



## **AGENDA**

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### **GOVERNANCE COMMITTEE**

THE CORPORATION OF THE CITY OF MISSISSAUGA  
([www.mississauga.ca](http://www.mississauga.ca))

**TUESDAY, DECEMBER 13, 2011 – 10:00 A.M.**

**CLASSROOM 1, CENTRAL LIBRARY**

**301 BURNHAMTHORPE ROAD WEST, MISSISSAUGA**

#### Members

Councillor Jim Tovey, Ward 1  
Councillor Chris Fonseca, Ward 3  
Councillor Bonnie Crombie, Ward 5  
Councillor Pat Saito, Ward 9  
Councillor George Carlson, Ward 11

Contact: Laura Wilson, Legislative Coordinator, Office of the City Clerk  
905-615-3200 ext. 5425 Fax: 905-615-4181  
[laura.wilson@mississauga.ca](mailto:laura.wilson@mississauga.ca)

**A. CALL TO ORDER****B. DECLARATIONS OF (DIRECT OR INDIRECT) PECUNIARY INTEREST****C. APPROVAL OF THE AGENDA****D. DEPUTATIONS****E. MATTERS TO BE CONSIDERED:****1. Appointment of Chair and Vice – Chair****2. Introductions and Objectives of Meeting**

Crystal Greer, Director, Legislative Services, with respect to the purpose of the Governance Committee and the development of the Committee's Terms of Reference, to be circulated to the Committee members for their review, revision and approval at the first meeting in 2012.

**3. Outline of upcoming City Council Meeting Structure Review**

Janice Baker, City Manager, with respect to the scope and timeline of the Structure Review.

**4. Terms of Reference**

Discussion with respect to the following:

- mandate
- term of office
- membership composition (including staff)
- roles and responsibilities
- meeting schedules
- quorum
- reporting structure

5. Priority Issues

Discussion with respect to the issues of priority for the Governance Committee including:

- Issuance of an RFP and Interviews for the Integrity Commissioner
- Amendment to the Code of Conduct

See information Items 5a to 5e.

6. Government Relations

Discussion with respect to the Government Relations matter referred from the General Committee meeting on December 7, 2011.

7. Next Steps

Janice Baker, City Manager with respect to the Governance Committee's next steps.

F. OTHER BUSINESSG. CLOSED SESSION - NILH. ADJOURNMENT

**DEC 13 2011**

**THE CORPORATION OF THE CITY OF MISSISSAUGA**



**MATERIEL MANAGEMENT**

**REQUEST FOR PROPOSAL**

**Procurement No: FA.49.233-11**

**FOR**

**Appointment of an Integrity Commissioner for  
A Term of Five (5) Years**

**Closing Date: Wednesday, May 11, 2011**

**Closing Time: 2:00 p.m., Local Time**

**LATE BIDS WILL NOT BE ACCEPTED**

**Materiel Management**

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Attachment:

STANDARD INSTRUCTIONS FOR BIDDING & PROPOSING



THE CORPORATION OF THE CITY OF MISSISSAUGA

FORM OF OFFER

Procurement No: **FA.49.233-11**

**Appointment of an Integrity Commissioner  
For a Term of Five (5) Years**

Closing Date: Wednesday, May 11, 2011  
2:00 P.M., Local Time

To receive consideration, all submissions must be received by the Closing Date prior to the above noted closing time. Please submit your response in accordance with the Bid Request Document (which may include: Instructions, Terms and Conditions, specifications, drawings, Standard Health and Safety Bid Terms, etc.), in the envelope provided, or, clearly marked with the procurement name and number and addressed to the Manager, Materiel Management, Corporate Services Department, The Corporation of the City of Mississauga, 300 City Centre Drive, 4th Floor, Facade, Mississauga ON L5B 3C1

**TOTAL COST TO THE CITY OF MISSISSAUGA:** \$ N/A *(Taxes Included)*

**This Bid Is Submitted By:**

Full Legal Name  
of Firm/Individual

Name of Contact \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Email  
Address \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

**TO THE MAYOR AND COUNCIL OF THE CORPORATION OF THE CITY OF MISSISSAUGA:**

I \_\_\_\_\_ of the \_\_\_\_\_  
(Declarant's Name)

of \_\_\_\_\_ in the \_\_\_\_\_  
(City/Town) (Region/County)

make the following declaration on behalf of \_\_\_\_\_  
(Firm Name)

(hereinafter referred to as "the Bidder) and I have authority to make this declaration on behalf

of, and to bind the Bidder to its contents. I declare:

1. **THAT** no person, firm or corporation other than the one that is submitting this bid has any interest in this bid or in any contract that may result from this bid ("Contract").
2. **THAT** the person whose name appears above (Declarant) has the adequate and sufficient authority to bind the person, firm or corporation that is submitting this bid and that, where the bidder is a corporation, its corporate seal, if it should have one, is affixed to this bid.
3. **THAT** this bid is made without any connection, knowledge, comparison of figures or arrangement with any other company, firm or person making a bid for the same work and is in all respects fair and without collusion or fraud.
4. **THAT** no member of the City Council, or any officer or employee of The Corporation of the City of Mississauga (the "City") is, or will become interested directly or indirectly as a contracting party or otherwise in, or in the performance of, any Contract, or in the supplies, work or business to which it relates or in any portion of the profits thereof, or in any such supplies to be used therein or any of the monies to be derived therefrom.
5. **THAT:**
  - a) each of the Bidder and its subcontractors and suppliers is in compliance with all municipal laws and regulations as they pertain to the City of Mississauga in respect of the operation of its business.
  - b) neither the Bidder nor any of its subcontractors or suppliers is:
    - (i) involved in judicial or arbitral proceedings against the City;
    - (ii) involved in a claim against or by the City with respect to any other contract, proposal, submission or business transaction;
    - (iii) convicted of a statutory offence relating to the City which has not been cured; or
    - (iv) related to or controlled by another person or entity to whom/which paragraph (i), (ii) or (iii) immediately above applies; or
    - (v) related to or controlled by another person or entity that is not in

compliance with paragraph 5(a) above.

6. **THAT** the Bidder declares that only the subcontractors, equipment and material suppliers identified below will be used by the Bidder in respect of the performance of the Contract and the Bidder will notify the City in writing of any changes within five (5) business days.

**LIST OF SUBCONTRACTORS:**

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**LIST OF EQUIPMENT SUPPLIERS:**

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**LIST OF MATERIAL SUPPLIERS:**

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7. **THAT** the Bidder agrees that if any statement contained in Clauses #1, 2, 3, 4, 5, or 6 is untrue or incorrect, the City shall be entitled at its sole discretion to reject this bid or, if such untruth or incorrectness comes to light after the bid is accepted, to terminate or refuse to enter into, as applicable, any Contract and to pursue any other legal recourse the City deems appropriate and that such untruth or incorrectness shall be a default under the Contract.
8. **THAT** if this bid is accepted, for the duration of any Contract:
- a) the Bidder shall continue to comply with all municipal laws and regulations as they pertain to the City of Mississauga in respect of the operation of the Bidder's business and shall ensure that its subcontractors and suppliers also remain in compliance in respect of the performance of any Contract; and
  - b) the Bidder shall comply with all federal and provincial laws and regulations, as well as any applicable City of Mississauga bylaws and policies in respect of the performance of any Contract.
9. **THAT** the Bidder has satisfied itself by such means as it prefers as to the actual conditions and requirements of the work and has secured all the information necessary to submit a bona fide bid.



10. **THAT** the Bidder agrees that this offer shall continue to be open for acceptance for a period of One Hundred and Twenty (120) days from the day of closing of the bid request and that the City may at any time within that period and without prior notice accept this bid whether any other bid has been previously accepted or not.
11. **THAT** the Bidder acknowledges that failure to supply satisfactory references may result, in the City's sole discretion, in the bid being rejected by the City.
12. **THAT** the Bidder agrees that if this bid is withdrawn before the Council or Purchasing Agent of the City has considered the bids and awarded a Contract, the amount of the deposit accompanying this bid, if any, shall be forfeited to the City.
13. **THAT** the Bidder has carefully examined the locality and site(s), if applicable, of the proposed work, as well as all of the instructions, terms and conditions and specifications or other information contained in the bid request and does hereby bid and offer to enter into a Contract to do all of the work and to provide all of the labour and to provide, furnish, deliver, place and erect all materials mentioned and described or implied therein including in every case freight, duty, exchange and sales tax in effect on the date of acceptance of the bid, and all other charges, on the terms and conditions and under the provisions therein set forth and to accept in full payment therefor the sums calculated in accordance with the actual measured quantities and prices set forth in this bid.
14. **THAT** the Bidder agrees that the issuance of an executed Contract based on this bid shall be an acceptance of this bid.
15. **THAT** if this bid is accepted, the Bidder agrees to furnish the required contract surety, WSIB Clearance and Insurance Certificate as/where required within seven (7) days after being notified so to do. In the event of default or failure on its part to do so, the Bidder agrees that the City shall be at liberty to retain the bid deposit, if any, for the use of the City, and to accept the next lowest or any bid or to advertise for new bids, or to carry out the works in any other way they deem best. The Bidder also agrees to pay the City the difference between this bid and any greater sum that the City may expend or incur by reason of such default or failure, or by reason of such acting, as aforesaid, on their part, including the cost of any advertisement for new bids; and to indemnify and save harmless the City and its Mayor and Councillors, officers, employees and agents from all loss, damage, cost, charges and expense which they may suffer or be put to by reason of any such default or failure on the Bidder's part.
16. **THAT**, if contract surety is required, the Bidder proposes a company which is willing to become bound with the Bidder in the amount designated for the due performance and fulfilment of any Contract.
17. **THAT** a bid deposit, if required, is enclosed.
18. **THAT** a safety acknowledgement form, if required, is enclosed.
19. **THAT** the Form of Offer and the Price Schedule are enclosed. **The Bidder agrees that bids received without these documents will be automatically rejected.**
20. **THAT** the Bidder agrees that:

- if any other requested information is not included in the bid submission, the City may notify the Bidder and ask the Bidder to provide the missing information within the time period specified in the notice;
- if the Bidder fails to provide the information within the specified time period, the bid will not be considered for an award.

21. **THAT**, if the Bid Request Document includes a form of agreement that a successful bidder would be required to execute, then the Bidder agrees that, if it is the successful bidder, it will execute the agreement substantially in the form in which appears in the Bid Request Document, except for those provisions to which the Bidder has indicated its objections in its bid.

22. **THAT** the matters stated in the bid are in all respects true.

By my signature hereunder, it shall be understood that, on behalf of the Bidder as the Bidder's authorized agent, I have read, understood and agree to abide by the instructions, terms, conditions and specifications contained in this Request Document, including the Bidder Information Package and any/all Special, Standard, and/or Supplementary Instructions and/or any/all Special and/or Standard Terms and Conditions of Contract, and Addenda No. \_\_\_\_\_ to \_\_\_\_\_.

Authorized Signature \_\_\_\_\_

Name \_\_\_\_\_

*(Please Print)*

Title \_\_\_\_\_

*(Please Print)*

***(Failure to sign here may result in rejection of this submission.)***

## EXECUTIVE SUMMARY

The Corporation of the City of Mississauga ("City") is seeking proposals from Bidders who are interested in serving the City of Mississauga as its Integrity Commissioner. The appointment will be on a part-time, as required basis, for a term of 5 years, non-renewable.

Council adopted a "Code of Conduct for Mayor and Members of Council" (attached as Appendix A), at its meeting on September 29, 2010.

Three members of Council have been appointed to interview candidates and evaluate responses received, facilitated by representatives from The Office of the City Clerk, Legal Services and Materiel Management. The evaluation committee will make a recommendation to Council on an individual to be appointed Integrity Commissioner.

The role of the appointed Integrity Commissioner will be to:

1. Provide educational training to City Council on matters, as requested
2. Provide advise to the Mayor and Members of Council, in respect of the Council Code of Conduct, either collectively or individually as required
3. Investigate complaints and alleged breaches of the Council Code of Conduct

The Integrity Commissioner will work independently and it is expected that the bulk of the work will be carried out at his/her workplace and will not be located on City property. However, office space at a City facility will be made available as required.

Responses to this Request for Proposals ("RFP") will be evaluated by the evaluation committee based on criteria established in this RFP. Bidders may also be asked to attend an interview with the evaluation committee. The recommended Bidder will be requested to give a presentation to the Mayor and all members of Council.

## **SPECIAL INSTRUCTIONS FOR BIDDING AND PROPOSING**

### **1.0 The RFP Document**

This Request for Proposals document consists of the City's standard cover page and all the documentation as provided in the Table of Contents. This package, taken together is referred to as the "Request for Proposals" or "RFP".

### **2.0 Deadline for Proposal Submissions**

Bidders responding to this RFP should submit **at least one (1) original plus three (3) copies** of their complete response.

All copies of the Bidder's proposal should be submitted in a sealed envelope to:

**Attn: Manager, Materiel Management, Corporate Services Department, The Corporation of the City of Mississauga, 300 City Centre Drive, Ground Floor, Mississauga ON L5B 3C1.**

The Bidder must assume full responsibility for the delivery and deposit of the completed proposal. The City accepts no responsibility for any loss or delay with respect to proposals that are delivered to any location other than that specified.

**PROPOSALS SENT UNSEALED, BY FACSIMILE OR BY E-MAIL WILL NOT BE CONSIDERED. LATE PROPOSALS WILL NOT BE CONSIDERED UNDER ANY CIRCUMSTANCES, AND WILL BE RETURNED TO THE BIDDER, UNOPENED.**

### **3.0 Bidder Qualifications**

The qualifications that a candidate for the position of Integrity Commissioner should possess include:

- Proven impartiality and neutrality, comparable to that of a judge;
- ability to provide services on a part-time, flexible and as-needed basis without competing employment demands;
- no other involvement in political campaigning/endorsements, no political party membership and no related conflicts of interest;
- no financial interest in any other work undertaken by the City;
- an independent person, known to have high ethical standards;
- experience managing sensitive inquiries, conducting investigations and making appropriate recommendations;
- excellent communication skills;

- familiarity with investigatory procedures and applicable legal principles, particularly as they relate to evidence, legal interpretation and natural justice;
- general knowledge of and appreciation of municipal government;
- ability to interpret and apply the provisions of various statutes, regulations, policies and other enabling documents;
- impartiality, wisdom, sound judgment combined with the ability to inspire trust and confidence;
- at least 10 years of senior-level management, legal, tribunal or judicial experience with preference given to those with judicial experience.

#### **4.0 Conflict of Interest**

In addition to complying with any rules as established by a Bidder's governing body, if any, the Bidder shall declare any actual or potential conflict of interest that exists now or may exist in the future with respect to the Bidder's participation in this RFP process, and if selected, the performance of the Bidder's responsibilities pursuant to the Retainer.

The Bidder shall describe in the proposal its process of identifying, disclosing, reporting and dealing with conflicts of interests should they arise in the future.

The City reserves the sole right and discretion to determine whether any situation constitutes an actual or potential conflict of interest and may disqualify any Bidder on such basis.

#### **5.0 Proposal Response Format**

The City discourages overly lengthy and costly proposals; however, in order for the City to evaluate proposals fairly and completely, Bidders should follow the format set out herein and provide all of the information as requested. Bidders are encouraged to provide further details that may demonstrate the excellence of their proposals. Bidders are encouraged to provide any additional information not specifically outlined in the context of this RFP.

Bidders are asked to read these instructions and adhere to the format set out below when preparing their RFP. Failure to comply with this requirement may, solely at the City's discretion, result in the Bidder's proposal being disqualified from further consideration.

##### **Part 1 – Form of Offer**

The first part (cover page) of the Bidder's response will consist of a completed "Form of Offer" with authorizing signatures. The "Form of Offer" identifies the Bidder; the number of addenda received, and certifies that the offer complies in every respect to the requirements stated in this RFP except where explicitly noted in the Bidder's proposal.

## **Part 2 – Bidder Qualifications**

The second part of the Bidder's response shall discuss the Bidder's qualifications to undertake an appointment to the position of Integrity Commissioner. The Bidder shall include, at a minimum, the following information:

1. The Bidder's name, address, telephone, email, and fax number for all communication.
2. A general description of the individual's or company's business, including any specific, relevant expertise.
3. The name, title and curriculum vita of the proposed Integrity Commissioner.
4. The name, title and curriculum vita for any staff to which work may be delegated, if applicable.
5. Confirmation of any error and omissions insurance coverage maintained by the Integrity Commissioner proposed to provide the services outlined herein.
6. A description of available support staff and resources, if any.
7. A declaration of all actual and potential conflict of interests that exists now or may exist in the future, together with the proposal of managing and dealing with conflict of interests (as specified in section 4.0 above).

## **Part 3 – Proposed Work Plan**

The third part of the Bidder's response shall provide detail to the following:

1. A statement acknowledging an understanding of the requirements.
2. A work plan setting out how the Bidder would ensure that the work will be assigned and performed by the appropriate staff (including any work that may be assigned to students or staff), such that quality of work, cost effectiveness and avoidance of duplication of work will be achieved. The work plan shall also set out proposed response times and any communication and co-ordination procedures that the Bidder proposes, where it is appropriate to do. A protocol for the confidential receipt and forwarding of complaints will be developed with the successful Bidder.

## **Part 4 – Proposed Fee Schedule**

One component for consideration of the responses to this RFP will be the fee structure proposed. Bidders are encouraged to provide any alternative fee structure as may be available to the City, such as block billing, per diem rates, annual caps on fees etc., in addition to hourly rates.

As such, the fourth part of the Bidder's response shall consist of:

1. The proposed fee structure and billing methods, including the proposed billing rate for the Integrity Commissioner and any other pertinent staff members;
2. Any alternative fee structures and proposed disbursement rates;

3. An undertaking that the rates proposed in the fee structure will be guaranteed for the duration of the Retainer.

All prices must be net and firm.

The Bidder will be solely responsible for any and all payments and/or deductions required, including those required for Canada Pension Plans, Employment Insurance, Workplace Safety and Insurance Board and Income Tax.

### **Part 5 – References**

The fifth part of the Bidder's response must consist of a minimum of four (4) references. Each reference should include the identity of the client organization, a contact name, address and phone number, and a brief description of the work that the Bidder has done, either as Integrity Commissioner or in a similar or complimentary role that is reflective of the qualifications listed under Part 3.

The City may contact any or all of the references provided in its evaluation of the Bidder's proposal.

Please note that the City will not accept any City staff as references from Bidders.

### **Part 6 – Draft Professional Services Agreement**

The sixth part of the Bidder's response shall indicate the Bidder's willingness to enter into a Professional Services Agreement with the City in accordance with the terms of the Draft Professional Services Agreement attached to this RFP. If a Bidder has concerns with any particular provision of the Draft Professional Services Agreement, the Bidder must clearly indicate the sections by number and propose specific replacement language that will form part of the proposal. The City will consider any modifications that may be so identified and in its sole discretion, may choose to reject or negotiate such modifications proposed.

## **6.0 Evaluation**

### **6.1 Bidder Qualifications**

Qualified Bidders are those that have relevant education, training and experience in conducting similar services and satisfy all the qualifications stated in this RFP. Relevant experience with other municipalities or other government agencies would be an asset.

### **6.2 Method**

Proposals will be evaluated on the basis of the information provided by the Bidder at the time of submission of its proposal and the evaluation criteria, as detailed below.

An evaluation committee has been established for evaluation purposes. The evaluation of all proposals received will be conducted in a structured manner, ensuring fair and consistent assessment, and selection of the successful Bidder. The process will consist of the following steps:

### **Step 1**

Proposals received by the date & time indicated will be reviewed and deviations to the requirements of this RFP will be noted and assessed. Bidders may be contacted to explain or clarify their proposals. Bidders will be notified if there are irregularities and their bid is being rejected in accordance with City policy.

### **Step 2**

Compliant proposals will be scored by the evaluation committee and ranked accordingly.

### **Step 3**

The evaluation committee may interview short-listed Bidders. No scores will be communicated to the Bidders. The interview will serve as the mechanism for further evaluation of the proposals of short-listed Bidders at an in-depth and more detailed level in order to establish a finalist. The further detailed evaluation will take into account discussions, presentations and clarifications with/by short-listed Bidders and analysis by the City, together with such other considerations as the City, in its sole discretion, deems necessary to complete its assessment of the short-listed Bidders. In responding to the questions and providing additional information, a Bidder cannot alter their original proposal.

