

The Corporation of the Municipality of Brockton

By-Law 2017-100

Being a By-Law to Appoint Harold G. Elston as Integrity Commissioner for the Corporation of the Municipality of Brockton.

Whereas Section 223.3 of the Municipal Act, 2001, S.O. 2001, c.25, as amended, (the "Act") authorizes a 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;

Now Therefore the Council of the Corporation of the Municipality of Brockton **Enacts as Follows:**

1. The Corporation of the Municipality of Brockton hereby appoints Harold G. Elston as Integrity Commissioner for the Corporation of the Municipality of Brockton, pursuant to Section 223.3 of the Act, for a three (3) year term commencing on January 1, 2018 and ending on December 31, 2020, with the option to renew for an additional two (2) year period based on the same terms and pricing.
2. The Mayor and CAO/Clerk are hereby authorized to execute an agreement with Harold G. Elston on behalf of the Corporation, for the agreed upon Integrity Commissioner services as set out in the agreement which is attached hereto, and affix the Corporate Seal thereto.

Read, Enacted, Signed and Sealed this 27 day of November, 2017.

Original Signed By
Mayor – David Inglis

Original Signed By
CAO/Clerk – Debra Roth

Schedule A

Agreement for Municipal Integrity Commissioner

This Agreement is effective the 1st day of January, 2018

Between:

The Corporation of the Municipality of Brockton

(Hereinafter referred to as the "Municipality")

AND: **Mr. Harold G. Elston**

(Hereinafter referred to as "Harold G. Elston")

Section 223.2 of the Municipal Act, 2001 S.O. 2001, c. 25, as amended (the "Act"), requires the municipality to establish a code of conduct for members of the council of the municipality and of its local boards;

Section 223. 3 of the 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 with respect to any or all of the following:

- a) The application of the code of conduct for members of council and the code of conduct for members of local boards;
- b) The application of any procedures, rules and policies of the municipality and local boards governing the ethical behavior of members of council and of local boards;
- c) Requests from members of council and of local boards for advice respecting their obligations under the code of conduct applicable to the member;
- d) Requests from members of council and of local boards for advice respecting their obligations under a procedure, rule or policy the municipality or the local board, as the case may be, governing the ethical behavior of members;
- e) The provision of educational information to members of council, members of local boards, the municipality and the public about the municipality's code of conduct for members of council and members of local boards.

The Municipality is satisfied based on the information provided and representations made to the Municipality by Harold G. Elston that Harold G. Elston has the skills and ability to meet the foregoing criteria.

The Municipality and Harold G. Elston agree as follows:

1. Services

The Municipality hereby retains and appoints Mr. Harold G. Elston as an Integrity Commissioner pursuant to Section 223.3(1) of the Act and the Integrity Commissioner agrees to provide such services in accordance with the Act, for and at the request of the Municipality and accepts such appointment.

2. Duties

The duties of the Integrity Commissioner shall be:

- a) At least once per term of Council, deliver an oral presentation to Members of Council and local boards regarding the role of the Integrity Commissioner and ethical obligations and responsibilities of Members under the Code of Conduct and any other procedures, rules or policies governing the ethical behavior of such Members and Councillors.
- b) Upon request, provide advice in writing, to individual Members regarding their ethical obligations and responsibilities under their Code of Conduct and any other procedures, rules or policies governing their ethical behavior, including the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50.
- c) Upon request, provide advice and recommendations to Council regarding amendments to the Code of Conduct and any other procedures, rules or policies governing their ethical behavior, including the Municipal Conflict of Interest Act, R.S.O. 1990, c. M.50.
- d) Prepare and deliver an annual report to Council (or more frequently if requested by Council), containing a summary of activities, if any, during the previous calendar year.
- e) Serve as proactive educator for Council, Members of local boards, the Municipality and the public about the Municipality's Code of Conduct for Members of Council and Members of local boards.

All of which shall be referred to herein as "the Services".

3. Fees

- a) **Hourly Rate** - Harold G. Elston will be paid a fee of Two Hundred and Fifty Dollars (\$250.00) per hour, plus applicable taxes for time devoted to Services as Integrity Commissioner for Bruce Municipality.
- b) **Expenses** - Upon presentation of receipts and with approval prior to the expense being incurred, Harold G. Elston will be entitled to reimbursement of mileage incurred in relation to performance of duties contemplated by this agreement at a rate of \$0.50 per km.

4. Term

- a) Subject to the provisions of this Agreement the initial term of this Agreement shall commence January 1, 2018 and end on December 31, 2020. The Municipality shall, at its sole discretion, have the unilateral option to renew for an additional two year period on the same terms and pricing. This option shall not be impacted by the failure to renew any other municipality participating in the cooperative RFP.

5. Independent Contractor

Harold G. Elston is appointed under authority of Section 223.3(1) of the Act and as such is responsible for performing the Services in an independent manner.

Harold G. Elston may identify himself publicly as the Integrity Commissioner appointed by the Municipality. Harold G. Elston shall be an independent contractor and shall not be considered and shall at no time represent himself to be legal counsel, an agent, or an employee of the Municipality.

