

**PROVINCE OF QUEBEC
MUNICIPALITY OF THE TOWNSHIP OF LOW**

BY-LAW 2023-005 ON CONTRACTUAL MANAGEMENT

Whereas that the contract management policy was adopted on February 7th, 2011, in accordance with article 938.1.2 of the *Quebec Municipal Code (C.M.)*;

Whereas that this article was replaced on January 1st, 2018, and that the law now requires municipalities to adopt a by-law on contractual management;

Whereas that the Municipality's contractual management policy has become, by the modifications of this article, a by-law as of January 1st, 2018;

Whereas that the contract management by-law dating from 2011 must be revised in order to integrate the new measures;

Whereas that this regulation must provide for at least seven (7) types of measures, namely:

1. measures promoting compliance with applicable laws that are designed to combat bid rigging;
2. Measures to ensure compliance with *the Lobbying Transparency and Ethics Act* (R.S.Q., c. T 11. 011) and the *Code of Conduct for Lobbyists* (R.S.Q., c. T-11.011, r. 2)
3. Measures to prevent acts of intimidation, influence peddling or corruption.
4. Measures to prevent conflict of interest situations.
5. Measures to prevent any other situation that could compromise the impartiality and objectivity of the bidding process and the management of the resulting contract.
6. Measures to control the making of any decision that has the effect of authorizing the amendment of a contract.
7. Measures to promote the rotation of potential contractors with respect to contracts involving an expenditure of \$25,000 or more, but less than the threshold requiring a public call for tenders (article 935 of the *C.M.*) and which may be awarded by mutual agreement.

Whereas that this by-law may also provide for the rules for the awarding of contracts which involve an expense of \$ 25,000 or more, but less than the threshold requiring public tenders, as permitted by the 4th paragraph of article 938.1.2 of the *C.M.* which may vary according to specific categories of contracts;

Whereas that this by-law meets an objective of transparency and sound management of public funds and that it must be distributed as widely as possible so that those affected by this by-law are aware of its objectives and the consequences in the event of non-compliance;

Whereas that a notice of motion was given on February 6th, 2023 and that a draft by-law was also presented at this meeting;

CONSEQUENTLY, Council decrees the following:

Article 1 - Preamble

The preamble forms an integral part of this by-law

Article 2 - Purpose of the regulation

The purpose of this by-law is:

To provide measures for the awarding and management of contracts granted by the Municipality, in accordance with article 938.1.2 of the *C.M.*

To provide rules for the awarding of contracts involving an expenditure of at least \$25,000, but less than the threshold requiring public tenders under Article 935 of the *C.M.* (\$121,200 on October 7, 2022).

To assure the taxpayers that the sums spent for the acquisition of goods and services are spent in such a way as to seek the best possible goods or services at the best possible price according to the context of the markets and according to the needs, while respecting the principles of transparency and sound management that they are entitled to expect from their representatives.

Article 3 - Definitions

In this by-law, the following words or expressions mean

Successful bidder: Any bidder having obtained a contract with the municipality by invitation or by call for tenders.

Call for tenders: A call for public or invitational tenders required by articles 935 and following of the M.C. but does not include requests for quotations made when a call for tenders is not required by law or this by-law.

Selection Committee: A group of persons appointed to evaluate the quality of a tender against objective criteria identified by law, by-law or tender documents.

Council: The Municipal Council of the Municipality of the Township of Low

contract by mutual agreement" means a written agreement outlining the terms and conditions between the municipality and a counterparty for the purchase, lease or sale of property, services or construction from which an obligation of a monetary nature arises and which has not been subject to a written or public invitation to tender.

Employee: An employee of the Municipality of the Township of Low including, but not limited to, an officer, professional or other employee whether unionized or not.

Local Supplier: A supplier, insurer or contractor having its head office, place of business, subsidiary or property within the Municipality.

Regional supplier: Supplier, insurer or contractor having its head office, an establishment or a subsidiary on the territory of the MRC de la Vallée-de-la-Gatineau, MRC des Collines-de-l'Outaouais, MRC de Pontiac and then on the territory of the Outaouais, preferred according to proximity..

Tenderer: any person or company that submits an offer during a call for tender's process.

Municipality: The Municipality of the Township of Low or any person authorized to act on its behalf.

Article 4 - Application

The application of the present by-law is under the responsibility of the Director General and Secretary-treasurer of the Municipality. The latter is responsible for the preparation of the report that must be submitted annually to Council concerning the application of the present by-law, in accordance with article 938.1.2 of the *C.M.*

This by-law applies to any contract entered into by the municipality, including a contract that is not referred to in one of the paragraphs of the first subparagraph of paragraph 1 of section 935 or in section 938.0.2 of the *C.M.*

This by-law does not apply to employment contracts.

This by-law applies regardless of who awards the contract, whether it is Council or any person to whom Council has delegated the power to spend and contract on behalf of the Municipality.

It is binding on bidders, suppliers and any other person who, by their actions, seeks to enter into a contract with the Municipality.

Article 5 - Rules for the awarding of contracts

The Municipality respects the rules of contracting provided for in the laws that govern it, including the *C.M.* In particular:

- a) it proceeds with invitations to tender when the law or the by-law adopted under article 938.0.1 of the *C.M.* imposes such a call for tenders, unless specific provisions to the contrary are provided for in this by-law.

- b) it shall proceed by public tender in all cases where a public tender is required by law or by the by-law adopted pursuant to section 938.0.1 of the M.C.
- c) it may proceed by mutual agreement in any case where it is permitted to do so by law or by this by-law.

