

**PROVINCE OF QUEBEC
MRC OF ARGENTEUIL
MUNICIPALITY OF THE TOWNSHIP OF HARRINGTON**

Resolution #2025-03-R052

BY-LAW NUMBER 368-2025 on contract management

WHEREAS a Contract Management Policy was adopted by the Municipality on December 6, 2010, by Resolution No. 175-2010, in accordance with Article 938.1.2 of the *Municipal Code of Québec* (hereinafter referred to as “C.M.”).

WHEREAS article 938.1.2 C.M. was replaced, on January 1st, 2018, obliging municipalities, as of the latter date, to adopt a contract management by-law, the Municipality's current policy however being deemed to be such a by-law.

WHEREAS by-law 291-01-2021 was adopted on June 14, 2021.

WHEREAS the *Act to amend the Act respecting municipal taxation and other legislative provisions* (S.Q. 2023, chapter 33), assented to December 8, 2023 (Bill 39), as well as the *Act to enact the Act to protect elected municipal officers and promote the unimpeded performance of their duties and to amend various legislative provisions respecting municipal affairs* (S. Q. 2024, chapter 24), assented to June 6, 2024 (Bill 57), modify certain provisions of the CM regarding certain measures that may be adopted by Municipalities in their contract management by-laws.

WHEREAS it is necessary to repeal by-law 291-01-2021 and by-law 288-2018 in order to adopt the present contract management by-law to add the provisions made mandatory by these laws.

WHEREAS this by-law must notably provide for:

- Measures to ensure that any bidder or one of its representatives has not communicated or attempted to communicate, for the purpose of influencing the bidder, with any member of the selection committee in connection with the solicitation for which the bidder has submitted a bid.
- Measures to ensure compliance with applicable laws against bid-rigging.

- Measures to ensure compliance with the Lobbying Transparency and Ethics Act and the Code of Conduct for Lobbyists adopted under the Act.
- Measures to prevent acts of intimidation, influence peddling or corruption.
- Measures to prevent conflict of interest situations.
- Measures to prevent any other situation likely to compromise the impartiality and objectivity of the bidding process and resulting contract management.
- Measures to control the making of any decision that has the effect of authorizing the modification of a contract.

WHEREAS this by-law meets the objective of transparency and sound management of public funds.

WHEREAS a notice of motion was given by _____ and a Draft by-law was presented and tabled at the meeting of _____.

WHEREAS every Municipality must make its policy accessible at all times by publishing it on the Internet site.

WHEREAS a copy of the by-law was distributed to Council members 72 hours prior to the adoption of this by-law, in accordance with the provisions of the Quebec Municipal Code (RLRQ, c. C-27.1).

WHEREAS copies of the by-law were made available to the public following the presentation of the by-law.

WHEREAS the members of the Council declare having read said by-law and renounce to its reading.

CONSEQUENTLY,

IT IS MOVED BY: _____

AND CARRIED THAT the present by-law be adopted and IT IS HEREBY ORDAINED AND PASSED AS FOLLOWS:

CHAPTER I

DECLARATORY AND INTERPRETATIVE PROVISIONS

SECTION I

DECLARATORY PROVISIONS

1. Preamble

The preamble to these by-laws forms part of these by-laws as if it were reproduced in full below.

2. Purpose of the by-law

The purpose of the present by-law is to provide measures for the awarding and management of contracts granted by the Municipality, in accordance with article 938.1.2 C.M. The whole to promote transparency in the awarding of municipal contracts while respecting the rules relating to the awarding of such contracts provided for in the laws governing the operation of municipal organizations.

3. Scope of application

3.1 This by-law applies to any contract entered into by the Municipality, including a contract that is not covered by one of the subparagraphs of the first paragraph of subsection 1 of article 935 or by articles 938.0.1 and 938.0.2 *C.M.*

3.2 The present by-law applies regardless of the authority awarding the contract, whether it is the Council or any person to whom the Council has delegated the power to spend and enter into contracts on behalf of the Municipality.

