



**THE CORPORATION OF THE TOWNSHIP OF AUGUSTA
BY-LAW NUMBER 3594-2022**

**A BY-LAW TO APPOINT AN INTEGRITY COMMISSIONER FOR THE TOWNSHIP OF
AUGUSTA**

WHEREAS the Council of the Corporation of the Township of Augusta has adopted a Council Code of Conduct; and

WHEREAS Section 223.3(1) of the Municipal Act authorizes the municipality to appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner the functions assigned by the municipality; and

WHEREAS Council deems it advisable to appoint Tony Fleming, of Cunningham, Swan, Carty, Little and Bonham LLP, as the Township of Augusta's Integrity Commissioner;

**NOW THEREFORE THE COUNCIL OF THE TOWNSHIP OF AUGUSTA ENACTS AS
FOLLOWS:**

1. That Tony Fleming is hereby appointed as the Township of Augusta's Integrity Commissioner.
2. That upon appointment Tony Fleming will have all the functions, powers and duties of an Integrity Commissioner as set out in part V.1, Accountability and Transparency, of the Municipal Act, and in addition such functions, powers and duties as may be assigned by Council from time to time, applicable to Council and local boards, and may apply to advisory committees only at the discretion of Council.
3. That the Township of Augusta hereby indemnifies and save harmless the Integrity Commissioner or any person acting under the instructions of that officer for costs reasonably incurred by either of them in connection with the defense of proceeding if the proceeding relates to an act done in good faith in the performance or intended performance of a function, duty or authority under Par V.1 of the Municipal Act, or a by-law passed under it or an alleged neglect or default in the performance in good faith of the duty or authority.
4. That all actions taken and required to be taken by the Mayor and Clerk on behalf of the Corporation to complete this matter including the execution of an agreement and any other associated documentation are hereby authorized, confirmed and ratified.
5. That the persons named shall be appointed for the term of Council or at the pleasure of Council.
6. That By-law 3390-2018 is hereby repealed.
7. All other by-laws inconsistent herewith are hereby repealed.
8. That this By-Law shall come into full force and effect at the time of passing.

READ a first and second time this 28 day of November, 2022.

READ a third time and passed this 28 day of November, 2022.


MAYOR


CLERK

INTEGRITY COMMISSIONER SERVICES

This Agreement shall be executed in three (3) original copies dated this 15th day of DECEMBER, 2022.

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF AUGUSTA
3560 County Road 26, Prescott, Ontario, K0E 1T0

(Hereinafter referred to as the "Township")

- and -

CUNNINGHAM SWAN CARTY LITTLE & BONHAM LLP

(Hereinafter referred to as "the Consultant")

1. WHEREAS, the Township is authorized, pursuant to Subsection 223.3 of the *Municipal Act, 2001* (the Act), as amended, to appoint an integrity commissioner (the "Integrity Commissioner") who has the function to investigate in an independent and confidential manner, a complaint made to him or her by any person, as to whether a member of council or a member of a local board has complied with the Code of Conduct, the Municipal Conflict of Interest Act or other ethics-related policies, rules or procedures, and to report on the investigation;
2. AND WHEREAS, the Township wishes to retain the Consultant as an independent Integrity Commissioner for the Township;
3. AND WHEREAS, the Consultant has represented, and the Township is satisfied, that the Consultant has the skills and abilities necessary to perform the role of the Integrity Commissioner;
4. NOW THEREFORE, in consideration of the covenants, terms and conditions contained herein, the Township and the Consultant agree as follows:

Powers and Duties

1. The Township hereby retains and appoints the Consultant as an Integrity Commissioner for the Township and the Consultant accepts such appointment and agrees to carry out the responsibility of the Integrity Commissioner, as more specifically described in the Statement of Duties and Responsibilities, attached as Schedule "A" to this Agreement, during the term of this Agreement.
2. The Integrity Commissioner shall have all of the powers set out in Section 223.1 to 223.8 of the *Act*, as amended from time to time.

Term of Agreement

3. The Consultant's appointment pursuant to this Agreement is effective on January 1, 2023 for the Township and will continue for a period of four (4) years, ending on December 31, 2026 unless terminated earlier in accordance with this clause:
 - a. The Township may be released from the Agreement at any time, with 30 days written notice.
 - b. The Consultant shall provide thirty (30) days written notice to the Township of his intention to resign as the Township's Integrity Commissioner and his resignation shall only be effective at the expiry of the notice period.

Records

4. All records are the property of the Township, and the records should be submitted to the Clerk for the Township upon termination of the contract, with the exception of any materials that must remain confidential in accordance with applicable law.

Renewal

5. The Consultant's appointment pursuant to this Agreement may be renewed for a further four (4) years, on the same terms and on the mutual agreement of the Consultant and the Township.