Nothing in this by-law shall have the effect of limiting the ability of the Municipality to use any method of competition for the awarding of a contract, whether by public tender, by invitation or by request for quotation, even if it may legally proceed by mutual agreement.

5.1 Type of contracts

5.1.1 Insurance

| Price (including taxes) | Method of awarding | Responsible for authorizations |
|---|-----------------------------------|--------------------------------|
| Less than the minimum threshold requiring public tenders | By mutual agreement | Council resolution |
| Greater than or equal to the minimum threshold for public tendering | According to laws and regulations | Council resolution |

If insurance is obtained through a pool, it is not necessary to go through the above process.

5.1.2 Construction, Supply and Service Contract

A **construction contract** is a contract for the construction, reconstruction, renovation, repair or demolition of a building or civil engineering work such as site preparation, excavation, blasting, supply of products and/or materials, rental of equipment and machinery for the purpose of carrying out the work, provided that the work is provided for in the contract and is related to the contract, as well as the installation and repair of fixed equipment for a building or civil engineering work.

Supply contract means a contract for the purchase or rental of movable property, in which charges may be included for the installation, operation and maintenance of the property, as well as any equipment rental contract with a purchase option (lease).

Service contract means a contract for the provision of services in which parts or materials required for such provision may be included.

| Price (including taxes) | Method of award | Delegation (Including taxes) | Authorization Authority |
|---|---------------------------------------|---|---|
| Less than the minimum threshold requiring public tendering | By mutual agreement | Less than \$5,000 | Coordinator Foreman |
| | | Less than \$10 000 | Department Director |
| | | Less than \$25 000 | Director General and Assistant Director General |
| | Written invitation (minimum 2) | \$25,000 or more above the minimum threshold for public tendering | Council Resolution |
| Greater than or equal to the minimum threshold requiring public tenders | According to the laws and regulations | | Council Resolution |

Although contracts under \$25,000 may be awarded by mutual agreement, it is still recommended that a minimum of two bids be obtained where possible and where it would be more advantageous to the municipality.

In the case of an urgent situation (which is not an emergency measure decree) requiring an expenditure exceeding the threshold of a request for quotation, the Director General may proceed to award the contract by mutual agreement up to the minimum threshold requiring a call for public tenders.

5.1.3 Exclusive Practice Professional Services

Exclusive Practice Professional Service Contract means a contract for the provision of exclusive practice professional services which, by-law or regulation, may only be rendered by a physician, nurse, dentist, pharmacist, veterinarian, engineer, land surveyor, chartered accountant, lawyer or notary.

| Price (including taxes) | Method of award | Delegation (including taxes) | Authorization Authority |
|---|---------------------------------------|---|---|
| Less than the minimum threshold requiring public tendering | By mutual agreement | Less than \$5,000 | Coordinator Foreman |
| | | Less than \$10 000 | Department Director |
| | | Less than \$25 000 | Director General and Assistant Director General |
| Greater than or equal to the minimum threshold requiring public tenders | Written invitation (minimum 2) | \$25,000 or more above the minimum threshold for public tendering | Council Resolution |
| | According to the laws and regulations | | Council Resolution |

Although contracts under \$25,000 may be awarded by mutual agreement, it is still recommended to obtain at least two bids from professionals when possible and when it would be more advantageous for the municipality.

5.2 Other Considerations for OTC Contracts

5.2.1 Purchasing Groups

Notwithstanding section 5.1 and for reasons of sound management and economy, it may be advantageous to join a purchasing group, an RCM, a group of municipalities or a group of organizations to conclude a contract. Any membership of the municipality in a purchasing group must be previously authorized in accordance with the delegation of authority in 5.1.

The purchase of computer equipment will be done through the supplier of the computer equipment service contract on the condition that the supplier offers the public sector prices as defined by the call for tenders of the Government of Quebec.

5.2.2 Mutual agreement contract with a non-profit organization, an association or a cooperative

When the municipality enters into a contract by mutual agreement with a non-profit organization, association or cooperative, subcontracting is prohibited, except on an incidental basis, and the organization undertakes to provide the bulk of the services from its own resources. Unless the contracting rules in section 6.1 are followed.

5.2.3 Local Purchasing

The Municipality wishes to favour local suppliers, Quebec goods and services as well as suppliers, insurers and contractors having a place of business in Quebec secondarily, and this, within the limits permitted by the C.M.

a) Local supplier

The Municipality may award a contract to a local supplier who may not have provided the lowest price, provided that his offer does not exceed 5% more than the lowest price submitted by another supplier.

If there is no local supplier meeting the criteria of the preceding paragraph, the Municipality may award a contract to a regional supplier who has not necessarily provided the lowest price, provided that his offer does not exceed 5% more than the lowest price submitted by another supplier.

b) Purchases that promote economic and social development

The Municipality may award a contract to a supplier who is a Quebec social economy enterprise according to the principles of section 3 of the Social Economy Act (RLRQ, c. E-1.1.1) and who has not necessarily provided the lowest price, provided that his offer does not exceed 5% more than the lowest price submitted by another supplier.

c) Purchases of Quebec goods and services

The Municipality may award a contract to a supplier, insurer or contractor whose goods are produced or assembled in Quebec or whose services related to this contract are provided by suppliers, insurers or contractors having an establishment in Quebec and who have not necessarily provided the lowest price, provided that their offer does not exceed 5% more than the lowest price submitted by another supplier.

