

PROVINCE OF QUEBEC
CITY OF POINTE-CLAIRE

BY-LAW NUMBER PC-2887

BY-LAW RESPECTING CONTRACT
MANAGEMENT

In force on September 19th, 2018

AT THE REGULAR MEETING OF THE COUNCIL OF THE CITY OF POINTE-CLAIRE,
HELD AT CITY HALL, 451, SAINT-JEAN BOULEVARD, POINTE-CLAIRE, QUEBEC,
ON TUESDAY SEPTEMBER 11, 2018 AT 7:30 P.M.

PRESENT: Councillors C. Homan, T. Stainforth and K. Thorstad-Cullen, as
well as Councillors P. Bissonnette, C. Cousineau, B. Cowan,
E. Stork and D. Webb chaired by His Worship Mayor John
Belvedere forming a quorum of council.

AMONGST OTHER BUSINESS TRANSACTED AT SAID
MEETING WAS THE FOLLOWING:

BY-LAW NUMBER: PC-2887

RESOLUTION NUMBER: 2018-632

PROPOSED BY COUNCILLOR BISSONNETTE

SECONDED BY COUNCILLOR THORSTAD-CULLEN

AND RESOLVED:

WHEREAS a draft of the present By-law has been presented and notice of motion given at the meeting held on August 14th, 2018.

MUNICIPAL COUNCIL DECREES AS FOLLOWS:

BY-LAW RESPECTING CONTRACT MANAGEMENT

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PREAMBLE

The City of Pointe-Claire (« the City ») is governed by the *Act Respecting Cities and Towns* (C.Q.L.R., c. C-19) (“ACT”) which provides under its Section 573.3. 1.2, that every municipality must adopt a by-law on contract management.

The present by-law which is adopted in accordance with said provision includes provisions aimed at:

1. Ensuring compliance with any applicable anti-bid rigging legislation.
2. Ensuring compliance with the *Lobbying Transparency and Ethics Act* (C.Q.L.R., Chapter T-11.011) and the *Code of Conduct for Lobbyists* (C.Q.L.R., Chapter T-11.011, r. 2) adopted under that Act.
3. Preventing intimidation, influence peddling and corruption.
4. Preventing conflict of interest situations.
5. Preventing any other situation likely to compromise the impartiality or objectivity of a call for tenders or the management of the resulting contract.
6. Governing the making of decisions authorizing the amendment of a contract.
7. **Promoting rotation among prospective contracting parties for contracts that involve an expenditure of at least \$25,000 but below the expenditure threshold for a contract that may be awarded only after a public call of tenders under Section 573 ACT and that be made on mutual agreement.**
8. By integrating, as much as possible, the three pillars of sustainable development: environment, social and economic criteria.

CHAPTER I

GUIDING PRINCIPLES

1. **Principles** – The City wants to ensure that it is supplied at all times with goods and services in accordance with its needs and to the best possible market conditions.

To do so, the City favours competitiveness, respect of required quality standards and the highest ethical standards.

The City wants to limit its ecological footprint namely, by reducing its requirements at the source and by favouring the purchase of products that are environment friendly and/or by favouring social reintegration, local labour and social equity.

2. **Procurement process** – The procurement process, as reinforced by the present by-law, takes place within a legal and regulatory rigorous framework aimed at ensuring equity, integrity, transparency as well as sound management of public funds.

In order to enhance cost-efficiency, the cost, in relation with the useful life time of a product, must be taken into account when purchasing.

Taking into account sustainability and quality criteria, as stipulated in clear and precise evaluation grids, the product that costs the least, could not necessarily be the one that will be favoured at all times.

CHAPTER II

SCOPE OF BY-LAW

3. **Contemplated contracts** – The present by-law shall apply to any and all contracts entered into by the City, with the exception of labour related contracts.
4. **Tender documents** – The present by-law is an integral part of any tender document and any and all bidders must mandatorily state, in their bid, having acknowledged the present by-law and accept to comply with it.