The parties hereby acknowledge and agree that Harold G. Elston shall not be entitled to any benefits under any statute or the common law affecting employees. The Corporation shall pay no worker's compensation premiums, provide any health or life insurance, make any contributions on behalf of the Vendor to the Canada Pension Plan, deduct or withhold any amounts on account of employment insurance of federal or provincial taxes or provide the Vendor with any benefits other than as set out expressly herein.

6. Indemnification

The Municipality agrees to Indemnify and save harmless Harold G. Elston from and against any and all liabilities, losses, suits, claims, demands, damages, expenses, costs (including all legal costs), fines and actions of any kind or nature whatsoever arising out of or in connection with the provision of services and carrying out of duties as contemplated hereunder, including but not necessary limited to any alleged breach of this agreement, any procedural defect, or any breach of relevant statutory provisions.

7. Insurance

It shall be the responsibility of Harold G. Elston to:

- a) Maintain and keep in force during the term of this contract, Commercial General Liability Insurance with a limit of not less than Two Million (\$2,000,000.00) and shall include the Municipality as an additional insured with respect to the operations, acts and omissions relating to obligations under this Agreement, such policy to include non-owned automobiles liability, personal injury, broad form property damage, contractual liability, owners' and contracts' protective products and completed operations, contingent employers liability, cross liability and severability of interest clauses.
- b) Maintain and keep in force during the term of this contract, Professional Liability Insurance with a limit of not less than Two million (\$2,000,000.00) per occurrence, subject to an annual aggregate of Two million (\$2,000,000.00) for each member of the firm or partnership or an individual who will perform work on behalf of the Municipality prior to commencement of work and at the beginning of each calendar year during the appointment period.
- c) Provide the Municipality with a Certificate of Insurance detailing the coverage and expiry date for all policies, which certificate shall also show the Municipality as an additional insured.

8. Confidentiality

- a) The Commissioner is entitled to have access to all books, financial records, electronic data processing records, reports, files and all other papers, things or property belonging to or used by the Municipality or a local board that the Commissioner believes to be necessary for an inquiry.
- b) The Commissioner and every person acting under the instructions of the Commissioner shall preserve secrecy with respect to all matters that come to his/her knowledge in the course of his/her Services, save and except that information may be disclosed in a criminal proceeding as required by law or otherwise set out in section 223.5(2) of the Act.
- c) The Commissioner shall comply with the confidentiality provisions of the Act and specifically those requirements set out in sections 223.5, 223.6, 223.7 and 223.8 of the Act, and the requirements of the Code.
- d) Except as may be required by law, the Commissioner shall not disclose confidential information that was the subject of a closed meeting under Section 239 of the Act or which could identify a person concerned.

9. Early Termination

The within agreement may be terminated by either party at the end of any calendar year by delivery of a written notice of such early termination delivered on or before December 31st of any such calendar year during the term of this agreement.

The parties hereto acknowledge and agree that it is a condition of this Agreement that Harold G. Elston comply with the Municipality's Code of Conduct, policies and procedures (if applicable) and any By-laws passed by Council,

including, but not limited to, any policies or By-laws, including By-law Number 2017-056, outlining the procedure for handling complaints or conducting inquiries, and the Municipality shall be entitled to terminate this Agreement without any prior notice and with no cost or penalty should Harold G. Elston be found to have breached this condition, failed to have satisfied any obligation described in the Act, or to have disclosed any confidential information as described in the preceding paragraph.

10. Notice

Any notice required pursuant to this Agreement shall be delivered to the respective parties hereto at the following addresses:

For the Municipality of Brockton:
c/o Debra B. Roth, CAO/Clerk
100 Scott Street, P.O. Box 68
Walkerton ON N0G 2V0

For Harold G. Elston:
393 First Street, Suite 306
Collingwood ON L9Y 1B3

Any written notice between the parties hereto which specifically excludes any invoice rendered herein, shall be delivered or sent by pre-paid registered mail addressed to the parties at the respective addresses listed above. Notice shall be deemed to have been received on the date on which notice was delivered to the addresses designated or, in the case of mailing, on the fifth day after the date of mailing.

11. Severability

All paragraphs, terms and conditions of this agreement are severable and the invalidity, illegality or unenforceability of any such paragraph, term or condition shall be deemed not to affect the validity, legality, or enforceability of the remaining paragraphs, terms and conditions

12. Complete Agreement

This agreement, including any schedule hereto, constitutes the entire agreement between the parties and supersedes all prior agreements, negotiations and discussions, whether oral or written, with respect to the subject matter of this agreement.

13. Enurement

This agreement shall enure to the benefit of and is binding upon the parties hereto and their respective successors and permitted assigns.

14. Counterparts

This agreement may be executed in several counterparts, each of which so executed shall be deemed to be an original and such counterparts together shall be but one and the same instrument.

In Witness Whereof the parties hereto have executed this Agreement as of the day and year first above written.

The Municipality of Brockton

Original Signed By
Mayor – David Inglis

Original Signed By
CAO/Clerk – Debra Roth

Mr. Harold G. Elston

Original Signed By
Harold G. Elston