Compensation

6. The Consultant will not require an annual retainer and will provide services on an as needed basis.
7. The Township agrees to pay to the Consultant an hourly fee of Two Hundred and Ninety-Five Dollars (\$295.00) per hour, plus applicable taxes, during such time that the Consultant is actively carrying out his duties pursuant to this Agreement. The Consultant shall provide the Township with a monthly invoice detailing the hours worked and expenses incurred for the period in question and the Township agrees to pay such invoices within thirty (30) days of the receipt thereof.
8. The Township agrees to reimburse the Consultant for all reasonable expenses and disbursements incurred by the Consultant which are necessary to enable the Consultant to perform his duties pursuant to this Agreement. All such expenses must be supported by appropriate receipts.

Consultant Status

9. In performing his duties and responsibilities as Integrity Commissioner pursuant to this Agreement, it is recognized that the Consultant is independent of the Township's administration and shall report directly to the Township's Council.

10. The Consultant acknowledges that he is an independent contractor and shall not be deemed an employee of the Township, for any purpose. The Consultant further acknowledges that, as an independent contractor, he will not be entitled to any employment-related benefit, including such benefits that are applicable to employees of the Township.
11. In light of the Consultant's status as an independent contractor, the Township shall have no responsibility whatsoever with regard to any income taxes or any other remittances which may be payable by the Consultant on the fees paid under this Agreement. The Township assumes no obligation or liability as between the Parties to deduct or remit any statutory or government remittances.

Confidential Information

12. The Consultant acknowledges that the Township is an institution for the purposes of the *Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)*. Accordingly, the Consultant undertakes not to disclose information subject to the *MFIPPA* except as may be necessary in the proper discharge of his duties and responsibilities pursuant to the terms of this Agreement and in accordance with the *MFIPPA*.
13. This Article shall survive the termination of this Agreement.

Delegation

14. In the event that more than one complaint is made at any time requiring more than one investigation or a conflict of interest arises and the Consultant determines it to be necessary to delegate some or all of his powers and duties, then he may do so in writing to any person other than a Member of Council, provided that the person to whom such a delegation is made possesses the requisite skills and abilities and agrees in writing to be governed by the same duties of confidentiality as the Consultant and to abide by the terms and

conditions of this Agreement. The Consultant shall not assign or sublet the whole or any part of this Agreement without the prior written consent of the Township.

Insurance

15. The Consultant shall, at its expense, obtain and keep in force during the term of this Agreement, Comprehensive General Liability Insurance satisfactory to the Township, including the following:
- a. Issued on an occurrence basis for an amount of not less than \$2,000,000 per occurrence / \$2,000,000 annual aggregate for any negligent acts or omissions by the vendor relating to its obligations under this Agreement. Such insurance shall include, but is not limited to bodily injury and property damage including loss of use; personal & advertising injury; contractual liability; premises, property & operations; non-owned automobile; broad form property damage; owners & contractors protective; occurrence property damage; products & completed operations; employees as Additional Insured(s); contingent employers liability; tenants legal liability; cross liability and severability of interest clause. Such insurance shall not contain a failure to perform exclusion.
 - b. The Consultant shall also, at its expense, obtain and keep in force during the term of this Agreement errors and omissions insurance satisfactory to the Township in an amount of at least \$5,000,000.
16. The Consultant is required to submit insurance documents listing all coverages and amounts as indicated, in a form satisfactory to the Township, upon the signing of the Agreement.

Indemnity

17. The Township hereby agrees to indemnify and save harmless the Consultant and his delegates from and against any and all liabilities, losses, expenses, costs (including legal costs), demands, damages, suits, judgments, penalties, expenses and liabilities of any kind or nature whatsoever arising out of the carrying out by the Consultant and his delegates in good faith of their duties and responsibilities under this Agreement including, but not limited to, any alleged breach of this Agreement, any procedural defect or other breach of the relevant statutory provisions.

18. The consultant shall indemnify and hold the Township harmless from and against any alleged breach of this Agreement, any procedural defect or other breach of the relevant statutory provisions. Further, this indemnity shall hold the Township harmless from and against any liability, loss, claims, demands, costs (including legal costs), damages, suits, judgments, penalties, and expenses, including reasonable legal fees, occasioned wholly or in part by any negligence, acts or omissions whether willful or otherwise by the consultant, their agents, officers, employees or other persons for whom the consultant is legally responsible.

In the event of any dispute with respect to the payment of the invoices, or any other matter in dispute which cannot otherwise be resolved between the Consultant and the Township, the Consultant and the Township hereby agree to submit the matter to an impartial arbitrator under the *Arbitrations Act*, whose decision shall be final and binding. In the event that a matter is referred to an arbiter under this Article, the Township and the Consultant agree to equally share the cost of the arbiter and any related expenses.

19. This Article shall survive termination of this Agreement.

General Provisions

20. This Agreement shall be governed by and construed exclusively in accordance with the laws of the province of Ontario.
21. If any provision of this Agreement is declared to be void or unenforceable, such provision shall be deemed to be separate from the remainder of this Agreement to the extent of the particular circumstances giving rise to such declaration, and such provision as it applies to other persons and circumstances and the remaining terms and conditions of this Agreement shall remain in full force and effect.
22. This Agreement, along with the attached Schedule(s), constitutes the entire agreement between the Parties and supersedes all previous negotiations, understandings and agreement, whether verbal or written, with respect to any matters referred to in this Agreement.
23. This Agreement shall ensure to the benefit of, and be binding on, the Parties and their successors and assigns.