5. **Contemplated persons** – The present by-law shall apply to all members of the City council, to the members of its various committees (including those persons appointed as members of selection committees having been formed to assess bids) to any organization contemplated in Section 573.3.5 of the Act Respecting Cities and Towns (C.Q.L.R., Chapter C-19) and to any member of such organization, to City employees and officers, to any person whose services are retained by the City within the framework of the contract awarding of management processes, as well as to any potential bidder of supplier.
6. **Loyalty** – Any and all Council Members, municipal employees or managers must refrain at any and all times from using her or his responsibilities so as to favour the awarding of a contract to a certain supplier or bidder.
7. **Powers of the Mayor** – The present by-law shall not restrict the powers of the mayor or of the acting mayor, should the mayor be absent or unable to perform his duties, to order any expenditure deemed necessary and to award any contract necessary to remedy the situation in cases contemplated by Section 573.2 of the Act Respecting Cities and Towns (C.Q.L.R., Chapter C-19).

Similarly, the present by-law shall not restrict the powers of the City Manager or, in case of absence or incapacity to act of the latter, of his designated substitute, in the cases contemplated in Section 43.1 of by-law PC-2816, respecting budget control and follow-up and delegation of power.

8. **Code of ethics and good conduct** – The present by-law shall not have the effect of excluding, replacing or restricting any obligation and measure contemplated in the City by-law respecting the Code of Ethics and Good Conduct of the Elected Municipal Officials.
9. **Other laws** – The present by-law shall apply subject to any other applicable legislation namely, among others, the Act Respecting Cities and Towns, the “Accord de commerce et de cooperation entre le Québec et l’Ontario” (ACCQO), the “Accord sur le commerce intérieur” (“ACI”), and the “Accord de liberalisation des marches public du Québec et du Nouveau-Brunswick” (“AQNB”).
10. **Authorization to contract** – Any company who desires to enter into a contract with the City, when such contract is of an amount equal to or higher than the amount determined by the Government of Québec must be authorized for that purpose by the “Autorité des marches financiers”.

This amount may vary depending on the class of contract.

CHAPTER III

DEFINITIONS

11. In the present by-law, the following expressions and words have, unless the context would dictate a different meaning, the meaning indicated hereafter for each of them:

- 4 RV-E: Principle which consists in favouring, in the following order: the reduction, re-use, recycling, valorization and elimination of residual matters for the sake of ecological management.
- Applicable law: Any law, by-law, code, regulation, directive, policy, protocol, decree, intergovernmental agreement, order, brief or administrative interpretation applicable to the City within the framework of contract awarding.
- Certification: Attestation by a third party in relation with either products, processes, systems or persons.
- City: The City of Pointe-Claire.
- **Construction contract: Any contract so defined pursuant to sub-paragraph 573 (4th) (1st) Act;**
- Environmental criteria: Criteria aimed at choosing products and services which minimize exploiting and consuming natural or non-renewable resources, which avoid the production of waste and reduce ecological risks of contamination of living environments that result from consumption habits and from the activities related to the products lifespan.
- Intergovernmental agreement: Agreement on the opening of public procurement between the Government of Québec and other governments, including the ACCQO, the ACI and the AQNB.
- Local purchasing: **Purchasing of locally created or supplied goods or services, in accordance with the following order of priority:**

