



**QUEBEC**

**MUNICIPALITY OF THORNE**

**MRC OF PONTIAC**

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**BY-LAW NUMBER 2021-02 ON CONTRACT MANAGEMENT**

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**REGULAR MEETING** OF COUNCIL OF THE MUNICIPALITY OF THORNE, HELD ON JUNE 1, 2021, AT 7:00 P.M., AT THE REGULAR MEETING PLACE OF COUNCIL, AT WHICH WERE PRESENT:

**THE MAYOR : KAREN KELLY**

BOARD MEMBERS :

MEGAN BRETZLAFF

DEBORAH STAFFORD

MARSHA BEAN

ROBERT CHARETTE

ROBERT WILLS

JAMMIE-LEE COURSOL

All members of the board and forming a quorum.

**WHEREAS** a Contract Management Policy was adopted by the Municipality on December 9, 2010, in accordance with Article 938.1.2 of the Quebec Municipal Code (hereinafter referred to as "M.C.")

**WHEREAS**, Section 938.1.2 M.C. was repealed, effective January 1, 2018, requiring municipalities, as of the latter date, to adopt a contract management bylaw, however, the current policy of the Municipality is deemed to be such a bylaw;

**WHEREAS** the purpose of this by-law is to ensure transparency and sound management of public funds;

**WHEREAS** a notice of motion was given and a draft by-law was tabled at the meeting of June 1, 2021;

THEREFORE, IT IS PROPOSED BY :

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AND SECONDED BY :

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AND UNANIMOUSLY RESOLVED THAT THIS BY-LAW BE ADOPTED AND THAT IT BE ORDERED AND DECREED AS FOLLOWS:

**CHAPTER I**

DECLARATORY AND INTERPRETATIVE STATEMENTS

**SECTION I**

DECLARATORY STATEMENTS

**1. Purpose of this By-law**

The purpose of this by-law is to provide measures for the awarding and management of contracts awarded by the Municipality in accordance with Article 938.1.2 "M.C.".

The purpose of this by-law is:

**2. Field of application**

This by-law applies to any contract concluded by the Municipality, including a contract that is not referred to in one of the subparagraphs of the first paragraph of subsection 1 of section 935 or in sections 938.0.1 and 938.0.2 "M.C.".

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

**SECTION II**

INTERPRETATIVE MEASURES

**3. Interpretation of the text**

This by-law shall be interpreted in accordance with the principles of the Interpretation Act (R.S.Q,c. I-16).

It shall not be interpreted as permitting any derogation from the mandatory requirements of the laws governing municipal contracts, unless such laws expressly permit derogation by this by-law, including, for example, certain measures provided for in Chapter II of this by-law.

#### **4. Other agencies or organizations**

The Municipality recognizes the importance, the role and the powers granted to other agencies that can investigate and act with respect to the objects covered by certain measures provided for in this by-law. This includes, in particular, measures aimed at preventing acts of intimidation, influence peddling, corruption, bid-rigging, as well as those aimed at ensuring compliance with the Lobbying Transparency and Ethics Act and the Code of Conduct for Lobbyists adopted pursuant to this Act.

#### **5. Special rules of interpretation**

This bylaw shall not be interpreted:

- (a) in a restrictive or literal manner;
- (b) as restricting the Municipality's possibility to contract by mutual agreement, in cases where the law allows it.

The measures provided for in this bylaw shall be interpreted :

- (a) in accordance with the principles set out in the preamble to the Act primarily to recognize municipalities as local governments and to increase their autonomy and powers as such (2017, c. 13) (Bill 122) recognizing, among other things, municipalities as local governments and providing elected officials with the legitimacy to govern in accordance with their powers.
- (b) in such a way as to respect the principle of proportionality and thus ensure that the steps related to the measures imposed are proportionate to the nature and amount of the expense of the contract to be concluded, having regard to the costs, the time required and the size of the Municipality.

