

BY-LAW NO. 2023-251 REGARDING CONTRACT MANAGEMENT

REGULAR MEETING of the municipal council of the Municipality of Litchfield, (hereinafter called "Municipality"), held on August 8, 2023, at 7h00, at the ordinary place of the board meetings, at which meeting were present:

THE MAYOR COLLEEN LARIVIÈRE

MEMBERS OF THE COUNCIL:

Denis Dubeau
Emile Morin
Terry Racine
John Stitt
Rick Frost
Courtney Harris

All members of the council and forming quorum.

WHEREAS a Contract Management Policy was adopted by the Municipality on JUNE 15, 2021, in accordance with Article 938.1.2 of the *Municipal Code of Quebec* (hereinafter called "M.C.");

WHEREAS Article 938.1.2 M.C. was replaced on January 1, 2018, obliging municipalities, as of this date, to adopt a by-law regarding contract management;

WHEREAS the Municipality wishes, as permitted by Article 938.1.2 M.C., to provide contracting rules that involve an expenditure of at least \$ 25,000 and below the expenditure threshold of a contract that can be awarded only after a public bid in accordance with Article 935 M.C.;

WHEREAS consequently, Article 936 M.C. no longer applies to these contracts as from the entry into force of this by-law.

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

WHEREAS a notice of motion has been given and a draft by-law was presented at the meeting of July 10, 2023;

WHEREAS the Director General states that the purpose of this by-law is to provide for contract management measures for any contract to be concluded by the Municipality, including certain contracting rules for contracts involving an expense of at least \$ 25,000 and below the threshold requiring a public call for tenders;

CONSEQUENTLY, IT IS MOVED BY:

AND UNANIMOUSLY RESOLVED THAT HIS BY-LAW BE ADOPTED AND ENACTED AND ORDERED AS FOLLOWS:

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

- a) in accordance with the principles set out in the preamble to the *Act, which primarily recognize that municipalities are local governments and thereby increase their autonomy and powers* (2017, c.13) (Bill 122) recognizing municipalities as being governments of proximity and to the elected officials, the legitimacy necessary to govern according to their attributions;
- b) 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 contract expenditure to be incurred, considering the costs, the time required and the size of the Municipality.

6. Terminology

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

- “*Call for tenders*”: Invitation to tender or public invitation required by Articles 935 and the following, M.C., or the by-law adopted pursuant of this law. Are excluded from the expression “call for tenders”, the price requests that are formulated where no call for tenders is required by law or by this by-law.
- “*Council*”: For the purposes of this by-law, the term council refers to the municipal council.
- “*Bidder*”: Anyone who submits an offer during a process of a call for tenders.

CHAPTER II

RULES FOR AWARDING CONTRACT AND ROTATION

7. Generalities

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

- a) it shall proceed by invitation to tender when the law of by-law adopted pursuant to a law imposes such a call for tenders, unless a particular provision stipulated otherwise, that is provided for in this by-law;
- b) it shall proceed by public invitation to tender in all cases where a public call for tenders is required by law of by the by-law adopted pursuant to the law;
- c) it may proceed by mutual agreement in cases where the law or this by-law permits it to do so.

Nothing in this by-law may have the effect of limiting the possibility for the Municipality to use any method of calling for competition for the awarding of a contract, whether by public call for tenders, by invitation or by request for price, even if it can legally proceed by mutual agreement.

8. Contracts that may be concluded by mutual agreement

Subject to Article 11, any contract involving an expenditure of at least \$ 25,000, but less than the threshold of the expenditure of a contract which can be adjudicated only after a public call for tenders under Article 935 M.C., may be concluded by mutual agreement by the Municipality;

An establishment in Quebec, within the meaning of this article, is any place where a supplier, an insurer or a contractor carries out his activities on a permanent basis which is clearly identified with his name and accessible during normal office hours.

Quebec goods and services are goods and services, the majority of which of their design, manufacture, assembly or realization are made for the most part from an establishment located in Quebec.

The Municipality, in making a decision regarding the granting of a contract referred to in this article, considers in particular the principles and measures set out in terms of the rotation of potential suppliers and more specifically detailed in articles 9 and 10 of the by-law, under reserves of the necessary adaptations for local purchase.