The individual who will be recommended to Council to be appointed Integrity Commissioner will be agreed upon by the evaluation committee.

### **Step 4**

References or any other type of information that will aid the City in its selection may be obtained. The City reserves the right to consider all or any information received from all available sources, whether internally or externally obtained. The City may reject bids from further consideration based on results of reference checks. The City shall not disclose the results of said reference checks to any party outside the City.

### **Step 5**

Notification will be provided to all unsuccessful Bidders who responded to the RFP, with the names of the recommended Bidder.

## **6.3 Criteria**

The evaluation criteria may include, but is not limited to the following:

- a) the qualifications and experience of the Bidder, including results of the reference checks;
- b) the fee structure proposed, including any flexibility and creativity in cost savings;
- c) acceptance of the terms of the Professional Services Agreement attached hereto.



## 7.0 Schedule of Events

The City cannot guarantee a fixed time schedule for this RFP; however, this section provides an estimate as to the time required.

<b>Advertise/Issue RFP</b>	April 19, 2011
<b>RFP Closes</b>	May 11, 2011
<b>Short Listed Interviews (if required)</b>	May 17, 2011
<b>Notice of Award</b>	May 20, 2011
<b>Contract Commences</b>	Immediately upon execution of Professional Services Agreement

## 8.0 Contracts for Inquiries

The City has endeavoured to provide complete, correct information and estimates to enable Bidders to properly assess and determine the scope and complexity of the work required prior to submitting proposals. Bidders are solely responsible for determining if they need more information or if anything appears incorrect or incomplete, and for contacting the person named in this RFP if they have any questions whatsoever – prior to the closing date. Clarifications requested by Bidders must be submitted in writing, and delivered by hand, sent by facsimile or by e-mail and received by the individual noted below not less than four (4) business days before the closing date for the receipt of proposals.

Any clarifications issued by the City will be in the form of an addendum. All Bidders must acknowledge receipt of all addenda received by indicating the number of addenda on the Form of Offer.

Information obtained from any source other than the individual indicated below is not official and may be inaccurate. The City will not be responsible for any verbal statement, instruction or representations.

The contact person for this RFP is:

Erica Edwards, Senior Buyer  
300 City Centre Drive  
Mississauga, Ontario  
L5B 3C1  
Tel: 905-615-3200 x 5238  
Fax: 905-615-4186  
Email: [erica.edwards@mississauga.ca](mailto:erica.edwards@mississauga.ca)

**DRAFT PROFESSIONAL SERVICES AGREEMENT**

THIS AGREEMENT is made as of \_\_\_\_\_, 2011.

**BETWEEN:**

**THE CORPORATION OF THE CITY OF MISSISSAUGA**

(hereinafter called the "City")

- and -

(hereinafter called the "Integrity Commissioner")

**Recitals:**

WHEREAS City Council by the adoption of Resolution 0256-2010 approved the mandate of the Integrity Commissioner, authorized staff to advertise the position and determined that a review panel of three Councillors would assess qualified applicants for this position, and that \_\_\_\_\_ be appointed Integrity Commissioner for a non-renewable period of five years;

WHEREAS Section 223.3 of the *Municipal Act, 2001* authorizes the City to appoint an Integrity Commissioner who reports to Council and who is responsible for performing in an independent manner the functions assigned by Council in accordance with the legislation;

WHEREAS the City wishes to retain \_\_\_\_\_ as its Integrity Commissioner under the authority of Section 223.3 of the *Municipal Act, 2001* to perform the duties and responsibilities of that office pursuant to the terms of the legislation and this agreement;

**[Consider whether the agreement is enough or whether we need a by-law to establish the Office of the Integrity Commissioner.]**

NOW THEREFORE, in consideration of the foregoing background, the covenants in this Agreement, and other good and valuable consideration (the receipt and adequacy of which are hereby acknowledged), the Parties agree as follows:

**ARTICLE I: INTERPRETATION**

**1.1 Definitions**

In this Agreement, the following terms shall have the following meanings:

"Additional Fees" means additional Integrity Commissioner fees for additional work to be conducted by the Integrity Commissioner as a result of a City approved Change Order;

“Advice” means a request by City Council or a Member of City Council requesting the Integrity Commissioner to provide a general or specific interpretation of a provision of the Code of Conduct that may or may not reference a particular set of facts as an example of the conduct in question;

“Agreement” means this Agreement and all schedules attached hereto;

“City Personnel” means the City, its Mayor and Councillors, officers, employees (including but not limited to the City’s Contract Manager), agents, contractors, consultants, invitees, and licensees;

“City’s Contract Manager” means the City’s Clerk, or her designate;

“Code of Conduct” means the Code of Conduct for Mayor and Members of Council adopted by the Council of the Corporation of the City of Mississauga at its meeting on September 29, 2010 set out in Resolution 0256-2010;

“Complaint” means a request by City Council, a Member of Council, a City employee or any other person asking the Integrity Commissioner to conduct an inquiry into an alleged contravention of the Code of Conduct;

“Component Fee” means the fee for the Services for each component of the Position as identified in Schedule A;

“Confidential Information” has the meaning set out in Article V:

- (i) confidential, secret or proprietary information, including data, technical information, financial information, security information and plans, business information (including business plans, strategies and practices) of the City which is disclosed to or obtained by the Integrity Commissioner in connection with the fulfillment of the terms of this Agreement;
- (ii) all information related to the operations of the City upon which comes to the attention of the Integrity Commissioner in the course of carrying out the Services; and
- (iii) all data, formulae, preliminary findings, and other material developed in pursuance of the Position

but does not include any such information, which:

- (a) is or becomes publicly available;
- (b) is not subject to any pre-existing obligation of confidentiality;
- (c) are independently developed by the Integrity Commissioner outside the scope of this Agreement; or
- (d) is rightfully obtained by the Integrity Commissioner from third parties.

## **1.2 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated in all respects as an Ontario contract.

## **1.3 Schedules**

The following are the Schedules which are attached to and form an integral part of this Agreement:

Schedule A: Scope of Services

Schedule B: Fee Schedule

## **ARTICLE II: DUTIES**

2.1 Subject to and in accordance with the terms of this Agreement, the City retains the Integrity Commissioner to carry out the duties of the position in an independent manner, and the Integrity Commissioner agrees to assume this role and carry out the role of the Integrity Commissioner in respect of the Code of Conduct.

2.2 The Integrity Commissioner shall perform the following duties:

a) Advisory:

Upon request, provide advice to individual Members of Council regarding their ethical obligations and responsibilities under the Code of Conduct. The Integrity Commissioner may be requested to provide such advice confidentially to the Member of Council making the request in respect of specific facts, and in a way in which the Member may rely upon the advice provided. In such circumstances and where the Integrity Commissioner is requested to do so, he/she may provide advice in a general way to all Members of Council respecting the interpretation of the Code of Conduct.

b) Complaint Investigation and Adjudication:

Upon receipt of a formal complaint, the Integrity Commissioner shall assess the validity of the complaint to determine if it is appropriate and within the mandate of the Integrity Commissioner to investigate any alleged contraventions of the Code of Conduct identified in the complaint. Where the Integrity Commissioner has determined that the allegations made would if substantiated constitute a breach of the Code of Conduct, and in such circumstances investigate the alleged breach.

c) Educational:

Upon request, provide such training and written reference materials for distribution to and use by Members of Council regarding the role of the Integrity Commissioner, the obligations and responsibilities of Members of Council under the Code of Conduct and any other procedures, rules and policies governing or related to the matters covered by the Rules in the Code of Conduct. In this respect, the Integrity Commissioner may also be requested to prepare or edit written materials and content for the City's website or otherwise for distribution to or used by the public to aid them in their understanding of the role of the Integrity Commissioner and of the meaning of the Code of Conduct.

The Code of Conduct is a living document and the Integrity Commissioner shall prepare and deliver an annual report to Council containing a summary of his/her activities during the calendar year and provide advice and recommendations to Council regarding amendments to the Code of Conduct and any other procedures, rules or policies governing the matters addressed by the Rules in the Code of Conduct.

d) Clarification or Withdrawal:

If the Integrity Commissioner is unclear about the substance of a request for advice, or if the Integrity Commissioner is unclear as to whether a request received from a Member of Council is a request for advice or a request for an investigation, then before commencing work on the matter, the Integrity Commissioner will first seek clarification from the Member of Council who referred the matter. Likewise, if as a result of any action taken by the Integrity Commissioner the Member of Council who referred the matter believes the action is not what was intended, then the Member of Council may provide clarification to the Integrity Commissioner or may withdraw his or her request to provide advice or to conduct an investigation, whichever the case may be.

- 2.3 The Integrity Commissioner shall provide electronic copies of his/her report to the City Clerk who shall be responsible for ensuring distribution to all Members of Council, except for matters received as confidential fact-specific requests from individual Members of Council, in which case the Integrity Commissioner shall correspond directly with that Member of Council.

- 2.4 The Integrity Commissioner shall not provide advice of any kind to persons contemplating filing a complaint or to persons seeking assistance in initiating the complaint procedure.
- 2.5 The City may in writing at any time after the execution of this Agreement or the commencement of the duties delete, extend, vary or otherwise alter the Code of Conduct and the duties forming the subject of this Agreement. The City shall consult with the Integrity Commissioner prior to changing the duties. The Integrity Commissioner shall have the option of terminating this Agreement immediately if the scope of the duties is materially altered without the Integrity Commissioner's consent.
- 2.6 The City may at any time by notice in writing to the Integrity Commissioner, suspend or terminate this Agreement and the duties there under or any portion thereof at any stage of the retainer. Upon receipt of such written notice, the Integrity Commissioner shall perform no further duties other than those reasonably necessary to close out the Integrity Commissioner's duties. In such an event, the Integrity Commissioner shall be entitled to payment for those duties rendered and disbursements incurred to the date of such termination.
- 2.7 The Integrity Commissioner may at any time by notice in writing to the City, terminate this agreement and the duties there under. Upon giving such written notice, the Integrity Commissioner shall not, without the consent of Council, perform any further duties other than those reasonably necessary to close out the Integrity Commissioner's duties. In such an event, the Integrity Commissioner shall be entitled to payment for those duties rendered and disbursements incurred to the date of such termination.
- 2.8 The Integrity Commissioner shall perform the duties in an independent, professional and consistent manner, in compliance with all applicable laws and expeditiously to meet the requirements of the City. The Integrity Commissioner may in writing, delegate certain duties, including the exercise of powers under the *Public Inquiries Act* and the duty to report on an inquiry, in situations where the Integrity Commissioner has provided advice to an individual Member of Council respecting the same matter that is the subject of a request for an investigation or where the Integrity Commissioner has an actual or apparent conflict of interest.
- 2.9 The Integrity Commissioner shall complete any portion of the duties in such order as the City may require, and shall provide a status report to Council through the City Clerk from time to time as required or requested by Council. The parties acknowledge and agree that the Integrity Commissioner shall make all reports to Council using the proper administrative reporting procedures as directed by the City Clerk, whose role it is to transmit such reports to Council.
- 2.10 The City shall provide public access to the Code of Conduct through its website. The City shall also provide information about the Code of Conduct, the role of the Integrity Commissioner and the complaint process on its website. As such, the Integrity Commissioner's duties do not include development of a website or similar public information, but any concern surrounding appropriate dissemination of information relevant to the duties of the Integrity Commissioner may be forwarded to the City Clerk for consideration. Review of website content does not constitute part of the Integrity Commissioner's duties.

- 2.11 The Integrity Commissioner recognizes and agrees that he or she has been selected by the City to perform the duties based on the unique qualifications of the individual for this position. Any delegation of the duties by the Integrity Commissioner will be subject to approval of Council, which approval should not be unreasonably withheld, provided that the proposed delegate has the qualifications, experience and expertise necessary to perform the duties to the same standard as the Integrity Commissioner.
- 2.12 The Integrity Commissioner acknowledges and advises that he or she does not have any conflicts of interest that would interfere with carrying out the duties under this Agreement and specifically that he or she is not an employee of the City, does not have a financial interest in any matters involving the City, does not have an interest in matters before City Council or in any work undertaken by the City. Furthermore, the Integrity Commissioner acknowledges that he/she does not have and never has had, any involvement in the municipal politics of the City of Mississauga. The Integrity Commissioner acknowledges that he or she shall be impartial and neutral and shall perform all duties skilfully, competently, independently and in accordance with all applicable law.

### **ARTICLE III: FEES & PAYMENT**

- 3.1 The City shall pay the Integrity Commissioner a retention fee of \$ \_\_\_\_\_ per year to be paid at the commencement of each year of the retainer.
- 3.2 For the performance of the duties under this Agreement, the City shall pay the Integrity Commissioner an hourly rate of \$ \_\_\_\_\_, to be billed monthly.
- 3.3 The City shall reimburse the Integrity Commissioner for the following expenses at the rates that apply to City staff, presently being:

Monthly rate for mileage:

\$0.52 per km - up to 600 km

\$0.46 per km - over 600 km

Long-distance telephone

Fax

Meals

Photocopying:

\$0.15 per page

Other disbursements at cost (receipts required)

Reasonable research and administrative costs will be reimbursed at the rates of \$ \_\_\_\_\_ per hour for administrative assistants and \$ \_\_\_\_\_ per hour for research assistants.

- 3.4 Should the Integrity Commissioner require a meeting space at the City during the course of an investigation, the City will provide such space in a City facility on an as needed and as available basis. In arranging for such space, the City will be mindful of the importance of confidentiality. The Integrity Commissioner may request space in another City facility where the space offered could, in the opinion of the Integrity Commissioner give rise for

confidentiality concerns and the City will make all reasonable efforts to accommodate such requests in a timely fashion.

- 3.5 Any reports prepared by the Integrity Commissioner shall be provided to the City Clerk who will be responsible for printing and distributing the Integrity Commissioner's report at the expense of the City.
- 3.6 The Integrity Commissioner shall submit invoices for services performed to the City Solicitor who will be responsible for processing such expenses for payment. If the City Solicitor refuses to authorize any expense requested by the Integrity Commissioner and contemplated by this Agreement, the Integrity Commissioner shall have the right of appeal directly to the CAO and City Manager. The Integrity Commissioner shall have the option of appealing any subsequent decision to refuse payment directly to Council and any decision by Council shall be final and binding on the Integrity Commissioner.
- 3.7 The Integrity Commissioner shall not seek reimbursement from the City for any costs incurred by him or her which are not specifically set out in this agreement, unless such costs are pre-authorized in writing by the CAO and City Manager.
- 3.8 The City shall pay the amount of any invoice submitted in accordance with this Agreement within 30 days of the date of receipt.
- 3.9 Where duties are delegated with approval of Council, the Integrity Commissioner shall be reimbursed for costs of the delegate to an amount not exceeding the permitted hourly rate of the Integrity Commissioner.

#### **ARTICLE IV: AUDIT**

##### **4.1 Reviewing Records**

- 4.1.1 If requested by the City, the Integrity Commissioner shall make available to the City such time sheets, accounts, records, receipts, vouchers and other documents as the City's Contract Manager considers necessary for the purpose of substantiating the Integrity Commissioner's invoices.
- 4.1.2 The City may, at any time and from time to time during the term of this Agreement and seven (7) years following its termination or expiry, audit and inspect the Integrity Commissioner's accounts, records, receipts, vouchers, records of accessible customer service training (if applicable), and other similar documents relating to performance of the Services and this Agreement and shall have the right to make copies thereof and take extracts therefrom.
- 4.1.3 The Integrity Commissioner shall make available to the City the materials referred to in this section 4.2 in order that the City may carry out audits and inspections as provided in this section 4.2 and shall furnish the City and its authorized representative with all such information as the City or such representatives may from time to time require with reference to such materials. The Integrity Commissioner shall furnish such materials to the City within such timeframe as reasonably required by the City. Without limiting the generality of



the foregoing, the Integrity Commissioner shall furnish any required records of accessible customer service training to the City within ten (10) business days of the City's request, unless otherwise agreed upon by the City.

#### **ARTICLE V: CONFIDENTIALITY**

- 5.1 During the term of this Agreement, pursuant to Subsection 223. \_\_\_ of the *Municipal Act, 2001*, the Integrity Commissioner is entitled to have access to all books, financial records, electronic data, processing records, reports, files and any other papers, things or property belonging to or used by the municipality that the Integrity Commissioner believes to be necessary for an inquiry.
- 5.2 The Integrity Commissioner and every person acting under the instructions of the Integrity Commissioner shall preserve secrecy with respect to all matters that come to his or her knowledge in the course of carrying out any of the duties of the Integrity Commissioner under this Agreement, except as required by law in a criminal proceeding or in accordance with the provision of Subsection 223.5(1) of the *Municipal Act, 2001*.
- 5.3 Pursuant to Subsection 223.5(3) of the *Municipal Act, 2001*, Subsection (a) prevails over the *Municipal Freedom of Information and Protection of Privacy Act*.
- 5.4 Where the Integrity Commissioner reports to the City that in his or her opinion a Member of Council has contravened the Code of Conduct, the Integrity Commissioner may disclose in the report such matters as in the Integrity Commissioner's opinion are necessary, subject to applicable law.
- 5.5 If the Integrity Commissioner, when conducting an inquiry, determines that there are reasonable grounds to believe that there has been a contravention of any other Act or of the *Criminal Code of Canada*, the Integrity Commissioner shall immediately refer the matter to the appropriate authorities and suspend the inquiry until any resulting police investigation and charge has been finally disposed of, and shall report the suspension to Council.
- 5.6 Except as may be required by law, the Integrity Commissioner shall not disclose confidential information that was the subject of a closed meeting under Section 239 of the *Municipal Act, 2001*, or which could identify a person concerned.
- 5.7 In the event the Integrity Commissioner believes access is required to files and documents for which solicitor-client privilege is claimed, the Integrity Commissioner shall discuss such request with the City Solicitor and, if in the opinion of the City Solicitor, such request needs to be discussed with City Council, then the direction of City Council will be sought by the City Solicitor, with the exclusion of the Member(s) of Council, if any, under investigation.
- 5.8 Upon receipt of a formal complaint pursuant to the Code of Conduct, and where the Integrity Commissioner determines that the complaint meets the criteria to be investigated, the Integrity Commissioner may elect to conduct an informal investigation or alternatively to exercise the powers of a Commission under Parts I and II of the *Public Inquiries Act*, as contemplated by Subsection 223.4(2) of the Act.

- 5.9 Upon receipt of a formal complaint pursuant to the Code of Conduct, the Integrity Commissioner will first determine whether the complaint is invalid by virtue of the reason that the Integrity Commissioner determines the complaint to be
- a) outside of the jurisdiction of the Integrity Commissioner;
  - b) frivolous or vexatious;
  - c) made in bad faith or without substance; or
  - d) insufficient basis to conduct an investigation, including not relevant to the objectives of the *Municipal Act, 2001*, the Council Code of Conduct or in the public interest;

Where the Integrity Commissioner so determines, he or she shall report the nature of the formal complaint and the reason for not investigating to City Council.

- 5.10 If the Integrity Commissioner is satisfied that a formal complaint regarding a Member of Council does not contain sufficient information to set out in a *prima facie* contravention of the Code of Conduct, the Integrity Commissioner shall stay any inquiry into the complaint. The Integrity Commissioner shall notify the complainant that the matter is stayed and provide an opportunity for the complainant to provide additional information to allow the Integrity Commissioner to determine whether there has been a possible contravention of the Code of Conduct. Where satisfied that the information sets out a *prima facie* contravention of the Code of Conduct, the Integrity Commissioner shall lift the stay and conduct the inquiry and where not satisfied, the Integrity Commissioner shall file a report setting out that decision.
- 5.11 If the Integrity Commissioner is satisfied, after considering the information contained in the complaint and any other relevant information, that a complaint regarding a Member of Council is frivolous, vexatious or not made in good faith, or where the complaint is not within the mandate of the Integrity Commissioner, he or she shall not conduct an inquiry. Where this becomes apparent in the course of an inquiry, the Integrity Commissioner shall terminate the inquiry and prepare and file a report to Council.