#### **6. Terminology**

Unless the context otherwise requires, words and phrases used in this by-law have the following meanings:

- |                      |   |
|----------------------|---|
| " Call for tenders " | means a public or invitational call for tenders required by sections 935 et seq. of the Municipal Act or a regulation made under that Act. The term "call for tenders" does not include requests for quotations where no call for tenders is required by law or by this by-law. |
| "Bidder"             | means any person who submits a bid in a tender process.   |

**CHAPITRE II**  
**CONTRACTING POLICIES AND ROTATION**

**7. Generalisation**

The Municipality complies with the contracting requirements of its governing statutes, including the M.C. Specifically:

- (a) proceed by way of an invitational tender where such a tender is required by law or by a by-law made pursuant to an Act, unless otherwise specifically provided for in this by-law;
- (b) it shall proceed by public tender in all cases where public tendering is required by law or by a regulation made under the Act;
- (c) may proceed by mutual agreement where it is permitted to do so by law or by this by-law.

Nothing in this by-law shall be interpreted as limiting the ability of the Municipality to use any form of competitive bidding for the issuance of a contract, whether by public tender, by invitation or by request for quotation, even though it may lawfully proceed by mutual agreement.

**8. Contracts may be entered into by mutual agreement**

Subject to the applicable measures set out in this by-law, any contract for an expenditure of less than \$25,000 may be entered into by mutual agreement by the Municipality or, where applicable, by any person who has been delegated the power to authorize expenditures, award contracts and form selection committees for and on behalf of the Municipality.

**9. Invitation to tender**

Any contract with an expenditure of \$25,000 or more, but less than the expenditure threshold of a contract that can only be awarded after a public solicitation pursuant to Section 935 M.C., shall be subject to invitational bidding from at least two (2) bidders in accordance with Section 936 M.C.

Where applicable, the Municipality must respect the minimum time limits for receipt as well as the rules relating to the opening of tenders, as provided by law.

**10. Public tender**

Any contract for which the amount of the expenditure exceeds the expenditure threshold of a contract that can only be awarded after a public tender under section 935 M.C. must be publicly tendered in accordance with that provision.

Where applicable, the Municipality must respect the minimum time limits for receipt as well as the rules relating to the opening of tenders, as provided by law.

**11. Measures favouring Quebec goods and services, as well as suppliers, insurers and contractors with an establishment in Quebec**

**11.1. Effective Date**

Section 11 of this by-law shall be effective on and after June 25, 2021, or the day this by-law comes into force, whichever is later, and shall remain effective until June 25, 2024.

**11.2 Local Purchasing**

In awarding any contract that involves an expenditure below the decreed threshold of a contract that can only be awarded after a public request for tenders, the Municipality must favour Quebec goods and services as well as suppliers, insurers and contractors who have an establishment in Quebec.

An establishment in Quebec, within the meaning of this section, is any place where a supplier, insurer or contractor carries on business on a permanent basis that is clearly identified in its name and accessible during normal business hours.

Quebec goods and services are goods and services of which the majority of their design, manufacture, assembly or realization is done from an establishment located in Quebec.

**11.3 Principles**

The Municipality, in making a decision on the awarding of a contract referred to in this article, shall consider the following principles in particular:

- a) the degree of expertise required;
- (b) the quality of the work, services or materials already provided or delivered to the Municipality;
- (c) the time required to perform the work, supply the material or materials or provide the services;
- (d) the quality of the goods, services or work sought;
- (e) the terms of delivery;
- (f) maintenance services;
- (g) experience and financial capability required;
- (h) competitiveness of the price, taking into account all market conditions;
- i) the fact that the supplier has a place of business in the Municipality;
- (j) any other criteria directly related to the contract.

## **11.4 Measures**

In order to promote the Quebec economy, the Municipality applies, to the extent possible and unless there are special circumstances, the following measures:

- a) potential suppliers are identified before awarding the contract. If the territory of the Municipality has more than one supplier, this identification may be limited to the latter territory or, as the case may be, the territory of the MRC or any other geographic region of the Province of Quebec that will be deemed relevant, given the nature of the contract to be awarded
- b) once the suppliers have been identified and considering the principles listed in section 11.3, Quebec goods and services as well as suppliers, insurers and contractors who have an establishment in Quebec must be favoured, unless there are reasons related to sound administration
- c) the Municipality may proceed with a call for interest in order to identify suppliers likely to meet its needs
- d) for the categories of contracts it determines, for the purpose of identifying potential suppliers, the Municipality may also establish a list of suppliers.

