

THIS AGREEMENT MADE this day of December, 2019.

BETWEEN:

THE CORPORATION OF THE TOWN OF CALEDON

(hereinafter referred to as “Caledon”)

and

JOHN E. FLEMING OCCASIONAL CONSULTING INC.

(hereinafter referred to as “the Contractor”)

WHEREAS Caledon Council enacted By-law 2019-XXX (the “Integrity Commissioner By-law”) creating the Office of Integrity Commissioner for Caledon;

AND WHEREAS Council of The Corporation of the Town of Caledon adopted Resolution Number 2019-XXX granting an appointment to John E. Fleming as the Integrity Commissioner for the Town of Caledon until December 31, 2023;

AND WHEREAS Council considers it desirable to enter into an agreement with John E. Fleming Occasional Consulting Inc. through its principal John E. Fleming upon the following terms and conditions and in mutual consideration of the promises made between Caledon and the Contractor in this Agreement.

NOW THEREFORE Caledon and the Contractor agree as follows:

Services

1. The Contractor acknowledges and agrees that John E. Fleming shall at all times provide professional services to Caledon pursuant to this agreement and that John E. Fleming shall not cease to provide these services without the prior written consent of Caledon.
2. The Contractor shall perform the following services as set out in Caledon By-law 2019-XXX, as amended:
 - a. conduct investigations into alleged contraventions of the Code of Conduct for Members of Council and Designated Boards in accordance with the procedures set out in the Code of Conduct,
 - b. conduct inquiries and investigations into alleged contraventions of the Code of Conduct for Members of Council and Designated Boards and the *Municipal Conflict of Interest Act* in accordance with the procedures set out in the Code of Conduct,
 - c. make the decisions, including the imposition of penalties, in regard to the alleged contraventions of the Code of Conduct for Members of Council and Designated Boards and
 - d. prepare and deliver an annual report to Council containing a summary of the activities of the office of the Integrity Commissioner during the calendar year.
3. The Contractor may perform the following services at the request of a Member of Council or Designated Board or at the request of Council as set out in Caledon By-law 2019-XXX.

- a. prepare written materials for distribution to and use by Members of Council and Designated Boards regarding the role of the Integrity Commissioner and ethical obligations and responsibilities of Members of Council and Designated Boards under the Code of Conduct for Members of Council and Designated Boards and any other procedures, rules or policies governing their ethical behaviour,
 - b. prepare written materials and content for the Town of Caledon's web site for distribution to and use by the public to aid in their understanding of the role of the Integrity Commissioner and ethical obligations and responsibilities of Members of Council and Designated Boards under the Code of Conduct and any other procedures, rules or policies governing their ethical behaviour,
 - c. deliver an oral presentation to Members of Council and Designated Boards regarding the role of the Integrity Commissioner and ethical obligations and responsibilities of Members of Council and Designated Boards under the Code of Conduct and in respect of any other procedures, rules or policies governing their ethical behavior,
 - d. provide advice to individual Members of Council and Designated Boards regarding their ethical obligations and responsibilities of Members of Council and Designated Boards under the Code of Conduct and any other procedures, rules or policies governing their ethical behavior
 - e. provide advice and recommendations to Council regarding amendments to the Code of Conduct and in respect of any other procedures, rules or policies governing their ethical behaviour.
 - f. provide education to Members of Council and Designated Boards regarding their obligations under the Code of Conduct for Members of Council and Local Boards and the law in Ontario.
4. If Caledon requests that the Contractor perform any additional or supplementary work beyond the services set out in this Agreement, Caledon shall negotiate the nature of and cost of the work with the Contractor.
 5. The Contractor shall not perform any additional or supplementary work beyond the services set out in this Agreement, without the prior written authorization and consent of the Town Clerk.

Term

6. The Contractor shall provide the services commencing on 1 January 2020 and, unless terminated earlier pursuant to this Agreement, continuing until 31 December 2023.
7. The Contract shall not renew automatically after its expiry on 31 December 2023.

Remuneration

8. The Contractor's annual retainer for services provided under this Agreement shall be \$10,000 each calendar year for the term of the contract to be drawn down at a rate of \$300 per hour incurred by the Contractor in connection with the performance of the services. The retainer for the term shall be paid by Caledon at the time of the execution of this agreement and on January 1 of each subsequent year.
 - a. For services performed in excess of the annual retainer noted in subsection 8(a), Caledon shall pay the Contractor at the rate of \$300

per hour incurred by the Contractor in connection with the performance of the services.