CHAPTER III

MEASURES

SECTION I

MUTUEL AGREEMENT CONTACTS

11. Generalities

For certain contracts, the Municipality is not subject to any special competitive bidding procedure (public call for tenders or by invitation). This by-law may not have the effect or restricting the possibility for the Municipality to proceed by mutual agreement for these contracts. These include contracts:

- which, by their nature, are not subject to any tendering process (contracts other than insurance contracts, supply of material or materials, services and execution of works);
- expressly exempted from the tendering process (in particular, those listed in Article 938 M.C. and the professional services contracts necessary for an appeal to a court, body or person exercising adjudicative or judicial functions;
- insurance, for the performance of work, for the supply of material or materials or services (including professional services) that involve an expenditure of less than \$ 25,000.

12. Measures

When the Municipality chooses to grant, by mutual agreement, one or the other of the contracts mentioned in Article 11, the following measures apply, unless these measures are not compatible with the nature of the contract:

- a) Lobbying
 - Measures provided for in Articles 17 (duty to inform elected officials and employees) and 18 (training);
- b) Intimidation, bribery or corruption
 - Measures provided for in Articles 20 (denunciation);
- c) Conflict of interest
 - Measures provided for in Articles 22 (denunciation);
- d) Modification of a contract

was made after any registration has been made in the Lobbyists Registry when it is required by law. This declaration must be made on the form attached as Annex 2.

SECTION IV

INTIMIDATION, BRIBERY OR CORRUPTION

20. Denunciation

Any member of the council, any public servant or employee, as well as any other person working for the Municipality must denounce, as soon as possible, any attempt of intimidation, bribery or corruption which she / he has witnessed within the framework of her / his functions. This measure should not be interpreted as limiting the right of the person concerned to lodge a complaint with a police service or other public authority.

A member of council makes this denunciation to the Director General; the Director General to the Mayor; other public servants and employees as well as any person working for the Municipality, 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. The Director General of the Mayor must deal with the denunciation diligently and take the appropriate measures depending on the nature of the situation complained of, including reporting the situation to any other competent authority.

21. Declaration

Each bidder must enclose with her / his tender, or at the latest before the awarding of the contact, a declaration that neither she / he nor any of her / his collaborators, representatives or employees has engaged, in the process of the call for offers, in acts of intimidation, bribery or corruption, against a member of the council, a public servant, officer or employee or any other person working for the Municipality. This declaration must be made on the form attached as Annex 2.

SECTION V

CONFLICT OF INTEREST

22. Denunciation

Any member of the council, any public 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 denounce, as soon as possible, the existence of any pecuniary interest of a legal person, society or company likely to conclude a contract with the Municipality.

A member of the council makes this denunciation to the Director General; the Director General to the Mayor; other public servants and employees and any other person working for the Municipality, to the Director General. When the denunciation directly or indirectly involved the Mayor of the Director General, the denunciation is made to the one who is not involved. If both are involved, the information is reported to the acting Mayor or other non-involved municipal council member. The person who receives the information must treat it with diligence and take the appropriate measures according to the nature of the situation complained of.

23. Declaration

When the Municipality uses a system of weighing and evaluation of the tenders, all members of the selection committee must declare in writing, before starting the evaluation of the tenders, that she / he has no particular pecuniary interest, direct or indirect, in respect of the contract being evaluated. She / he must also undertake to not divulge the mandate entrusted to her / him by the Municipality, as well as to not use, communicate, attempt to use or communicate, both during her / his term of office and afterwards, information obtained in the course of or in connection with the performance of her / his duties as a member of the selection committee. This declaration must be made on the form attached as Annex 3.

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

The application of this by-law is the responsibility of the Director General of the Municipality. The latter is responsible for preparing the report to be submitted annually to the Council concerning the application of this by-law, in accordance with Article 938.1.2 M.C.

30. **Repeal of the contract management policy**

This by-law replaces and repeals the Contract Management Policy adopted by Council on June 15, 2021, adopted by Resolution C.M. 2021-06-94.


31. **Coming into force and publication**

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

Adopted in Litchfield, this August 8, 2023



Mayor



Director General

Notice of motion:	July 10, 2023
Presentation of draft by-law:	July 10, 2023
Adoption of by-law:	August 8, 2023
Notice of coming into force:	August 18, 2023
Transmission to MAMH:	August 25, 2023