## **CHAPTER III MEASURES**

### **SECTION I MUTUAL AGREEMENTS**

#### **12. Generalisation**

For certain contracts, the Municipality is not subject to any particular competitive bidding procedure (public call for tenders or by invitation). The present by-law cannot have the effect of restricting the possibility for the Municipality to proceed by mutual agreement for these contracts. These contracts include, but are not limited to:

- which, by their nature, are not subject to any tendering process (contracts other than insurance contracts for the performance of work, supply and services);
- specifically exempted from the bidding process (including those listed in section 938 M.C. and contracts for professional services required in connection with an action before a court, agency or person performing judicial or adjudicative functions;
- insurance, for the performance of work, procurement or services (including professional services) involving an expenditure of less than \$25,000.
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### **13. Measures**

Where the Municipality chooses to award a contract by mutual agreement, the following measures shall apply, unless such measures are inconsistent with the nature of the contract:

a) Lobbying

- Measures provided for in Articles 17 (Duty of information of elected officials and employees) and 18 (Training);

b) Intimidation, influence peddling or corruption

- Measure provided for in Article 20 ( Denoucciation);

c) Conflict of interest

- Action under Section 22 (Denoucciation);

(d) Amendment of a contract

- Action under Section 28 (Amendment of Contract).

### **14. Information Document**

The Municipality shall publish, on its website, the Contract Management Information Document attached as Appendix 1, in order to inform the public and potential contractors of the measures taken by the Municipality under this by-law.

#### **SECTION I BID RIGGING**

### **15. Sanction for collusion**

A provision shall be included in the tender documents to allow the Municipality to reject a tender if it is clearly established that there has been collusion with any person in contravention of any law against bid-rigging.

### **16. Declaration**

Every Bidder shall attach to its Bid, or at the latest prior to the award of the contract, a solemn declaration that its Bid has been prepared and submitted without collusion, communication, agreement or arrangement with any person in contravention of any law designed to prevent bid-rigging. This declaration must be made on the form attached as Appendix 2.

**SECTION III**  
**LOBBYING**

**17. Duty of information of elected officials and employees**

Any member of council or any official or employee shall remind any person who takes the initiative to contact him or her in order to obtain a contract of the existence of the Lobbying Transparency and Ethics Act, when he or she believes that there is a contravention of that Act.

**18. Training**

The Municipality encourages the participation of council members, officials and employees in training designed to inform them of the legislative and regulatory provisions applicable to lobbying.

**19. Declaration**

Every bidder must attach to its bid or, at the latest before the awarding of the contract, a solemn declaration stating that neither it nor any of its 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 registered in the Lobbyists Registry when such a registration is required under the Act. This declaration must be made on the form attached in Schedule 2.

**SECTION IV**  
**INTIMIDATION, INFLUENCE TRADING OR CORRUPTION**

**20. Denunciation**

Any member of Council, any officer or employee, as well as any other person working for the Municipality must denounce, as soon as possible, any attempt at intimidation, influence trafficking or corruption that he or she has witnessed in the course of his or her duties. This measure shall not be interpreted as limiting the right of the person concerned to file a complaint with the police or another public authority.

A member of Council shall make this denunciation to the Director General; the Director General to the Mayor; the other officers and employees as well as any person working for the Municipality, to the Director General. When the denunciation directly or indirectly involves the Mayor or the Director General, the denunciation is made to the one who is not involved. If both are involved, the information shall be given to the Pro-Mayor or to another member of Council who is not involved. The person receiving the report shall deal with it promptly and take appropriate action based on the nature of the situation reported.

**21. Declaration**

Every bidder must attach to its bid, or at the latest before the awarding of the contract, a solemn declaration stating that neither it nor any of its collaborators, representatives or employees has engaged, within the framework of the call for tenders, in acts of intimidation, influence trafficking or corruption, against a member of Council, an officer or employee or any other person working for the Municipality. This declaration must be made on the form attached as Schedule 2.