- City of Pointe-Claire;
 - Montreal Island;
 - Province of Quebec;
 - Canada;
 - North America
- Lifespan: Takes into consideration all activities that come into play when manufacturing, using, transporting and eliminating a product. A lifespan analysis is usually carried out by experts or by a research centre and is generally verified by a third party. The lifespan allows, among other things, to compare products, work methods or service deliveries so as to make the best choice in order to reduce the impact on the 4 following categories: climate changes, exhaustion of natural resources, ecosystems quality and human health.
 - Person in charge of the application of the by-law: The City Manager is responsible for the application of the present by-law.
 - Related person: A person who is not at arm's length within the meaning of Section 251 of the Income Tax Act (R.S.C., 1985, c.1 (5th supp)).
 - **Repetitive contract: Contract related to the acquisition of goods or services and which must be carried out every year and for which budget is allocated.**
 - Responsible purchasing: Purchasing mode which integrates environmental and social criteria to the procurement processes for the purchasing of goods, service or work delivery as a means to reduce the environmental impact, to increase social benefits and to strengthen the organizations' economic sustainability, for the whole duration of a product lifespan.
 - SÉAO: The electronic system used and approved by the Government of Québec for calling tenders within the application of the Act Respecting Contracting by Public Bodies (C.Q.L.R., Chapter C-65.1).
 - **Services contract: Any contract so defined pursuant to sub-paragraph 573 (4th) (3rd) Act.**

- **Supply contract:** Any contract so defined pursuant to sub-paragraph 573 (4th) (2nd) Act.
- **Social criteria:** Criteria aimed at favouring local labour, social re-integration and fair trade. Awarding contracts to local suppliers aims to boost local economy and to increase larger scale resilience. Hiring of or awarding contracts to workers who resume an active life is a public will of equity and solidarity. The City shall refer to the principles established by the International Labour Organization (ILO 1998) and to the Universal Declaration of Human Rights (EDHR 1948) to evaluate the social criteria.
- **Sustainable development:** Development that responds to present needs without compromising the capacity of future generations to respond to theirs. Sustainable development is economically viable, takes into account environmental, social and economical factors and integrates the 4 RV-E principle.

CHAPTER IV

CONTRACTING PROCESS

12. **Needs assessment** - Any procurement process must begin by a prior and adequate needs assessment.

Such assessment must include a realistic and reasonable estimate of the cost of the goods or services that are considered for purchase.

13. **Choice of contract granting process** - Taking into account the objectives indicated in the present by-law, and in accordance with the provisions of the Act and of the regulations adopted under this Act, the selection of the tender process depends upon the type of the contract and of the estimated amount of the total contemplated expenditure for the execution of said contract.
14. **Prohibited bidding** – Any person whose services are retained by the City within the framework of a process leading to the award of a contract, particularly with regards to the preparation of technical specifications, cannot submit a bid, nor Act as a subcontractor in relation with such contract.
15. **Forbidden contract splitting** – It is prohibited to divide a contract into several contracts having similar subject matter, unless the division is warranted on grounds of sound administration.

16. **Obligation of confidentiality** – Any mandatory or consultant, as the case may be, who is entrusted by the City to draft tender documents or to assist the City within the framework of such process must, in as much as possible, maintain confidentiality about such mandate, about works carried out or services provided within the framework of such mandate and about any information brought to his knowledge within the framework of the implementation of such mandate.
17. **Competition** – Documents to be included in a call for tenders as well as the conditions under which contracts are awarded must be worded so as to ensure transparency, equity and healthy competition as well as efficiency, innovation and sustainable development.

Without limiting the scope of the foregoing, the terms of the tendering procedure shall be worded so as to avoid imposing technical specifications or requirements that would not allow equal treatment of bidders.

CHAPTER V

RULES RESPECTING THE AWARDING OF CONTRACTS ON A MUTUAL CONSENT BASIS

18. **More demanding process** – Despite the fact that a contract would result in an expenditure under the line established to mandatorily call for tenders, the City must, so as to ensure sound management, assess the possibility, as the case may be:
 1. To call public tenders or to call tenders upon invitation;
 2. To implement, subject to any applicable intergovernmental agreement, as the case may be, measures intended to favour the acquisition of goods or services, or the execution of construction works from suppliers of the island of Montreal West Island area, in so far that sustainable development criteria are respected;
 3. To aim at having as many businesses as possible to participate to the tender process, from among those who can meet the City needs while encouraging, whenever possible, the rotation among contractors;
 4. To set up control provisions related with the amount of any contract and with any supplementary expenditure resulting from it, particularly in the situation when a contract is concluded on a mutual agreement basis;

5. To create a follow-up system allowing to measure the efficiency of the procedures used in respect of any contract when its amount is under the line for calling for tenders.

