13.2.7.1 The withdrawal of a tender does not disqualify a bidder from submitting another tender on the same competition.

13.2.7.2 If more than one tender is received from the same bidder, and no withdrawal notice has been filed, the tender contained in the envelope bearing the time closest to the competition closing shall be considered the intended bid. Any other tender received from the bidder shall be considered withdrawn, and shall be returned unopened to the bidder.

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13.2.8 All tenders shall be opened in a public forum, in the presence of the CAO or designate, and one other witness, either an employee or officer of the Township.

13.2.9 A standard statement shall be read at every tender opening, such as *“The purpose of the tender opening is to publicly announce and record every bid received with the exception of late bids. The recording of irregular bids at this stage is not to be construed as a waiver by the municipality of any irregularity. No evaluations of irregularity shall be made at this time”.*

13.2.10 Each tender shall be read out loud and the amount announced and recorded. Each tender shall be reviewed by Senior Staff for compliance to the tender requirements.

13.2.11 A report shall be submitted by Senior Staff to Committee/Council after a tender has been reviewed to inform Council of:

- the tenders received, including amounts tendered
- the amount that was budgeted for the tendered goods, services or project
- a full explanation if the tender is not recommended to be awarded to the firm that tendered the lowest amount, or if the tender is not awarded
- the comparison to the previous year, if appropriate, and
- Senior Staffs' recommendation

13.2.12 Where a contractual document is used, it will require the signature of the Head of Council and the Clerk.

13.2.13 Notwithstanding the provisions of this policy, any tenders which are: late, not completed in ink or typewritten, incomplete (unless specifically permitted by tender documents), qualified or restricted by the bidder, are received on documents other than those provided by the Corporation, lacking of execution of agreements to bond (bond company corporate seal or signature missing), contain uncertified cheques, contain insufficient or no performance bond or security in the form requested (unless insufficiency is trivial or insignificant), shall be

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rejected.

- 13.2.14** Bidders will be allowed 48 hours from the opening time to correct the following inconsistencies: minor clerical errors or omissions, corporate seal or signature (not both) missing.
- 13.2.15** For contracts where a performance bond is required, the deposit cheque of the successful bidder and second low bidder shall be retained by the Township until such time as the said performance bond has been supplied in a form satisfactory to the Township, and the contract agreement has been executed (if applicable).
- 13.2.16** For contracts that do not require a performance bond, the deposit cheque of the successful bidder shall be retained by the Township until such time as the goods, services and facilities have been received, or completed to the satisfaction of the Township. The cheque of the second bidder shall be retained until the agreement has been executed (if applicable).
- 13.2.17** The deposit cheques of unsuccessful bidders shall be returned to the bidder's address as shown on the tender form as soon as is practical and such bidders shall provide written acknowledgement of receipt.
- 13.2.18** If the successful bidder fails to enter into a contract (if requested), or fails to perform the contract, or fails to provide the goods, services and facilities, Senior Staff may recommend the following action to Committee/Council:
 - that the tender be awarded to the next lowest acceptable bidder or that the competition shall be canceled
 - That the deposit of the successful bidder be forfeited
- 13.2.19** Procedures for authorizing progress payments, change orders, the use of liquidated damages, and bonus provisions shall be specified in the executed contract where applicable.

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14.0 PROFESSIONAL AND CONSULTING SERVICES REQUESTS FOR PROPOSALS

14.1 Professional consulting services estimated to cost more than \$2,000 shall be requested through a competitive Request for Proposal (RFP) process as follows:

14.1.1 RFP's shall be sent to at least three qualified firms. Where three proposals cannot be obtained, a report stating why the number of suppliers is limited shall be included with the report in Section 14.3 below.

14.1.2 Where a large number of qualified firms can be identified, the firms may be requested to submit a letter of interest which summarizes their qualifications. RFP's would then be sent to a limited number (to at least three) of the most qualified firms.

14.1.3 Requests for proposals shall include:

- description of the service(s) required
- a date, time and address to which proposals are to be submitted
- the Township's "Notice to Contractors" respecting the Statement on Occupational Health & Safety (Appendix "B") if applicable.