**SECTION V  
CONFLICTS OF INTEREST**

**22. Denunciation**

Any member of Council, any officer or employee, as well as any other person working for the Municipality, involved in the preparation of contractual documents or in the awarding of contracts, must disclose, as soon as possible, the existence of any pecuniary interest in a legal person, company or enterprise likely to conclude a contract with the Municipality.

A member of Council shall make this denunciation to the Director General; the Director General to the Mayor; the other officers and employees and any other person working for the Municipality, to the Director General. When the denunciation directly or indirectly involves the Mayor or the Director General, the denunciation is made to the one who is not involved. If both are involved, the information shall be given to the Pro-Mayor or to another member of Council who is not involved. The person receiving the report shall deal with it expeditiously and take appropriate action based on the nature of the situation reported.

**23. Declaration**

When the Municipality uses a bid weighting and evaluation system, every member of the selection committee must solemnly declare in writing, before beginning the evaluation of bids, that he or she has no particular pecuniary interest, direct or indirect, with respect to the contract being evaluated. He shall also undertake not to disclose the mandate entrusted to him by the Municipality, nor to use, communicate, attempt to use or communicate, both during and after his mandate, any information obtained in the exercise or on the occasion of the exercise of his duties as a member of the selection committee. This declaration must be made on the form attached as Appendix 3.

**24. Minimal pecuniary interest**

Minimal pecuniary interest is not covered by the measures described in sections 22 and 23.

**SECTION VI**  
**IMPARTIALITY AND OBJECTIVITY OF THE BIDDING PROCESS**

**25. Responsible for the call for tenders**

Every call for tenders shall identify a contact person and shall provide that any potential bidder or bidder shall contact that single contact person for any information or clarification relating to the call for tenders.

**26. Questions from bidders**

The tendering administrator shall compile the questions asked by each of the bidders during the tendering process and issue an addendum, if deemed necessary, so that all bidders receive answers to the questions asked by others.

The tendering administrator has full discretion to judge the relevance of the questions asked and those requiring a response, and may consolidate and rephrase certain questions for the purpose of providing responses to bidders.

**27. Denunciation**

Any member of Council, any civil servant or employee, as well as any other person working for the Municipality, must, as soon as he or she is informed, denounce the existence of any situation, other than a conflict of interest, likely to compromise the impartiality and objectivity of the call for tenders process and the management of the resulting contract.

A member of Council shall make this denunciation to the Director General; the Director General to the Mayor; the other officers and employees and any other person working for the Municipality, to the Director General. When the denunciation directly or indirectly involves the Mayor or the Director General, the denunciation is made to the one who is not involved. If both are involved, the information shall be given to the Pro-Mayor or to another member of Council who is not involved. The person receiving the report shall deal with it expeditiously and take appropriate action based on the nature of the situation reported.

**SECTION VII**  
**AMENDMENT OF A CONTRACT**

**28. Amendment of a contract**

Any amendment to a contract that has the effect of increasing its price must be justified by the person responsible for managing the contract, taking into account the applicable rules for authorizing such an amendment.

The Municipality may not amend a contract awarded as a result of a call for tenders, except where the amendment is incidental to the contract and does not change its nature.

**29. Site meetings**

When justified by the nature of the work, the Municipality encourages the holding of regular site meetings to ensure the follow-up of the execution of the contract.

**CHAPITRE IV  
ADMINISTRATIVE AND FINAL PROVISIONS**

**30. Application of the by-law**

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

**31. Repeal of the Contract Management Policy**

This by-law replaces and repeals the Contract Management Policy adopted by Council on December 9, 2010 and deemed, as of January 1, 2018, to be a contract management by-law pursuant to Section 278 of the Act to Recognize Municipalities Primarily as Local Governments and to Increase Their Autonomy and Powers as Such (2017, c.13).

**32. Entry into force and publication**

This by-law shall come into force in accordance with the law and shall be published on the Municipality's website.

In addition, a copy of this by-law shall be forwarded to the MAMH, in accordance with the law.

