

**THIS AGREEMENT** for the Provision of Professional Services made this    day of April, 2008.

**B E T W E E N:**

**The Corporation of the Town of Pelham**  
Hereinafter referred to as the "The Client"

-    and    -

**1631071 ONTARIO INC. o/a RCI Consulting**  
Hereinafter referred to as the "Consultant"

**WHEREAS** the Client wishes to retain the Consultant to provide consulting services to the Client in connection with the **Town of Pelham Community Improvement Plan** as more particularly described in Schedule "A" (**Technical Proposal and Cost Proposal**), attached to and forming part of this Agreement, hereinafter referred to as the "Project";

**NOW THEREFORE**, this Agreement witnesseth that for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Client and the Consultant agree as follows:

**1.0 DUTIES AND RESPONSIBILITIES**

- 1.1 Subject to the terms and conditions hereof, the Client hereby retains the Consultant to provide the services more particularly described and defined in Schedule "A" to this Agreement, and which shall be and form for all purposes part of the Agreement.
- 1.2 The Client shall:
  - a) make available to the Consultant all relevant information required by the Consultant, and shall instruct the Consultant as to the Client's requirements, including objectives, constraints and criteria, and the Consultant shall be entitled to rely upon the accuracy and completeness of all such information and data furnished by the Client;
  - b) promptly review all documentation and reports submitted by the Consultant, and inform the Consultant of decisions in time for the orderly progress of the Consultant's services;
  - c) designate a representative to act as the Client's representative who will have authority to transmit instructions to and receive information and submissions from the Consultant;
  - d) provide such mapping to the Consultant as is available and requested in digital form for the purposes of preparing the Study; and,
  - e) immediately notify the Consultant whenever the Client becomes aware of any defect or deficiency in the performance by the Consultant of its obligations under this agreement.

**2.0 TIME AND ATTENTION**

- 2.1 The Client acknowledges that the Consultant is an independent contractor and not an employee. As such, the Client understands and acknowledges that the Consultant has other business interests over

and above the Project, and that the Consultant will be required from time to time to devote time and attention to those various business interests.

### **3.0 RENUMERATION**

- 2.1 The Client shall pay the Consultant \$62,170.50 (\$59,210.00 + \$2,960.50 G.S.T) which is inclusive of all professional fees, travel, disbursements and goods and services tax, for providing the services in accordance with those payment terms set out in the Proposal.
- 2.2 For the purpose of this Agreement, the Consultant will invoice the Client monthly for all professional fees, travel and disbursements incurred by the Consultant in the previous period.
- 2.3 All invoices are due upon receipt by the Client. Interest will be charged at a rate of 1.5% per month (18% per annum) on any amount unpaid 30 days after the invoice date.

### **4.0 AMENDMENTS**

- 4.1 The scope of the services will be as set out in Schedule A unless otherwise agreed.
- 4.2 No modification, supplement, termination, waiver or amendment to this Consulting Agreement may be made unless agreed to by the parties in writing.
- 4.3 With the consent of the Consultant, the Client may, in writing, at any time after the execution of this Agreement, increase or vary the services forming the subject of this Agreement, and if such action by the Client necessitates additional services, the Consultant shall be paid in accordance with the fee rate schedule as defined in Schedule A, together with such expenses and disbursements as agreed upon at the time of amendment to the Agreement.
- 4.4 No amendment to the Agreement shall be binding unless it is incorporated into the Agreement by written amendment, executed by the authorized representatives of the Client and of the Consultant.

### **5.0 CONFIDENTIALITY**

- 5.1 The Consultant shall keep confidential all information and documentation provided to the Consultant by or on behalf of the Client in connection with the Project, and shall not disclose any such information or documentation to any person without the written permission of the Client.

### **6.0 INTELLECTUAL PROPERTY**

- 6.1 All documents, in whatever form, prepared by the Consultant are instruments of its services and all associated intellectual property rights will remain vested in the Consultant. The Client will have a royalty-free license to use such documents for the purpose and project for which the services are provided. If the Client uses such documents for any other purpose or project, the Client will do so at its sole risk and the Client will defend, indemnify and hold harmless the Consultant from and against all associated claims, damages and costs. This Clause will survive termination of the Contract.

### **7.0 SUSPENSION OR TERMINATION**

- 7.1 If either party (the "Defaulting Party") is in breach of a covenant or obligation on its part pursuant to this Agreement, the other party (the "non-Defaulting Party") shall give written notice of such default to

the Defaulting Party and the Defaulting Party shall have thirty (30) days to rectify such default, failing which the Non-Defaulting Party shall be permitted to terminate this Agreement. Upon any such termination any and all amounts owing to the Consultant up to the date of termination shall come due and payable.