The City Manager and/or the Director-Treasurer of the Finance Department may, at any and all times, require that a more demanding call for tenders process than the one provided for in the present by-law be used when it is deemed that the City interests would then be better served.

19. Rotation of suppliers – The City may keep and use a roster of suppliers or contractors so as to identify the suppliers or contractors with whom the City may enter into a contract on a mutual consent basis.

The choice of the suppliers or contractors shall be based on the following factors and in the priority order indicated hereinafter:

1. **The City favours responsible purchasing;**
2. **The suppliers or contractors capacity and availability to carry out the contemplated contract;**
3. **The fact that the supplier or the contractor has not been found guilty, over the past 5 years, of an infraction against a law or a regulation related to a contract similar to the contemplated one;**
4. **Prior City experience with the supplier or contractor and the fact that it did not reject in any unsatisfactory performance evaluation over the past 2 years.**

20. Price requests when awarding a contract on mutual agreement – When awarding a contract on mutual agreement, the City shall invite the minimum number of suppliers, as set hereafter, in relation with the value of the contract:

1. One supplier, for any non-repetitive contract of less than \$5,000, including taxes; and
2. Two suppliers, for any non-repetitive contract with a value between \$5,000 and \$24,999.99, including taxes and for all repetitive contracts of which the total value amount to a sum between \$5,000 and \$24,999.99, in the case of the contracts contemplated in Sections 21 to 24.

21. **Procurement contract** - Any procurement contract not to exceed a value of \$24,999 may be agreed upon on a mutual consent basis. In such case, the measures provided by sections 18 and 19 must be respected.

Any **supply** contract with a value between \$25,000 and **the threshold set by the Minister** must be concluded only after an invitation to at least 3 suppliers. The contract is awarded to the supplier who submits the lowest price.

The City Council may choose to apply either one of the preferential clauses contemplated in sections 25 and 26 hereof, in such case, the use of a preferential clause is deemed to be a deed of sound management and must be disclosed to invited suppliers.

22. **Construction contract, services contract and contract for professional services – Any construction contract or services contract or contract for professional services not exceeding \$24,999.99 in value may be agreed upon on a mutual consent basis. In such case, the measures provided by sections 18 and 19 must be respected.**

Any construction contract with a value between **\$25,000** and **the threshold set by the Minister** must be concluded only after an invitation to at least 3 suppliers.

The contract is awarded either to the supplier who submits the lowest price or who obtains the highest score based on pre-established quality criteria by Council and discussed to all invited suppliers.

Whenever the City Council elects to award a contract to a supplier having submitted the lowest price, either one of the preferential clauses provided for in sections 25 and 26 of this by-law may be used. In such case, using a preferential clause is deemed to be a deed of sound management and must be disclosed to the invited suppliers.

23. **(Withdrawn)**

24. **(Withdrawn)**

25. **Preferential clause – Local purchasing** – The City may award a contract on a mutual basis to a local supplier who may not have necessarily submitted the lowest price provided that, for an at least equivalent quality, such supplier's offer does not exceed by more than 10% of the best price submitted by an outside of the City supplier in the cases where the contract value is less than or equal to \$49,999.99 (taxes included) and by more than 5% of the best price

submitted in the cases where the contract value varies between \$50,000 and \$99,999.99 (taxes included).