## **ARTICLE VI: INSURANCE & INDEMNITY**

### **6.1 Insurance**

- 6.1.1 During the term of this Agreement, the Integrity Commissioner shall procure and maintain the following insurances as a minimum:

- a) commercial general liability for all aspects of the Position and the operations of the Integrity Commissioner in delivering the Services against claims for personal injury, bodily injury or property damage or loss, indemnifying and protecting the City, City Personnel, the Integrity Commissioner, and the Integrity Commissioner Personnel, to the inclusive limit of not less than \_\_\_\_\_ Dollars on a per occurrence basis. Such insurance shall specifically state by its wording or by endorsement that:

- i) the City is included as an additional insured under the policy;

- ii) the policy shall have provisions for cross liability and severability of interests as between the City and the Integrity Commissioner; and

*(Add any applicable stipulations)*

- b) errors and omissions insurance of not less than \_\_\_\_\_, with a maximum deductible of \_\_\_\_\_.

6.1.2 The insurance as required under subsection 6.1.1 shall not be terminated, cancelled or materially altered unless written notice of such termination, cancellation or material is given by the insurers to the City at least sixty (60) clear days before the effective date thereof. Any revisions must be submitted to the City's Contract Manager for approval.

6.1.3 The Integrity Commissioner shall provide the City with a certificate of insurance indicating compliance with this section 6.1 upon execution of this Agreement.

## **6.2 General Indemnity**

The Integrity Commissioner shall, both during and following the term of this Agreement, save harmless and fully indemnify the City and City Personnel from and against all costs, actions, suits, claims, and demands whatsoever which may be brought against or upon the City and/or any of the City Personnel as a result of, or that arise from or are in any way incidental to, the misconduct of the Integrity Commissioner and/or Integrity Commissioner Personnel, or the failure to perform, or the failure to exercise reasonable care, skill or diligence in the performance of this Agreement by the Integrity Commissioner and/or the Integrity Commissioner Personnel.

## **6.3 Intellectual Property Indemnity**

6.3.1 The Integrity Commissioner shall defend, at its expense, any action brought against the City and/or any City Personnel to the extent that the action is based on a claim that any of the Services or deliverables provided by the Integrity Commissioner or any part thereof infringes any third-party's intellectual property rights including, without limiting the generality of the foregoing, copyright, trade secret, patent or industrial design rights and the Integrity Commissioner shall indemnify and hold the City and City Personnel harmless with respect to all resulting court costs, damages or settlements awarded against the City and/or City Personnel provided that:

- a) the City promptly notifies the Integrity Commissioner of any matter in respect of which the foregoing may apply and of which the City has knowledge;

The Corporation of the City of Mississauga  
Procurement No.: FA.49.233-11; Request for Proposal for:  
Appointment of an Integrity Commissioner for a Term of Five (5) Years

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- b) the Integrity Commissioner has sole control over the defence, settlement or compromise of any such action as long as such defence, settlement or compromise does not place any liability or obligation on the City; and
  - c) the action is not over any content or data provided to the Integrity Commissioner by the City.
- 6.3.2 If any of the Services or deliverables or any part thereof becomes, or in the Integrity Commissioner's opinion are likely to become, the subject of a claim based on an alleged infringement or breach as aforesaid, the Integrity Commissioner may, at its expense and option, with prior written notice to the City do one of the following:
- a) modify the applicable part of the Services or deliverable so that there is no longer any infringement or breach, provided that such modification does not adversely affect the functional capabilities of the Services or deliverable as set out herein or Change Order;
  - b) procure for the City the right to continue to use the applicable part of the Services or deliverables; or
  - c) substitute for the applicable part of the Services or deliverables with other components having a capability equivalent to the replaced part of the Services or deliverables which would satisfy the Integrity Commissioner's obligations as set out herein.

## **ARTICLE VII: TERM & TERMINATION**

- 7.1 This agreement shall be effective on \_\_\_\_\_ 2011 and expire \_\_\_\_\_ 2016 unless otherwise terminated in accordance with the terms of this Agreement or by mutual agreement of the City and the Integrity Commissioner in writing.
- 7.2 To best ensure independence, the term of this Agreement shall not be extended or renewed.
- 7.3 Upon termination of this Agreement, the Integrity Commissioner shall forthwith deliver all material and documentation related to any investigations underway to the City's next Integrity Commissioner, and all such material and documentation shall become the property of the new Integrity Commissioner of the City. In the event of the City not having contracted the services of a new Integrity Commissioner, upon termination of this agreement the Integrity Commissioner shall make arrangements with the City Clerk to transfer the material and documentation related to ongoing investigations in such a manner that satisfies the Integrity Commissioner's concerns respecting the confidentiality of the records, while allowing their use for the purposes that they were created.
- 7.4 The Integrity Commissioner shall retain all other records and documentation relating to his or her duties for a period of five years following termination of this agreement and then shall dispose of such records in a secure fashion of by utilizing the City's Corporate Records Management Program.

- 7.5 Subject to the *Municipal Freedom of Information and Protection of Privacy Act* and subject to any other legislative requirement and the provisions of this Agreement, both during and after the term of this Agreement, the Integrity Commissioner shall not publish or issue any information respecting his or her duties under this Agreement without the prior written consent of the City's Council.

## **ARTICLE VIII: REPRESENTATION & WARRANTIES**

### **8.1 Integrity Commissioner's Representation & Warranties**

The Integrity Commissioner represents and warrants to and in favour of the City and acknowledges that the City is relying thereon as follows:

- 8.1.1 The Integrity Commissioner has full power and authority and has obtained all necessary approvals to execute, deliver and perform this Agreement.
- 8.1.2 The Integrity Commissioner's execution, delivery and performance of this Agreement shall not constitute:
- a) a violation of any judgment, order or decree;
  - b) a material default under any material contract by which it or any of its material assets are bound; or
  - c) an event that would with notice or lapse of time, constitute such a default.
- 8.1.3 The obligations and Services of the Integrity Commissioner hereunder will be performed in a professional manner consistent with the highest industry standards reasonably applicable to the performance of such obligations.
- 8.1.4 The Services, including any deliverables to be completed under this Agreement, may contain or be derived from portions of materials provided by third-party suppliers and service providers under license to the Integrity Commissioner. The Integrity Commissioner represents and warrants to the City that it has the full and unencumbered right to grant to the City such materials either through ownership or license, including updates, modifications of and/or enhancements thereto, and that the ownership, license to and use of such materials by the City in accordance with the terms of this Agreement will not violate the terms of its agreements with its third-party suppliers and service providers.

## **ARTICLE IX: DISPUTE RESOLUTION (DO WE KEEP THIS?)**

### **9.1 Dispute**

Any dispute, controversy, claim or alleged breach arising out of or in connection with this Agreement that cannot be settled by the City's Contract Manager and the Integrity Commissioner's Contract Manager (a "Dispute") shall be dealt with in accordance with this Article IX.

## **9.2 Escalation Levels**

- 9.2.1 First Level Escalation – In the event of any Dispute, the Dispute shall first be dealt with by the City's Purchasing Agent or designate and the Integrity Commissioner's [Insert title] ("First Level").
- 9.2.2 Second Level Escalation – Should the Dispute not be resolved within five (5) days of its referral to the First Level, the Dispute shall be escalated to the City's Director of [Insert name of City's client division] or designate and the Integrity Commissioner's [Insert title] ("Second Level").
- 9.2.3 Third Level Escalation - Should the Dispute not be resolved within five (5) days of its referral to the Second Level, the Dispute shall be escalated to the City's Commissioner of [Insert name of City's client department] or designate and the Integrity Commissioner's [Insert title] ("Third Level").
- 9.2.4 If No Resolution – Should the Dispute not be resolved within fifteen (15) business days of its referral to the Third Level, either party may exercise its rights available at law.

## **9.3 Admissibility**

All negotiations and settlement discussions to resolve a Dispute shall be treated as compromise and settlement negotiations between the parties and shall not be subject to disclosure through discovery or any other process and shall not be admissible into evidence in any proceeding.

## **9.4 Continued Performance**

Except where clearly prevented by the nature of the Dispute, the City and the Integrity Commissioner agree to continue performing their respective obligations under this Agreement while a Dispute is subject to the terms of this Article X.

## **ARTICLE X: GENERAL**

### **10.1 Not an Employee**

The Integrity Commissioner is appointed pursuant to Subsection 223.1 of the Municipal Act, 2001 as such as is responsible for performing the duties under this Agreement in an independent manner. The Integrity Commissioner may be identified publicly as the City of Mississauga's Integrity Commissioner however the Integrity Commissioner in an independent contractor and shall not be considered at any time to be an agent or employee of the City.

## 10.2 Notice

Where in this Agreement any notice is required to be given or made by either party to this Agreement, it shall be in writing and is effective if delivered in person, sent by ordinary or registered mail, or by facsimile transmission or email addressed to the other party for whom it is intended at the following addresses, and any notice shall be deemed to have been given:

- a) if delivered personally, on the date of such delivery;
- b) if by ordinary mail, on the second business day following the date of mailing;
- c) if by registered mail, on the day the postal receipt is acknowledged by the other party;
- d) if by facsimile transmission or email, when transmitted (if received before 4:30pm local time at the recipient's office or failing which on the next business day).

Any notices intended for the City shall be delivered and addressed to:

City of Mississauga  
Office of the City Clerk

Attention: Crystal Greer  
Tel: (905) 615-3200 ext. 5419  
Fax: (905)  
Email: crystal.greer@mississauga.ca

Any notices intended for the Integrity Commissioner shall be delivered and addressed to:

[INTEGRITY COMMISSIONER'S NAME & ADDRESS]

Attention:  
Tel:  
Fax:  
Email:

The address of either party may be changed by notice in the manner set out in this section.

## 10.3 No Amendment

This Agreement may only be changed or amended in writing duly executed by the duly authorized representatives of both parties.

#### **10.4 Waiver of Breaches**

In the event of a breach of any provision of this Agreement by one party to this Agreement, no action or failure to act by the other party shall constitute a waiver of any right or duty afforded by that party under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any such breach, except as may be specifically agreed to in writing by the party that is not in breach.

#### **10.5 Severability of Provisions**

If any of the provisions of this Agreement shall be illegal or invalid, such illegality or invalidity shall not render the whole agreement illegal or invalid, but the Agreement shall be construed as if it did not contain the illegal or invalid provision(s), and the rights and obligations of the Parties shall be construed and enforced accordingly.

#### **10.6 Entire Agreement**

10.6.1 This Agreement, the RFP and any addendum issued, any Change Order and purchase order issued by the City, and the Integrity Commissioner's proposal in response to the RFP (*Delete what's not applicable*) constitute the entire agreement between the parties with respect to the subject matter of the Agreement and supersede all previous negotiations, proposals, commitments, writings and understandings of any nature whatsoever, whether oral or written, unless they are expressly incorporated by additional reference in the Agreement.

10.6.2 Should there be a conflict between the Agreement and any related documentation, including the RFP, the order of precedence shall be as follows:

*(Add & delete as needed)*

- a) The contents of this Agreement preceding the Schedules;
- b) City's Change Orders (including any purchase order issued for these Change Orders);
- c) the Schedules of this Agreement;
- d) the RFP and any Addendum issued;
- e) the Integrity Commissioner's proposal in response to the RFP.

#### **10.7 Survival**

Articles 4, 5, 6, and sections 7.2 and 7.3 shall survive upon termination of this Agreement.

#### **10.8 Time**

Time shall be of the essence in all respects of this Agreement.



#### 10.9 **Further Assurances**

Each of the parties hereby covenants and agrees to execute and deliver such further and other agreements, assurances, undertakings, acknowledgements or documents, cause such meetings to be held, resolutions passed and by-laws enacted, exercise their vote and influence and do and perform and cause to be done and performed any further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part hereof.

Any dispute, difference or disagreement between the parties in relation to this agreement may, with the consent of Council and the Integrity Commissioner, be referred to arbitration. No person shall be appointed to ask as arbitrator who is any way interested, financially or otherwise, in the conduct of the duties or in the business or other affairs of either the City or the Integrity Commissioner. The determination of the arbitrator shall be final and binding upon the parties.

IN WITNESS WHEREOF the City and the Integrity Commissioner have executed this Agreement.

Date: \_\_\_\_\_

**THE CORPORATION OF THE CITY OF  
MISSISSAUGA**

\_\_\_\_\_  
Name: Hazel McCallion

Title: Mayor

Date: \_\_\_\_\_

**THE CORPORATION OF THE CITY OF  
MISSISSAUGA**

\_\_\_\_\_  
Name: Crystal Greer

Title: City Clerk

Date: \_\_\_\_\_

\_\_\_\_\_  
Name:

Title: Integrity Commissioner

**SCHEDULE A**

**THE SERVICES**

**[Outline the scope of the services, make any references to proposals/RFP etc. as required]**

**SCHEDULE B**

**FEE SCHEDULE**

**[To be inserted]**

DEC 13 2011

**Council Code of Conduct April, 2011**

Whereas the *Municipal Act, 2001* authorizes municipalities to establish a *Code of Conduct* for Members of Council or local boards of the municipality;

And whereas the establishment of a *Code of Conduct* for Members of Council is consistent with the principles of transparent and accountable government;

And whereas the establishment of a *Code of Conduct* for Members of Council is also reflective of the City's core values of Trust, Quality and Excellence in public service;

And whereas the elected officials of the City of Mississauga have and continue to recognize their obligation to serve their constituents in a conscientious and diligent manner recognizing that as leaders of the community, they are held to a higher standard of behaviour and conduct;

And whereas ethics and integrity are at the core of public confidence in government and in the political process, and elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real and the need to uphold both the letter and the spirit of the law including policies adopted by Council;

And whereas a *Code of Conduct* ensures that Members of Council share a common basis and understanding for acceptable conduct extending beyond the legislative provisions governing the conduct of Members of Council as set out in the *Municipal Act, 2001*; *Municipal Conflict of Interest Act*; *Municipal Elections Act, 1996*; and the *Municipal Freedom of Information and Protection of Privacy Act*.

Now therefore the Council of the City of Mississauga adopts certain rules in the form of a *Council Code of Conduct* that further underscore the requirement that elected officials be independent, impartial, and duly responsible in serving their constituents.

**Application**

This *Code of Conduct* applies to the Mayor and all Members of Council ("Members")

**Framework and Interpretation**

1. The *Code of Conduct* is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. As a living document the Code of Conduct will be brought forward for review at the end of each term of Council, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council.

- 5b-1
2. Commentary and examples used in this *Code of Conduct* are illustrative and not exhaustive. From time to time additional commentary and examples may be added to this document and supplementary materials may also be produced by the Integrity Commissioner as deemed appropriate.
  3. Where an elected official discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Member may rely on written advice provided by the Integrity Commissioner. The Integrity Commissioner will be bound by the advice given, as long as the facts remain unchanged, in the event that he or she is asked to investigate a complaint.
  4. Elected officials seeking clarification who are provided advice in a general way, cannot rely on advice given by the Integrity Commissioner to the same extent as advice given in respect of specific facts. Advice that is general in nature is subject to change when applied to specific facts that may not have been known at the time the general advice was provided.
  5. Elected Officials seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.
  6. The *Municipal Act, 2001* is the primary piece of legislation governing municipalities however there are other statutes that govern the conduct of elected municipal officials. It is intended that the *Code of Conduct* operate together with and as a supplement to the following legislation:
    - *Municipal Act, 2001*;
    - *Municipal Conflict of Interest Act*;
    - *Municipal Elections Act, 1996*;
    - *Municipal Freedom of Information and Protection of Privacy Act*;
    - *Criminal Code of Canada*.
  7. In carrying out his or her responsibilities regarding the *Code of Conduct*, the Integrity Commissioner is not limited to looking at the pecuniary interest of the Member, and for clarity the Integrity Commissioner is specifically authorized to investigate issues of conflict in a broad and comprehensive manner.

#### Definitions

- a. In the *Code of Conduct* the terms "child", "parent" and "spouse" have the same meanings as in the *Municipal Conflict of Interest Act*:

"child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

"parent" means a parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

"spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

- b. "Family Member" means a spouse, common-law partner, or any other person with whom the person is living as a spouse outside of marriage;
  - child, includes step-child and grand-child;
  - siblings.
- c. "Member" means a member of the Mississauga City Council, including the Mayor.
- d. "staff" includes the City Manager and Chief Administrative Officer, Commissioners, Directors, Managers, Supervisors and all non-union and union staff whether full-time, part-time, contract, seasonal or volunteers.
- e. "Nomination Day" means the last day for filing or withdrawing a nomination as provided for by the *Municipal Elections Act, 1996*.

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**Rule No. 1**

**Key Principles that Underlie the Code of Conduct:**

- a. Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner.**

**Commentary**

Members of Council recognize the public's right to reasonable access to information in relation to how decisions are made. The public's right to access however must be balanced against the requirement to protect the legitimate interests of the City and the respect for approved policies of the City.

- b. Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real. Members of Council shall not extend in the discharge of their official duties, preferential treatment to Family Members, organizations or groups in which they or their Family Members have a direct or indirect pecuniary interest.**

**Commentary**

Members of Council have a common understanding that in carrying out their duties as a Member of Council, they will not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to a Family Member or an individual which is not available to every other individual.

Members of Council are governed by the *Municipal Conflict of Interest Act* and the provisions of that statute take precedence over any authority given to the Integrity Commissioner to receive or investigate complaints regarding alleged contraventions under the *Municipal Conflict of Interest Act*.

- c. Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.**

**Commentary**

Members of Council may seek conflict of interest advice, including a written opinion, from the Integrity Commissioner however, where members choose to seek external legal advice on conflict of interest issues, these fees will not be reimbursed by the City of Mississauga and cannot be charged to any office account.

- d. **Members of Council shall avoid any interest in any contract made by him/her in an official capacity and shall not contract with the City or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.**
- e. **Members of Council, while holding public office, shall not engage in the management of a business carried on by a corporation and shall not profit directly or indirectly from a business carried on by a corporation that does or has contracted with the City of Mississauga.**
- f. **Despite subsection e., a Member of Council may hold office or directorship in an agency, board, commission or corporation where the Member has been appointed by City Council or by the Council of the Regional Municipality of Peel or by the Federal or Provincial government.**
- g. **Despite subsection e., a Member of Council may hold office or directorship in a charitable, service or other not-for-profit corporation subject to the Member disclosing all material facts to the Integrity Commissioner and obtaining a written opinion from the Integrity Commissioner approving the activity, as carried out in the specified manner, which concludes that the Member does not have a conflict between his/her private interest and public duty. In circumstances where the Integrity Commissioner has given the Member a qualified opinion, the Member of Council may remedy the situation in the manner specified by the Integrity Commissioner.**

*Commentary*

Examples of exceptions include hospital boards, charitable boards, police services boards, community foundations, the Association of Municipalities of Ontario, the Federation of Canadian Municipalities, service clubs such as the Rotary Club, Lions Club and other not-for-profit organizations. Members should exercise caution if accepting such positions if the organization could be seeking a benefit or preferential treatment from the City at any time.

- h. **Members of Council shall perform official duties and arrange their private affairs in a manner that promotes public confidence and respect and will bear close public scrutiny.**

*Commentary*

Members of Council shall not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to an individual which is not available to every other individual member of the public. For example, Members shall remain at arm's length when City staff or Council is asked to consider a matter involving a Family Member or a prominent supporter of the Member of Council.

- i. **Members of Council shall seek to serve the public interest by upholding both the letter of the law and the spirit of the laws and policies established by the Federal parliament, Ontario legislature, and by City Council.**

Commentary

The provisions of this *Code* are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour set out in current federal and provincial statutes.

To ensure the *Code* remains a living document that will remain current and continue to be a beneficial guide, the *Code* shall be brought forward for review at the end of each term of Council, with any changes to be implemented at the start of the following Council session.

- j. **In fulfilling their roles as elected officials, Members of Council shall respect the role of staff in the administration of the business affairs of the City and in so doing will comply with the City's *Respectful Workplace* policy.**

Commentary

Decision-making authority lies with Council, and not with an individual Member. Members of Council recognize that it is the role of the officers and employees of the City to implement Council's decisions and to establish administrative practices and procedures to carry out Council's decisions. Council is the source of all legislative authority and will make decisions on whether and to what extent to delegate this authority to others, including the Mayor, committees and to staff. Only Council as a whole has the capacity to direct staff members. Council as a whole must be able to access information in order to fulfill its decision-making duties and oversight responsibilities however, individual Members of Council must also recognize that the information they receive in their capacity as elected officials, is subject to confidentiality and disclosure rules contained in federal and provincial legislation and City policies.