5.2.4 Right not to award the contract

In the event that the proposed price deviates significantly from the Municipality's estimate or if the bids submitted are unreasonable, disproportionate or obviously too low, the Municipality reserves the right not to award the contract.

5.2.5 Withdrawal of a Bid after Opening

In the context of a written request for quotation as well as an invitational or public call for tenders, the Municipality considers that a tender constitutes a commitment that must be respected by the tenderer. The Municipality considers that it has no advantage to allow the withdrawal of a tender once it has been opened. For these reasons, the Municipality does not allow, in its tender documents, the withdrawal of a tender by a bidder after the opening.

5.2.6 Method of awarding

When awarding a contract, one of the following methods of award shall apply:

Best Quality:

Award of the contract to the bidder offering the highest final score following a quality evaluation. The quality criteria are established in advance in the bid documents and disclosed to the invited suppliers.

Or

Lowest Price:

Awarding the contract on the basis of the lowest price. For this purpose, the municipality may provide that the lowest bid price be determined by taking into account the total acquisition cost, which is based on quantifiable and measurable elements identified prior to the solicitation of bids. The total acquisition cost shall include any additional costs not included in the bid price that would be incurred by the Municipality over the useful life of the goods or services acquired, including installation, maintenance, support and training costs, as well as the costs of any other item deemed relevant to the need to be filled.

Article 6 - Measures to promote the rotation of potential co-contractors when awarding contracts by mutual agreement involving an expenditure of at least \$25,000, but less than the threshold requiring a public call for tenders (Measure 7)

When awarding private contracts involving an expenditure of at least \$25,000, but less than the threshold requiring a public call for tenders, the Municipality must aim to involve as many businesses as possible from among those able to meet its needs by encouraging rotation among potential co-contractors, when possible.

Rotation should not, however, be at the expense of sound management of public expenditures.

Rotation may be carried out, among other things, according to the following principles:

- The degree of expertise required.
- The quality of the work, service, materials already provided or delivered to the Municipality.
- The time frame for execution/delivery
- The quality of the goods, services or work required
- The geographical location of the supplier in relation to the goods, services or work to be performed (less travel)
- Preparation of a list of suppliers according to the category of contract
- Call for interest from potential suppliers
- Any other criteria deemed relevant

Unless there are special circumstances, the person responsible for managing the contract fills out, as far as possible, the analysis form found in *appendix 6*.

Article 7 - Measures to Promote Compliance with Applicable Laws Against Bid-Rigging (Measure 1)

7.1 Mandatory reporting of collusion, rigging, influence peddling, intimidation and corruption

Any member of Council or civil servant to whom a situation of collusion, rigging, influence peddling, intimidation and corruption is brought to his or her attention, or if he or she witnesses such a situation, must report it to the person responsible for applying this by-law or, if the situation in question concerns this person, to the Assistant Director General of the Municipality.

7.2 Confidentiality and Discretion

Members of Council and employees of the Municipality must, within the framework of any call for tenders or awarding of a contract, even before or after the said process, exercise discretion and maintain, as far as possible, the confidentiality of information known to them concerning such a process.

They must therefore refrain at all times from disclosing the names of potential or actual bidders until the said bids have been opened.

Obligation of confidentiality of agents and consultants charged with drafting documents or assisting the Municipality in the call for tender's process.

Where applicable, any agent or consultant retained by the Municipality to draft tender documents or to assist the Municipality in such a process must, to the extent possible, maintain the confidentiality of his or her mandate, of any work carried out within the framework of this mandate and of any information brought to his or her knowledge within the framework of its execution.

To this end, any agent or consultant must, before undertaking his or her mandate, complete, sign and submit to the Municipality the confidentiality agreement provided for in Schedule 1 of this by-law

Article 8 - Measures to ensure compliance with the *Lobbying Transparency and Ethics Act* and the *Code of Conduct for Lobbyists* (Measure 2)

8.1 Retention of information relating to an influential communication

Council members and public servants must keep, as the case may be, in paper or electronic form, all documents, such as agendas, e-mails, telephone reports, letters, minutes of meetings, presentation documents, offers of services, faxes, etc., relating to any influential communication made by the Council. relating to any communication of influence made by a person to them, whether or not this communication was made in compliance with the *Lobbying Transparency and Ethics Act* (RLRQ, c. T-11.011), the *Code of Conduct for Lobbyists* (RLRQ, c. T-11.011,r.2) or the notices of the Lobbyists Commissioner.

8.2 Declaration regarding lobbying activities carried out with the Municipality

Every tenderer must attach to his tender a declaration solemnly stating that neither

he nor any of his collaborators, representatives or employees has engaged in any communication of influence for the purpose of obtaining the contract in contravention of the *Lobbying Transparency and Ethics Act* or, if such a communication of influence has taken place, that it has been made after any registration has been made in the Lobbyists Registry when required under the Act. This declaration shall be made on the form set out in Schedule 2.

Article 9 - Measures to prevent intimidation, influence peddling or corruption (Measure 3)

9.1 Declaration of absence of collusion and attempt to influence a selection committee

Every bidder must attach to its bid a declaration (Appendix 2) in which it states that, to its knowledge and following serious verification, neither it, nor any employee, officer, director or shareholder of its company has attempted to communicate with a member of the selection committee, if any, with a view to influencing it or obtaining information relating to the call for tenders.

The Bidder must also declare that it has prepared its bid without collusion and without having communicated or made any agreement or arrangement with any competitor.