26. **Preferential clause – Sustainable purchasing** – The City may award a contract on a mutual consent basis to a supplier who holds a sustainable development qualification and who may not necessarily have presented the lowest price, provided that, its offer does not exceed by more than 10% the best price submitted by a supplier who does not hold such qualification in the cases where the contract value is less than or equal to \$49,999.99 (taxes included) and by more than 5% of the best price submitted in the cases where the contract value varies between \$50,000 and \$99,999.00 (taxes included).

CHAPTER VI

SELECTION COMMITTEE

27. **Principle** – Whenever the law requires the application of a bid weighing and evaluating system or when the City decides to use such system to award a contract, a selection committee shall be formed to evaluate the tenders.
28. **Formation of committee** – The selection committee must be formed, before the launching of the call for tenders process, by the City Manager or by the person he designates in his absence.
29. **Rotation** – The City Manager shall ensure the rotation of members when forming selection committees.
30. **Composition** – The selection committee must include at least three (3) members, with at least one of whom coming from a distinct administrative unit than that of the person responsible for the matter.
31. **Independence** – A member of a selection committee cannot be a related person to any of the bidders.

With the exception of the person responsible for the matter, the members cannot participate to the estimate process, to the making of the procurement process or to any prior certification or qualification process.

32. **Absence of hierarchical link** – The members of a selection committee may not have any direct hierarchical link between them.

33. **Particular knowledge** – At least one member must have technical knowledge in the area covered by the call for tenders.
34. **External member** – A selection committee may include an external member of the City.
35. **Analysis process** – The members of a selection committee shall individually carry out the analysis of the bids and then meet after the individual analysis is completed.
36. **Secretary** – The Coordinator – Contractual and Material Resources acts as Secretary for any selection committee; in case of absence or incapacity to act, he shall be replaced by the person so designated by the City Manager.

The Secretary is responsible for ensuring equity, impartiality and uniformity of the evaluation and selection process.

Although he coordinates the committee's work, the Secretary does not evaluate tenders.

37. **Solemn undertaking** – Before the beginning of the selection committee's work, each member and the Secretary must sign a solemn undertaking stating that:
1. He has no direct or indirect interest in the outcome of the awarding process and he undertakes to take any and all reasonable precautions to avoid conflicts of interest and to report any such situation, if any;
 2. He undertakes to preserve the confidentiality of the mandate he has been entrusted with, of the deliberations of the selection committee, as well as of any information he may become aware of in the framework of his mandate;
 3. He undertakes to analyse each tender with impartiality and to complete, prior to the selection committee meeting, an individual analysis of each tender received.
38. **Confidentiality** – The City Council members, the City Managers and employees must preserve the confidentiality of the identity of any selection committee member.

CHAPTER VII

AVAILABILITY OF TENDER DOCUMENTS

39. **Public call for tenders** – (Expenditure **for an amount equal to or higher than the threshold set by the Minister**) – Subject to any applicable legal provision to the contrary, the documents related to any public call for tenders must be made available by means of the “SÉAO” electronic tendering system and any person interested to submit a bid in response to such call for tenders must obtain the tender documents from said “SÉAO” electronic tendering system.
40. **Call for tenders by way of written invitation** – (Expenditure estimated between \$25,000 and **the threshold set by the Minister**) – The tender documents of a call for tenders by way of a written invitation are forwarded to the selected suppliers by a representative of the Contractual and Material Resources Division.

CHAPTER VIII

COMMUNICATIONS

41. **Authorized person** – The City representative who is identified in the tender documents is the only authorized person, within the City, to be empowered to answer to requests from any and all bidders.

Any question or request for precision from any potential bidder or supplier must be transmitted in writing to said representative.

Notwithstanding the foregoing, when the awarding process includes information meetings or workshops, the representative may be accompanied in order to answer to questions or requests for precisions.

42. **Prohibition** – It is prohibited for any City Council member, Manager or employee to answer to any question or request for precisions, related to a call for tenders, otherwise than by referring it to the City representative mentioned in Paragraph 31(1st), except in the case of his participation to an information meeting or workshop.
43. **Confidentiality and discretion** – Any and all Council Members, city employees or managers must, within the framework of any call for tenders or contract awarding process, before or after such process is carried out, must use discretion and maintain, as much as possible, the confidentiality of information brought to their knowledge with regards to said processes.

