



February 18, 2021

Mrs. Sheena Pawliwec
Director of Finance/Treasurer
Town of Tillsonburg
Tillsonburg Town Centre
Suite 204
200 Broadway,
Tillsonburg, Ontario
N4G 5A8 519-688-3009 X4011

Dear Mrs. Pawliwec:

Re: Basic Procurement Forms Assignment

I am pleased to deliver a package of procurement forms for your consideration and approval. As you will no doubt understand, the Covid situation has complicated the preparation of this material. In particular, we had expected to have the opportunity to meet with yourself and the Tillsonburg manager of public works to get a more detailed understanding of your needs and practices. We would also have liked to discuss the project with your legal advisors, so as to get their input with regard to a number of issues, and to give them an understanding of our overall approach.

As it was not possible to arrange such meetings, we have been forced to make a good many assumptions in the preparation of these forms. Now that the Covid crisis appears to be nearing its end, perhaps we will be able to meet with your key players so as to refine the forms to ensure that they fully address your unique needs and internal policies and practices.

In preparing the attached package, we have acted on the assumption that Tillsonburg's main objective in seeking to develop a new package of documents is to create procurement efficiencies in addition to potential cost savings by attracting aggressively priced competitive bids from as wide a range of potential suppliers as possible so as to maximize the chance of obtaining optimal pricing. We have also assumed that you are concerned with reducing training costs for your staff, and to simplify the overall process of contract administration.

In developing an optimal package of documentation, there are a number of factors to consider. For instance,

- (a) As discussed below, in the past, the prevailing trend in public procurement was to attempt to transfer the bulk of business and political risk associated with public contracting to the supplier.
- (b) Many municipalities across Canada use documents that were originally prepared for one-off transactions, often by different departments within the municipal organization. Not surprisingly, inconsistencies in approach have developed over the years. Wording of different documents varies arbitrarily. Rights and obligations are allocated in some cases in one way, and in other cases in some other way, without any real reason for the approaches concerned. The resulting elegant variation from one contract to another confuses prospective suppliers, and tends to discourage them from bidding. Accordingly, we have tried to produce forms that are as consistent as possible, using language that should be readily comprehensible to a typical business person.
- (c) As we will explain below, construction contracts present a particular area of concern. Although the construction industry has developed a number of standard form precedents that are widely used in the private sector, many public sector owners insist on using forms that are not consistent with prevailing practice. Generally, this is not in the customer's interest.

In carrying out this assignment, we have attempted to prepare documents that, so far as reasonably practical, are consistent in language and approach. The documents follow a uniform layout and in general use the same or very similar language. Variations from one document to another reflect the different nature of the procurement to which they relate, the most obvious example being in relation to the different requirements for a Request for Tender and a Request for Proposal. However, while some differences reflect the needs of the transaction, much of the language in such documents can be made consistent. Doing so simplifies the training of staff, and affords staff with a better understanding of the municipality's rights, obligations and potential liability.

In discussions with Town staff, we pointed out that PCI does not offer legal advice. Rather, we seek to provide commercial guidance to our clients so as to assist them in getting the optimal commercial arrangement with their suppliers. Accordingly, please be sure to review these draft forms with your legal advisors to confirm that they are satisfactory from their perspective. Subject to Covid restrictions, we would be happy to meet with your legal advisors to discuss the forms package with them, so as to give them a better understanding of the approach and the reasons for our recommendations.

Thank you for referring this project to PCI.

Yours truly,



Stephen W. Bauld
President & Chief Executive Officer