The Tenderer must also declare that there has been no agreement or arrangement with a competitor with respect to prices, methods, factors or formulas for establishing prices, the decision to submit a Tender or not to submit a Tender, the submission of a Tender that does not meet the specifications of the Invitation to Tender, directly or indirectly, prior to the earlier of the time of the official opening of the Tenders or the award of the contract.

9.2 Advantages to a civil servant, officer, member of the council, selection committee

It is strictly forbidden for a bidder, a supplier or a buyer to make offers, donations, payments, gifts, remuneration or any other advantage to an official, member of Council or the selection committee, except as provided for in the various codes of ethics of the Municipality.

Article 10 - Measures to Prevent Conflict of Interest (Measure 4)

10.1 Declaration of Interest by City Officials

Within days following the opening of bids or the awarding of a contract, municipal employees associated with the conduct and preparation of a bidding process or the awarding of a contract must complete and provide a declaration (*appendix 3*) to declare family ties, business ties and pecuniary interests, if any, with bidders who have submitted bids on the awarding of a contract that they have had to prepare or manage.

10.2 Declaration of interest of the Tenderer

When submitting a bid, a bidder must make a statutory declaration (*appendix 2*) indicating whether he/she personally, or through his/her directors, shareholders or officers, has any family, financial or other ties likely to create an appearance of conflict of interest, whether directly or indirectly, with members of Council or officials of the Municipality.

10.3 Relationship to a Bidder

The existence of a link between a bidder and a member of Council, an official of the Municipality does not result in the automatic rejection of the bid. The Municipality reserves the right to take any measure permitted by the Act, if it deems that the conflict of interest is of such intensity as to warrant awarding the contract to another bidder.

Article 11 - Measures to Prevent Other Situations that May Compromise the Impartiality and Objectivity of the Bid Solicitation Process and the Management of the Resulting Contract (Measure 5)

11.1 Loyalty

Any member of Council, official of the Municipality must refrain at all times from using his or her functions to favour the awarding of a contract to a particular bidder.

11.2 Selection of Invited Bidders

The Municipal Council delegates to the Director General and to the directors of the various departments the authority to select the invited bidders within the framework of an invitation to tender. This is to allow persons with the best knowledge of the need to participate in the selection of bidders.

11.3 Delegation of Authority to Appoint Selection Committee Members to Analyze Bids

In order to maintain the confidentiality of the identity of the members of the selection committee, Municipal Council delegates to the Director General or Assistant Director General the authority to appoint any member of the selection committee responsible for analyzing the tenders in the context of a call for tenders using criteria other than price alone, in accordance with the prescribed process.

11.4 Appointment of a Secretary

In order to assist and supervise, when required, the work of the members of a selection committee responsible for analyzing certain tenders, an employee of the Municipality shall act as secretary to the selection committee. The secretaries of the selection committees shall be appointed by the Director General or the Assistant Director General.

11.5 Statutory Declaration by Committee Members and Secretary

The members and the secretary of a selection committee must, before the committee meets, complete and provide a declaration (*appendix 4 or 5*). This declaration provides, among other things, that the committee members will judge the bids submitted by the bidders without bias, favour or ethical consideration and that they will proceed with an individual analysis of the quality of each compliant bid received, prior to the evaluation by the selection committee.

The committee members and the committee secretary shall also affirm that they will not, under any circumstances, disclose the mandate entrusted to them by the Municipality, that they will maintain the secrecy of the deliberations, that they will take all appropriate precautions to avoid placing themselves in a potential conflict of interest situation and that they will not have any direct or indirect interest, pecuniary or not, real or apparent, in the call for tenders. If they fail to do so, they formally undertake to declare their interest and to terminate their mandate.

11.6 Transmission of information to bidders

A person responsible for information to bidders, whose function is to provide administrative and technical information concerning the current call for tenders to potential bidders, is designated for each call for tenders. Any questions or comments regarding the bidding process or the subject matter of the contract being solicited must be addressed in writing only to the designated Bidder Information Officer, whose contact information appears in the bidding documents, or in the absence of the Bidder Information Officer, to the designated alternate.

This person must be an employee of the Municipality and not be appointed as a member of the selection committee for the evaluation of tenders, if applicable.

In addition to providing administrative and technical information, the person in charge is the only one who can issue addendums within the framework of the call for tender's process for which he is designated or in the absence of his designated replacement. He must ensure that he provides and gives access to bidders to impartial, uniform, equal information and eliminate any favouritism and ensure that free competition has been preserved throughout the process.

11.7 Site Visit

The Municipality wishes to limit site visits to projects that are of a scope that cannot be accurately described in the tender documents. These visits will only be conducted by appointment with the tender document holders. These visits will be conducted on an individual basis.

The person in charge of information to bidders is the person designated to supervise the visits. He may mandate the person he wishes to accompany the visitors when he deems it appropriate. In this case, the person mandated must sign a declaration to the effect that he/she recognizes that he/she cannot communicate any information or comments to the visitors and that he/she undertakes to respect the confidentiality of the identity of these visitors.

Visitors are invited to communicate their questions and comments to the Information Officer. The Information Officer will issue a response addendum to communicate the relevant information to all potential bidders.

Article 12 - Measures to control the making of any decision that has the effect of authorizing the amendment of a contract (Measure 6)

The Municipality may not amend a contract awarded following a call for tenders, except in the case where the amendment constitutes an accessory to the contract and does not change its nature.

For any request to amend a contract for an amount greater than the delegation authorized under the delegation of powers by-law in effect, the person responsible for the project must present a written request indicating the reasons justifying the amendment and submit it to the Director General and the Director of the department involved, if applicable. They shall make a recommendation to Municipal Council as appropriate. A resolution of Council is required when the cumulative number of changes exceeds the delegated authority.

