



The Corporation of the Town of Fort Erie

By-law 173-2023

Being a By-law to Authorize the Execution of an Amending Agreement with Rutherford Prosecutions for Hearing Officer Services under the Administrative Penalty System (Fees for Services)

Whereas the Town entered into an Agreement with Rutherford Prosecutions (the "Contractor"), for Hearing Officer Services under the Administrative Penalty System, dated February 27, 2020 (the "Agreement"), pursuant to which the Town engaged the Contractor to provide the services of a Hearing Officer as required by By-law Nos. 111-2019 and 114-2019, as amended from time to time; and

Whereas section 5 of the Agreement sets out the fees to be paid by the Town to the Contractor for professional services rendered pursuant to the Agreement; and

Whereas the Town and the Contractor have agreed to increase the fees payable by the Town to the Contractor for professional services rendered pursuant to the Agreement; and

Whereas Report LLS-05-2023 was considered and approved at the Council-in-Committee meeting on December 11, 2023 authorizing the execution of an Amending Agreement with the Contractor for Hearing Officer Services under the Administrative Penalty System, to revise the fees for services; and

Whereas it is deemed desirable to enter into an Amending Agreement with the Contractor for Hearing Officer Services under the Administrative Penalty System, to revise the fees for services as set out in Report No. LLS-05-2023.

Now therefore the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

- 1. That** entry into an Amending Agreement with Rutherford Prosecutions for Hearing Officer Services Under the Administrative Penalty System, to revise the fees for services, in the form of Schedule "A" attached to and forming part of this by-law, is authorized and approved.
- 2. That** the Clerk of the Town is authorized to affect any minor modifications, corrections or omissions, solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

Read a first, second and third time and finally passed this 18th day of December 2023.

Mayor

Clerk

Schedule A – By-law 173-2023
**AGREEMENT FOR SERVICES
(INDEPENDENT CONTRACT)
AMENDMENT**

THIS AMENDING AGREEMENT made on the _____ day of _____, 2023
("the 2nd Amending Agreement").

BETWEEN:

THE CORPORATION OF THE TOWN OF FORT ERIE

("the Town")

- and -

RUTHERFORD PROSECUTIONS

("the Contractor")

WHEREAS:

1. On or about February 27, 2020, the Town and the Contractor entered into an Agreement for Services (Independent Contract) pursuant to which the Town engaged the Contractor to provide the services of a Hearing Officer as required by Town By-law Nos. 111-2019 and 114-2019, as amended from time to time ("the Agreement"); and
2. Section 5 of the Agreement sets out the fees to be paid by the Town to the Contractor for professional services rendered pursuant to the Agreement; and
3. The Town and the Contractor entered into an Amending Agreement dated May 10, 2022 to increase the fees payable by the Town to the Contractor for professional services rendered pursuant to the Agreement ("the Amending Agreement"); and
4. The Town and the Contractor have agreed to a further increase of the fees payable by the Town to the Contractor for professional services rendered pursuant to the Agreement, as amended; and
5. Paragraph 8(d) of the Agreement, provides that no modification to the Agreement may be made unless agreed to by the parties in writing;

NOW THEREFORE the Town and the Contractor (collectively "the parties"), in consideration of the mutual covenants and agreements contained in the Agreement, the further mutual covenants and agreements in the Amending Agreement and this 2nd Amending Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Section 5 of the Agreement, as amended, is further amended as follows:

5. CONTRACTOR'S FEES FOR SERVICES REQUIRED

The Town shall pay to the Contractor the following fees for professional services rendered:

- (a) \$350.00 (plus HST) per half day (up to four (4) hours); and
 - (b) \$600.00 (plus HST) per full day (9:00 a.m. to 4:00 p.m., with a lunch break from 12:00 p.m. to 1:00 p.m.)
2. Section 6 of the Agreement, as amended, is hereby replaced with the following new Section 6 and all subsequent sections in the original Agreement will be renumbered accordingly:

6. CANCELLATION POLICY

- (a) In the event that the Town wishes to cancel a scheduled and confirmed hearing day or half day, a minimum of two (2) weeks' notice is required;
- (b) If the Town fails to provide the aforementioned notice period, the Contractor reserves the right to request payment for the scheduled and confirmed services;
- (c) The Contractor acknowledges that unforeseen circumstances may arise, leading to the need for cancellations without sufficient notice. In such cases, the Contractor is committed to being flexible and understanding. The parties agree to engage in

good-faith discussions to determine an equitable resolution, taking into consideration the nature of the unforeseen circumstances, including but not limited to emergencies, sudden illness, or other events beyond the control of either party;

(d) In the event of an unforeseen circumstance leading to a cancellation, the Town agrees to promptly communicate the situation to the Contractor.

- 3. All other provisions of the Agreement, as amended, are unchanged and remain in full force and effect and are binding upon the parties.
- 4. This 2nd Amending Agreement may be signed in counterpart, each of which is an original and all of which together constitute a single document. Counterparts may be executed in original or electronic form and may be exchanged by way of mail or PDF file delivered by email.

IN WITNESS WHEREOF the parties have duly executed this Amending Agreement as of the date first written above.

THE CORPORATION OF THE TOWN OF FORT ERIE

By: _____
Name: Wayne H. Redekop
Title: Mayor

By: _____
Name: Peter Todd
Title: Clerk

We have authority to bind the Corporation.

RUTHERFORD PROSECUTIONS

Per: _____
Janet Rutherford