- b. Unused hours of service remaining at the end of the year shall not carry forward to the following year.
9. Caledon shall reimburse the Contractor for all reasonable disbursements and expenses in addition to the hourly rate specified in section 8, including:
- a. mileage, which shall be the mileage rate in effect for Caledon and which shall be calculated by using the shorter of
 - i. the distance between the Contractor's home/office to Caledon and
 - ii. the location from which the Contractor actually travels to Caledon,
 - b. independent legal advice in respect of his obligations under this Agreement, provided that Town Clerk has approved the solicitor to be retained for this Purpose,
 - c. disbursements of photocopying, long distance telephone charges, fax transmissions, postage and courier charges.
10. The Contractor is responsible for completing all required documentation for and submitting all required amounts to the federal and provincial governments with respect to payments made to him by Caledon pursuant to this Agreement.
11. Payment of any invoices submitted by the Contractor shall be made only after this Agreement has been duly executed and the services billed for have been completed to the satisfaction of Caledon.
12. The Contractor shall include the following information in each invoice submitted by him:
- a. a breakdown of the time spent, nature of work performed, hourly billing rate and total costs of the Contractor, and
 - b. calculation of HST.

Insurance

13. The Contractor agrees to obtain and to maintain at all times a policy of Standard Automobile and Non-Owned Automobile Liability Insurance and shall protect himself against all liability arising out of the use of owned or leased vehicles, used by the Contractor, its employees or agents. The limits of the liability for both owned and non-owned vehicles shall not be less than Two Million Dollars (\$2,000,000.00) per occurrence.
14. The policy of insurance shall provide that if cancelled or changed in any manner, thirty days prior written notice by mail or facsimile transmission must have been given by the insurer to Caledon failing which such cancellation or change shall be void as against the Town, and shall be maintained in good standing during the entire period that services are provided pursuant to this Agreement.
15. The Contractor shall be entirely responsible for the cost of any deductible that is maintained in any insurance document.
16. The Contractor shall provide annual certificates of insurance to Caledon confirming compliance with the insurance requirements as outlined above.

17. Caledon shall maintain liability insurance throughout the term of this contract. Coverage shall consist of a comprehensive policy of public liability and property damage insurance in an amount of not less than \$2,000,000 per occurrence. Such insurance shall name the Contractor as an additional insured thereunder, and the policy shall be endorsed to include Blanket Contractual Liability and Personal Injury Liability insurance coverage. Caledon shall forward a Certificate of Insurance evidencing this insurance with the executed agreement. This Certificate shall state that coverage will not be suspended, voided, cancelled, reduced in coverage or in limits except after thirty (30) days prior written notice by mail to the Contractor.

Indemnity

18. Caledon shall indemnify and save harmless the Contractor from any and all cost, claims, demands, damages, suits, actions, and judgments made, brought or recovered against the Contractor for any personal injury, bodily injury or property damage to a third party caused by or resulting from the duties of the Contractor pursuant to this Agreement provided that:
- a. the Contractor acted honestly and in good faith in performance of his Duties; and,
 - b. the Contractor had reasonable grounds to believe he was acting in accordance within the scope of his authority as set out in this Agreement and in the *Municipal Act, 2001*; and,
 - c. the Contractor had reasonable grounds to believe his conduct was lawful.
19. Caledon shall indemnify and save harmless the Contractor from any and all cost, claims, demands, damages, suits, actions, and judgments made, brought or recovered against the Contractor by a Member of Council or Designated Board acting in his/her personal capacity, and not in his/her role as a member of municipal Council or member appointed to a Designated Board, for any personal injury, bodily injury, property damage or other damage caused by or resulting from the duties of the Contractor pursuant to this Agreement provided that:
- a. the Contractor acted honestly and in good faith in performance of his duties; and,
 - b. the Contractor had reasonable grounds to believe he was acting in accordance within the scope of his authority as set out in this Agreement and in the *Municipal Act, 2001*; and,
 - c. the Contractor had reasonable grounds to believe his conduct was lawful.