3.3 The present by-law applies to all members of the Council, municipal employees, bidders on a call for tenders, suppliers and any person who has an interest in obtaining a contract with the Municipality or who is taking steps to do so.

3.4 Agents, tenderers and consultants retained by the Municipality, regardless of their mandate, are required to comply with the present by-law in the exercise of the mandate entrusted to them.

3.5 The present by-law forms an integral part of all tender documents, with which bidders must comply.

3.6 The present by-law aims to ensure transparency and the sound management of public funds with regard to the citizens of the Municipality. They may submit any concerns regarding contraventions of the present by-law to the general management.

3.7 This by-law is intended to ensure transparency and sound management of public funds for the Municipality's citizens. They may submit to the general management any worrisome situations involving contravention of this by-law.

3.8 The Municipality recognizes the importance, role and powers granted to other bodies that may investigate and take action with regard to matters covered by certain measures provided for in the present by-law. This includes, in particular, measures aimed at preventing acts of intimidation, influence peddling, corruption and 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.

SECTION II

INTERPRETATIVE PROVISIONS

4. Interpretation of the text

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

It shall not be interpreted as permitting derogation from the mandatory provisions of the laws governing Municipality contracts, unless such laws expressly permit derogation by this by-law.

5. Special rules of interpretation

This by-law shall not be interpreted:

- a) Restrictively or literally.
- b) As restricting the Municipality's ability to contract by mutual agreement, in cases where the law allows it to do so.

The measures provided for in the present by-law must be interpreted:

- c) 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, in particular, municipalities as being local governments and elected officials, the legitimacy necessary to govern according to their attributions.
- d) So 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 expenditure of the contract to be

intervened, having regard to the costs, the time required and the size of the Municipality.

6. Terminology

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

“Call for tenders”: Public or invitational call for tenders required by articles 935 et seq. C.M. or a by-law adopted pursuant to this Act. The expression “call for tenders” does not include requests for quotations made when no call for tenders is required by law or by this by-law.

“Bidder”: Any person who submits a bid during a call for tenders process.

“Local purchasing”: Favours or prioritizes the purchase of a good or service from a supplier located on the Municipality's territory or on the territory of the MRC of Argenteuil, at an equivalent price and quality.

SECTION III

RULES FOR AWARDING CONTRACTS

7. General information

The Municipality complies with the rules governing the awarding of contracts set out in its governing legislation, including the C.M. More specifically:

- a) It proceeds by invitation to tender when the law or the by-law adopted pursuant to article 938.0.1 C.M. imposes such a call for tenders, unless a specific provision to the contrary is provided for in the present by-law.
- b) It proceeds by public call for tenders in all cases where a public call for tenders is imposed by law or by the by-law adopted pursuant to article 938.0.1 C.M..
- c) It may proceed by mutual agreement in cases where the law or the present by-law allows it to do so.

Nothing in the present by-law may have the effect of limiting the Municipality's ability to use any competitive bidding method for the awarding of a contract, whether by public call for tenders, by invitation or by request for quotation, even if it may legally proceed by mutual agreement.

7.1 Whenever possible and in the best interests of the Municipality, Quebec or otherwise Canadian goods and services, as well as companies with an establishment in Quebec or elsewhere in Canada, are preferred to any other competitor when awarding a contract by mutual agreement or when sending out a written call for tenders when the amount of the expenditure is below the threshold determined by the Minister requiring recourse to a public call for tenders.

In the case of mutual agreement contracts, the Municipality prefers to send requests for quotations to these companies in preference to any other competitor, when such requests are justified. In the event of equality of price, quality of service or, more generally, any offer comparable in its essential elements between a Québec company and a Canadian company, the Municipality gives preference to awarding the contract to the Québec company.

For contracts awarded following a written call for tenders, if it is not possible or not in the Municipality's interest to limit itself to such persons, the Municipality must review its requirements to determine whether a new wording can be used to favour them before proceeding with the call for tenders.