**Rule No. 2****Gifts and Benefits:**

1. No Member shall accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of his/her duties of office unless permitted by the exceptions listed below. No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property at less than reasonable market value or at no cost.

For these purposes, a fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Family Member or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift to that Member.

The following are recognized as exceptions:

- a. compensation authorized by law;
- b. such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c. a political contribution otherwise reported by law, in the case of Members running for office;
- d. services provided without compensation by persons volunteering their time;
- e. a suitable memento of a function honouring the Member;
- f. food, lodging, transportation and entertainment provided by Provincial, Regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event;
- g. food and beverages consumed at banquets, receptions or similar events, if:
  - i. attendance serves a legitimate business purpose;
  - ii. the person extending the invitation or a representative of the organization is in attendance; and
  - iii. the value is reasonable and the invitations infrequent;
- h. communication to the offices of a Member, including subscriptions to newspapers, and periodicals; and
- i. sponsorships and donations for community events organized or run by a Member or by a third party on behalf of a Member and subject to the limitations set out in the *Code of Conduct* respecting Council Member-organized community events, where all costs are incurred and where all such events occur on or before Nomination Day.

Commentary

Members should be transparent in their dealings with the public, and neither a Member of Council or the City should handle funds on behalf of any organizations. Members should remain at arm's length from the financial aspects of these events and initiatives.

- a) Members may use their office expense budget to run or support local charities and community events subject to the terms of the *Elected Officials' Expenses* policy;
  - b) Members may urge constituents, businesses and other groups to support community events put on by others in the Member's ward or elsewhere in the City;
  - c) Members may work with community groups to assist them in finding sponsors and participants to support community events put on by the community group in the Member's ward or elsewhere in the City.
  - d) Members may play an advisory or membership role in any organization that holds community events in the Member's ward; and
  - e) Members may collaborate with the City and its agencies to hold community events and may participate in the City's Festival Funding Review Committee and other events approved by City Council.
2. In the case of exceptions claimed under categories 1. b, e, f, g, h and i,
    - a) where the value of the gift or benefit exceeds \$500, or if the total value received from any one source during the course of a calendar year exceeds \$500, the Members shall within 30 days of receipt of the gift or reaching the annual limit, list the gift or benefit on a Councillor Information Statement in a form prescribed by the Integrity Commissioner, and file it with the Integrity Commissioner.
    - b) Subsection a) does not apply to the receipt of up to two tickets to a dinner or fundraising, as long as the Member is attending only one such event with the same individual or corporation within any calendar year.
    - c) For clarification, Members are authorized to receive gifts, mementos and benefits which are common to receive in the normal course of fulfilling their duties. Members are not obliged to list on a Councillor Information Statement or anywhere else, a record of their receipt, unless the total value of such gifts or benefits received from any one source in a calendar year exceeds \$500.
  3. On receiving a Councillor Information Statement, the Integrity Commissioner shall examine it to determine whether the receipt of the gift or benefit might, in the opinion of the Integrity Commissioner, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, he/she shall call upon the Member to justify receipt of the gift or benefit.

4. Should the Integrity Commissioner determine the receipt was inappropriate, the Integrity Commissioner may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or the Integrity Commissioner may order the Member to forfeit the gift or remit the value of any gift or benefit already consumed to the City, or a City agency, board or commission. Any such direction ordered by the Integrity Commissioner shall be a matter of public record.
5. Beginning April 30, 2011 and quarterly thereafter, each Member shall file a Councillor Information Statement with Integrity Commissioner and all such statements shall be a matter of public record.

#### Commentary

Gifts and benefits are often received by elected officials in the course of their duties and attendance at public functions is expected and is considered part of their role. Business-related entertainment and gift-giving can be a token of respect and admiration for the elected official, but can also be seen as an instrument of influence and manipulation. The object of this rule is to provide transparency around the receipt of incidental gifts and benefits and to establish a threshold where the total value could be perceived as potentially influencing a decision.

The practical problems that nominal gifts and benefits create require a *Code of Conduct* that provides clarity and transparency. Personal integrity and sound business practices require that relationships with developers, vendors, contractors or others doing business with the City be such that no Member of Council is perceived as showing favouritism or bias toward the giver. There will never be a perfect solution.

Each Member of Council is individually accountable to the public and is encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values, in their offices for review by the Integrity Commissioner in the event of a complaint.

Those gifts or benefits that exceed \$500 or the annual limit of \$500 for one source, need to be kept on a form prescribed by the Integrity Commissioner and filed with the Integrity Commissioner on a quarterly basis to ensure transparency.

Examples of gifts that are required to be listed on the Councillor Information Statement may include:

- i) property (i.e. a book, flowers, gift basket, painting or sculpture, furniture, wine);
- ii) membership in a club or other organization (i.e. a golf club) at a reduced rate or at no cost;
- iii) an invitation to and/or tickets to attend an event (i.e. a sports event, concert, play) at a reduced rate or no cost;
- iv) or an invitation to attend a gala or fundraising event at a reduced rate or at no cost.

Use of real estate or significant assets or facilities (i.e. a vehicle, office, vacation property) at a reduced rate or at no cost is not an acceptable gift or benefit. Having said that, it has to be

recognized that Members of Council will have friends and will develop friendships with individuals who may from time to time have business relationships that will involve the City in some way. The purpose of the *Code* is not to prohibit Members from accepting all invitations to socialize at a vacation property of personal friends.

Proper caution and diligence must however be exercised when a social function occurs within close proximity to the individual having an issue before City Council or staff for approval. It is always prudent to consult with the Integrity Commissioner before accepting or attending at any such engagements.

Any doubts about the propriety of a gift should be resolved in favour of not accepting it or not keeping it. It may be helpful to consult with the Integrity Commissioner when a Member chooses to decline a gift as well as when a recipient may opt to keep a gift.

An invitation to attend a function where the invitation is directly or indirectly with the Member's duties of office is not considered to be a gift but is the fulfillment of an official function or duty. An invitation to attend a function with a developer or supplier, however, could be seen as allowing the giver an opportunity to influence the elected official. Such invitations should only be accepted if the invitation is within the scope of permissible gifts and benefits, meaning that Members should not consistently accept invitations from the same individual or corporation and should avoid any appearance of favouritism.

For clarification, an invitation to an event celebrating the successful completion of a development or project or the opening of a new business within the Member's ward on the other hand could serve a legitimate business purpose and be seen as part of the responsibilities of office provided the person extending the invitation or that person's representative is in attendance.

An invitation to attend a charity golf tournament or fund-raising gala, provided the Member of Council is not consistently attending such events as a guest of the same individual or corporation, is also part of the responsibilities of holding public office. Likewise, accepting invitations to professional sports events, concerts or dinners may serve a legitimate business purpose. Where a Member is uncertain in regards to whether an invitation is or is not appropriate, it may be prudent to consult with the Integrity Commissioner before attending any such event.

Regular invitations to lunch or dinner with persons who are considered friends of Members of Council is acceptable in situations where the Member pays their portion of the meal expense and treats it as a personal expense, meaning a claim is not made under the *Elected Officials' Expenses* policy. Proper caution and diligence not to discuss matters before the City for a decision must be exercised at all times. Again, when in doubt it is prudent to consult with the Integrity Commissioner.

### Rule No. 3

#### Councillor Expenses:

There are a range of expenses that support a Member's role in community development and engagement activities within their ward. For federal and provincial elected officials, these expenses are often paid for by Riding Association funds. Municipal elected officials do not have this benefit. Subject to the *Elected Officials' Expenses* policy, this section of the Council *Code of Conduct* deals with community expense-events, will indicate allowable expenses for reimbursement and provide guidelines for Members of Council respecting community expenses related to a Member's role in community development, and reflecting which expenses are eligible for reimbursement from a Member's office expense budget.

1. Raffle tickets, table prize tickets and other gaming tickets are not eligible for reimbursement.
2. Sponsorship of teams or individuals, such as the provision of uniforms or equipment, are not eligible for reimbursement.
3. Expenses incurred by Members working during normal meal periods serve a legitimate public duty purpose, provided that the expenses incurred are reasonable and appropriate in the circumstances. Reasonable and appropriate expenses are those that are incurred for an official duty or function; are modest and represent the prudent use of public funds; and do not involve the purchase of alcoholic beverages.
4. Official duties or functions include those activities that are reasonably related to a Member's office, and must take into consideration the different interests, the diverse profiles of their wards, their different roles on committees, agencies, boards and commissions. Municipal elected officials will be expected or required to extend hospitality to external parties as part of their official duties and functions, and it is legitimate for expenses to be incurred for this purpose. It is legitimate for Members to incur hospitality expenses for meetings that include:
  - a. engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contacts and other third parties in discussions on official matters;
  - b. providing persons from national, international and charitable organizations with an understanding and appreciation of the City of Mississauga or the workings of its municipal government;
  - c. honouring persons from the City of Mississauga in recognition of exceptional public service and staff appreciation events;
  - d. recognition events for various agencies, boards and commissions of the City;

- e. ratepayers associations, minor league sports associations and other community groups.
- 5. Hospitality expenses may be incurred while extending hospitality in the course of travelling on a duty or function or as a Member of Council, provided the expenses are reasonable and appropriate in the circumstances.
- 6. As community leaders, Members may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups monies raised through fundraising efforts shall go directly to the groups or volunteers or chapters acting as local organizers of the group and Members of Council should not handle any funds on behalf of such organizations.

Members of Council routinely perform important work in supporting charitable causes and in so doing, there is a need for transparency respecting the Member's involvement. The following guidelines shall apply:

- a. Members of Council should not directly or indirectly manage or control any monies received relating to community or charitable organizations fundraising;
  - b. Members of Council or persons acting on behalf of a Member shall not solicit or accept support in any form from an individual, group or corporation, with any pending significant planning, conversion or demolition variance application or procurement proposal before City Council, which the Member knew or ought to have known about.
  - c. With reference to member-organized community events, Members of Council must report to the Integrity Commissioner, the names of all donors and the value of their donation that supplement the event.
  - d. Where a Member of Council sponsors and/or lends support to a community or charitable event, this *Code* recognizes that all donations are subject to the *Elected Officials' Expenses* policy.
  - e. No donation cheques should be made payable to a Member of Council or to the City of Mississauga. Members of Council may only accept donation cheques made payable to a Business Improvement Association, charity or community group and only for the purpose of passing the cheques on to such group.
  - f. Members of Council should not handle any cash on behalf of any charitable organization, not-for-profit or community group, and should always remain at arm's length from the financial aspects of these community and external events. If a Member of Council agrees to fundraise on behalf of a charity or community group, the Member should ensure that payment is received by a means that does not involve cash, including bank draft, money order, credit card or cheque made payable to the applicable group or organization.
7. Nothing included herein affects the entitlement of a Member of Council to:

- i) use the Member's office expense budget to run or support community events subject to the terms of the *Elected Officials' Expenses* policy section relating to Community Expense events;
- ii) urge constituents, businesses or other groups to support community events and advance the needs of a charitable organization put on by others in the Member's ward or elsewhere in the City;
- iii) play an advisory ex officio, honorary or membership role in any charitable or non-profit organization that holds community events in the Members' ward; and
- iv) collaborate with the City of Mississauga and its agencies, boards or commissions to hold community events.

Commentary

By virtue of the office, Members of Council will be called upon to assist various charities, service clubs and other non-profits as well as community associations, by accepting an honorary role in the organization, lending their name or support to it or assisting in fundraising. Transparency and accountability are best achieved in today's era by encouraging contributors to make donations to such organizations on-line through a website or where that is not possible through a cheque made payable directly to the organization. Cash should never be accepted.

**Rule No. 4****Confidential Information:**

Confidential Information includes information in the possession of, or received in confidence by, the City of Mississauga that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), or any other legislation.

MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *Municipal Act, 2001* allows information that concerns personnel, labour relations, litigation, property acquisitions and security of the property of the City or a local board, and matters authorized in other legislation including MFIPPA, to remain confidential. For the purposes of the *Code of Conduct*, "confidential information" includes this type of information.

1. As elected officials, Members of Council will receive highly sensitive and confidential information concerning residents who need their assistance. This is consistent with the nature of the Members' duties. In accordance with the City's *Elected Officials' Records* policy, Councillor constituency records are at all times under the control of the Member and are not subject to any municipal disclosure requirements.
2. The following are examples of the types of information that a Member of Council must keep confidential:
  - items under litigation, negotiation, or personnel matters;
  - information that infringes on the rights of others (e.g. sources of complaints where the identity of a complainant is given in confidence);
  - price schedules in contract tender or request for proposal submissions if so specified;
  - information deemed to be "personal information" under the *Municipal Conflict of Interest Act*; and
  - statistical data required by law not to be released (e.g. certain census or assessment data)
3. Where it is clear that a communication was not made in a confidential manner (i.e. copied to others, or made in the presence of others) or the manner of communication undermines the validity of labelling it "Confidential", such communication will not be given any higher level of confidentiality than any other communication. The words "Privilege", "Confidential" or "Private" will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.



4. Under the *Council Procedure By-law*, a matter that has been discussed at an *in-camera* (closed) meeting remains confidential, until such time as a condition renders the matter public.
  - a. No Member shall disclose the content of any such matter, or the substance of deliberations, of the *in-camera* meeting until the Council or Committee discusses the information at a meeting that is open to the public or releases the information to the public.
  - b. No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except where required by law or authorized by Council to do so.
  - c. No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. For example, no Member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.
  - d. Members of Council should not access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and is not prohibited by Council policy.

**Rule No. 5****Use of City Staff, Property, Services and Other Resources:**

1. No Member shall use for personal purposes any City staff services, property, equipment, services, supplies, websites, webboards, or other City-owned materials, other than for purposes connected with the discharge of City duties.
2. No Member shall obtain personal financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations or any other item capable of being patented. Members acknowledge and do not dispute that all such property remains exclusively that of the City of Mississauga.
3. No Member shall use information gained in the execution of his or her duties that is not available to the general public, for any purposes other than his or her official duties.

**Commentary**

Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their City duties as public officials. While most of this property is provided within the confines of their office, much of it is transportable or may be provided for home use, given the nature of the demands placed on Members in carrying out their duties and in recognition of the fact that the City does not provide constituency offices to Members of Council. Members are held to a higher standard of behaviour and conduct and therefore should not use such property for any purpose other than for carrying out their official duties. For clarity, this Rule is intended to prohibit the use of City resources for purposes such as running a home business. It is not intended to prohibit occasional personal use, but it should be subject to practical limitations.

Careful attention should be given to the provisions of the City's *Elected Officials' Expenses* policy which identifies approvable allowable expenses. During election campaigns, the provisions of rules 6 and 7 will apply.

4. No Member shall use the services of City staff, or make requests for document or information from City staff, unless such information is required for the purpose of carrying out their duties as public officials.

## Rule No. 6

### Election Campaigns:

1. Members are required to follow the provisions of the *Municipal Elections Act, 1996* and Members are accountable under the provisions of that statute.

### Commentary

Staff should not interpret or provide advice to Members regarding the requirements placed on candidates for municipal office.

2. No Member shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters and individual websites linked through the City's website) for any election campaign or campaign-related activities.
  - a) Despite the foregoing, Members may choose to use their cell phone or other such equipment and may do so by advising the Integrity Commissioner in writing in advance and by reimbursing the City for all related expenses associated with such use.
  - b) Despite the foregoing, Members are allowed to place materials on the City's election website, <http://www2.mississauga.ca/vote2010/>, that is available and authorized for use by all candidates for municipal and school board office.
3. In a municipal election year, commencing on June 30<sup>th</sup> until the date of the election, Members may not publish Councillor newsletters or distribute them in municipal facilities. All newsletters distributed through the mail must be post-marked by no later than June 30<sup>th</sup> in an election year.
4. In a municipal election year, commencing on Nomination Day until the date of the election, no Member or other candidate for elected office, may book directly or indirectly, any facility for any purpose that might be perceived as an election campaign purpose if that facility is being used as a polling station.

### Commentary

The restriction on booking facilities ensures election-related functions, or those that could appear to be election-related, will not occur at any time there is an advance or regular poll at the facility. The need to set up in advance means that election night parties cannot be held in the same facilities that polling stations are located in. Members should not authorize any event that could be perceived as the City providing them with an advantage over other candidates.

It is the personal responsibility of Members to ensure that any use of facilities or the services of municipal staff are carried out in accordance with applicable legislation. Staff are not responsible for monitoring and advising Members or any other candidates, in this regard.

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5. Members shall be respectful of the role of the City Clerk in managing the municipal election process and meeting all statutory requirements in respect thereof. The Clerk must ensure all candidates are treated equally and no candidate for elected office should interfere with how the Clerk carries out these duties.

Commentary

The *Municipal Elections Act, 1996* clearly states that it is the responsibility of the City Clerk to conduct the election and take all necessary actions to ensure municipal elections meet all statutory requirements.

6. No Members shall use the services of persons for campaign related activities during hours in which those persons receive any compensation from the City.

**Rule No. 7****Improper Use of Influence:**

1. No member shall use the influence of his or her office for any purpose other than for the exercise of his/her official duties.

**Commentary**

Examples of prohibited conduct are the use of one's status as a Member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's Family Member, or friends. This would include attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of a future advantage through a Member's supposed influence within Council in return for present actions or inaction.

2. Pursuant to corporate policy, the City Manager and Chief Administrative Officer directs City Commissioners, who in turn direct City staff. City Council and not individual Members of Council appropriately give direction to the City administration.

**Rule No. 8****Business Relations:**

1. No Member shall allow the prospect of his/her future employment by a person or entity to affect the performance of his/her duties to the City, detrimentally or otherwise.
2. No Member shall borrow money from any person who regularly does business with the City unless such person is an institution or company whose shares are publically traded and who is regularly in the business of lending money, such as a credit union.
3. No Member shall act as a paid agent before Council or a committee of Council or any agency, board or committee of the City.
4. No Member shall refer a third party to a person, partnership or corporation in exchange for payment or other personal benefit.

## Rule No. 9

### Conduct of Council at Committee Meetings and When Representing the City:

1. Members shall conduct themselves at Council and committee meetings with decorum in accordance with the provisions of the *Council Procedure By-law*.

#### Commentary

A Member recognizes the importance of cooperation and strives to create an atmosphere during Council and committee meetings that is conducive to solving the issues before Council, listening to various points of view and using respectful language and behaviour in relation to all of those in attendance.

2. Members shall endeavour to conduct and convey Council business and all their duties in an open and transparent manner other than for those decisions which by virtue of legislation are authorized to be dealt with in a confidential manner in closed session, and in so doing, allow the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.

#### Commentary

Various statutes, the *Council Procedure By-law* and decisions by courts and quasi-judicial tribunals including the Information and Privacy Commission, establish when City Council can discuss issues in closed session. Transparency requires that Council apply these rules narrowly so as to best ensure that decisions are held in public session as often as possible. Unless prohibited by law, Members should clearly identify to the public how a decision was reached and the rationale for so doing.

3. Members shall make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the City or by virtue of being an elected official.

#### Commentary

Individual Members are appointed to committees, agencies, boards and commissions based on their various backgrounds and their ability to contribute to matters before them, bringing their expertise and experience.

4. Given that Council and committee meetings are scheduled far in advance to accommodate the many activities of elected office of a Member, to participate diligently means that a Member shall not be absent from Council or committee meetings, or from those of agencies, boards and commissions to which they are appointed by virtue of their status as a Member, without reasonable justification (for example, illness of the Member, family circumstance, Regional business) for more than three consecutive scheduled meetings or on a regular basis.

**Rule No. 10**

**Media Communications:**

1. Members of Council will accurately communicate the decisions of Mississauga City Council, even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making processes of Council.
2. Members of Council will keep confidential information confidential, until such time as the matter can properly be made public.

**Commentary**

A Member may state that he/she did not support a decision, or voted against the decision. A Member should refrain from making disparaging comments about other Members of Council or about Council's processes and decisions.