Article 13 - Performance Evaluation

The Municipality may provide in its tender documents that it reserves the right to conduct a performance evaluation of the successful bidder following the completion of the subject matter of the contract. The person identified in the tender documents as the responsible party is automatically designated to conduct the performance evaluation.

The successful tenderer may, at his or her discretion, provide comments to the Chief Administrative Officer following receipt of a performance evaluation under this by-law and report the comments and recommendation to the members of Council.

An unsatisfactory performance evaluation may result in the Municipality refusing any tender from a contractor or supplier who, during the two (2) years preceding the date of the opening of tenders, has been the subject of an unsatisfactory performance evaluation.

Article 14 - Whistleblowing

Any member of Council, civil servant of the Municipality, as well as any other person working for the Municipality, involved in the preparation of contractual documents or in the awarding of contracts, must denounce, as soon as possible, the existence of any derogation to the measures set out in articles 7 to 13 of the present by-law, either by a legal person, company or enterprise likely to conclude a contract with the Municipality.

A member of Council makes this denunciation to the Director General and Secretary-Treasurer, the Assistant Director General and Assistant Secretary-Treasurer, to the Mayor, the civil servants and any other person working for the Municipality. When the denunciation directly or indirectly involves the Mayor or the Director General and Secretary-Treasurer, the denunciation is made to the one who is not involved. If both are involved, the denunciation shall be made to the Acting Mayor, or another member of Council not involved. The person receiving the report shall treat it with diligence and take appropriate action based on the nature of the situation reported.

Article 15 - Sanctions

15.1 Sanctions for the civil servant

The obligations imposed by this by-law are an integral part of any employment contract between the Municipality and a civil servant. Any contravention of the present by-law is therefore subject to disciplinary sanctions modulated according to the principle of the gradation of sanctions and according to the seriousness of

the contravention committed by the civil servant. A contravention of this by-law by an employee may result in suspension without pay, dismissal, discharge or termination of contract.

15.2 Sanctions for Contractor, Agent, Consultant or Supplier

Any contractor, agent, consultant, supplier or purchaser who contravenes this by-law or the content of a declaration signed by him/her in application of this by-law may have his/her contract unilaterally terminated and be removed from the list of suppliers of the Municipality constituted for the granting of contracts by mutual agreement or by invitation, for a possible period of five (5) years.

15.3 Sanctions for the Tenderer

Any tenderer who, directly or indirectly, contravenes the obligations imposed on him by the present by-law or the content of a declaration signed by him in application of the present by-law may have his tender rejected if the breach reproached is of a serious nature, unilaterally terminate the contract already awarded and have his name removed from the list of suppliers of the Municipality, constituted for the awarding of contracts by mutual agreement or by invitation, and this, for a possible period of five (5) years.

15.4 Penalties

No person shall contravene or permit the contravention of any provision of this by-law.

Any person who knowingly contravenes or permits the contravention of Sections 7 to 13 of this by-law is guilty of an offence and is liable to a fine in the amount of \$5,000 to \$30,000 in the case of an individual and \$15,000 to \$100,000 in the case of a corporation, regardless of any other action that may be taken by Municipal Council.

In the case of a repeat offence, the minimum and maximum fines shall be doubled.

In all cases, court and out-of-court costs shall be added to the fine in accordance with applicable legislation.

If the offence is continuous, this continuity constitutes, day by day, a separate offence and the fine enacted for this offence may be imposed for each day that the offence lasts.

Article 16 - Information Document

The Municipality shall publish, on its website, the information document relating to contract management attached in Annex 8, so as to inform the population and potential contractors of the measures taken by the Municipality within the framework of the present by-law.

Article 17 - Enactment and Replacement

This by-law replaces the contract management policy adopted on February 7, 2011, under resolution number 021-02-2011

Article 18 - Coming into force

This by-law shall come into force on the day of its adoption by the Municipal Council.

Carole Robert
Maire

Sandra Martineau
Directrice générale et greffière-
trésorière

Notice of motion:
Adoption of the bylaw:
Publication (posting):
Coming into force:

February 6, 2023
March 6, 2023

**APPENDIX I
CONFIDENTIALITY UNDERTAKING BY SERVICE PROVIDERS AND/OR
CONSULTANTS**

Title of the tender:...

Bid Number:...

(Hereinafter referred to as "SUPPLIER" or "CONSULTANT")

PREAMBLE

WHEREAS, in accordance with the Municipal Code of Quebec and the contract management by-law adopted by municipal council resolution number 2023-041 on March 6, 2023, the Municipality of the Township of Low must, within the framework of the development, awarding process and management of the contracts it grants or concludes, keep certain information confidential;

WHEREAS, as of, 2023, a service contract has been entered into between the Municipality of the Township of Low and the SUPPLIER or CONSULTANT for the purpose of drafting tender documents and assisting the Municipality of the Township of Low in this process or other type of mandate;

WHEREAS, in the course of its contract performed on behalf of the Municipality of the Township of Low, the SUPPLIER or CONSULTANT may have access to, become aware of, use and create various items of information of a confidential nature and for which the Municipality is required by law to maintain confidentiality.

WHEREAS the Municipality of the Township of Low agrees to disclose various items of information of a confidential nature to the SUPPLIER or CONSULTANT, and the SUPPLIER or CONSULTANT agrees to have access, knowledge, use and create various items of information of a confidential nature, in accordance with the terms and conditions set forth in this Undertaking (hereinafter referred to as "this Undertaking")

WHEREAS PROVIDER or CONSULTANT desires to confirm its undertaking in writing.