If, despite this review of the requirement, it remains necessary or in the Municipality's interest to include persons who do not meet the objective of the first paragraph, the Municipality may revise its procurement strategy to consider awarding the contract by mutual agreement, where permitted.

Where circumstances do not permit or justify favouring such firms, the Municipality may enter into a contract with another competitor.

7.2 When the Municipality uses the measure set out in article 7.1 of the present by-law, it proceeds with a rotation of the co-contractors when awarding contracts by mutual agreement or inviting bids, if this is possible and in its best interest. The Municipality must consider the following factors, in order to determine if it can favor rotation:

- a) The degree of expertise required.

- b) The Municipality's previous customer experience.
- c) Contract lead times.
- d) Experience and financial capacity required.
- e) Proposed price.
- f) Any other criteria directly related to the contract.

When such rotation is possible and in the Municipality's interest, it will select a different contractor or invite different bidders from previous contracts in the same field.

7.3 For the purposes of this section, an establishment in Quebec is any place where a supplier, insurer or contractor carries out its activities on a permanent basis, which is clearly identified with its name and accessible during normal business hours.

Quebec goods and services are goods and services for which the majority of their design, manufacture, assembly or performance is carried out from an establishment located in Quebec.

The Municipality, when making a decision regarding the awarding of a contract covered by this article, applies the following concept:

7.3.1 In the event of equal competence or quality, the Municipality may favour the awarding of a contract to a company with an establishment in Québec and offering Québec products and services when the price submitted by the latter differs by less than 10% from the lowest bid, subject to the provisions applicable to contracts that may only be awarded after a request for public tender.

8. By mutual agreement

For certain contracts, the Municipality is not subject to any specific competitive bidding procedure (public call for tenders or by invitation). The present by-law may not restrict the Municipality's right to proceed by mutual agreement for these contracts. In particular, these are contracts:

- Which, by their nature, are not subject to any tendering process (contracts other than insurance contracts for the execution of work, supply and services).
- Expressly exempt from the tendering process (notably those listed in article 938 *C.M.* and contracts for professional services required

as part of an appeal before a court, body or person exercising judicial or jurisdictional functions.

- Insurance, for the performance of work, supplies or services (including professional services) involving an expenditure of less than \$50,000.

9. Local purchasing

The Municipality may award a contract by mutual agreement to a local supplier who does not necessarily offer the lowest price, provided that, for at least the same quality, its offer does not exceed 10% more than the best price submitted by a supplier outside the Municipality.

10. Measures

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

- a) Lobbying
 - Measures provided for in articles 16 and 17.
- b) Intimidation, influence peddling or corruption
 - Measures provided for in article 20.
- c) Conflict of interest
 - Measures provided for in article 22.
- d) Modification of a contract
 - As per article 35.

11. Invitation to tender contract

The Municipality reserves the right to award a contract, the value of which varies between \$50,000 and the threshold decreed by the Minister, following a call for invitational tenders, whenever possible, from at least two suppliers.

Any call for tenders where the analysis of bids is based solely on price is awarded to the bidder submitting the lowest price.

Any call for tenders where the analysis of bids is based on an evaluation method using qualitative criteria and a weighting grid is awarded to the bidder with the highest score.

The external consultant carrying out the call for tenders procedure, in particular the preparation of tender documents, must, at the Municipality's request, sign an undertaking to comply with the present by-law.

In the case of a call for tenders by invitation, the identity of invited bidders may not be made public until the bids have been opened.

Persons (natural persons or legal entities) may obtain tender documents from the place designated in the call for tenders or from the electronic tendering system (SEAO) by paying the required fees, where applicable. Apart from the said system and the persons designated in the tender documents, no one is authorized to act in the name of or on behalf of the Municipality to issue these documents.