[Signature page follows]

The Parties have executed this Agreement this 15th day of DECEMBER, 2022.

THE TOWNSHIP

THE CORPORATION OF THE TOWNSHIP OF AUGUSTA

By: [Signature]
Name: Annette Smerian
Title: Clerk
Date: Dec 13, 2022

By: [Signature]
Name: JEFFREY SHAVER
Title: MAYOR
Date: DEC 15, 2022

"I/We have the authority to bind the Corporation"

CONSULTANT

Cunningham Swan Carty Little & Bonham LLP

By: [Signature]
Name: Iony E. Fleming
Title: Partner
Date: December 20, 2022

Witness:

By: [Signature]
Name: Mercedes Johnson
Title: Legal Assistant
Date: December 20, 2022

"I have the authority to bind the Corporation"

SCHEDULE "A"

Statement of Duties and Responsibilities

The duties of the Integrity Commissioner shall be:

Education and Advice

1. To provide advice, education, and training on the Council Code of Conduct to Members of Council and those to whom the Code applies, either collectively or individually, for Members of Council.
2. To provide advice, education, and training on the Code of Conduct for Local Boards (if applicable) to the Members of the Local Board and those to whom the Code applies, either collectively or individually, for Members of Local Boards.
3. To provide advice and opinions to Members of Council and those to whom the Code applies, either collectively or individually, with respect to the *Municipal Conflict of Interest Act*, the Code of Conduct and other procedures, rules and policies of the Municipalities governing ethical behaviour.
4. To provide advice and opinions to the Chair, Members of Local Boards and those to whom the Code applies, either collectively or individually, with respect to the *Municipal Conflict of Interest Act*, the Code of Conduct and other procedures, rules and policies of the Municipalities governing ethical behaviour.
5. To provide educational information to the Municipalities and the public about the municipality's codes of conduct for members of council and members of local boards (if applicable), and about the *Municipal Conflict of Interest Act*.
6. To develop policies and procedures for the Office of the Integrity Commissioner, and to review these on an annual basis.
7. To review the Code of Conduct for Members of Council and the Code of Conduct for Members of Local Boards (if applicable) and any related policies and procedures, as required, and to make recommendations for any needed changes in respect thereof;
8. To assist with the creation of a Council-Staff Relations Policy.
9. To assist in confirming the list of applicable local boards of the Municipalities.

Investigations

10. In accordance with the Code of Conduct for Members of Council and the Code of Conduct for Members of Local Boards (if applicable), other applicable ethics-related policies, rules or procedures and the policies and procedures for conducting investigations, to engage in dispute resolution activities as deemed appropriate in advance of or as part of any investigation.
11. In conducting any investigations under this Agreement, to have regard to the importance of:
 - a. the investigator's independence and impartiality;
 - b. confidentiality with respect to the investigator's activities; and
 - c. the credibility of the investigator's investigative process;
12. To conduct investigations from time to time upon receipt of a request for investigation (a "Request") in respect of complaints and alleged breaches of the Code of Conduct for Members of Council and the Code of Conduct for Members of Local Boards (if applicable), or other applicable ethics-related policies, rules or procedures and to provide recommendations based on the outcome of the investigation;
13. To proceed without undue delay and with due diligence to investigate a Request and to report to the Council of the affected Municipality within a reasonable period of time;
14. To conduct each investigation in private and to not disclose the identity of the complainant to any person/body unless written authorization to do so is obtained from the complainant;
15. To hear or obtain information from such persons as the Integrity Commission thinks fit and to make such inquiries as he/she thinks fit;
16. To provide an opportunity to the affected municipality or any person that may be adversely affected by a proposed report of the Integrity Commissioner, the opportunity to make representations respecting such report or recommendation;
17. To preserve confidentiality and secrecy with respect to all matters that come to his or her knowledge in the course of performing duties hereunder, save and except disclosure of such matters as in the Integrity Commissioner's opinion ought to be disclosed in order to establish grounds for his/her conclusions and recommendations;

18. After making an investigation into an alleged breach of the Council Code of Conduct, the Integrity Commissioner shall render his/her opinion as to whether or not a member of Council has contravened the Council Code of Conduct and, if so, recommend to the Council of the affected municipality any appropriate sanction(s) or remedial action(s);
19. After making an investigation into an alleged breach of the Code of Conduct for Local Boards (if applicable), the Integrity Commissioner shall render his/her opinion as to whether or not a member of Council has contravened the Council Code of Conduct and, if so, recommend to the Local Board any appropriate sanction(s) or remedial action(s);
20. After making an investigation into an alleged breach of the *Municipal Conflict of Interest Act*, the Integrity Commissioner shall render an opinion as to whether or not a Member of Council or a Member of a Local Board has contravened the *Act*, and if so whether any sanction or further action is recommended;