

BROME VILLAGE

BY-LAW 162-10 ON POLICY FOR THE MANAGEMENT OF CONTRACTS

Resolution 2010-12-144

WHEREAS a Notice of Motion of the present by-law was given at the regular Council meeting held on December 6, 2010 by Councillor Larry Royea;

CONSEQUENTLY, it is proposed by Councillor Patricia Panasuk and seconded by Councillor Lionel Foster;

AND RESOLVED THAT the present By-law No. 162-10 be adopted and that said By-law ordains and decrees as follows:

INTRODUCTION

The present « *Contract management policy* » is adopted pursuant to Section 938.1.2 of the *Municipal Code*. Pursuant to this provision, every municipality must adopt a contract management policy pertaining to municipal contracts and providing measures to ensure a healthy competition between the parties contracting or wishing to enter into a contract with the Municipality of the Village of Brome (hereafter the « **MUNICIPALITY** »). The measures in question must target seven (7) matters of consideration clearly specified in the said legislative provision.

The objective of the present policy is not to replace, modify or enhance any legislative provision or ruling of jurisprudence applicable to the awarding or managing of municipal contracts. Rather, this policy is intended to serve as a course of action for all of the parties involved in the awarding or managing of municipal contracts. Consequently, the present contract management policy will be annexed to all call for tenders documents issued by the MUNICIPALITY to ensure all tenders are aware of the contents of the said policy.

The present policy comes into force from the time of its adoption by the municipal council and is effective as of January 1, 2011.

MEASURES TO MAINTAIN A HEALTHY COMPETITION

- 1. Measures aimed at ensuring that no tender or representative of a tender has communicated or attempted to communicate, in an effort to influence, with one of the members of the selection committee about the call for tenders for which the tender or representative has submitted a tender.**
 - a) By means of a delegation regulation to this effect, the municipal council delegates to the director-general the power to form any selection committee that is required to receive, study the submissions received and draw the necessary conclusions.
 - b) Any selection committee must be formed prior to the issuing of the call for tenders and must be composed of at least three members that are not sitting Counsellors.
 - c) All members of the municipal council, employee and/or manager of the MUNICIPALITY and any representative of the MUNICIPALITY must, at all times, maintain the confidentiality of the identity of the members of any selection committee.
 - d) For all call for tenders that requires the forming of a selection committee, all tenders must, under penalty of rejection of their tender, attach to their tender a declaration (**APPENDIX I**) attesting that neither he/she nor his/her representatives has communicated or attempted to communicate, in an effort to exert influence with a member of the selection committee.

- 2. Measures to promote compliance with any applicable anti-bid-rigging legislation**
 - a) Promote the participation of elected officials, managers and employees of the MUNICIPALITY and members of the selection committee in training sessions aimed at preventing bid-rigging in an effort to more efficiently combat collusive bidding.

- b) For all call for tenders, all tenders must, under penalty of rejection of their tender, attach to their tender a declaration (**APPENDIX I**) attesting that their tender has been prepared and submitted without there being any collusion, communication, agreement or arrangement with one or more tenders or other parties to agree on a price to submit or to influence the prices submitted.

3. Measures to ensure compliance with the *Lobbying Transparency and Ethics Act* (hereafter called the « *Lobbying Act* ») and the code of conduct for lobbyists adopted under this act

- a) Promote the participation of elected officials, managers and employees of the MUNICIPALITY and members of the selection committee in training sessions dealing with the regulations on lobbying.
- b) For all call for tenders, all tenders must, under penalty of rejection of their tender, attach to their tender a declaration (**APPENDIX I**) declaring any verbal or written communications, in the context of the *Lobbying Act*, with any municipal council member, employee and/or manager of the MUNICIPALITY in a way of exerting influence for the purpose of obtaining the contract. If such influential communications have taken place, the tender must, under penalty of rejection of their tender, attach to their tender a declaration to the effect that such communications were conducted after the registration required pursuant to the *Lobbying Act*.

4. Measures to prevent intimidation, influence peddling and corruption

- a) Promote the participation of elected officials, managers and employees of the MUNICIPALITY and members of the selection committee in training sessions aimed at more effectively combating acts of intimidation, influence peddling and corruption.
- b) For all call for tenders, all tenders must, under penalty of rejection of their tender, attach to their tender a declaration (**APPENDIX I**) attesting that he/she has conducted no act of intimidation, influence peddling or corruption in regard to the present call for tender.

5. Measures to prevent conflict of interest situations

- a) All people participating in studying tenders and awarding of the contract must declare any conflict of interest in regard to the said tender or said contract.
- b) For all call for tenders, all tenders must, under penalty of rejection of their tender, attach to their tender a declaration (**APPENDIX I**) stating the family, financial, business or other ties likely to create a conflict of interest with any member of the municipal council, employee and/or manager of the MUNICIPALITY.

6. Measures to prevent any other situation likely to compromise the impartiality or objectivity of the call for tenders process or the managing of the resulting contract

- a) For each call for tenders, the MUNICIPALITY appoints the Director-General as the “*information-to-tenders manager*” he is to provide potential tenders with administrative and technical information about the tender procedure that is underway. For any question or comment related to the tendering process or pertaining to the solicited contract, the tender must obligatorily and solely address them to the Director-General whose coordinates appear on the call for tenders documents.
- b) Promote the participation of elected officials, managers and employees of the MUNICIPALITY and members of the selection committee in training sessions aimed at providing the sound management of municipal contracts.