12. Contract by public call for tenders

Any contract involving an expenditure equal to or greater than the threshold decreed by the Minister is awarded following a public call for tenders as prescribed by the general regime governing the awarding of Municipality contracts, the *Québec Municipal Code* and the *Act respecting contracting by public bodies*.

13. Information document

The Municipality must publish, on its Internet site, the information document relating to contract management attached in Appendix 1, in order to inform the public and potential contractors of the measures taken by the Municipality within the framework of the present by-law.

SECTION IV

BID RIGGING

14. Penalties for collusion

A provision shall be inserted in the tender documents allowing the Municipality to reject a bid if it is clearly established that there has been collusion with any person in contravention of any law designed to combat bid rigging.

15. Declaration

All bidders must attach to their bids a solemn declaration that their bids have 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 V

LOBBYISM

16. Duty of elected representatives and employees to provide information

Any member of the Council or any civil servant or employee must remind any person who takes the initiative of contacting him or her to obtain a contract of the existence of the *Lobbying Transparency and Ethics Act*, when he or she believes that there has been a contravention of this Act.

17. Training

The Municipality encourages the participation of Council members, civil servants and employees in training sessions designed to inform them of the legislative and regulatory provisions applicable to lobbying.

18. Declaration

All bidders must attach to their bids a solemn declaration stating that neither they nor any of their 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 communication of influence has occurred, that it has been registered in the Lobbyists Registry when such registration is required by law. This declaration must be made on the form attached as Appendix 2.

SECTION VI

INTIMIDATION, INFLUENCE PEDDLING OR CORRUPTION

19. Reporting

Any member of Council, any civil servant or employee, as well as any other person working for the Municipality must denounce, as soon as possible, any attempt at intimidation, influence peddling or corruption which he has witnessed in the course of his duties. This measure shall not

be interpreted as limiting the right of the person concerned to lodge a complaint with the police or any other public authority.

A member of Council shall report the matter to the Director General; the Director General to the Mayor; and other civil servants 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 general management, the denunciation is made to the person not involved. If both are involved, the denunciation is made to the deputy mayor or to another member of the Municipality's Council who is not involved. The person who receives the denunciation must treat it with diligence and take the appropriate measures according to the nature of the situation denounced.

20. Declaration

All bidders must attach to their bids a solemn declaration stating that neither they nor any of their collaborators, representatives or employees have engaged, in the context of the call for tenders, in acts of intimidation, influence peddling or corruption against a member of Council, a civil servant or employee or any other person working for the Municipality. This declaration must be made on the form attached in Appendix 2.

SECTION VII

CONFLICTS OF INTEREST

21. Disclosure

Any member of Council, any civil servant 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 enter into a contract with the Municipality.

A member of the Council must make this denunciation to the Director General; the Director General to the Mayor; other civil servants and employees, as well as any other person working for the Municipality, to the Director General. When the denunciation directly or indirectly involves the mayor or the general management, the denunciation is made to the person not involved. If both are involved, the denunciation is made to the deputy mayor or to another member of the Municipality's Council

who is not involved. The person who receives the denunciation must treat it with diligence and take the appropriate measures according to the nature of the situation denounced.

22. Declaration

When the Municipality uses a bid weighting and evaluation system, all members of the selection committee must solemnly declare in writing, before beginning the evaluation of bids, that they have no direct or indirect pecuniary interest in the contract being evaluated. He must also undertake not to divulge the mandate entrusted to him by the Municipality, nor to use, communicate or attempt to use or communicate, either during or after his mandate, any information obtained in the course of or in connection with the performance of his duties as a member of the selection committee. This declaration must be made on the form attached as Appendix 3.

23. Minimal pecuniary interest

Minimal pecuniary interest is not covered by the measures described in Articles 21 and 22.

SECTION VIII

CONFIDENTIALITY, DISCRETION, IMPARTIALITY AND OBJECTIVITY OF THE TENDERING PROCESS

24. Confidentiality and discretion

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

25. Prohibited disclosure

It is forbidden for anyone to disclose, prior to the opening of tenders and in compliance with the requirements of the Act, any information making it possible to know the number or identity of persons who have submitted a tender or who have requested a copy of the request for tender or of a document to which it refers.