Adopted in Ladysmith, this 6 day of July 2021

_____	_____
Karen Kelly	Stacy Lafleur
Mayor	Director General and Secretary-Treasurer
Notice of motion :	June 1, 2021
Presentation of the draft by-law:	June 1, 2021
Adoption of the by-law :	July 6, 2021
Notice of enactment:	July 9, 2021
Transmission to MAMOT:	July 9, 2021

**APPENDIX 1**  
**INFORMATION DOCUMENT**  
**(Contract Management)**

(Section 14 of Contract Management By-law 2021-02)

The Municipality has adopted a Contract Management By-law which provides for measures such as the following:

- promote the respect of applicable laws against bid-rigging;
- ensure the respect of the Lobbying Transparency and Ethics Act and the Code of Conduct for Lobbyists adopted under this Act;
- prevent acts of intimidation, influence trafficking or corruption;
- prevent situations of conflict of interest;
- prevent any other situation that could compromise the impartiality and objectivity of the bidding process and the resulting contract management;
- provide a framework for making any decision that has the effect of authorizing the amendment of a contract;

This by-law can be consulted by clicking on the link below: (<http://www.thorneque.ca/bylaw.htm>).

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 if they have any questions in this regard.

In addition, any person who has information regarding the non-compliance of any of the measures contained therein is invited to inform the Director General or the Mayor. If necessary, the Director General or the Mayor will take appropriate measures or refer the complaint and documentation to the appropriate authorities.

**APPENDIX 2  
BIDDER'S DECLARATION  
(Contract Management)**

I, the undersigned, bidder or representative of the bidder \_\_\_\_\_,  
solemnly declare that to the best of my knowledge :

- a) this bid has been prepared and submitted without collusion, communication, agreement or arrangement with any other person in violation of any anti-bid-rigging law;
- b) neither I nor any of the Bidder's associates, representatives or employees engaged in any influence peddling for the purpose of obtaining the contract, or, if such influence peddling did occur, I declare that such peddling was the subject of a registration with the Lobbyist Registry, as required by law where applicable;
- c) neither I nor any of the collaborators, representatives or employees of the bidder have engaged in any act of intimidation, influence peddling or bribery against any member of Council, official or employee or any other person working for the Municipality in connection with this request for tenders

**AND I SIGNED:**

\_\_\_\_\_  
[Redacted]

Solemnly affirmed before me at [Redacted]

this [Redacted]<sup>e</sup> day of [Redacted] 2021

\_\_\_\_\_  
[Redacted]

Commissioner of Oaths for Quebec

**APPENDIX 3  
STATEMENT BY A MEMBER OF A SELECTION COMMITTEE**

I, the undersigned, a member of the selection committee for (identify the contract), solemnly declare that I have no special pecuniary interest, direct or indirect, in this contract.

I undertake not to divulge the mandate entrusted to me by the Municipality, nor to use, communicate, attempt to use or communicate, either during or after my mandate, any information obtained in the performance of my duties as a member of the selection committee.

**AND I SIGNED:**

\_\_\_\_\_  
[Redacted]

Solemnly affirmed before me at [Redacted]

this [Redacted]<sup>e</sup> day of [Redacted] 2021

\_\_\_\_\_  
[Redacted]

Commissioner of Oaths for Quebec

**APPENDIX 4**  
**ANALYSIS FORM FOR SELECTING A CONTRACTING METHOD OF DELIVERY**

<b>NEED OF THE MUNICIPALITY</b>		
Purpose of the contract		
Specific objectives (desired savings, quality, environment, etc.)		
Estimated value of the expenditure (including renewal options)	Period of the contract	
<b>TARGET MARKET</b>		
Target region	Number of known companies	
Is the participation of all known companies desirable?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
Otherwise justify.		
Estimate the cost of preparing a bid.		
Other relevant information		
<b>SELECTED METHOD OF AWARDING</b>		
Mutual agreement <input type="checkbox"/>	Invitation to tender <input type="checkbox"/>	
Price request <input type="checkbox"/>	Public tender open to all <input type="checkbox"/>	
Regionalized public tender <input type="checkbox"/>		
In the case of a mutually agreed upon contract, have the measures in the Contract Management Regulations to encourage rotation been considered?	Yes <input type="checkbox"/> No <input type="checkbox"/>	
If so, what measures are involved?		
If not, why is rotation not an option?		
<b>SIGNATURE OF THE PERSON IN CHARGE</b>		
First name, last name	Signature	Date

