



CITY OF HAMILTON
CORPORATE SERVICES
Office of the City Clerk

TO:	Chair and Members Governance Review Sub-Committee
COMMITTEE DATE:	February 12, 2020
SUBJECT/REPORT NO:	Appointment of the City of Hamilton Integrity Commissioner and Lobbyist Registrar (FCS20016) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Andrea Holland (905) 546-2424 Ext. 5409
SUBMITTED BY:	Andrea Holland City Clerk
SIGNATURE:	

RECOMMENDATION(S)

- (a) That Principles Integrity be appointed as the Integrity Commissioner and Lobbyist Registrar for the City of Hamilton for the remainder of the current council term with an option to renew for an additional term of council and that the Mayor and City Clerk be authorised and directed to enter into an agreement to the satisfaction of the City Solicitor; and
- (b) That the City Clerk be directed to prepare the necessary by-laws for Council approval for the appointment of Principles Integrity as the City of Hamilton Integrity Commissioner and Lobbyist Registrar; and
- (c) That the costs associated with the Integrity Commissioner and Lobbyist Registrar be funded through IC-Lobbyist Registrar (Account Number 300400).

EXECUTIVE SUMMARY

The purpose of this Report is to provide the results of the Request for Proposals procurement process to secure the services of an Integrity Commissioner and Lobbyist Registrar and to recommend the award of the agreement to Principles Integrity.

OUR Vision: To be the best place to raise a child and age successfully.

OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Alternatives for Consideration – See Page 6

FINANCIAL – STAFFING – LEGAL IMPLICATIONS

Financial :Currently, the annual costs for the Integrity Commissioner and Lobbyist Registrar are funded through IC-Lobbyist Registrar (Account Number 300400). The annual costs from the previous five (5) years is listed below in chart 1.

Chart 1: 5 Year History of Integrity Commissioner Costs

Dept ID 300400						
	2015	2016	2017	2018	2019	Total
BASSE AND ASSOCIATES INC.	17,400.99	-	-	-	-	17,400.99
GEORGE RUST D'EYE	20,352.01	25,440.00	25,440.00	6,360.00	-	77,592.01
PRINCIPLES INTEGRITY	-	-	-	9,950.96	28,453.50*	38,404.46
Total	37,753.00	25,440.00	25,440.00	16,310.96	28,453.50*	

Note: *not all invoices for 2019 have been processed at the time of this report

Staffing: Staff from the Office of the City Clerk will be updating the City's website with all the pertinent information for customers to find information about the Integrity Commissioner and Lobbyist Registrar.

Legal: None.

HISTORICAL BACKGROUND

On October 16, 2016 Council approved its Code of Conduct By-Law (Appendix B) and approved its Lobbyist Registry By-law on September 10, 2014 (Appendix C).

Bill 68, the Modernizing Ontario's Municipal Legislation Act, 2017, which received Royal Assent on May 30, 2017, expanded the responsibilities of the Integrity Commissioners and required that all municipal governments provide access to an Integrity Commissioner and either appoint its own Integrity Commissioner or make provisions that the services of an Integrity Commissioner be provided by another municipality by March 1, 2019.

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The previous Integrity Commissioner, George Rust D'Eye, retired from their appointment and the current position was filled by appointment to fill the gap until a Request for Proposal (RPF) for a new Commissioner could be completed.

At the Council meeting of November 27 and 28, 2019 the following direction was given to staff:

“WHEREAS, the temporary appointment of Principle Integrity expires on November 30, 2019;

THEREFORE, BE IT RESOLVED:

That Item 7.5 of the September 11, 2019 Council Minutes respecting the Integrity Commissioner / Lobbyist Registrar Appointment, which was approved by Council on September 11, 2019, be amended by deleting sub-section (d) in its entirety and **amending** sub-sections (a) and (c), to read as follows:

Integrity Commissioner / Lobbyist Registrar Appointment

- (a) That Council extend the existing contract with Principle Integrity as the City of Hamilton's Integrity Commissioner and Lobbyist Registrar to *February 28, 2020*;
- (b) That a 'Request for Proposal' (RFP) in the position of Integrity Commissioner and Lobbyist Registrar be initiated;
- (c) *That Proposals received in response to the RFP be evaluated by a staff committee of the City Manager, City Solicitor, City Clerk and Executive Director of Human Resources and report back with a recommendation of a preferred candidate to the Governance Sub-Committee."*

Following this approval, the City Manager, Executive Director of Human Resources, City Solicitor and City Clerk, with the assistance of Procurement staff issued an RFP on November 25, 2019 to select and retain an Integrity Commissioner and Lobbyist Registrar. The City received three Proposals in response to the RFP. All of the Proposals were evaluated and as a result, two Proposals met the benchmark and were eligible to have their Costing Proposal opened and evaluated in accordance with the RFP. Principles Integrity is the Proponent who achieved the lowest cost per point and who is being recommended to Council for the award of the agreement.

The Integrity Commissioner is appointed to act in an independent manner on the application of the Code of Conduct and other rules and procedures governing the ethical behaviour of members of Council. The Integrity Commissioner appointed by Council shall

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be responsible for providing Integrity Commissioner services on an as required basis in accordance with sections 223.3 to 223.8 of the *Municipal Act, 2001*, as amended.