26. Obligation of confidentiality of agents and consultants entrusted with drafting documents or assisting the Municipality in the tendering process

Where applicable, any agent or consultant appointed by the Municipality to draft tender documents or to assist the Municipality in the tendering process must, insofar as possible, maintain the confidentiality of his mandate, of any work carried out within the scope of this mandate and of any information brought to his knowledge in the course of its execution.

27. Selection of invited bidders

To maintain the confidentiality of the identity of bidders prior to the opening of tenders, the Municipality Council delegates to the General Manager the power to select invited bidders in the context of a call for tenders by invitation or in the context of a contract by mutual agreement.

28. Delegation of authority to appoint members of the selection committee responsible for analyzing tenders

To preserve the confidentiality of the identity of the members of the selection committee, the Municipality Council delegates to the General Manager the power to appoint any member of the selection committee responsible for analyzing tenders in the context of a call for tenders using criteria other than price alone, in accordance with the process prescribed by law.

29. Person responsible for the call for tenders

Every call for tenders shall identify a person in charge of the call for tenders and shall provide that any potential bidder or any bidder must contact this person in charge alone to obtain any information or clarification relating to the call for tenders.

30. Questions from bidders

The person in charge of the call for tenders compiles the questions asked by each bidder during the call for tenders process and issues, if he deems it necessary, an addendum, so that all bidders obtain the answers to the questions asked by the others.

The person in charge of the call for tenders has full discretion to judge the relevance of the questions asked and those requiring a response and may group and reformulate certain questions for the purposes of transmitting responses to bidders.

31. Whistleblowing

Any member of Council, any civil servant or employee, as well as any other person working for the Municipality must, as soon as they are 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 the Council makes this denunciation to the General Management; the General Management to the Mayor; other civil servants and employees, as well as any other person working for the Municipality, to the General Management. When the denunciation directly or indirectly involves the mayor or the general management, the denunciation is made to the person not involved. If both are involved, the denunciation is made to the deputy mayor or to another member of the Municipality's Council who is not involved. The person who receives the denunciation must treat it with diligence and take the appropriate measures according to the nature of the situation denounced.

32. Complaints management

The Municipality delegates responsibility for complaint management to the General Manager. Its role is to receive complaints about suspicious practices, collusion, rigging, influence peddling, intimidation and corruption, both from citizens and from bidders who feel aggrieved. In the event that the complaint involves general management, it is made to the mayor.

General management may submit any complaints of suspicious practice or illegal acts to the Ministry of Municipal Affairs and Housing (MAMH) complaints coordinator. Entities involved in the handling of complaints must maintain the confidentiality of the identity of the person making the complaint.

SECTION IX

AWARDING OF CONTRACTS

33. Right to reject bid(s)

The Municipality reserves the right not to accept bids that are significantly higher than market rates or the Municipality's cost estimates, or that are unreasonable or manifestly too low. Bids are considered too low when they are seriously likely to compromise the performance and/or quality of the contract to be awarded.

34. Division of contracts

The Municipality may only divide a contract into several similar contracts to the extent permitted by article 938.0.3 of the Municipal Code, i.e. in cases where such division is justified for reasons of sound administration.

35. Contract modification

Any modification made 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 a modification.

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

Non-modification of a contract is the rule, and modification the exception.

For all contract amendment requests, the project manager must submit a written request to General Management, stating the reasons for the amendment.

- For any amendment(s) to a contract totalling an expenditure of less than 10% of the cost of the original contract, up to the maximum that General Management has been delegated the power to authorize such expenditure by the by-law providing for the delegation of expenditure.
- Any such modification to the contract may be authorized in writing to General Management. The written authorization must state the reasons for authorizing the change and be submitted to the Municipal Council.
- For any amendment(s) to a contract involving an expenditure equal to or greater than 10% of the cost of the original contract, the General Manager must submit a recommendation to the Municipal Council. In such a case, the contract modification is only authorized by a resolution of the Municipal Council.