7. Measures to govern the making of decisions authorizing the amendment of a contract

- a) For contracts exceeding \$25,000, the MUNICIPALITY establishes a support-structure process for any authorization of a contract amendment, which will have to be brought to the attention of the awarder of the said contract and any other person in charge of the follow-up of the said contract.
- b) The MUNICIPALITY must specify in the call for tenders documents that meetings will be held on a regular basis on the worksites while the work is being conducted in order to ensure the follow-up of the execution of the contract.

ADOPTED BY THE MUNICIPAL COUNCIL OF BROME ON _____ 2010

L. Thomas Selby
Title : Mayor

Date : _____

Paul McKeogh
Title : Director General

Date : _____

APPENDIX 1

TENDERER'S DECLARATION

I the undersigned, _____ (Name of Tender) (hereafter called the « Tender »), in presenting the attached tender (hereafter called the « Tender ») to the MUNICIPALITY of BROME for _____ (Name and number of the call for tenders) (hereafter the « Call for tenders ») declare the following and certify these declarations are accurate and complete in every aspect.

I declare on behalf of _____ (Name of Tender) that:

- (i) I have read and understood the content of the present declaration;
- (ii) I am authorized by the Tender to sign the present declaration and present, in his/her name the Tender enjoined to it;
- (iii) All of the people whose names appear on the attached Tender have been authorized by the Tender to set the terms and conditions foreseen for such and to sign the Tender on his/her behalf;

MEASURE 1: DECLARATION PERTAINING TO MEASURE 1 OF THE CONTRACT MANAGEMENT POLICY OF THE MUNICIPALITY OF XXXXXX

1) COMMUNICATION

The Tender declares (check one of the following two declarations):

- (a) **that neither he/she nor any of his/her representatives have communicated or attempted to communicate** with one of the members of the selection committee in an effort to exert an influence in regard to the present Call for tenders;
- (b) **that he/she or one of his/her representatives communicated or attempted to communicate** with one of the members of the selection committee in an effort to exert an influence in regard to the present Call for tenders;

MEASURE 2: DECLARATION PERTAINING TO MEASURE 2 OF THE CONTRACT MANAGEMENT POLICY OF THE MUNICIPALITY OF BROME

2) BID-RIGGING

- (a) The Tender declares (check one of the following two declarations):
- (b) That the Tender has been prepared and submitted **without there being any collusion, communication, agreement or arrangement** with one or more tenders or other parties to agree on a price to submit or to influence the prices submitted.
- (c) that the Tender has been prepared and submitted **after there being collusion, communication, agreement or arrangement** with one or more tenders or other parties to agree on a price to submit or to influence the prices submitted. If such is the case, the Tender must divulge, in a document (which must be attached to this appendix by the Tender when submitting the call for tenders documents), all of the details relating to this, including the names of tenders or other parties and the reasons for the said communications, agreements or arrangements.

MEASURE 3: DECLARATION PERTAINING TO MEASURE 3 CONTRACT MANAGEMENT POLICY OF THE MUNICIPALITY OF BROME

3) LOBBYING

The Tender declares (*check one of the following two declarations*):

- (a) **That no** verbal or written communication, in the context of the *Lobbying Transparency and Ethics Act* (hereafter the « **Lobbying Act** ») has occurred with any member of the municipal council, employee and/or manager of the MUNICIPALITY in a manner of exerting influence for the purpose of obtaining the contract.
- (b) **that there was** verbal or written communication in the context of the *Lobbying Act* with any member of the municipal council, employee and/or manager of the MUNICIPALITY in a manner of exerting influence for the purpose of obtaining the contract.

Please write down the names of the members of the municipal council, employees and/or managers of the MUNICIPALITY with whom such communication occurred and the motives of your discussions:

<i>Names:</i>	<i>Motives:</i>

3.1) REGISTERING IN THE REGISTRY OF LOBBYISTS

The Tender declares (*check one of the following two declarations*):

- (a) **that he/she or his/her representative is a registered lobbyist** in the registry of lobbyists, set up pursuant to the *Lobbying Act* as indicated by proof of such registration which is attached to the present declaration (Tender must attach proof of registration to the present declaration);
- (b) **that he/she or his/he representative is not a lobbyist registered in the** registry of lobbyists, set up pursuant to the *Lobbying Act*;

MEASURE 4: DECLARATION PERTAINING TO MEASURE 4 OF THE CONTRACT MANAGEMENT POLICY OF THE MUNICIPALITY OF BROME

4) INTIMIDATION AND CORRUPTION

The Tender declares (*check one of the following two declarations*):

- (a) **that he/she has conducted no act of intimidation, influence peddling or corruption** related to the present Call for tenders;
- (b) **that he/she has conducted acts of intimidation, influence peddling or corruption** related to the present Call for tenders;

MEASURE 5: DECLARATION PERTAINING TO MEASURE 5 OF THE CONTRACT MANAGEMENT POLICY OF THE MUNICIPALITY OF BROME

5) CONFLICT OF INTEREST

The Tender declares (*check one of the following two declarations*):

(a) **that he/she has no** family, financial, business or other ties likely to create a conflict of interest in regard to the present Call for tenders with any member of the municipal council, employee and/or manager of the MUNICIPALITY;

(b) **that he/she has** family, financial, business or other ties likely to create a conflict of interest in regard to the present Call for tenders with any member of the municipal council, employee and/or manager of the MUNICIPALITY;

Please write down the names of the people with whom the Tenderer has a tie likely to create a conflict of interest and specify the nature of this tie.

Names:	Nature of the tie:
_____	_____
_____	_____
_____	_____

Name of Tender's representative

Signature of Tender's representative *(to be signed before the Commissioner for Oaths)*

Title

Date

Solemnly sworn before me on this _____th
 day of _____ 20_____

Commissioner's signature

Name of commissioner *(in block letters)*
Commissioner of Oaths