AS A RESULT OF THE FOREGOING, SUPPLIER OR CONSULTANT AGREES AS FOLLOWS:

1. Preamble

The preamble is an integral part of this Undertaking.

2. Subject Matter

2.1 Disclosure of Confidential Information

When required by the requirements of the awarded contract, but always at its sole discretion, the Municipality of the Township of Low agrees to disclose to the PROVIDER or CONSULTANT various items of information of a confidential nature that are proprietary to the Municipality of the Township of Low or inherent to the awarded contract or entrusted to it in the course of a tendering process (hereinafter collectively referred to as "the Confidential Information" or "Confidential Information" in accordance with the terms and conditions set out in this Commitment.

2.2 Treatment of Confidential Information

Being likely to have access to, become aware of, use and create various items of Confidential Information in the course of its contract with the Municipality of the

Township of Low, the PROVIDER or CONSULTANT agrees to treat such Confidential Information in accordance with the terms and conditions set forth in this Commitment.

3. Consideration

3.1 Duty of confidentiality

For good and valuable consideration, including but not limited to the continuation of its contract, the payment of remuneration arising out of the performance of its contract, and other benefits that may arise from such contract, the SUPPLIER or CONSULTANT covenants and agrees with the Municipality of the Township of Low to:

- a) Keep secret and not disclose any confidential information.
- b) Take and implement all appropriate measures to maintain the secrecy of the confidential information.
- c) Not to disclose, communicate, transmit exploit, use or otherwise make use, for its own benefit or for the benefit of others, of the Confidential Information, in whole or in part, other than in accordance with this Undertaking and for the purposes set out herein.
- and -
- d) Comply with each and every applicable provision of this Commitment.

3.2 Duration of Confidentiality Obligation

SUPPLIER's or CONSULTANT's obligation of confidentiality shall remain in effect:

- a) For the duration of the contract awarded by the Township of Low;
- b) For an unlimited period following the end of the contract awarded by the Municipality of the Township of Low, with respect to any confidential information relating to the mandate awarded or the tendering process or any other information required to be protected and not disclosed by the Municipality of the Township of Low under the laws applicable to the Municipality of the Township of Low in this regard as well as under its Contract Management By-law.

3.3 Return of Confidential Information

Upon completion of the contract awarded, the SUPPLIER or CONSULTANT agrees and undertakes to the Municipality of the Township of Low to:

- a) Deliver upon request to the Municipality of the Township of Low, at the Municipality of the Township of Low's Town Hall or at such other place as may be designated by an authorized representative of the Municipality of the Township of Low, all confidential information in its possession; and
- b) In this context, not to retain any reproduction (copy, photocopy, draft, summary or otherwise), in whole or in part, in any medium whatsoever, of all or any part of the confidential information unless such information is to be preserved in accordance with a law, standard or code of ethics to be followed by the PROVIDER OR CONSULTANT.

4. Penalties for Failure to Comply with this Agreement

If the SUPPLIER or CONSULTANT fails to comply with one or more of the provisions of this Undertaking, in whole or in part, it shall be subject to one or more of the following sanctions, in addition to those provided by law and without prejudice to any other rights or remedies of the Municipality of the Township of Low:

- a) Cancellation of access rights to the Confidential Information covered by this Undertaking and the equipment containing the Confidential Information.
- b) Termination of the contract with the Municipality of the Township of Low.
- c) Removal of the name of the SUPPLIER or CONSULTANT from the Municipality of the Township of Low's list of suppliers.
- d) Imposition of a monetary penalty as provided for in Section 15.4 of this by-law shall be payable from the time the Municipality of the Township of Low becomes aware of the breach of this Undertaking.

5. Effective Date of Agreement

This Undertaking shall become effective upon the conclusion of the contract for the preparation of the tender documents and/or assistance to the Municipality of the Township of Low in this process between the Municipality of the Township of Low and the SUPPLIER or CONSULTANT.

In the event that such date is subsequent to the execution of this undertaking, this undertaking shall become effective upon execution.

Signed at _____ on this _____ 202__.

CONTRACTOR or CONSULTANT

Name

Signature

APPENDIX 2

BIDDER'S DECLARATION

Tender title:...

Tender Number:...

I, the undersigned, in submitting the attached tender or offer (hereinafter called the "Tender") to the Municipality of the Township of Low (hereinafter called the "Municipality")

For _____

(name and tender number)

Declares the following and certifies that these statements are true and complete in all respects.

I declare on behalf of _____ that:
(name of bidder hereinafter referred to as the "bidder")

- 1) I have read and understand the contents of this declaration.
- 2) I am aware that the attached bid may be disqualified if the statements contained in this declaration are not true or complete in all respects.
- 3) I am aware that the contract, if awarded to me, may be terminated if the statements contained in this declaration are not true or complete in all respects.
- 4) I am authorized by the Bidder to sign this Declaration and to submit the attached Bid on its behalf.
- 5) All persons whose names appear on the attached bid have been authorized by the bidder to set the terms and conditions therein and to sign the bid on its behalf.
- 6) For purposes of this statement and the attached bid, I understand that the word "competitor" means any organization or person, other than this bidder:
 - a) Who has been invited by the RFP to submit a bid.
 - b) Who could potentially submit a Bid as a result of the Invitation to Tender on the basis of their qualifications, skills or experience.
- 7) Bidder declares the statements that apply (check only the appropriate boxes):
 - (a) that I have prepared this bid without collusion and without having communicated or made any agreement or arrangement with any competitor
 - (b) that I have prepared this bid after having communicated or entered into an agreement or arrangement with one or more competitors and disclose in the attached document all details relating thereto including the names of the competitors and the reasons for such communications, agreements or arrangements;
- 8) Without limiting the generality of the foregoing in Section 7 (a) or (b), I represent that there has been no communication, agreement or arrangement with any competitor with respect to:
 - (a) prices;
 - (b) the methods, factors or formulas for establishing prices; or
 - (c) the decision whether or not to submit a bid.
 - (d) the submission of a bid that does not meet the specifications of the tender.
 - (e) except as specifically disclosed in accordance with Section 7 (b) above.
- 9) In addition, there has been no communication, agreement or arrangement with any competitor with respect to the details of the quality, quantity, specifications or delivery of the goods or services covered by this tender, except as specifically