36. Site meetings

When justified by the nature of the work, the Municipality encourages the holding of regular worksite meetings to monitor the execution of the contract.

SECTION X

ADMINISTRATIVE AND FINAL PROVISIONS

37. Application of by-law

Application of this by-law is the responsibility of the Municipality's General Manager. The latter is responsible for preparing the report to be submitted annually to Council concerning the application of this by-law, in accordance with article 938.1.2 *C.M.*

38. Repeal of the Contract Management Policy

This by-law replaces and repeals by-law 291-01-2021 and by-law 288-2018 as amended.

39. Coming into force and publication

This by-law comes into force in accordance with the law and is published on the Municipality's website. In addition, a copy of this by-law is sent to the MAMH.

ADOPTED UNANIMOUSLY

Gabrielle Parr
Mairesse

Steve Deschênes
Directeur général

Notice of motion: February 17th, 2025
Tabling of the draft by-law: February 17th, 2025
Adoption of the by-law: March 4th, 2025
Transmission to the MAMH :
Entry into force:

APPENDIX 1
INFORMATION DOCUMENT
(Contract Management Regulations)

The Municipality has adopted Contract Management Regulations No. ***-2025, which provide for measures aimed at:

- measures to ensure that no tenderer or one of its representatives has communicated or attempted to communicate, with the aim of influencing, with one of the members of the selection committee in relation to the call for tenders for which they have submitted a tender.
- measures to promote compliance with applicable laws aimed at combating bid rigging.
- measures to ensure compliance with the Lobbying Transparency and Ethics Act and the Code of Conduct for Lobbyists adopted under this Act.
- measures to prevent intimidation, influence peddling or corruption.
- measures to prevent conflicts of interest.
- measures aimed at preventing any other situation likely to compromise the impartiality and objectivity of the tendering process and the management of the resulting contract.
- measures aimed at supervising the taking of any decision having the effect of authorizing the modification of a contract.

These regulations can be consulted by clicking on the link below:

https://harrington.ca/wp-content/uploads/2021/08/Gestion_contractuelle_291-1-2021_fr.pdf

Any person intending to enter into a contract with the Municipality is invited to read the Regulations on Contract Management and to contact the general management if they have any questions in this regard.

Furthermore, anyone who has information regarding non-compliance with any of the measures contained therein is invited to report it to the general management or to the mayor. The latter will see to it, if necessary, to take the appropriate measures or to forward the complaint and documentation to the competent authorities.

ANNEX 2
STATEMENT BY THE TENDERER
(Contract management)

I, the undersigned, tenderer or representative of the tenderer
_____, 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 contravention of any law aimed at combating bid rigging.
- b) Neither I nor any of the bidder's collaborators, representatives or employees have engaged in influence peddling for the purpose of obtaining the contract, or, if such influence peddling has taken place, I declare that this communication has been entered in the Lobbyists Register, as required by law, where applicable.
- c) Neither I nor any of the bidder's collaborators, representatives or employees have engaged in intimidation, influence peddling or corruption towards a member of the Council, an official or employee or any other person working for the Municipality in the context of this call for tenders.

AND I HAVE SIGNED:

Solemnly affirmed before me at _____

this _____th day of _____ 20____

Commissioner for oaths for Quebec

APPENDIX 3
DECLARATION BY THE MEMBER OF A SELECTION
COMMITTEE

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

I undertake not to disclose the mandate entrusted to me by the Municipality, and not to use, communicate or attempt to use or communicate, both during and after my term of office, any information obtained in the course of or in connection with the performance of my duties as a member of the selection committee.

AND I HAVE SIGNED:

Solemnly affirmed before me at _____

this _____th day of _____ 20_____

Commissioner for oaths for Quebec