14.2 Proposals shall be evaluated according to the following criteria. Specific variations or elaborations may be employed depending on the nature of services requested. The criteria are:

- experience of the firm doing similar projects
- experience of the firm in the Township or in Eastern Ontario
- qualifications of personnel assigned to the work
- approach to the work and methodology
- commitment of the firm's resources to the work
- total fees, upset limits, per diem or hourly fees, and disbursements.

14.3 Proposals shall be evaluated by Senior Staff and a report shall be submitted to Committee/Council providing a ranking of the qualified firms, and a recommendation.

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15.0 ON GOING SERVICES AND CONTRACTS

15.1 This section of the policy is intended to give direction regarding “on going” services and contracts which the Township may have with various suppliers. Examples include:

- Audit services
- Banking services
- Legal services
- Fuel
- Property and liability insurance
- Cleaning services
- Professional and consulting services

15.2 Some of the above noted services have annual renewals. At the time of renewal, the CAO may recommend to Committee/Council that the services be tendered or continued.

15.3 In the event that the service does not have an annual renewal, the CAO shall, at least every four years, and sooner if deemed necessary, recommend to Committee/Council that the service be continued, or that it be tendered or quotations obtained.

16.0 PROHIBITIONS

16.1 No employees, elected official or Committee Member of the Township, shall purchase goods or services, request quotes, proposals, tenders, or enter into contracts and agreements on behalf of the Township except in accordance with the provisions of this policy.

16.2 No employee, elected official or Committee Member of the Township is authorized to purchase any goods or services, or award contracts not included in the annual budgets, without the prior approval of Council, except in accordance with Section 8.0 - “Emergency Procedures”.

16.3 No contract or purchase shall be divided to avoid the provisions of this policy.

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16.4 No personal purchases shall be made by the Township on behalf of elected members or employees of the Township.

17.0 ULTRA VIRES

17.1 Any Provincial Statutes or Regulations thereof will supersede and take precedence over this policy.

18.0 ACCOUNTABILITY FRAMEWORK

18.1 The Chief Administrative Officer and Treasurer are responsible for ensuring compliance with this policy.

19.0 POLICY REVIEW

19.1 This Policy shall be reviewed at least once per term of Council.

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APPENDIX "A"

ROUTINE PURCHASES OF GOODS, SERVICES AND FACILITIES

The items listed in this Appendix are those for which written authority, other than budget approval, is not required unless specifically requested by the requisitioner, and for which other purchasing procedures of this policy are waived where their application is impractical.

1. Petty cash items
2. Training & education:
 - Conferences/Conventions
 - Courses/Seminars/Workshops/Staff Development
 - Magazines/Periodicals
 - Memberships/Subscriptions
3. Refundable employee expenses:
 - Advances
 - Meal allowances
 - Miscellaneous non-travel
 - Travel expenses
4. Employer's general expenses:
 - Payroll deduction remittances
 - Licenses/medicals
 - Debenture payments
 - Insurance & employee benefits
 - Damage claims
 - Township charges to/from area municipalities
 - Newspaper advertising and public notices
 - Utilities - telephone, gas, water, hydro, fuel, postage

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5. Other:

- Legal settlements
- Honorariums
- Property tax refunds
- Property tax payments to Lanark County and to area school boards
- Grants and levies to libraries, conservation authorities, etc.

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APPENDIX "B"

STATEMENT OF OCCUPATIONAL HEALTH AND SAFETY

The Corporation of Tay Valley Township is committed to ensuring that a high standard of health and safety is provided and maintained for all employees, visitors, guests, contractors, agents and others on our premises.

Accordingly, when requested, all contractors shall:

1. Demonstrate establishment and maintenance of a health and safety program with objectives and standards consistent with applicable legislation, and with the Corporation of Tay Valley Township's health and safety policies and requirements.
2. Submit their Workplace Safety Insurance Board number.
3. Include health and safety provisions in their management systems to reach and maintain a consistently high level of health and safety.
4. Ensure that workers in their employ are aware of hazardous substances that may be in use at their place of work, and wear appropriate personal protective equipment as may be required.
5. Provide a copy of the applicable WSIB Certificate of Clearance before starting a project, and upon completion.
6. Upon request at any time from the awarding to the completion of the contract, submit proof of fulfillment of the above noted responsibilities.

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