The Integrity Commissioner and Lobbyist Registrar appointed by the City of Hamilton shall be responsible for providing Integrity Commissioner and Lobbyist Registrar services for the City on an as required basis in accordance with sections 223.2 to 223.12 of the *Municipal Act, 2001*, as amended (Appendix A). As per the statement of work in the Request for Proposal:

1. The Work includes, but is not limited to, the following duties and responsibilities to be carried out for City Council:
 - 1.1. Act as an advisor to Council;
 - 1.2. Review and provide advice on the existing code of conduct governing members of Council;
 - 1.3. Provide information to Council as to obligations under the code of conduct, policies and procedures, rules and legislation governing members on ethical behaviour;
 - 1.4. Provide advice to individual members regarding specific situations as they relate to the application of the code of conduct, policies and procedures, rules and legislation governing members on ethical behaviour and providing advice on Conflict of Interest legislation;
 - 1.5. Provide education and training to City Council on matters, as requested;
 - 1.6. Provide information to the public regarding the code of conduct and the obligations of members of Council under the code of conduct, policies and procedures, rules and legislation governing their members on ethical behaviour; and
 - 1.7. Provide annual reports to Council summarizing the activities of the Integrity Commissioner.

2. The Integrity Commissioner and Lobbyist Registrar will communicate and be directly responsible to and shall report to Hamilton City Council. The City Clerk or their designate shall be responsible for the administration of the Agreement, which includes reviewing and managing the financial aspects of the Agreement and the receiving and processing of invoices for payment.

The Integrity Commissioner is required to preserve secrecy in all matters that come to his or her knowledge in the course of his or her duties. At the same time, the municipality is required to ensure that reports received from the Integrity Commissioner are made available to the public. The contact/contract administrator for the Integrity Commissioner will be the Clerk and/or their designate. Upon successful completion of an agreement with Principles Integrity, a by-law formally appointing them as Integrity Commissioner for the city will be brought forward for Council's approval.

POLICY IMPLICATIONS AND LEGISLATED REQUIREMENTS

Bill 68, the Modernizing Ontario's Municipal Legislation Act, 2017, which received Royal Assent on May 30, 2017, expanded the responsibilities of the Integrity Commissioners and required that all municipal governments provide access to an Integrity Commissioner and either appoint its own Integrity Commissioner or make provisions that the services of an Integrity Commissioner be provided by another municipality by March 1, 2019.

The *Municipal Act, 2001*, as amended, Part V.1 Accountability and Transparency, section 223.2 to 223.12 (Appendix 'A') outlines the requirements for City Council "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". Council has expressed their intent to retain their own Integrity Commissioner and Lobbyist Registrar and to not provide that service through another municipality.

Sections 223.9 of the Act authorizes a municipality to establish and maintain a Lobbyist Registry which is a publicly accessible accountability and transparency tool that records and regulates the activities of those persons who lobby public office holders.

Section 223.11 authorizes a municipality to appoint a Lobbyist Registrar who is responsible for performing, in an independent manner, the functions assigned to it by the municipality with respect to its Lobbyist Registry.

ANALYSIS AND RATIONALE FOR RECOMMENDATION(S)

An open, fair and competitive procurement process was conducted by City staff in accordance with the City's Procurement Policy (By-Law 17-064) to secure the services of an Integrity Commissioner and Lobbyist Registrar.

Staff issued an RFP on November 25, 2019 and the RFP subsequently closed on December 10, 2019, with three compliant Proposals submitted in response. All of the Proposals were evaluated and as a result, two Proposals met the minimum benchmark set out in the RFP and were eligible to have their Costing Proposal opened and evaluated. The RFP stated that the Proponent who achieved the "lowest cost per point" (calculated by dividing the Proponent's total contract price by the technical points received) would be the Preferred Proponent and be recommended to Council for the award of the agreement. For this RFP, the Preferred Proponent is Principles Integrity.

ALTERNATIVES FOR CONSIDERATION

Council may choose to not award to the Preferred Proponent and to appoint a Integrity Commissioner and Lobbyist Registrar outside of the competitive process however this alternative is not recommended. The process that was undertaken to select the Preferred Proponent was carried out in accordance with the Procurement Policy and in an open, fair and competitive manner.

ALIGNMENT TO THE 2016 – 2025 STRATEGIC PLAN

Community Engagement and Participation

Hamilton has an open, transparent and accessible approach to City government that engages with and empowers all citizens to be involved in their community.

Our People and Performance

Hamiltonians have a high level of trust and confidence in their City government.

APPENDICES AND SCHEDULES ATTACHED

Appendix 'A' to FCS20016 – *Municipal Act*, 2001, sections 223.2 to 223.12, as amended

Appendix 'B' to FCS20016 – Council Code of Conduct, By-Law 16-290

Appendix 'C' to FCS20016 – Lobbyist Registry, By-Law 14-244

Appendix 'D' to FCS20016 – Establish and Govern the Office of Integrity Commissioner, By-Law 16-188