authorized by the Municipality or specifically disclosed in accordance with Section 7 (b) above.

10) The terms and conditions of the attached tender have not been and will not be intentionally disclosed by the tenderer, directly or indirectly, to any competitor prior to the earlier of the time of the official opening of tenders or the award of the contract, unless required to do so by law or required to be disclosed in accordance with Section 7 (b).

11) I declare that, to the best of my knowledge and after due diligence, no attempt to influence, influence or unduly pressure or obtain information relating to a call for tenders from the selection committee has been made at any time by me, any of the Tenderer's employees, officers, directors, partners or shareholders in the event that such committee is responsible for studying our tender.

12) The bidder declares (check the appropriate box):

(a) no lobbying activities have been conducted by or on behalf of the Respondent.

I declare that I have not engaged in and no one has engaged in lobbying activities on behalf of the Respondent, whether as an enterprise lobbyist, consultant lobbyist or organization lobbyist, within the meaning of the *Lobbying Transparency and Ethics Act* (R.S.Q., c. T 11 011) and the notices issued by the Lobbyists Commissioner, with respect to the process preceding this Request for Proposal.

(b) Lobbying activities have been carried out by or on behalf of the bidder.

I declare that lobbying activities within the meaning of the *Lobbying Transparency and Ethics Act* (R.S.Q., c. T -11 011) and the notices issued by the Lobbyists Commissioner have been carried out by the Respondent or on its behalf with respect to the process preceding this public call for tenders and that they have been carried out in compliance with this Act, these notices and the Code of Conduct for Lobbyists.

13) I declare (check the appropriate box for your situation):

(a) I personally, nor any of the directors, shareholders, partners or officers of the Respondent, have any family, financial, business or other relationship that could create the appearance of a conflict of interest, directly or indirectly, with any member(s) of Council, officer(s) of the Municipality;

(b) that I personally, or through the Bidder's directors, shareholders, partners or officers, have any family, financial or other relationship that could create the appearance of a conflict of interest, directly or indirectly, with any of the following council members, officer(s) of the municipality.

Full name

Position

Signature

Date

Witness

APPENDIX 3

DECLARATION OF INTEREST OF A PUBLIC SERVANT

I have family ties, pecuniary interests or business ties with the following legal persons, companies or businesses that are suppliers or bidders to the Municipality in the call for tender's process or the awarding of a contract:

(Insert tender number and title):

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

Employee's first and last name

Signature of employee

Date

APPENDIX 4

STATEMENT BY SELECTION COMMITTEE MEMBER

Title of tender :

Bid Number:

I, the undersigned, _____ member of the selection committee duly appointed by the Director general, the Assistant Director general or the Finance Department of the Municipality of the Township of Low to proceed with the qualitative evaluation of the bids in the above-mentioned call for tenders (hereinafter "the call for tenders");

Declare the following and certify that these statements are true and complete in all respects.

- 1) I undertake, in the exercise of the office entrusted to me, to judge the bids submitted by the bidders without bias, favor or consideration, according to the ethics;
- 2) I also undertake to conduct an individual quality analysis of each compliant bid received, prior to evaluation by the selection committee.
- 3) I undertake not to divulge in any way the mandate entrusted to me by the Municipality of the Township of Low and to maintain the secrecy of the deliberations of the committee.
- 4) I declare that I will take all appropriate precautions to avoid placing myself in a situation of real or potential conflict of interest and that I have no direct or indirect interest in the call for tenders, failing which, I formally undertake to declare my interest and to terminate my mandate.

I have read and understand the contents of this declaration.

First and last name of committee member

Signature of committee member

Date

APPENDIX 5

STATEMENT BY THE COMMITTEE SECRETARY

Title of tender: ...

Tender number: ...

I, the undersigned, _____ secretary of the selection committee duly appointed to this position by the Director General, the Assistant Director General or the Finance Department of the Municipality of the Township of Low in order to assist, as defined in the Municipality's Contract Management By-law the selection committee in the exercise of its duties under the Quebec Municipal Code and the Municipality's Contract Management By-law in the qualitative evaluation of bids in the above-mentioned call for tenders (hereinafter the "call for tenders"):

Declares the following and certifies that these statements are true and complete in all respects.

- 1) I undertake not to divulge in any way the mandate entrusted to me by the Municipality and to maintain the secrecy of the deliberations made in committee.
- 2) I declare that I will take all appropriate precautions to avoid placing myself in a situation of real or potential conflict of interest and that I have no direct or indirect interest in the call for tenders, failing which, I formally undertake to denounce my interest immediately and to terminate my mandate.
- 3) I have reiterated to the members of this selection committee the importance of declaring any real or potential conflict of interest situation and they have all answered that they are not in such a situation.