When communicating with the media, a Member should at all times refrain from speculating or reflecting upon the motives of other Members in respect of their actions as a Member of Council.

While openness in government is critical, governments also must respect confidentiality when a matter must remain, at least for a period of time, confidential. Breaches of confidentiality by Members erodes public confidence.



**Rule No. 11****Respect for the City and its By-laws and Policies:**

1. Members shall encourage public respect for the City and its by-laws.

**Commentary**

A Councillor must not encourage disobedience of a City by-law in responding to a member of the public, as this undermines confidence in the City and in the Rule of Law.

2. Members shall conduct themselves with appropriate decorum at all times.

**Commentary**

As leaders in the community, Members are held to a higher standard of behaviour and conduct, and accordingly their behaviour should be exemplary.

**Rule No. 12****Respectful Workplace Policy:**

1. Members are governed by the City's *Respectful Workplace* policy. All Members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment.
2. Upon receipt of a complaint that relates to the City's *Respectful Workplace* policy and involves a Member, the Integrity Commissioner shall forward the information subject to the complaint to Human Resources who will refer it for an independent investigation.

**Commentary**

It is the policy of the City of Mississauga that all persons be treated fairly in the workplace in an environment free of discrimination or personal and sexual harassment.

The City of Mississauga's *Respectful Workplace* policy ensures a safe and respectful workplace environment and provides for the appropriate management of any occurrences of harassment and discrimination as those terms are defined in the policy.

The City of Mississauga's *Respectful Workplace* policy applies equally to members of staff and Members of Council. It will provide guidance to an independent investigator when a complaint is received involving a Member.

3. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall make a determination on the application of this *Code of Conduct* and the merits of the investigation respecting the conduct of the Member subject to the complaint. The findings of the Integrity Commissioner shall be reported to City Council as per the normal procedure respecting such matters.
4. The *Ontario Human Rights Code* applies in addition to the City's *Respectful Workplace* policy.

**Rule No. 13****Conduct Respecting Staff:**

1. No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
2. No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.
3. Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council.
4. No Member shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff, and all Members shall show respect for the professional capacities of the staff of the City.

**Commentary**

Under the direction of the City Manager, staff serve the Council as a whole, and the combined interests of all Members as evidenced through the decisions of Council. Only Council as a whole has the authority to approve budget, policy, committee processes and other matters. Accordingly, Members shall direct requests outside of Council-approved budget, process or policy, to the Budget Committee or directly to Council.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as standing committee members and as chairs of standing committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Council. Staff are expected to provide information to Members that they are entitled to. City staff are accountable to the City Manager who is accountable to City Council. Sometimes the line between staff duties and activities that are political in nature is not clear. Members of Council must respect the difference between the two in making requests of staff.

Members of Council should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalty of persons in power, or their personal opinions.

The City's *Respectful Workplace* policy applies to Members of Council. Staff and Members of Council are all entitled to be treated with respect and dignity in the workplace.

5b-25

5. It is inappropriate for a Member to attempt to influence staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application. It is also inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the City Manager. Any such attempts should be reported to the Integrity Commissioner.

**Rule No. 14****Employment of Council Relatives/Family Members:**

1. No Member shall attempt to influence the outcome, or to influence any City employee to hire or promote a Family Member.
2. No Members shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family Member.
3. No Member shall supervise a Family Member, or be placed in a position of influence over a Family Member.
4. No Member shall attempt to use a family relationship for his or her personal benefit or gain.
5. Every Member shall adhere to the City's *Candidate Selection Process* policy.

**Commentary**

If a Family Member of a Councillor is an applicant for employment with the City or is a candidate for promotion or transfer, the Family Member will proceed through the usual selection process pursuant to the City's hiring policies, with no special consideration.

5b-27

**Rule No. 15**

**Failure to Adhere to Council Policies and Procedures:**

1. Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

**Commentary**

Members of Council are required to observe the policies and procedures established by City Council at all times, and are directed to pay special attention to, and comply strictly with, the *Council Procedure By-law* and the *Elected Officials' Expenses* policy. In exceptional circumstances, a Member may request Council grant an exemption from any policy.

**Rule No. 16****Reprisals and Obstruction:**

1. It is a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities.
2. No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the *Code of Conduct*, or against a person who provides information to the Integrity Commissioner in any investigation.
3. It is also a violation of the *Code of Conduct* to destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the *Code of Conduct*.

**Commentary**

Members of Council should respect the integrity of the *Code of Conduct* and investigations conducted under it.

5b-29

**Rule No. 17**

**Acting on Advice of Integrity Commissioner:**

1. Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter, as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner.



**Rule No. 18****Compliance with the Code of Conduct:**

1. Upon receipt of recommendations from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the *Code of Conduct*, impose either of two penalties:
  - i) a reprimand; or
  - ii) suspension of the remuneration paid to the Member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days
2. The Integrity Commissioner may also recommend that Council take the following actions:
  - i) removal from membership of a committee;
  - ii) removal as chair of a committee;
  - iii) repayment or reimbursement of monies received;
  - iv) return of property or reimbursement of its value;
  - v) a written and/or verbal request for an apology to Council, the complainant, or both.

**Commentary**

Members are accountable to the public through the election process. Between elections they may become disqualified and lose their seat if convicted of an offence under the *Criminal Code of Canada* or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*, or for certain violations of the *Municipal Elections Act, 1996*.

In addition, the *Municipal Act, 2001* authorizes Council to impose either of the two penalties on a Member following a report by the Integrity Commissioner that, in his/her opinion, there has been a violation of the *Code of Conduct*.

DEC 13 2011



REPORT OF THE MISSISSAUGA JUDICIAL INQUIRY

## Updating the Ethical Infrastructure

### *Executive Summary*

The Honourable J. Douglas Cunningham  
*Commissioner*

- The MCIA should be amended to recognize the role of the integrity commissioner to investigate and to report on matters that are covered by the MCIA.

[Recommendation 13, page 173]

### **Coordination with Municipal Codes of Conduct**

- The MCIA should be amended to include a provision stating explicitly that nothing in the Act prevents a member of council from making submissions regarding a finding in a report by the integrity commissioner or regarding the imposition of a penalty under a municipal code of conduct. It is important that members of council are afforded procedural fairness under municipal codes of conduct.

[Recommendation 14, page 173]

### **Recommended Amendments to the Mississauga Code of Conduct**

#### **Preamble**

The focus of the Mississauga Code of Conduct should be on the spirit, principles, and goals underlying its creation. The Code is not intended to be strictly interpreted.

- The preamble to the Mississauga Code of Conduct (Mississauga Code) should be revised to identify clearly the values that underlie it and the mischief the scheme is set up to address. It may be counterproductive for the city to adopt a strict rules-based approach to the Code. Instead, the Mississauga Code should set out strong value statements, followed by a small number of general rules and more detailed commentary about those rules.

[Recommendation 15, page 174]

#### **Changes to the Conflict Rules**

- The Mississauga Code should be strengthened by replacing the prohibition against real and apparent conflicts of interest in Rule No. 1(b) with the two following stand-alone rules:

## 36 UPDATING THE ETHICAL INFRASTRUCTURE – EXECUTIVE SUMMARY

Members of Council should be committed to performing their functions with integrity. Members *shall avoid* the improper use of the influence of their office and *shall avoid* conflicts of interest, both apparent and real [emphasis added].

Members of Council shall not extend in the discharge of their official duties preferential treatment *to any individual or organization if a reasonably well-informed person would conclude that the preferential treatment was advancing a private interest* [emphasis added].

[Recommendation 16, page 175]

- ✦ Mississauga City Council should include a commentary following these two stand-alone rules:

For greater clarity, this Code does not prohibit members of Council from properly using their influence on behalf of constituents.

Instead of taking the form of stand-alone rules, Rules No. 1(d), (e), (f), and (g) of the Mississauga Code should form a commentary following the new Rule No. 1(b). That way, they will clearly fall under the statement in the “Framework and Interpretation” section of the Mississauga Code, which provides that “[c]ommentary and examples used in this *Code of Conduct* are illustrative and not exhaustive.”

[Recommendation 17, page 176]

### Integrity Commissioner

- ✦ The Mississauga Code should clarify further that the MCIA takes precedence over the Mississauga Code only when an actual complaint is made under the MCIA involving the very same matter.

[Recommendation 18, page 176]

- ✦ When a proceeding under the MCIA has been commenced with respect to the same matter, the Mississauga Code should contain a provision requiring the integrity commissioner to suspend his or her own investigation or proceedings until the process under the MCIA has been completed.

[Recommendation 19, page 177]

### Improper Use of Influence, Gifts, and Benefits

- ✦ An overarching principle should be articulated in the Mississauga Code to the effect that no inappropriate gifts are allowed “that would to a reasonable member of the public appear to be in gratitude for influence, to induce influence, or otherwise to go beyond the necessary and appropriate public functions involved.” The simplicity of such a rule is attractive, and it could be supplemented with a detailed commentary as well as future “cases” decided by the integrity commissioner.  
[Recommendation 20, page 177]
- ✦ The commentary to Rule No. 7 of the Mississauga Code should be expanded to say that members of council cannot make submissions to a municipal adjudicative body, such as a licensing tribunal, on behalf of a member of their ward.  
[Recommendation 21, page 177]

### Lobbyists

- ✦ The Mississauga Code should be amended to include clear guidelines setting out how municipal politicians may deal with lobbyists.  
[Recommendation 22, page 178]

### Procedural Fairness

As noted, the MCIA should include a provision explicitly stating that nothing in the MCIA prevents a member of council from making submissions regarding a finding in a report of the integrity commissioner or regarding the imposition of a penalty under a municipal code of conduct. Members of council should be afforded procedural fairness, particularly where they are concerned that a report critical of them may be adopted or that a penalty may be imposed as a matter of political expediency. Specifically, a member of a municipal council should have the opportunity to respond at council to a damning report or to a recommendation that a penalty be imposed under a municipal code of conduct.

- ✦ The procedure for making a complaint should be set out in the Mississauga Code. In the interest of independence, complaints made under the

Mississauga Code should be submitted directly to the integrity commissioner instead of through the civic administration.

[Recommendation 23(a), page 179]

- The current Rule No. 18 of the Mississauga Code should be revised to recognize explicitly the need to hear from a member before a critical report is adopted or a penalty is imposed by city council.

[Recommendation 23(b), page 179]

### **Office of the Integrity Commissioner**

The most well-intentioned municipal code of conduct and legislative enactments governing municipal officials will not be effective without a proper enforcement regime. An integrity commissioner can play a vital role in this regard.

- Mississauga should create a permanent office of the integrity commissioner, responsible for receiving, investigating, and reporting on formal and informal complaints.

[Recommendation 24, page 181]

To enhance impartiality, an integrity commissioner should not be an employee of the municipality. An integrity commissioner not only should be independent from municipal council, but should also be seen to be independent. The appointment process for an integrity commissioner should be fair and transparent.

An integrity commissioner's tenure should be fixed in length, non-renewable, and reasonably long. A term of five to seven years – organized on a part-time or a half-time basis, depending on the size of the municipality – would be appropriate. To avoid concerns about undue influence, the remuneration of an integrity commissioner should also be fixed at a reasonable level. Resources permitting, an integrity commissioner should also conduct educational outreach work with the public and, in particular, the development industry so that they understand the municipal accountability regime.

An integrity commissioner should report publicly on complaints received as well as on advice provided. To encourage members of council and municipal

staff to seek advice from the integrity commissioner, the names of those requesting advice should be removed from the published version of any such report.

- The Ontario legislature should require that, where a municipality has created the office of integrity commissioner, the municipality is required to identify a source for funding in the event an inquiry is called by the commissioner.  
[Recommendation 25, page 181]
- In order to assist smaller municipalities in avoiding the costs of maintaining their own offices of integrity commissioners, a roster of integrity commissioners should be created through the Association of Municipalities of Ontario. Integrity commissioners on this roster would be available on an on-call basis, and they would be funded accordingly.  
[Recommendation 26, page 182]

## **Lobbyists**

Given the costs involved, Mississauga should not create a lobbyist registry at this time. However, the creation of a clear and straightforward lobbyist code of conduct could help increase transparency for commercial developers and other third parties that deal with the municipality.

- Mississauga should create a concise lobbyist code of conduct. The integrity commissioner should be given responsibility for overseeing the lobbyist code and educating third parties about it.  
[Recommendation 27, page 182]

## **Additional Considerations**

### **Publication of All Known Conflicts of Interest**

The city clerk's office should consider the feasibility of creating a searchable database containing a list of all declared or known conflicts of interest. The list could then be posted on the city's website.

DEC 13 2011



# Corporate Report

Clerk's Files

Originator's  
Files

General Committee

APR 06 2011

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**DATE:** March 29, 2011

**TO:** Chair and Members of General Committee  
Meeting Date: April 6, 2011

**FROM:** Mary Ellen Bench, BA, JD, CS  
City Solicitor

**SUBJECT:** Code of Conduct for Mayor and Members of Council – First  
Scheduled Review

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- RECOMMENDATION:**
1. That the report of the City Solicitor dated March 29, 2011 titled "Code of Conduct for Mayor and Members of Council – First Scheduled Review" be received for information;
  2. That the Code of Conduct for Mayor and Members of Council be amended to add under Rule 2 a new subsection 2(c) for clarification purposes, that provides as follows:  
(c) For clarification, Members are authorized to receive gifts, mementos and benefits which are common to receive in the normal course of fulfilling their duties. Members are not obliged to list on a Councillor Information Statement or anywhere else, a record of their receipt, unless the total value of such gifts or benefits received from any one source in a calendar year exceeds \$500.

**BACKGROUND:** City Council at its meeting of September 29, 2010 considered the report of the City Solicitor dated September 22, 2010 titled "Code of Conduct for Mayor and Members of Council and Appointment of an Integrity Commissioner". Council adopted the recommendations contained in the report and in so doing adopted the Council Code of



Conduct in the form attached to the report, and appointed George Rust-D'Eye as interim Integrity Commissioner to hold office for a term of up to one year, while the City advertises for the position of Integrity Commissioner, interviews candidates and makes a recommendation to Council.

The Code of Conduct for Mayor and Members of Council became effective as of December 1, 2010 when the new term of Council took office. At the time that the Council Code of Conduct was adopted, it was anticipated that the recommendations from the Judicial Inquiry would have been received by the City and would be available for Council's consideration at its first meeting in April 2011. The date for the first review of the Council Code of Conduct was established to be April 6, 2011 to ensure that the public had sufficient advance notice of the date and could provide comments. Previous requests for public input garnered some very helpful recommendations for changes however, concern was also expressed that more time should be allowed so that various associations could take any comments they proposed to make to their board of directors for validation before they were submitted. No further public comments have been received.

**COMMENTS:**

The evidentiary phase of the Judicial Inquiry was completed by December 16, 2010 and final submissions were completed on February 8, 2011. An expert panel discussed the Code at length and it is therefore anticipated that the Commissioner's report will contain references to it. Currently there is no information respecting when the Commissioner will release his report.

In his first communication to Council, the City's interim Integrity Commissioner, Mr. Rust-D'Eye advised that when deciding whether to investigate he would give careful consideration to what requirements of the Code may apply in the particular circumstance of the case, and which provisions of the Code may have been breached. He advised as follows:

"I am empowered to determine how to proceed with my investigation, and what steps to take to ensure that it is carried on properly and in accordance with Council requirements, those of the *Municipal Act, 2001* and any other applicable legislation.

In the normal course of things, I would advise the Council of my decision to proceed with the investigation, and, where possible, give an estimate to the Council of the costs which I anticipate the City will be required to pay for my work on the Inquiry.

Importantly, I must make every effort to ensure fairness to the Member who is the subject of the inquiry while, at the same time, carrying out the instructions of Council and protecting the public interest.

In all cases, I will do everything in my power to respect the confidentiality of those who file requests or provide information to me in the course of an investigation or in seeking my advice."

Following his appointment, Mr. Rust-D'Eye attended at a Council educational meeting in December 2010 to explain to Council in greater detail, the roles he would be undertaking, being educational, advisory and an investigation role, how he interpreted the Code and his mandate. At that time Mr. Rust-D'Eye also stressed the statutory requirement that he be allowed to conduct any investigations independently.

In his role as Integrity Commissioner, Mr. Rust-D'Eye has prepared forms to be used to request a Code of Conduct inquiry and forms to be used by Members of Council under Rule No. 2 of the Code of Conduct for Mayor and Members of Council dealing with gifts and benefits. As a result of questions raised at the education session, the Councillor Information Statement, to be used for recording gifts and benefits, was revised to provide better clarity and address some of the questions raised at that session. There still continues to be some uncertainty around the language contained in that section of the Code.

At its meeting held on February 28, the ad hoc Council committee provided final instructions to staff on a draft form of contract for a competitive process to seek an Integrity Commissioner for a five-year term is currently underway. All Members of Council will be invited to participate in the interview process, following which a report will be brought back to City Council recommending an appointment.

Summary of Integrity Commissioner Reports

When Council approved the appointment of the Interim Integrity Commissioner, Council also approved the mandate of the Integrity Commissioner to be broad and include advisory, investigatory and educational roles. In his advisory role, the Integrity Commissioner will provide advice to individual Members of Council on a confidential basis and, where appropriate, will provide more general advice to Council as a whole. To date, the Integrity Commissioner has issued six reports to Council providing advice and guidance based on his interpretation of the Code of Conduct. Two of these reports respond to questions concerning the acceptance of gifts and benefits however the Integrity Commissioner has also been requested to provide advice on the impact of the Code of Conduct on Members of Council's social contacts, family interests, property transactions with local boards and concerning information and documents in the custody of the City Corporation. Beyond this, any advice provided to individuals is confidential.

The Integrity Commissioner has been requested to conduct one investigation and filed a preliminary and final report in that respect. In addition, the Integrity Commissioner has attended at Council to conduct one educational training session at the first meeting following the swearing in of the new Council.

Review of the Council Code of Conduct

At its meeting of December 15, 2010, Council appointed Councillors Adams, Carlson and Mahoney to continue as the ad hoc committee to review the Code of Conduct and carry forward with the appointment of an Integrity Commissioner for the first five-year term. A further meeting will be arranged to review the Code in detail once the report from the Judicial Inquiry has been received.

At this point in time however, given the confusion, it is recommended that Rule 2 respecting Gifts and Benefits and the filing of Councillor Information Statements should be clarified. The concern is that there could be public confusion as well respecting which gifts and benefits

need to be included on the Councillor Information Statement to be submitted to the Integrity Commissioner. The first version of this statement submitted to Members of Council suggested that all gifts needed to be listed, and while this was clarified and removed by the Integrity Commissioner, there is concern amongst the ad hoc committee members that this statement is a public record and therefore any clarification should also be public.

It was never the committee's intent that small items received, such as a pen or coffee mug, had to be reported. The intent of the committee was that only gifts having a singular value of \$500 or more, or having a collective value of \$500 or more that have been received from one source during a calendar year, be reported. Small tokens of appreciation received that do not have a collective value exceeding \$500 were never intended to be reported. This has been the subject of two of six of the Integrity Commissioner's reports which is also indicative of the confusion in interpreting these requirements.

For this reason it is recommended that the Code of Conduct for Mayor and Members of Council be revised by adding a new subsection 2(c) to Rule 2, which provides as follows:


(c) For clarification, Members are authorized to receive gifts, mementos and benefits which are common to receive in the normal course of fulfilling their duties. Members are not obliged to list on a Councillor Information Statement or anywhere else, a record of their receipt, unless the total value of such gifts or benefits received from any one source in a calendar year exceeds \$500.

**FINANCIAL IMPACT:** N/A

**CONCLUSION:**

Pursuant to Council Resolution Number 0256-2010 Council directed staff to report back on the impact of recommendations from the Judicial Inquiry on the Council Code of Conduct and regarding any public comments received, to General Committee at its meeting of April 6, 2011 to enable Members of Council to consider any appropriate amendments to the Council Code of Conduct. At the present time, the report from the Judicial Inquiry has not been received

and no information is available regarding when it will be available. No additional public comments have been received. As a result of matters referred to the Integrity Commissioner for advice and as a result of clarification required, this report recommends that a new section 2(c) be added to Rule 2 respecting the receipt of gifts and benefits to clarify that matters received from one source having a value of less than \$500 over the course of a calendar year do not have to be reported or recorded in any fashion.