They must so refrain at all times from disclosing the identity of potential or known bidders as long as the bids have not been opened.

44. **Equity between bidders** – Any transmission of information to the bidders must be carried out in such a way that fairness is preserved between all bidders.

This shall not prevent the City from responding to questions, confidential in nature, to a sole bidder when a public answer could result in disclosing trade secrets or cause serious prejudice to the bidder.

45. **Forbidden advantages** – Under reserve of any applicable provision of a code of ethics currently in use, it shall be forbidden, for any bidder, supplier or purchaser to make any offer, donation, payment, gift, remuneration, or any other advantage to an employee, a staff manager, a council member or to a member of a selection committee.

CHAPTER IX

ATTESTATION AND ADMISSIBILITY

46. **Attestation** - In any tender presented to the City by a bidder the latter shall attest the following, in the required form by the call for tenders:
1. He prepared his bid without any collusion and without having established any agreement or arrangement with another bidder or competitor except as regards the eventual conclusion of a sub-contract when this is permitted in accordance with the call for tenders;
 2. There has not been, directly or indirectly any agreement or arrangement with the competitor with regards to prices, methods, factors or formulas to establish prices, or as regards the decision to submit a bid or not, or as regards the presentation of a bid that does not meet the specifications of a call for tenders, before the hour of the official opening of the bids.
 3. The terms of his bid have not been or will not be intentionally disclosed, directly or indirectly, to any other bidder before the opening of the bids.
 4. He will not retain the services of any City staff manager or employee, or any other person having participated in the preparation or in the follow-up of the call for tenders with the intention that said staff manager or employee or other person works in carrying out the bidder's obligations further to the awarding of a contract that would follow the call for tenders.

5. He must have obtained from “l’Autorité des marchés financiers” an authorization to pass contracts or sub-contracts that is good standing and still valid as the time of presentation of a bid.
 6. Any influencing communication aimed at the awarding of a contract, as the case may be, has taken place in accordance with the *Lobbying Transparency and Ethics Act* and with the code of conduct for lobbyists and no communication has taken place outside of the framework of the call for tenders.
 7. Neither the bidder, nor any of its managers, employees or related persons ever engaged into acts of intimidation, of influence peddling or of corruption, **in reference to the call for tenders.**
 8. **Under reserve of Section 41,** the bidder, nor any of its managers, employees or related persons, did not communicate or attempt to communicate with any person participating to the contract awarding process or, as the case may be, with a member of a selection committee, so as to exert **influence in relation with the call for tenders.**
47. **Reject or resiliation** – Any tender submitted by a person who contravenes to paragraph 8 of Section 46 or any contract resulting from such tender shall be automatically rejected, or cancelled as the case may be, and such person may be declared as ineligible of presenting a bid for a period not to exceed 2 years.
48. **Register of enterprises ineligible** – The City may not, except to the extent permitted by the law, enter into a contract, even into a contract by mutual agreement, with a person who is registered in the “Register of enterprises ineligible for public contracts” (RENA).

The City must then reject any bid or tender submitted by such person.

CHAPTER X

BID OPENING AND CONFORMITY

49. **Opening of bids** - Bids are opened publicly in the presence of at least 2 witnesses.

At the opening, the following information shall be loudly discussed:

1. The name of the bidders; and

2. Except when a quality evaluation system is applicable, the price of each bid.
50. **Identity of bidders** – After the opening of the bids, the City may require from a bidder any document allowing to verify and confirm the bidder’s identity.
51. **Refusal to consider a bid** – The City may refuse to consider a bid for any reason provided under the law or by the tender documents.