Termination

20. The Contractor may terminate this Agreement by providing Caledon with at least 60 days' written notice of the Contractor's intention to terminate this Agreement.
21. Caledon may terminate this Agreement, on 60 days' written notice, with or without cause.
22. The Contractor agrees to accept payment for services performed by the Contractor to the date of termination, on a pro-rated basis in accordance with the provisions of the Agreement, in full satisfaction of any and all claims under this Agreement and does hereby release Caledon from and waives any claims, demands, losses, charges, liabilities, actions, causes of action and any other

proceeding of any nature that the Contractor may make or bring against Caledon in respect of any loss, damage, injury or death to any person or property of the Contractor arising directly or indirectly, resulting from or sustained by reason of the termination of this Agreement by Caledon.

Conflict of Interest

23. Where the Contractor, either on his own behalf or while acting for, by, with or through another, has acquired or acquires any pecuniary interest, direct or indirect, including any interest in:
- a. a contract or contracts with any person or municipal or other corporations, or,
 - b. in any contract or proposed contract that is reasonably likely to be affected by the recommendations made by the Contractor, the Contractor shall forthwith disclose his interest to Caledon, who shall have the right to decide whether such interest constitutes a conflict of interest.
24. The Contractor confirms that no member of Caledon Council or Designated Board and no officer or employee of Caledon is, will be, or has become interested, directly or indirectly, as a contracting party, partner, stockholder, surety or otherwise however in or in the performance of the Agreement or in the supplies, work or business in connection with the Agreement, or in any portion of the profits thereof, or any supplies to be used herein, or in any of the monies to be derived therefrom.
25. The Contractor confirms that he does not have any involvement in political campaigning, political endorsement or related issues with respect to candidates running for office in any municipal election, or with the current members of Caledon Council or any involvement with the Caledon Chief Administrative Officer.
26. If Caledon concludes in its sole discretion that the Contractor has a conflict of interest within the meaning of this section, Caledon, without limiting the generality thereof, may terminate this Agreement forthwith.

Criminal Record

27. The Contractor affirms that he does not have:
- a. a record of any criminal offences for which a pardon has not been granted, or
 - b. a record of provincial offences for the previous 5 (five) years that would detract from the performance of the services.

Confidentiality/Non-Disclosure

28. The Contractor recognizes that in providing the services the Contractor may acquire detailed and confidential knowledge of Caledon's operations, its taxpayers and residents and other confidential documents and information.
29. The Contractor agrees that the Contractor shall not in any way use, divulge, furnish or make accessible to any person, either during the term of the Agreement or at any time thereafter, any confidential information relating to Caledon, or its taxpayers and residents acquired by the Contractor in the course of providing the services to Caledon.
30. This provision shall survive the termination of this Agreement and the Contractor's provision of services hereunder.

31. A failure to comply with this section constitutes both a breach of the Agreement and a cause for termination of this Agreement without notice or compensation.

Return of Property

32. Upon termination of this Agreement, the Contractor shall promptly deliver to Caledon any and all property, technology, data, manuals, notes, records, plans or other document including any document stores on any video or software related medium, held by the Contractor concerning Caledon's services and programs, know-how, developments and equipment.

Notice

33. Any notice required or permitted to be given under this Agreement shall be delivered personally, by prepaid registered mail, or by facsimile transmission to:

The Corporation of the Town of Caledon
6311 Old Church Road
Caledon, ON, L7C 1J6
Attention: Town Clerk

The Contractor at:

John Fleming Occasional Consulting Inc.
Attn: John Fleming

Assignment

34. The Contractor shall not assign this Agreement.

Entire Agreement

35. This Agreement constitutes the entire agreement between Caledon and the Contractor and it is agreed that there is no term, condition, warranty, or representation, collateral or otherwise, that may govern or affect the relationship between Caledon and the Contractor, other than those contained in the Agreement. This Agreement may not be modified or amended except in writing by Caledon and the Contractor.

Governing Law

36. This Agreement shall be interpreted in accordance with the laws of the Province of Ontario.

IN WITNESS WHEREOF this Agreement has been signed on behalf of Caledon and on behalf of the Contractor by their authorized signing officers.

JOHN FLEMING OCCASIONAL CONSULTING INC.

John Fleming, President
(I have the authority to bind the corporation)

THE CORPORATION OF THE TOWN OF CALEDON

Allan Thompson, Mayor

Carey Herd, Town Clerk

We have authority to bind the Corporation.

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