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Mary Ellen Bench, BA, JD, CS  
City Solicitor

*Prepared By: Mary Ellen Bench, City Solicitor*

DEC 13 2011



## Corporate Report

Clerk's Files

Originator's  
Files

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**DATE:** September 22, 2010

**TO:** Mayor and Members of Council  
Meeting Date: September 29, 2010

**FROM:** Mary Ellen Bench, BA, JD, CS  
City Solicitor

**SUBJECT:** Code of Conduct for Mayor and Members of Council and  
Appointment of an Integrity Commissioner

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- RECOMMENDATIONS:**
1. That Council adopt the Council Code of Conduct in the form attached to the City Solicitor's report dated September 22, 2010 titled "Code of Conduct for Mayor and Members of Council and Appointment of an Integrity Commissioner" to be effective as of December 1, 2010 when the new term of Council takes office;
  2. That staff report back on the impact that the recommendations from the Judicial Inquiry have on the Council Code of Conduct and regarding any public comments received, to General Committee at its meeting of April 6, 2011 to enable Members of Council to consider any appropriate amendments to the Council Code of Conduct;
  3. That Council approve the mandate of the Integrity Commissioner to include an advisory, educational and complaints investigation function, substantially as detailed in the report of the City Solicitor dated May 5, 2010 titled "Code of Conduct for Mayor and Members of Council and Appointment of an Integrity Commissioner";

4. That appropriate staff be authorized to advertise for the purpose of seeking applicants for the position of Integrity Commissioner;
5. That three Members of Council be appointed to interview candidates and evaluate the responses received, and make a recommendation to Council on an individual to be appointed Integrity Commissioner and that the posting of Integrity Commissioner be a part-time position;
6. That the list of qualifications of the Integrity Commissioner set out herein be approved and form the basis for the evaluation of candidates;
7. That Council appoint George Rust-D'Eye as the City's interim Integrity Commissioner to hold office for a term of up to one year, while the City advertises for the position of Integrity Commissioner, interviews candidates and makes a recommendation to Council;
8. That City staff in consultation with the interim Integrity Commissioner, report back for approval by Council, on a complaint protocol that allows for the processing of both formal and informal complaints respecting alleged breaches of the Council Code of Conduct and on an enforcement process;
9. That on an interim basis once the Council Code of Conduct becomes effective on December 1, 2010 the complaint protocol be that all complaints be submitted to the City Clerk to be forwarded to the Integrity Commissioner in a manner similar to the process established to forward complaints to the Investigator retained by the City.
10. That all by-laws necessary to implement the foregoing be enacted.

**BACKGROUND:**

General Committee at its meeting of May 19, 2010 considered the report of the City Solicitor dated May 5, 2010 titled "Code of Conduct for Mayor and Members of Council and Appointment of an Integrity

Commissioner". This report discussed the process that the Council-appointed *ad hoc* committee followed in creating a draft Code of Conduct for Mayor and Members of Council and recommendations respecting the appointment of an Integrity Commissioner, for Council's consideration. The report recommended that once an Integrity Commissioner is appointed, staff and the Commissioner report back to Council on both a formal and informal complaint protocol.

After considering comments made by Members of Council and by the public, General Committee referred the draft Code of Conduct back to the *ad hoc* committee for further review and a report back to General Committee. At that time it was recommended that the City Clerk also assist in providing support to the committee, whose members are Councillors Adams, Carlson and Mahoney. A final review by the committee resulted in some minor changes to the draft Code of Conduct to provide clarification. A clean copy of the revised Code of Conduct (Appendix 1) and a black-lined copy (Appendix 2) of the four amended pages are attached.

The committee recommended that the draft Council Code of Conduct be circulated for public comment to all ratepayers' groups and BIAs, in addition to being posted on the City's website. A media release was also sent at the same time to advise that the Code of Conduct was posted for public comment. The Committee determined that the window for public comment be open to mid-August so that this report could be considered at the first General Committee meeting in September, thereby allowing time to finalize the Code of Conduct so that it can be effective immediately following the next municipal election.

At its meeting of September 15, 2010 Council adopted the recommendation of General Committee that the Code of Conduct for Mayor and Members of Council be approved in principle as outlined in the corporate report dated August 31, 2010 from the City Solicitor and that the period for public input be extended until September 22, 2010 so that the matter could be returned for Council's review at the September 29, 2010 meeting. A question was raised by Council concerning the cost of implementing the position of an Integrity Commissioner. An annual budget of \$100,000 is estimated by staff as



appropriate based on the experience of other municipalities, and will be reviewed as part of the budget process. Attached as Appendix 3 is a chart setting out the budget and actual costs of the Office of the Integrity Commissioner in the municipalities that responded. They are in line with the proposed budget.

**COMMENTS:**

Comments dated September 21, 2010 were received from the Peel Poverty Action Group (copy attached as Appendix 4). The central issue raised by the Peel Poverty Action Group is a request to amend the Code of Conduct to prohibit Members of Council from receiving corporate campaign donations. As noted in the August 31, 2010 report, Council does not have the legal authority to preclude election contributions from identified groups. Section 70.1 of the *Municipal Elections Act, 1996* only applies to the City of Toronto and Toronto is the only municipality authorized in this regard. The City of Toronto has in fact exercised this authority to prohibit contributions from corporations or trade unions to any candidate for an office on Toronto City Council. In addition, Toronto City Council has also authorized a contribution rebate program for individuals who make monetary contributions to candidates running for Mayor or City Councillor. The maximum rebate payable is \$1,000 and the rebate is calculated in accordance with a formula that provides as follows:

- contributions up to \$25 equals no rebate;
- contributions between \$25-300 equals 75% rebate;
- contributions between \$300-1000 equals \$225 + 50% of the difference between the contribution and \$300;
- contributions over \$1000 equals the lesser of \$575 + 33 1/3% of the difference between the contribution amount and \$1000, and \$1000.

A second submission dated September 11, 2010 was received, however the submission was not signed and its authorship could not be identified. Having said that, this submission was reviewed by the *ad hoc* committee appointed by Council, in addition to reviewing all of the other comments received to date. Attached to this report as Appendix 1 is a black-lined copy of the four pages of the Code where changes were made, which clearly identify the changes made since the draft Code was adopted in principle by City Council. Attached as

Appendix 2 is a clean copy of a revised Council Code of Conduct.

Finally, after the committee met, a short submission was received from MIRANET to advise that MIRANET was satisfied that as a living document the Council Code of Conduct would be subject to review at relevant times, and that a review should take place once the recommendations of Commissioner Cunningham have been received by the City. The recommendations in the report support this and set a specific date so residents have sufficient advance notice of the first review.

As has been previously noted, the Council Code of Conduct is a living document that is expected to change as issues arise and as governing legislation changes. It is also anticipated that a fulsome review of the Code of Conduct will be required once the recommendations from the Judicial Inquiry are received. In this respect, the committee is recommending that the Code of Conduct be presented for Council's review at the General Committee meeting of April 6, 2011, by which time it is anticipated that the recommendations to come out of the Judicial Inquiry will be reviewed and can be incorporated into the Council Code of Conduct where it is appropriate to do so. By establishing the date now, members of the public and groups who felt they did not have sufficient time to comment will be able to know well in advance Council's timelines, which will allow them to schedule any required meetings or consultations that they feel are necessary. A reminder notification will be issued in February 2011 in this respect as well.

#### Interim Integrity Commissioner

Time does not permit City Council to carry out all of the steps necessary to advertise, interview, evaluate and appoint an Integrity Commissioner and to have the Council Code of Conduct come into effect at the start of the new term of Council on December 1, 2010. Also as noted by Members of Council, to put in place a Council Code of Conduct, an independent Integrity Commissioner is required. In this respect, the committee considered appointing an interim Integrity Commissioner and is recommending that Mr. George Rust-D'Eye of the law firm Weir Foulds be appointed interim Integrity Commissioner for a term of one year.

The qualifications that a candidate for the position of Integrity Commissioner should possess were set out for Council's consideration in the City Solicitor's report dated May 5, 2010 titled "Code of Conduct for Mayor and Members of Council and Appointment of an Integrity Commissioner":

- proven impartiality and neutrality, comparable to that of a judge;
- ability to provide services on a part-time, flexible and as-needed basis without competing employment demands;
- no other involvement in political campaigning/endorsements, no political party membership and no related conflict of interest;
- no financial interest in the work undertaken by the City;
- an independent person known to have high ethical standards;
- experience managing sensitive inquiries, conducting investigations and making appropriate recommendations;
- excellent communication skills;
- familiarity with investigatory procedures and applicable legal principles, particularly as they relate to evidence, legal interpretation and natural justice;
- general knowledge of and appreciation of municipal government;
- ability to interpret and apply the provisions of various statutes, regulations, policies and other enabling documents;
- impartiality, wisdom, sound judgment combined with the ability to inspire trust and confidence;
- at least 10 years of senior-level management, legal, tribunal or judicial experience with preference given to those with judicial experience

Mr. Rust-D'Eye meets or exceeds all of these qualifications. In carrying out the duties of Integrity Commissioner, it is anticipated that Mr. Rust-D'Eye can provide valuable assistance in drafting a complaint protocol, in providing training to Council on matters respecting the Council Code of Conduct and its enforcement, and in responding to requests for interpretation of the Code of Conduct from Members of Council as well as investigating complaints. Mr. Rust-D'Eye has been involved in providing advice to a number of

municipalities respecting the creation and implementation of Codes of Conduct for Members of Council and local boards over the almost four years since the creation of Part IV.1 of the *Municipal Act, 2001*. He was appointed interim Integrity Commissioner for the City of Hamilton while they conducted a search for an Integrity Commissioner and has conducted major investigations as Integrity Commissioner on behalf of the City of Hamilton and the City of Brantford. It is proposed that during this interim period matters for review by the Integrity Commissioner be submitted to the City Clerk to be forwarded to the Integrity Commissioner in the same manner as requests for investigations under s.239.1 of the *Municipal Act, 2001* are forwarded to the Investigator.

Mr. Rust-D'Eye is certified as a specialist in municipal law, local government/land use planning and development law by the Law Society of Upper Canada since April, 2006 and is known as a specialist in interpreting the *Municipal Conflict of Interest Act*. Mr. Rust-D'Eye proposes to carry out this work on an as needed basis at an hourly rate of \$625, and using lawyers in his firm at lower rates where needed to cut down costs. Mr. Rust-D'Eye is known to Members of Council and has acted for municipalities for the last 37 years. As such, his experience and knowledge will enable him to respond to matters directed to his attention because he will not have to learn the subject matter from scratch.

Mr. Rust D'Eye's work assisting Council with complaint protocol and responding to initial matters referred, will assist the City in moving forward to selecting a longer-term candidate for this position. Mr. Rust-D'Eye's experience will also assist the City in assessing and implementing any recommendations that Commissioner Cunningham may make, that may impact on the Council Code of Conduct.

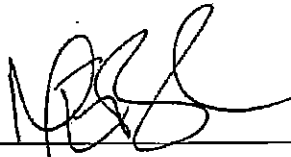
**FINANCIAL IMPACT:** A budget of \$100,000 has been proposed for Council's consideration as part of the 2011 budget process, which appears to be reasonable based on the costs of the Integrity Commissioner office in other municipalities.

**CONCLUSION:** The draft Council Code of Conduct was open for public consultation for a period totalling three months. The comments received were

reviewed by the *ad hoc* committee of Council and amendments have been made after Council approved the draft Code of Conduct based on these comments. The black-lined pages attached show the changes. As Council has expressed a desire to implement the Council Code of Conduct immediately for the next term of office, it is recommended that Mr. George Rust-D'Eye, a highly qualified municipal lawyer, be appointed interim Integrity Commissioner, until a proper search can be conducted.

**ATTACHMENTS:**

- Appendix 1: Black-lined Copy of changed pages of Council Code of Conduct
- Appendix 2: Clean Copy of Council Code of Conduct
- Appendix 3: Chart of Integrity Commissioners in other Ontario Municipalities
- Appendix 4: Submission made by Peel Poverty Action Group



Mary Ellen Bench, BA, JD, CS  
City Solicitor

*Prepared By: Mary Ellen Bench, City Solicitor*

## Appendix 1

**Council Code of Conduct** ~~June~~September, 2010

Whereas the *Municipal Act, 2001* authorizes municipalities to establish a *Code of Conduct* for Members of Council or local boards of the municipality;

And whereas the establishment of a *Code of Conduct* for Members of Council is consistent with the principles of transparent and accountable government;

And whereas the establishment of a *Code of Conduct* for Members of Council is also reflective of the City's core values of Trust, Quality and Excellence in public service;

And whereas the elected officials of the City of Mississauga have and continue to recognize their obligation to serve their constituents in a conscientious and diligent manner recognizing that as leaders of the community, they are held to a higher standard of behaviour and conduct;

And whereas ethics and integrity are at the core of public confidence in government and in the political process, and elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real and the need to uphold both the letter and the spirit of the law including policies adopted by Council;

And whereas a *Code of Conduct* ensures that Members of Council share a common basis and understanding for acceptable conduct extending beyond the legislative provisions governing the conduct of Members of Council as set out in the *Municipal Act, 2001*; *Municipal Conflict of Interest Act*; *Municipal Elections Act, 1996*; and the *Municipal Freedom of Information and Protection of Privacy Act*.

Now therefore the Council of the City of Mississauga adopts certain rules in the form of a Council *Code of Conduct* that further underscore the requirement that elected officials be independent, impartial, and duly responsible in serving their constituents.

**Application**

This *Code of Conduct* applies to the Mayor and all Members of Council ("Members")

**Framework and Interpretation**

1. The *Code of Conduct* is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. As a living document the Code of Conduct will be brought forward for review at the end of each term of Council, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council.
2. Commentary and examples used in this *Code of Conduct* are illustrative and not exhaustive. From time to time additional commentary and examples may be added to this

document and supplementary materials may also be produced by the Integrity Commissioner as deemed appropriate.

3. Where an elected official discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Member may rely on written advice provided by the Integrity Commissioner. The Integrity Commissioner will be bound by the advice given, as long as the facts remain unchanged, in the event that he or she is asked to investigate a complaint.
4. Elected officials seeking clarification who are provided advice in a general way, cannot rely on advice given by the Integrity Commissioner to the same extent as advice given in respect of specific facts. Advice that is general in nature is subject to change when applied to specific facts that may not have been known at the time the general advice was provided.
- 4.5. Elected Officials seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.
- 5.6. The *Municipal Act, 2001* is the primary piece of legislation governing municipalities however there are other statutes that govern the conduct of elected municipal officials. It is intended that the *Code of Conduct* operate together with and as a supplement to the following legislation:
  - *Municipal Act, 2001*;
  - *Municipal Conflict of Interest Act*;
  - *Municipal Elections Act, 1996*;
  - *Municipal Freedom of Information and Protection of Privacy Act*;
  - *Criminal Code of Canada*.
7. In carrying out his or her responsibilities regarding the *Code of Conduct*, the Integrity Commissioner is not limited to looking at the pecuniary interest of the Member, and for clarity the Integrity Commissioner is specifically authorized to investigate issues of conflict in a broad and comprehensive manner.

#### Definitions

- a. In the *Code of Conduct* the terms “child”, “parent” and “spouse” have the same meanings as in the *Municipal Conflict of Interest Act*:

“child” means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

“parent” means a parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

### Rule No. 3

#### Councillor Expenses:

There are a range of expenses that support a Member's role in community development and engagement activities within their ward. For federal and provincial elected officials, these expenses are often paid for by Riding Association funds. Municipal elected officials do not have this benefit. Subject to the *Elected Officials' Expenses* policy, this section of the Council *Code of Conduct* deals with community expense-events, will indicate allowable expenses for reimbursement and provide guidelines for Members of Council respecting community expenses related to a Member's role in community development, and reflecting which expenses are eligible for reimbursement from a Member's office expense budget.

1. Raffle tickets, table prize tickets and other gaming tickets are not eligible for reimbursement.
2. Sponsorship of teams or individuals, such as the provision of uniforms or equipment, are not eligible for reimbursement.
3. Expenses incurred by Members working during normal meal periods serve a legitimate public duty purpose, provided that the expenses incurred are reasonable and appropriate in the circumstances. Reasonable and appropriate expenses are those that are incurred for an official duty or function; are modest and represent the prudent use of public funds; and do not involve the purchase of alcoholic beverages.
4. Official duties or functions include those activities that are reasonably related to a Member's office, and must take into consideration the different interests, the diverse profiles of their wards, their different roles on committees, agencies, boards and commissions. Municipal elected officials will be expected or required to extend hospitality to external parties as part of their official duties and functions, and it is legitimate for expenses to be incurred for this purpose. It is legitimate for Members to incur hospitality expenses for meetings that include:
  - a. engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contacts and other third parties in discussions on official matters;
  - b. providing persons from national, international and charitable organizations with an understanding and appreciation of the City of Mississauga or the workings of its municipal government;
  - c. honouring persons from the City of Mississauga in recognition of exceptional public service and staff appreciation events;
  - d. recognition events for various agencies, boards and commissions of the City;



- e. ratepayers associations, minor league sports associations and other community groups.
- 5. Hospitality expenses may be incurred while extending hospitality in the course of travelling on a duty or function or as a Member of Council, provided the expenses are reasonable and appropriate in the circumstances.
- 6. As community leaders, Members may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups monies raised through fundraising efforts shall go directly to the groups or volunteers or chapters acting as local organizers of the group and Members of Council should not handle any funds on behalf of such organizations.

Members of Council routinely perform important work in supporting charitable causes and in so doing, there is a need for transparency respecting the Member's involvement. The following guidelines shall apply:

- a. Members of Council should not directly or indirectly manage or control any monies received relating to community or charitable organizations fundraising;
- b. Members of Council or persons acting on behalf of a Member shall not solicit or accept support in any form from an individual, group or corporation, with any pending significant planning, conversion or demolition variance application or procurement proposal before City Council, which the Member knew or ought to have known about.  
~~[NOTE: to be reviewed after the Judicial Inquiry.]~~
- c. With reference to member-organized community events, Members of Council must report to the Integrity Commissioner, the names of all donors and the value of their donation that supplement the event.
- d. Where a Member of Council sponsors and/or lends support to a community or charitable event, this *Code* recognizes that all donations are subject to the *Elected Officials' Expenses* policy.
- e. No donation cheques should be made payable to a Member of Council or to the City of Mississauga. Members of Council may only accept donation cheques made payable to a Business Improvement Association, charity or community group and only for the purpose of passing the cheques on to such group.
- f. Members of Council should not handle any cash on behalf of any charitable organization, not-for-profit or community group, and should always remain at arm's length from the financial aspects of these community and external events. If a Member of Council agrees to fundraise on behalf of a charity or community group, the Member should ensure that payment is received by a means that does not involve cash, including bank draft, money order, credit card or cheque made payable to the applicable group or organization.

## Appendix 2

**Council Code of Conduct September, 2010**

Whereas the *Municipal Act, 2001* authorizes municipalities to establish a *Code of Conduct* for Members of Council or local boards of the municipality;

And whereas the establishment of a *Code of Conduct* for Members of Council is consistent with the principles of transparent and accountable government;

And whereas the establishment of a *Code of Conduct* for Members of Council is also reflective of the City's core values of Trust, Quality and Excellence in public service;

And whereas the elected officials of the City of Mississauga have and continue to recognize their obligation to serve their constituents in a conscientious and diligent manner recognizing that as leaders of the community, they are held to a higher standard of behaviour and conduct;

And whereas ethics and integrity are at the core of public confidence in government and in the political process, and elected officials are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence, avoids the improper use of influence of their office and conflicts of interests, both apparent and real and the need to uphold both the letter and the spirit of the law including policies adopted by Council;

And whereas a *Code of Conduct* ensures that Members of Council share a common basis and understanding for acceptable conduct extending beyond the legislative provisions governing the conduct of Members of Council as set out in the *Municipal Act, 2001*; *Municipal Conflict of Interest Act*; *Municipal Elections Act, 1996*; and the *Municipal Freedom of Information and Protection of Privacy Act*.