## **8.0 INDEMNIFICATION**

- 8.1 The Client shall indemnify and save the Consultant harmless from and against all claims, losses, damages, costs, expenses and other actions which the Consultant may suffer as a result of negligence on the part of the Client, its employees, subcontractors or agents, related in any way to the services provided by the Client pursuant to this Agreement.
- 8.2 The Consultant shall indemnify and save the Client harmless from and against all claims, losses, damages, costs, expenses and other actions which the Client may suffer as a result of negligence on the part of the Consultant, its employees, subcontractors or agents, related in any way to the services provided by the Consultant pursuant to this Agreement.

## **9.0 SURVIVAL**

- 9.1 The provisions of this Consulting Agreement as they relate to the payment of remuneration, and/or any indemnification by the Client and Consultant and the confidential provisions as contained in Section 5.1 shall survive the termination of this Consulting Agreement.

## **10.0 NOTICES**

- 10.1 Any notice or other document required or permitted to be given, sent or delivered under this Consulting Agreement to any party hereto shall be in writing and shall be sufficiently given, sent or delivered if it is:

- a) delivered personally to the party or to an officer or director of such party;
- b) sent to the party entitled to receive it by prepaid courier service; or
- c) sent prepaid by facsimile or other similar means of electronic communication.
- d) Notices shall be sent to the following applicable addresses or facsimile numbers:

in the case of the Client:

Corporation of the Town of Pelham  
20 Pelham Town Square, PO Box 400  
Fonthill ON.  
L0S 1E0

Facsimile: (905) 892-5055

Attention: Craig Larmour, Director of Planning Services

in the case of the Consultant:

RCI Consulting  
28 Woodbridge Road  
Hamilton, Ontario  
L8K 3C7

Facsimile: (905) 667-1520

Attention: Luciano Piccioni, President

or to such other address or facsimile number as the party entitled to or receiving such notice shall have communicated to the party giving, sending or delivering such notice.

10.2 Any notice, designation, communication, request, demand or other document given, sent or delivered as aforesaid shall:

- a) if delivered as aforesaid, be deemed to have been given, sent, delivered and received on the date of delivery;
- b) if sent by courier as aforesaid, be deemed to have been given, sent, delivered and received on the date of delivery; and
- c) if sent by facsimile as aforesaid, be deemed to have been given, sent, delivered and received on the next business day after the date the sender receives the fax answer back confirming receipt by the recipient.

## **11.0 GOVERNING LAW**

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

## **12.0 ENTIRE AGREEMENT**

12.1 This Agreement, including any Schedules hereto, constitutes the entire agreement between the parties pertaining to the subject matter of this Consulting Agreement and supersedes all prior agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral or written, express or implied, with respect to the subject matter hereof. None of the parties shall be bound or charged with any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings not specifically set forth in this Consulting Agreement and/or its Schedules. The parties further acknowledge and agree that, in entering into this Consulting Agreement, they have not in any way relied, and will not in any way rely upon any oral or written agreements, representations, warranties, statements, promises, information, arrangements or understandings, express or implied, not specifically set forth in this Consulting Agreement.

### 13.0 SEVERABILITY

13.1 Any provision of this Consulting Agreement which is prohibited or unenforceable shall be ineffective to the extent of such prohibition or invalidity and shall be severed from the balance of this Consulting Agreement, all without affecting the remaining provisions of this Consulting Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

## 14.0 RIGHTS AND WAIVERS

14.1 No delay in exercising, or failure to exercise, any right accruing to the Consultant under this Consulting Agreement will operate as a waiver of such right, nor will a waiver of any single default be deemed a waiver of any other prior, subsequent or concurrent default.

## 15.0 SUCCESSORS AND ASSIGNS

15.1 This Consulting Agreement shall be binding upon and enure to the benefit of the parties and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to confer upon any person, other than the parties and their respective successors and permitted assigns, any rights, remedies, obligations or liabilities under or by reason of this Consulting Agreement.

## 16.0 TAXES

16.1 All payments under this Consulting Agreement shall be subject to, the Goods and Services Tax in accordance with the Excise Tax Act and any other taxes which are applicable to the payments due hereunder from time to time.

IN WITNESS WHEREOF the parties hereto have executed this Consulting Agreement as of the day and year first written above.

**SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF:**

) 1631071 Ontario Inc. o/a RCI CONSULTING

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**1631071 Ontario Inc. o/a RCI CONSULTING**

R. P. Freccioni 4

Luciano P. Piccioni, President

I have authority to bind the Corporation

THE CORPORATION OF THE TOWN OF PELHAM

  
Anne Augustyn, Mayor

Dave Augustyn, Mayor

Cheryl Miclette  
Cheryl Miclette, Clerk

Cheryl Miclette, Clerk