The City shall reserve its right to refuse any bid from a contractor or a supplier who, in the 2 years preceding the date of opening of bids, has received an unsatisfactory performance assessment in accordance with the provisions of paragraph 2.0.1 of **Section 573** of the *Act respecting Cities and Towns* (C.Q.L.R. Chapter C-19. **Such right must be provided for in the call for tenders.**

52. **Sole conforming tender** – Where, following a call for tenders, the City receives only one conforming tender, the City may agree with the tenderer to enter into the contract for a price less than the tendered price without, however, changing the other obligations, if there is a substantial difference between the tendered price and the price indicated in the established estimate.
53. **Bid not submitted** – The City shall include, within its tender documents, a form asking to each potential bidder who does not submit a bid after having obtained the tender documents to indicate the reason(s) of their non-participation to the tender process.

CHAPTER XI

AMENDMENTS OF A CONTRACT – CHANGE ORDERS

54. A contract may be amended only when the amendment is accessory and does not change the nature of the contract.
55. If, prior to the expiry of the time limit for the receipt of tenders, the tender documents are amended in such a way as to affect the prices, such amendment must be sent, to the persons who requested a copy of the call for tenders or a document it refers to or any related document, at least 7 days before the expiry of said time limit by way of a written rider to that effect.

If the 7-day period cannot be complied with, the time limit for the receipt of tenders shall be extended by the number of days needed to ensure compliance with that minimum period.

56. For any request to amend a contract for which the City Manager or Council is responsible for the awarding or for any request to amend a contract with the effect of increasing the expenditure resulting from its execution beyond the approval threshold delegated to the City Manager (\$25,000) or Council (\$50,000), as the case may be, the person in charge of the project must submit a decision-making file indicating the reasons that justify such amendment and submit said file to the City Manager or Council, as the case may be, for decision.

The contract amendment shall be authorized only further to a decision signed by the City Manager or further to a resolution adopted by the City Council as the case may be.

CHAPTER XII

CONFLICTS OF INTEREST

57. Conflict of interests – Any person finding herself or himself in a situation of conflict of interest in relation with a contract cannot, in any way, participate to the preparation or awarding processes of a contract or to the monitoring of its execution.

58. Disclosure – Any person participating into the preparation, awarding or monitoring of a contract as well as any and all members of a selection committee and its secretary must inform, without any delay, the City Manager about any conflict of interests and about any potential situation of conflict of interests.

Within 10 days after the opening of bids or after the awarding of a contract, the city employees or staff managers, who have been involved with the preparation or the unfolding of a tender process or of the awarding of a contract, must fill and supply a statement aimed at disclosing family or business ties or pecuniary interests, only if there are any, that they may have with the bidders having submitted a tender for the awarding of a contract that they had to prepare or manage.

59. Conflict of interests – penalty – Despite Section 57, in exceptional circumstances, the City Manager and the City Clerk-Director of the Legal Affairs Department may together determine whether it is appropriate or not to maintain a person concerned by an actual or potential conflict of interest in his/her duties in relation with any contemplated contract, as well as the necessary measures to be implemented, as the case may warrant.

60. **Failure to submit a statement** – The existence of a link between a bidder and either a Council Member or a city employee or staff manager shall not automatically result in a rejection of a bid.

The City shall reserve the right to take any measure, as permitted by the Law, if it deems that a conflict of interests is such that it warrants that a contract be awarded to another bidder.

CHAPTER XIII

LOBBYISM

61. **Lobbyism** – Any person who communicates with a City representative, verbally or in writing, in an attempt to influence the decision making with respect to a contract or within the framework of a lobbying activity within the meaning of the “*Lobbying Transparency and Ethics Act*” must comply with the provisions of this act and of the regulations adopted under said Act.