Now therefore the Council of the City of Mississauga adopts certain rules in the form of a Council *Code of Conduct* that further underscore the requirement that elected officials be independent, impartial, and duly responsible in serving their constituents.

**Application**

This *Code of Conduct* applies to the Mayor and all Members of Council ("Members")

**Framework and Interpretation**

1. The *Code of Conduct* is to be given broad, liberal interpretation in accordance with applicable legislation and the definitions set out herein. As a living document the Code of Conduct will be brought forward for review at the end of each term of Council, when relevant legislation is amended, and at other times when appropriate to ensure that it remains current and continues to be a useful guide to Members of Council.
2. Commentary and examples used in this *Code of Conduct* are illustrative and not exhaustive. From time to time additional commentary and examples may be added to this

document and supplementary materials may also be produced by the Integrity Commissioner as deemed appropriate.

3. Where an elected official discloses all known facts to the Integrity Commissioner and as long as those facts remain unchanged, the Member may rely on written advice provided by the Integrity Commissioner. The Integrity Commissioner will be bound by the advice given, as long as the facts remain unchanged, in the event that he or she is asked to investigate a complaint.
4. Elected officials seeking clarification who are provided advice in a general way, cannot rely on advice given by the Integrity Commissioner to the same extent as advice given in respect of specific facts. Advice that is general in nature is subject to change when applied to specific facts that may not have been known at the time the general advice was provided.
5. Elected Officials seeking clarification of any part of this *Code* should consult with the Integrity Commissioner.
6. The *Municipal Act, 2001* is the primary piece of legislation governing municipalities however there are other statutes that govern the conduct of elected municipal officials. It is intended that the *Code of Conduct* operate together with and as a supplement to the following legislation:
  - *Municipal Act, 2001*;
  - *Municipal Conflict of Interest Act*;
  - *Municipal Elections Act, 1996*;
  - *Municipal Freedom of Information and Protection of Privacy Act*;
  - *Criminal Code of Canada*.
7. In carrying out his or her responsibilities regarding the *Code of Conduct*, the Integrity Commissioner is not limited to looking at the pecuniary interest of the Member, and for clarity the Integrity Commissioner is specifically authorized to investigate issues of conflict in a broad and comprehensive manner.

#### Definitions

- a. In the *Code of Conduct* the terms "child", "parent" and "spouse" have the same meanings as in the *Municipal Conflict of Interest Act*:

"child" means a child born within or outside marriage and includes an adopted child and a person whom a parent has demonstrated a settled intention to treat as a child of his or her family;

"parent" means a parent who has demonstrated a settled intention to treat a child as a member of his or her family whether or not that person is the natural parent of the child;

"spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside of marriage;

- b. "Family Member" means a spouse, common-law partner, or any other person with whom the person is living as a spouse outside of marriage;
  - child, includes step-child and grand-child;
  - siblings.
- c. "Member" means a member of the Mississauga City Council, including the Mayor.
- d. "staff" includes the City Manager and Chief Administrative Officer, Commissioners, Directors, Managers, Supervisors and all non-union and union staff whether full-time, part-time, contract, seasonal or volunteers.
- e. "Nomination Day" means the last day for filing or withdrawing a nomination as provided for by the *Municipal Elections Act, 1996*.

## Rule No. 1

### Key Principles that Underlie the Code of Conduct:

- a. **Members of Council shall serve and be seen to serve their constituents in a conscientious and diligent manner.**

#### Commentary

Members of Council recognize the public's right to reasonable access to information in relation to how decisions are made. The public's right to access however must be balanced against the requirement to protect the legitimate interests of the City and the respect for approved policies of the City.

- b. **Members of Council should be committed to performing their functions with integrity and to avoiding the improper use of the influence of their office, and conflicts of interest, both apparent and real. Members of Council shall not extend in the discharge of their official duties, preferential treatment to Family Members, organizations or groups in which they or their Family Members have a direct or indirect pecuniary interest.**

#### Commentary

Members of Council have a common understanding that in carrying out their duties as a Member of Council, they will not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to a Family Member or an individual which is not available to every other individual.

Members of Council are governed by the *Municipal Conflict of Interest Act* and the provisions of that statute take precedence over any authority given to the Integrity Commissioner to receive or investigate complaints regarding alleged contraventions under the *Municipal Conflict of Interest Act*.

- c. **Members of Council are expected to perform their duties in office and arrange their private affairs in a manner that promotes public confidence and will bear close public scrutiny.**

#### Commentary

Members of Council may seek conflict of interest advice, including a written opinion, from the Integrity Commissioner however, where members choose to seek external legal advice on conflict of interest issues, these fees will not be reimbursed by the City of Mississauga and cannot be charged to any office account.

- d. **Members of Council shall avoid any interest in any contract made by him/her in an official capacity and shall not contract with the City or any agency thereof for the sale and purchase of supplies, material or equipment or for the rental thereof.**
- e. **Members of Council, while holding public office, shall not engage in the management of a business carried on by a corporation and shall not profit directly or indirectly from a business carried on by a corporation that does or has contracted with the City of Mississauga.**
- f. **Despite subsection e., a Member of Council may hold office or directorship in an agency, board, commission or corporation where the Member has been appointed by City Council or by the Council of the Regional Municipality of Peel or by the Federal or Provincial government.**
- g. **Despite subsection e., a Member of Council may hold office or directorship in a charitable, service or other not-for-profit corporation subject to the Member disclosing all material facts to the Integrity Commissioner and obtaining a written opinion from the Integrity Commissioner approving the activity, as carried out in the specified manner, which concludes that the Member does not have a conflict between his/her private interest and public duty. In circumstances where the Integrity Commissioner has given the Member a qualified opinion, the Member of Council may remedy the situation in the manner specified by the Integrity Commissioner.**

Commentary

Examples of exceptions include hospital boards, charitable boards, police services boards, community foundations, the Association of Municipalities of Ontario, the Federation of Canadian Municipalities, service clubs such as the Rotary Club, Lions Club and other not-for-profit organizations. Members should exercise caution if accepting such positions if the organization could be seeking a benefit or preferential treatment from the City at any time.

- h. **Members of Council shall perform official duties and arrange their private affairs in a manner that promotes public confidence and respect and will bear close public scrutiny.**

Commentary

Members of Council shall not participate in activities that grant, or appear to grant, any special consideration, treatment or advantage to an individual which is not available to every other individual member of the public. For example, Members shall remain at arm's length when City staff or Council is asked to consider a matter involving a Family Member or a prominent supporter of the Member of Council.

- i. **Members of Council shall seek to serve the public interest by upholding both the letter of the law and the spirit of the laws and policies established by the Federal parliament, Ontario legislature, and by City Council.**

Commentary

The provisions of this *Code* are intended to be applied in concert with existing legislation and go beyond the minimum standards of behaviour set out in current federal and provincial statutes.

To ensure the *Code* remains a living document that will remain current and continue to be a beneficial guide, the *Code* shall be brought forward for review at the end of each term of Council, with any changes to be implemented at the start of the following Council session.

- j. **In fulfilling their roles as elected officials, Members of Council shall respect the role of staff in the administration of the business affairs of the City and in so doing will comply with the City's *Respectful Workplace* policy.**

Commentary

Decision-making authority lies with Council, and not with an individual Member. Members of Council recognize that it is the role of the officers and employees of the City to implement Council's decisions and to establish administrative practices and procedures to carry out Council's decisions. Council is the source of all legislative authority and will make decisions on whether and to what extent to delegate this authority to others, including the Mayor, committees and to staff. Only Council as a whole has the capacity to direct staff members. Council as a whole must be able to access information in order to fulfill its decision-making duties and oversight responsibilities however, individual Members of Council must also recognize that the information they receive in their capacity as elected officials, is subject to confidentiality and disclosure rules contained in federal and provincial legislation and City policies.

## Rule No. 2

### Gifts and Benefits:

1. No Member shall accept a fee, advance, cash, gift, gift certificate or personal benefit that is connected directly or indirectly with the performance of his/her duties of office unless permitted by the exceptions listed below. No Member shall accept the use of property or facilities, such as a vehicle, office or vacation property at less than reasonable market value or at no cost.

For these purposes, a fee or advance paid to or a gift or benefit provided with the Member's knowledge to a Family Member or to a Member's staff that is connected directly or indirectly to the performance of the Member's duties, is deemed to be a gift to that Member.

The following are recognized as exceptions:

- a. compensation authorized by law;
- b. such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- c. a political contribution otherwise reported by law, in the case of Members running for office;
- d. services provided without compensation by persons volunteering their time;
- e. a suitable memento of a function honouring the Member;
- f. food, lodging, transportation and entertainment provided by Provincial, Regional and local governments or political subdivisions of them, by the Federal government or by a foreign government within a foreign country or by a conference, seminar or event organizer where the Member is either speaking or attending in an official capacity at an official event;
- g. food and beverages consumed at banquets, receptions or similar events, if:
  - i. attendance serves a legitimate business purpose;
  - ii. the person extending the invitation or a representative of the organization is in attendance; and
  - iii. the value is reasonable and the invitations infrequent;
- h. communication to the offices of a Member, including subscriptions to newspapers, and periodicals; and
- i. sponsorships and donations for community events organized or run by a Member or by a third party on behalf of a Member and subject to the limitations set out in the *Code of Conduct* respecting Council Member-organized community events, where all costs are incurred and where all such events occur on or before Nomination Day.



Commentary

Members should be transparent in their dealings with the public, and neither a Member of Council or the City should handle funds on behalf of any organizations. Members should remain at arm's length from the financial aspects of these events and initiatives.

- a) Members may use their office expense budget to run or support local charities and community events subject to the terms of the *Elected Officials' Expenses* policy;
  - b) Members may urge constituents, businesses and other groups to support community events put on by others in the Member's ward or elsewhere in the City;
  - c) Members may work with community groups to assist them in finding sponsors and participants to support community events put on by the community group in the Member's ward or elsewhere in the City.
  - d) Members may play an advisory or membership role in any organization that holds community events in the Member's ward; and
  - e) Members may collaborate with the City and its agencies to hold community events and may participate in the City's Festival Funding Review Committee and other events approved by City Council.
2. In the case of exceptions claimed under categories 1. b, e, f, g, h and i,
    - a) where the value of the gift or benefit exceeds \$500, or if the total value received from any one source during the course of a calendar year exceeds \$500, the Members shall within 30 days of receipt of the gift or reaching the annual limit, list the gift or benefit on a Councillor Information Statement in a form prescribed by the Integrity Commissioner, and file it with the Integrity Commissioner.
    - b) Subsection a) does not apply to the receipt of up to two tickets to a dinner or fundraising, as long as the Member is attending only one such event with the same individual or corporation within any calendar year.
  3. On receiving a Councillor Information Statement, the Integrity Commissioner shall examine it to determine whether the receipt of the gift or benefit might, in the opinion of the Integrity Commissioner, create a conflict between a private interest and the public duty of the Member. In the event that the Integrity Commissioner makes that preliminary determination, he/she shall call upon the Member to justify receipt of the gift or benefit.
  4. Should the Integrity Commissioner determine the receipt was inappropriate, the Integrity Commissioner may direct the Member to return the gift, reimburse the donor for the value of any gift or benefit already consumed, or the Integrity Commissioner may order the Member to forfeit the gift or remit the value of any gift or benefit already consumed to the

City, or a City agency, board or commission. Any such direction ordered by the Integrity Commissioner shall be a matter of public record.

5. Beginning April 30, 2011 and quarterly thereafter, each Member shall file a Councillor Information Statement with Integrity Commissioner and all such statements shall be a matter of public record.

#### Commentary

Gifts and benefits are often received by elected officials in the course of their duties and attendance at public functions is expected and is considered part of their role. Business-related entertainment and gift-giving can be a token of respect and admiration for the elected official, but can also be seen as an instrument of influence and manipulation. The object of this rule is to provide transparency around the receipt of incidental gifts and benefits and to establish a threshold where the total value could be perceived as potentially influencing a decision.

The practical problems that nominal gifts and benefits create require a *Code of Conduct* that provides clarity and transparency. Personal integrity and sound business practices require that relationships with developers, vendors, contractors or others doing business with the City be such that no Member of Council is perceived as showing favouritism or bias toward the giver. There will never be a perfect solution.

Each Member of Council is individually accountable to the public and is encouraged to keep a list of all gifts and benefits received from individuals, firms or associations, with estimated values, in their offices for review by the Integrity Commissioner in the event of a complaint.

Those gifts or benefits that exceed \$500 or the annual limit of \$500 for one source, need to be kept on a form prescribed by the Integrity Commissioner and filed with the Integrity Commissioner on a quarterly basis to ensure transparency.

Examples of gifts that are required to be listed on the Councillor Information Statement may include:

- i) property (i.e. a book, flowers, gift basket, painting or sculpture, furniture, wine);
- ii) membership in a club or other organization (i.e. a golf club) at a reduced rate or at no cost;
- iii) an invitation to and/or tickets to attend an event (i.e. a sports event, concert, play) at a reduced rate or no cost;
- iv) or an invitation to attend a gala or fundraising event at a reduced rate or at no cost.

Use of real estate or significant assets or facilities (i.e. a vehicle, office, vacation property) at a reduced rate or at no cost is not an acceptable gift or benefit. Having said that, it has to be recognized that Members of Council will have friends and will develop friendships with individuals who may from time to time have business relationships that will involve the City in some way. The purpose of the *Code* is not to prohibit Members from accepting all invitations to socialize at a vacation property of personal friends.

Proper caution and diligence must however be exercised when a social function occurs within close proximity to the individual having an issue before City Council or staff for approval. It is always prudent to consult with the Integrity Commissioner before accepting or attending at any such engagements.

Any doubts about the propriety of a gift should be resolved in favour of not accepting it or not keeping it. It may be helpful to consult with the Integrity Commissioner when a Member chooses to decline a gift as well as when a recipient may opt to keep a gift.

An invitation to attend a function where the invitation is directly or indirectly with the Member's duties of office is not considered to be a gift but is the fulfillment of an official function or duty. An invitation to attend a function with a developer or supplier, however, could be seen as allowing the giver an opportunity to influence the elected official. Such invitations should only be accepted if the invitation is within the scope of permissible gifts and benefits, meaning that Members should not consistently accept invitations from the same individual or corporation and should avoid any appearance of favouritism.

For clarification, an invitation to an event celebrating the successful completion of a development or project or the opening of a new business within the Member's ward on the other hand could serve a legitimate business purpose and be seen as part of the responsibilities of office provided the person extending the invitation or that person's representative is in attendance.

An invitation to attend a charity golf tournament or fund-raising gala, provided the Member of Council is not consistently attending such events as a guest of the same individual or corporation, is also part of the responsibilities of holding public office. Likewise, accepting invitations to professional sports events, concerts or dinners may serve a legitimate business purpose. Where a Member is uncertain in regards to whether an invitation is or is not appropriate, it may be prudent to consult with the Integrity Commissioner before attending any such event.

Regular invitations to lunch or dinner with persons who are considered friends of Members of Council is acceptable in situations where the Member pays their portion of the meal expense and treats it as a personal expense, meaning a claim is not made under the *Elected Officials' Expenses* policy. Proper caution and diligence not to discuss matters before the City for a decision must be exercised at all times. Again, when in doubt it is prudent to consult with the Integrity Commissioner.

### Rule No. 3

#### Councillor Expenses:

There are a range of expenses that support a Member's role in community development and engagement activities within their ward. For federal and provincial elected officials, these expenses are often paid for by Riding Association funds. Municipal elected officials do not have this benefit. Subject to the *Elected Officials' Expenses* policy, this section of the Council *Code of Conduct* deals with community expense-events, will indicate allowable expenses for reimbursement and provide guidelines for Members of Council respecting community expenses related to a Member's role in community development, and reflecting which expenses are eligible for reimbursement from a Member's office expense budget.

1. Raffle tickets, table prize tickets and other gaming tickets are not eligible for reimbursement.
2. Sponsorship of teams or individuals, such as the provision of uniforms or equipment, are not eligible for reimbursement.
3. Expenses incurred by Members working during normal meal periods serve a legitimate public duty purpose, provided that the expenses incurred are reasonable and appropriate in the circumstances. Reasonable and appropriate expenses are those that are incurred for an official duty or function; are modest and represent the prudent use of public funds; and do not involve the purchase of alcoholic beverages.
4. Official duties or functions include those activities that are reasonably related to a Member's office, and must take into consideration the different interests, the diverse profiles of their wards, their different roles on committees, agencies, boards and commissions. Municipal elected officials will be expected or required to extend hospitality to external parties as part of their official duties and functions, and it is legitimate for expenses to be incurred for this purpose. It is legitimate for Members to incur hospitality expenses for meetings that include:
  - a. engaging representatives of other levels of government, international delegations or visitors, the broader public sector, business contacts and other third parties in discussions on official matters;
  - b. providing persons from national, international and charitable organizations with an understanding and appreciation of the City of Mississauga or the workings of its municipal government;
  - c. honouring persons from the City of Mississauga in recognition of exceptional public service and staff appreciation events;
  - d. recognition events for various agencies, boards and commissions of the City;

- e. ratepayers associations, minor league sports associations and other community groups.
- 5. Hospitality expenses may be incurred while extending hospitality in the course of travelling on a duty or function or as a Member of Council, provided the expenses are reasonable and appropriate in the circumstances.
- 6. As community leaders, Members may lend their support to and encourage community donations to registered charitable, not-for-profit and other community-based groups monies raised through fundraising efforts shall go directly to the groups or volunteers or chapters acting as local organizers of the group and Members of Council should not handle any funds on behalf of such organizations.

Members of Council routinely perform important work in supporting charitable causes and in so doing, there is a need for transparency respecting the Member's involvement. The following guidelines shall apply:

- a. Members of Council should not directly or indirectly manage or control any monies received relating to community or charitable organizations fundraising;
- b. Members of Council or persons acting on behalf of a Member shall not solicit or accept support in any form from an individual, group or corporation, with any pending significant planning, conversion or demolition variance application or procurement proposal before City Council, which the Member knew or ought to have known about.
- c. With reference to member-organized community events, Members of Council must report to the Integrity Commissioner, the names of all donors and the value of their donation that supplement the event.
- d. Where a Member of Council sponsors and/or lends support to a community or charitable event, this *Code* recognizes that all donations are subject to the *Elected Officials' Expenses* policy.
- e. No donation cheques should be made payable to a Member of Council or to the City of Mississauga. Members of Council may only accept donation cheques made payable to a Business Improvement Association, charity or community group and only for the purpose of passing the cheques on to such group.
- f. Members of Council should not handle any cash on behalf of any charitable organization, not-for-profit or community group, and should always remain at arm's length from the financial aspects of these community and external events. If a Member of Council agrees to fundraise on behalf of a charity or community group, the Member should ensure that payment is received by a means that does not involve cash, including bank draft, money order, credit card or cheque made payable to the applicable group or organization.
- 7. Nothing included herein affects the entitlement of a Member of Council to:

- i) use the Member's office expense budget to run or support community events subject to the terms of the *Elected Officials' Expenses* policy section relating to Community Expense events;
- ii) urge constituents, businesses or other groups to support community events and advance the needs of a charitable organization put on by others in the Member's ward or elsewhere in the City;
- iii) play an advisory ex officio, honorary or membership role in any charitable or non-profit organization that holds community events in the Members' ward; and
- iv) collaborate with the City of Mississauga and its agencies, boards or commissions to hold community events.

Commentary

By virtue of the office, Members of Council will be called upon to assist various charities, service clubs and other non-profits as well as community associations, by accepting an honorary role in the organization, lending their name or support to it or assisting in fundraising. Transparency and accountability are best achieved in today's era by encouraging contributors to make donations to such organizations on-line through a website or where that is not possible through a cheque made payable directly to the organization. Cash should never be accepted.

**Rule No. 4****Confidential Information:**

Confidential Information includes information in the possession of, or received in confidence by, the City of Mississauga that the City is either prohibited from disclosing, or is required to refuse to disclose, under the *Municipal Freedom of Information and Protection of Privacy Act* ("MFIPPA"), or any other legislation.

MFIPPA restricts or prohibits disclosure of information received in confidence from third parties of a corporate, commercial, scientific or technical nature, information that is personal, and information that is subject to solicitor-client privilege.