I have read and understand the contents of this declaration.

Secretary's first and last name

Signature of Secretary

Date

**APPENDIX 6
ANALYSIS FORM FOR THE CHOICE OF PROCUREMENT METHOD**

| Needs of the Municipality | | | |
|---|--------------------------|--------------------------|--------------------------|
| Purpose of the contract | | | |
| Specific objectives (desired savings,quality, environment,etc.) | | | |
| Estimated value of expenditure (including renewal options) | | Duration of contract | |
| Target market | | | |
| Target region | | Number of known firms | |
| Is participation by all known firms desirable | | Yes | No |
| | | <input type="checkbox"/> | <input type="checkbox"/> |
| If not justify | | | |
| Estimated cost of preparing a bid | | | |
| Other relevant information | | | |
| Procurement method selected | | | |
| OTC | <input type="checkbox"/> | Invited bidding | <input type="checkbox"/> |
| Request for quotation | <input type="checkbox"/> | Open public bidding | <input type="checkbox"/> |
| Regional public bidding | <input type="checkbox"/> | | |
| In the case of a direct contract, have the measures in the Contract Management Regulations to encourage rotation been considered? | | Yes | No |
| | | <input type="checkbox"/> | <input type="checkbox"/> |
| If yes, what measures were involved? | | | |
| If not, what is the reason rotation is not considered? | | | |
| Signature of person responsible | | | |
| | | | |
| First name, last name | Signature | Date | |

APPENDIX 7 - PERFORMANCE EVALUATION

| | |
|---|---|
| 1 IDENTIFICATION OF THE MUNICIPALITY DIRECTOR | |
| Name of director and department: | |
| Address : | |
| Telephone : | Fax : |
| Email | |
| Name of person responsible for the contract: | |
| 2 IDENTIFICATION OF CONTRACTOR OR SUPPLIER | |
| Name : | |
| Address : | |
| Telephone : | Fax : |
| Email : | |
| Name of person in charge : | |
| 3 CONTRACT IDENTIFICATION | |
| Contract number : | |
| Project summary description : | |
| Industry : | |
| Professional services : <input type="checkbox"/> | Construction work : <input type="checkbox"/> |
| Services of a technical nature: <input type="checkbox"/> | Procurement : <input type="checkbox"/> |
| Contract start date : | Expected contract end date : |
| 4 PERFORMANCE EVALUATION | |
| SUGGESTED CRITERIA | JUSTIFICATION (detail reason) |
| Unsatisfactory performance with respect to: | |
| Delivery conditions | <input type="checkbox"/> |
| Quality of human and /or physical resources | <input type="checkbox"/> |
| Quality of communications and collaboration | <input type="checkbox"/> |
| Timeliness of delivery | <input type="checkbox"/> |
| Quality of services rendered or compliance of the property | <input type="checkbox"/> |
| Compliance with the obligations and requirements of the specification | <input type="checkbox"/> |
| Any other criteria deemed relevant | <input type="checkbox"/> |
| Overall rating : | Satisfactory : <input type="checkbox"/> Unsatisfactory : <input type="checkbox"/> |
| Action taken to correct identified problem: | |
| Comments on evaluation (if applicable): | |
| Name and title of person who completed the evaluation: | |
| Signature : | Date : |
| Name and title of the director of the department | |
| Signature : | Date : |

| | | |
|---|--|-------------|
| 5 | CONTRACTOR/VENDOR REPRESENTATIVE | |
| Comments (within 30 days of receipt of performance evaluation) | | |
| | | |
| I acknowledge that I have read the evaluation made on the contractor or vendor for whom I am the representative | | |
| Representative of the contractor or supplier: | | |
| Signature | | Date |
| 6 | CONFIRMATION OF UNSATISFACTORY PERFORMANCE REPORT | |
| comments received from contractor or vendor: | | |
| Yes <input type="checkbox"/> No <input type="checkbox"/> Date received : | | |
| Comments (if any) : | | |
| | | |
| | | |
| Name of director general and secretary-treasurer | | |
| Signature : | | Date |
| Municipal resolution number : | | Date |

APPENDIX 8

BACKGROUND

The Municipality has adopted By-law 2023-005 on contract management which provides for measures to

- Promote compliance with applicable laws aimed at combating bid-rigging.
- Ensure compliance with the Lobbying Transparency and Ethics Act (R.S.Q., c. T-11.011) and the Code of Conduct for Lobbyists (R.S.Q., c. T-11.011, r. 2).
- Prevent acts of intimidation, influence peddling or corruption.
- Prevent situations of conflict of interest.
- Prevent any other situation likely to compromise the impartiality and objectivity of the request for estimate or tender process and the management of the resulting contract.
- To oversee the making of any decision that has the effect of authorizing the amendment of any contract.
- To promote, to the extent possible and in accordance with the criteria and principles set out in the by-law, the rotation of potential contractors with respect to contracts involving an expenditure of at least \$25,000, but less than the threshold decreed by the Minister, and which may be entered into by mutual agreement by the Municipality pursuant to the by-law.

This by-law can be consulted by clicking on the link below:

Any person who intends to enter into a contract with the Municipality is invited to read the Contract Management By-law and to contact the Director General and Secretary-Treasurer if they have any questions in this regard.

In addition, any person who has information concerning the non-respect of any of the measures contained therein is invited to inform the Director General and Secretary-Treasurer or the Mayor. If necessary, the latter will take the appropriate measures or forward the complaint and documentation to the competent authorities.