62. **Preservation of information**– Any and all City elected officials and employees must preserve, as the case may be, in paper or electronic format, any and all documents such as diaries, e-mails, telephone conversation accounts, presentation documents, offers of services, meeting minutes, letters, faxes, etc., related to any communication intended to influence a decision when made by a person to any of them, whether such communication is made in accordance or not with the “*Lobbying transparency and ethics act*” the “Code of conduct for lobbyists” or with any notice of the Commissioner of Lobbying.

63. **Statement related to lobbying activities** – At the same time a bid is deposited, the bidder must file a statement in which he indicates whether lobbying activities took place to obtain the contract for which he submits a bid and indicates if such lobbying activities have been conducted in accordance with the “*Lobbying transparency and ethics act*” the “Code of conduct for lobbyists” or with any notice of the Commissioner of Lobbying.

CHAPTER XIV

IMPLEMENTATION AND REPORTING

64. **Reporting** – Any management member, member of the City Council, employee, member of a selection committee, bidder or supplier, witnessing or being informed of any situation constituting a fraud, collusion or an impropriety or of any situation which could give rise to suspicion of fraud, collusion or impropriety must report such situation by giving notice in writing to the person in charge of the application of the by-law or, should the relevant situation be questioning the latter, to the City external auditor.
65. **Anonymity and confidentiality** – The reception and the follow-up of any reporting carried out under Section 64 must ensure the protection of the anonymity of the person concerned as well as the confidentiality of the communicated information, to the extent allowed by the law.
66. **Follow-up** – The City Council may give a mandate to any person in order that a follow-up be carried out or in order to review any question related with any reporting made under Section 64.

CHAPTER XV

PENALTIES

67. **Sanctions contemplated in the *Act Respecting Cities and Towns*** – Any council member or employee who, knowingly, contravenes the present by-law shall be liable of the sanctions contemplated in Section 573.3.4 of the “*Act Respecting Cities and Towns*”.
68. **Employee** – When an employee contravenes to the present by-law, the City does reserve the right to take any measure deemed appropriate to ensure the cessation of such violation, in accordance with any all applicable laws, collective agreements or any other labour related contract or agreement establishing applicable labour conditions.
69. **Member of a selection committee** – Any member of a selection committee who is not a City employee and who does contravene to the present by-law is liable to the City who may then undertake any legal recourse to obtain compensation for any loss or damage resulting from such violation.

Such member may also be declared as ineligible to sit on any selection committee for a period to be determined by the City.

70. **Supplier** – Any supplier or person whose services are retained by the City and who contravenes the present by-law is deemed to be in default under the terms of his contract and such contract may then be immediately resiliated, without

any compensation or indemnity, in addition to be exposed to the other penalties and consequences provided for in the contract, as the case may be, and be exposed to a claim for damages by the City.

71. **City** – Any decision related with sanctions contemplated under Sections 67 to 70 above are made by the City Council and is taken further to a recommendation from the City Manager.

72. **Penal sanctions** – Whoever contravenes or allows that it be contravened to any of the provisions contemplated in either Sections 42, 43, 64 or 65 of this by-law, commits an infraction and shall be liable, in addition to costs, to a fine of which the amount is set, without prejudice to any other action that could be taken by the City Council:

1. In the case of a natural person: at \$1,000; and
2. In the case of a legal person: at \$2,000.

In case of a repeated offence, the amounts indicated in the first paragraph are doubled up.

Should the infraction be continuous, such continuity shall constitute, day by day, a distinct infraction and the fine established for said infraction, shall be imposed for each day during which the infraction is continued.

CHAPTER XVI

FINAL PROVISIONS

73. **Procedures and guidelines** – The City Council may establish any procedure or guideline intended to efficiently apply and enforce the present by-law and to achieve its objectives.

74. **Coming into force** – The present by-law, with the exception of paragraph 18.3 and Section 19 shall come into force on the day of its publication.

Paragraph 18.3 and Section 19 shall come into force at the date to be determined by council resolution.

The present by-law will come into force according to the law.

John Belvedere, Mayor

Danielle Gutierrez, Assistant City Clerk