The *Municipal Act, 2001* allows information that concerns personnel, labour relations, litigation, property acquisitions and security of the property of the City or a local board, and matters authorized in other legislation including MFIPPA, to remain confidential. For the purposes of the *Code of Conduct*, "confidential information" includes this type of information.

1. As elected officials, Members of Council will receive highly sensitive and confidential information concerning residents who need their assistance. This is consistent with the nature of the Members' duties. In accordance with the City's *Elected Officials' Records* policy, Councillor constituency records are at all times under the control of the Member and are not subject to any municipal disclosure requirements.
2. The following are examples of the types of information that a Member of Council must keep confidential:
  - items under litigation, negotiation, or personnel matters;
  - information that infringes on the rights of others (e.g. sources of complaints where the identity of a complainant is given in confidence);
  - price schedules in contract tender or request for proposal submissions if so specified;
  - information deemed to be "personal information" under the *Municipal Conflict of Interest Act*; and
  - statistical data required by law not to be released (e.g. certain census or assessment data)
3. Where it is clear that a communication was not made in a confidential manner (i.e. copied to others, or made in the presence of others) or the manner of communication undermines the validity of labelling it "Confidential", such communication will not be given any higher level of confidentiality than any other communication. The words "Privilege", "Confidential" or "Private" will not be understood to preclude the appropriate sharing of the communication for the limited purpose of reviewing, responding or looking into the subject-matter of the communication.

4. Under the *Council Procedure By-law*, a matter that has been discussed at an *in-camera* (closed) meeting remains confidential, until such time as a condition renders the matter public.
  - a. No Member shall disclose the content of any such matter, or the substance of deliberations, of the *in-camera* meeting until the Council or Committee discusses the information at a meeting that is open to the public or releases the information to the public.
  - b. No Member shall disclose or release by any means to any member of the public, any confidential information acquired by virtue of their office, in either oral or written form, except where required by law or authorized by Council to do so.
  - c. No Member shall use confidential information for personal or private gain, or for the gain of relatives or any person or corporation. For example, no Member should directly or indirectly benefit, or aid others to benefit, from knowledge respecting bidding on the sale of City property or assets.
  - d. Members of Council should not access or attempt to gain access to confidential information in the custody of the City unless it is necessary for the performance of their duties and is not prohibited by Council policy.



**Rule No. 5****Use of City Staff, Property, Services and Other Resources:**

1. No Member shall use for personal purposes any City staff services, property, equipment, services, supplies, websites, webboards, or other City-owned materials, other than for purposes connected with the discharge of City duties.
2. No Member shall obtain personal financial gain from the use or sale of City-developed intellectual property (for example, inventions, creative writings and drawings), computer programs, technical innovations or any other item capable of being patented. Members acknowledge and do not dispute that all such property remains exclusively that of the City of Mississauga.
3. No Member shall use information gained in the execution of his or her duties that is not available to the general public, for any purposes other than his or her official duties.

**Commentary**

Members, by virtue of their position, have access to a wide variety of property, equipment, services and supplies to assist them in the conduct of their City duties as public officials. While most of this property is provided within the confines of their office, much of it is transportable or may be provided for home use, given the nature of the demands placed on Members in carrying out their duties and in recognition of the fact that the City does not provide constituency offices to Members of Council. Members are held to a higher standard of behaviour and conduct and therefore should not use such property for any purpose other than for carrying out their official duties. For clarity, this Rule is intended to prohibit the use of City resources for purposes such as running a home business. It is not intended to prohibit occasional personal use, but it should be subject to practical limitations.

Careful attention should be given to the provisions of the City's *Elected Officials' Expenses* policy which identifies approvable allowable expenses. During election campaigns, the provisions of rules 6 and 7 will apply.

4. No Member shall use the services of City staff, or make requests for document or information from City staff, unless such information is required for the purpose of carrying out their duties as public officials.

## Rule No. 6

### Election Campaigns:

1. Members are required to follow the provisions of the *Municipal Elections Act, 1996* and Members are accountable under the provisions of that statute.

### Commentary

Staff should not interpret or provide advice to Members regarding the requirements placed on candidates for municipal office.

2. No Member shall use the facilities, equipment, supplies, services or other resources of the City (including Councillor newsletters and individual websites linked through the City's website) for any election campaign or campaign-related activities.
  - a) Despite the foregoing, Members may choose to use their cell phone or other such equipment and may do so by advising the Integrity Commissioner in writing in advance and by reimbursing the City for all related expenses associated with such use.
  - b) Despite the foregoing, Members are allowed to place materials on the City's election website, <http://www2.mississauga.ca/vote2010/>, that is available and authorized for use by all candidates for municipal and school board office.
3. In a municipal election year, commencing on June 30<sup>th</sup> until the date of the election, Members may not publish Councillor newsletters or distribute them in municipal facilities. All newsletters distributed through the mail must be post-marked by no later than June 30<sup>th</sup> in an election year.
4. In a municipal election year, commencing on Nomination Day until the date of the election, no Member or other candidate for elected office, may book directly or indirectly, any facility for any purpose that might be perceived as an election campaign purpose if that facility is being used as a polling station.

### Commentary

The restriction on booking facilities ensures election-related functions, or those that could appear to be election-related, will not occur at any time there is an advance or regular poll at the facility. The need to set up in advance means that election night parties cannot be held in the same facilities that polling stations are located in. Members should not authorize any event that could be perceived as the City providing them with an advantage over other candidates.

It is the personal responsibility of Members to ensure that any use of facilities or the services of municipal staff are carried out in accordance with applicable legislation. Staff are not responsible for monitoring and advising Members or any other candidates, in this regard.

5. Members shall be respectful of the role of the City Clerk in managing the municipal election process and meeting all statutory requirements in respect thereof. The Clerk must ensure all candidates are treated equally and no candidate for elected office should interfere with how the Clerk carries out these duties.

Commentary

The *Municipal Elections Act, 1996* clearly states that it is the responsibility of the City Clerk to conduct the election and take all necessary actions to ensure municipal elections meet all statutory requirements.

6. No Members shall use the services of persons for campaign related activities during hours in which those persons receive any compensation from the City.

**Rule No. 7****Improper Use of Influence:**

1. No member shall use the influence of his or her office for any purpose other than for the exercise of his/her official duties.

**Commentary**

Examples of prohibited conduct are the use of one's status as a Member of Council to improperly influence the decision of another person to the private advantage of oneself, or one's Family Member, or friends. This would include attempts to secure preferential treatment beyond activities in which Members normally engage on behalf of their constituents as part of their official duties. Also prohibited is the holding out of the prospect or promise of a future advantage through a Member's supposed influence within Council in return for present actions or inaction.

2. Pursuant to corporate policy, the City Manager and Chief Administrative Officer directs City Commissioners, who in turn direct City staff. City Council and not individual Members of Council appropriately give direction to the City administration.

**Rule No. 8**

**Business Relations:**

1. No Member shall allow the prospect of his/her future employment by a person or entity to affect the performance of his/her duties to the City, detrimentally or otherwise.
2. No Member shall borrow money from any person who regularly does business with the City unless such person is an institution or company whose shares are publically traded and who is regularly in the business of lending money, such as a credit union.
3. No Member shall act as a paid agent before Council or a committee of Council or any agency, board or committee of the City.
4. No Member shall refer a third party to a person, partnership or corporation in exchange for payment or other personal benefit.

## Rule No. 9

### Conduct of Council at Committee Meetings and When Representing the City:

1. Members shall conduct themselves at Council and committee meetings with decorum in accordance with the provisions of the *Council Procedure By-law*.

#### Commentary

A Member recognizes the importance of cooperation and strives to create an atmosphere during Council and committee meetings that is conducive to solving the issues before Council, listening to various points of view and using respectful language and behaviour in relation to all of those in attendance.

2. Members shall endeavour to conduct and convey Council business and all their duties in an open and transparent manner other than for those decisions which by virtue of legislation are authorized to be dealt with in a confidential manner in closed session, and in so doing, allow the public to view the process and rationale which was used to reach decisions and the reasons for taking certain actions.

#### Commentary

Various statutes, the *Council Procedure By-law* and decisions by courts and quasi-judicial tribunals including the Information and Privacy Commission, establish when City Council can discuss issues in closed session. Transparency requires that Council apply these rules narrowly so as to best ensure that decisions are held in public session as often as possible. Unless prohibited by law, Members should clearly identify to the public how a decision was reached and the rationale for so doing.

3. Members shall make every effort to participate diligently in the activities of the committees, agencies, boards, commissions and advisory committees to which they are appointed by the City or by virtue of being an elected official.

#### Commentary

Individual Members are appointed to committees, agencies, boards and commissions based on their various backgrounds and their ability to contribute to matters before them, bringing their expertise and experience.

4. Given that Council and committee meetings are scheduled far in advance to accommodate the many activities of elected office of a Member, to participate diligently means that a Member shall not be absent from Council or committee meetings, or from those of agencies, boards and commissions to which they are appointed by virtue of their status as a Member, without reasonable justification (for example, illness of the Member, family circumstance, Regional business) for more than three consecutive scheduled meetings or on a regular basis.

## **Rule No. 10**

### **Media Communications:**

1. Members of Council will accurately communicate the decisions of Mississauga City Council, even if they disagree with the majority decision of Council, and by so doing affirm the respect for and integrity in the decision-making processes of Council.
2. Members of Council will keep confidential information confidential, until such time as the matter can properly be made public.

### **Commentary**

A Member may state that he/she did not support a decision, or voted against the decision. A Member should refrain from making disparaging comments about other Members of Council or about Council's processes and decisions.

When communicating with the media, a Member should at all times refrain from speculating or reflecting upon the motives of other Members in respect of their actions as a Member of Council.

While openness in government is critical, governments also must respect confidentiality when a matter must remain, at least for a period of time, confidential. Breaches of confidentiality by Members erodes public confidence.

**Rule No. 11****Respect for the City and its By-laws and Policies:**

1. Members shall encourage public respect for the City and its by-laws.

**Commentary**

A Councillor must not encourage disobedience of a City by-law in responding to a member of the public, as this undermines confidence in the City and in the Rule of Law.

2. Members shall conduct themselves with appropriate decorum at all times.

**Commentary**

As leaders in the community, Members are held to a higher standard of behaviour and conduct, and accordingly their behaviour should be exemplary.



**Rule No. 12****Respectful Workplace Policy:**

1. Members are governed by the City's *Respectful Workplace* policy. All Members have a duty to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure that their work environment is free from discrimination and harassment.
2. Upon receipt of a complaint that relates to the City's *Respectful Workplace* policy and involves a Member, the Integrity Commissioner shall forward the information subject to the complaint to Human Resources who will refer it for an independent investigation.

**Commentary**

It is the policy of the City of Mississauga that all persons be treated fairly in the workplace in an environment free of discrimination or personal and sexual harassment.

The City of Mississauga's *Respectful Workplace* policy ensures a safe and respectful workplace environment and provides for the appropriate management of any occurrences of harassment and discrimination as those terms are defined in the policy.

The City of Mississauga's *Respectful Workplace* policy applies equally to members of staff and Members of Council. It will provide guidance to an independent investigator when a complaint is received involving a Member.

3. Upon receipt of the findings of the independent investigator, the Integrity Commissioner shall make a determination on the application of this *Code of Conduct* and the merits of the investigation respecting the conduct of the Member subject to the complaint. The findings of the Integrity Commissioner shall be reported to City Council as per the normal procedure respecting such matters.
4. The *Ontario Human Rights Code* applies in addition to the City's *Respectful Workplace* policy.

### **Rule No. 13**

#### **Conduct Respecting Staff:**

1. No Member shall compel staff to engage in partisan political activities or be subjected to threats or discrimination for refusing to engage in such activities.
2. No Member shall use, or attempt to use, their authority for the purpose of intimidating, threatening, coercing, commanding or influencing any staff member with the intent of interfering in staff's duties, including the duty to disclose improper activity.
3. Members shall be respectful of the role of staff to advise based on political neutrality and objectivity and without undue influence from any individual Member or faction of the Council.
4. No Member shall maliciously or falsely impugn or injure the professional or ethical reputation or the prospects or practice of staff, and all Members shall show respect for the professional capacities of the staff of the City.

#### **Commentary**

Under the direction of the City Manager, staff serve the Council as a whole, and the combined interests of all Members as evidenced through the decisions of Council. Only Council as a whole has the authority to approve budget, policy, committee processes and other matters. Accordingly, Members shall direct requests outside of Council-approved budget, process or policy, to the Budget Committee or directly to Council.

In practical terms, there are distinct and specialized roles carried out by Council as a whole and by Councillors when performing their other roles. The key requirements of these roles include dealing with constituents and the general public, participating as standing committee members and as chairs of standing committees, and participating as Council representatives on agencies, boards, commissions and other bodies. Similarly, there are distinct and specialized roles expected of City staff in both the carrying out of their responsibilities and in dealing with the Council. Staff are expected to provide information to Members that they are entitled to. City staff are accountable to the City Manager who is accountable to City Council. Sometimes the line between staff duties and activities that are political in nature is not clear. Members of Council must respect the difference between the two in making requests of staff.

Members of Council should expect a high quality of advice from staff based on political neutrality and objectivity irrespective of party politics, the loyalty of persons in power, or their personal opinions.

The City's *Respectful Workplace* policy applies to Members of Council. Staff and Members of Council are all entitled to be treated with respect and dignity in the workplace.

5. It is inappropriate for a Member to attempt to influence staff to circumvent normal processes in a matter, or overlook deficiencies in a file or application. It is also inappropriate for Members to involve themselves in matters of administration or departmental management which fall within the jurisdiction of the City Manager. Any such attempts should be reported to the Integrity Commissioner.

**Rule No. 14****Employment of Council Relatives/Family Members:**

1. No Member shall attempt to influence the outcome, or to influence any City employee to hire or promote a Family Member.
2. No Members shall make any decision or participate in the process to hire, transfer, promote, demote, discipline or terminate any Family Member.
3. No Member shall supervise a Family Member, or be placed in a position of influence over a Family Member.
4. No Member shall attempt to use a family relationship for his or her personal benefit or gain.
5. Every Member shall adhere to the City's *Candidate Selection Process* policy.

**Commentary**

If a Family Member of a Councillor is an applicant for employment with the City or is a candidate for promotion or transfer, the Family Member will proceed through the usual selection process pursuant to the City's hiring policies, with no special consideration.

**Rule No. 15**

**Failure to Adhere to Council Policies and Procedures:**

1. Members shall adhere to such by-laws, policies and procedures adopted by Council that are applicable to them.

**Commentary**

Members of Council are required to observe the policies and procedures established by City Council at all times, and are directed to pay special attention to, and comply strictly with, the *Council Procedure By-law* and the *Elected Officials' Expenses* policy. In exceptional circumstances, a Member may request Council grant an exemption from any policy.

**Rule No. 16****Reprisals and Obstruction:**

1. It is a violation of the *Code of Conduct* to obstruct the Integrity Commissioner in the carrying out of his/her responsibilities.
2. No Member shall threaten or undertake any active reprisal against a person initiating an inquiry or complaint under the *Code of Conduct*, or against a person who provides information to the Integrity Commissioner in any investigation.
3. It is also a violation of the *Code of Conduct* to destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a formal complaint has been lodged under the *Code of Conduct*.

**Commentary**

Members of Council should respect the integrity of the *Code of Conduct* and investigations conducted under it.

**Rule No. 17**

**Acting on Advice of Integrity Commissioner:**

1. Any written advice given by the Integrity Commissioner to a Member binds the Integrity Commissioner in any subsequent consideration of the conduct of the Member in the same matter, as long as all the relevant facts known to the Member were disclosed to the Integrity Commissioner.

**Rule No. 18****Compliance with the Code of Conduct:**

1. Upon receipt of recommendations from the Integrity Commissioner, Council may, in circumstances where the Integrity Commissioner has determined there has been a violation of the *Code of Conduct*, impose either of two penalties:
  - i) a reprimand; or
  - ii) suspension of the remuneration paid to the Member in respect of his/her services as a Member of Council or a local board, as the case may be, for a period of up to 90 days
2. The Integrity Commissioner may also recommend that Council take the following actions:
  - i) removal from membership of a committee;
  - ii) removal as chair of a committee;
  - iii) repayment or reimbursement of monies received;
  - iv) return of property or reimbursement of its value;
  - v) a written and/or verbal request for an apology to Council, the complainant, or both.

**Commentary**

Members are accountable to the public through the election process. Between elections they may become disqualified and lose their seat if convicted of an offence under the *Criminal Code of Canada* or for failing to declare a conflict of personal interest under the *Municipal Conflict of Interest Act*, or for certain violations of the *Municipal Elections Act, 1996*.

In addition, the *Municipal Act, 2001* authorizes Council to impose either of the two penalties on a Member following a report by the Integrity Commissioner that, in his/her opinion, there has been a violation of the *Code of Conduct*.



**Integrity Commissioner – Ontario Municipalities**

<b>Full-time Integrity Commissioner</b>	
Average Budget	\$ 200,000
Average Expenditure	\$ 160,000
<b>Integrity Commissioner (Hourly/per-diem basis)</b>	
Average Base Retainer	\$ 1,500
Average Hourly Rate	\$ 258.00/hr*

**Figure 2: Summary of each Municipality's Budgeted Amount & Expenditure**

Ontario Municipality	Fiscal Year	Budgeted Amount	Actual Expenditure	Notes
City of Kitchener	2009-2010	\$10,000	\$2000	The City of Kitchener has retained a lawyer to be the Integrity Commissioner, there is a \$2,000 annual retainer and a charge of \$150/hr. So far no investigations have been undertaken by the Integrity Commissioner.
City of Toronto	2009-2010	\$213,971.78	\$210,057.57	\$151,325 was spent on Salaries & Benefits with the remaining \$58,732.15 spent on Office Expenditures. The two largest Office Expenditures were Professional & Technical Services in the amount of \$31,346.98 and Legal Services in the amount of \$12,170.11.
	2008-2009	\$200,000	\$157,342	\$134,148 was spent on Salaries & Benefits including compensation for the Integrity Commissioner & Administrative Assistant which for part of the fiscal year was characterized as Professional & Technical Services.

City of Vaughan	2009-2010	\$200,000*	\$115,370	The Integrity Commissioner Report recommended a maximum budget of \$200,000 for any fiscal year. The actual budget amount for 2009-2010 is not available. \$106,283 was spent on Salaries & Benefits
City of Windsor	2009-2010*	\$50,000	\$48,987	*The fiscal year ran for 15 months from September 1, 2009 – December 31, 2010.
City of Barrie	N/A	\$10,000*	N/A; but will be @ \$1,000 annually and \$125.00/hr	<p>The Code of Conduct does not come into force until 2011. The City will procure the Integrity Commissioners Services on a retainer basis, compensating \$1000 annually plus \$125/hr. In addition it expects to incur approximately \$5,000 in associated training costs for councillors and committee members</p> <p>*\$ 5000.00 of the budgeted amount is set as a contingency as the City is unaware of how many hours the Integrity Commissioner will bill the City in 2011.</p>
City of Brantford	N/A	N/A	N/A	The City of Brantford is currently in process of obtaining a permanent external Integrity Commissioner. Initially the City Solicitor was the Integrity Commissioner and portions of the investigation were farmed out to an external law firm. Nothing was budgeted in 2009 and 2010 for the cost of this office. Instead Council agreed to overspend the existing Professional Services account. Specific figures are not available.

Town of Richmond Hill	N/A	\$25,000	N/A	Integrity Commissioner to be appointed late summer 2010. Executive summary to the Committee on March 2010 indicates that up to \$25,000 be added to the 2010 budget of the Office of the Clerk to establish the Office of the Integrity Commissioner.
Town of Aurora	2009-2010	\$60,000	N/A	The Town of Aurora has retained an Integrity Commissioner at an hourly rate of \$500 with a minimum monthly retainer of \$3,000 and a maximum monthly cap of \$5,000. The maximum annual cap is \$60,000.
City of Hamilton	N/A	N/A	N/A	The City of Hamilton appointed an Integrity Commissioner as of December 2009 and has hired the Integrity Commissioner on an hourly rate basis. Contacted City clerks and waiting to hear back on the details of the contract and how much was specifically spent on the Office of the Integrity Commissioner.