

THIS AGREEMENT FOR PROFESSIONAL SERVICES
made as of the 4th day of February, 2019 (the “**Effective Date**”)
(the “**Agreement**”)

BETWEEN:

THE TOWN OF PELHAM
(hereinafter called the “**Town**”)

- and -

ADR CHAMBERS INC.
(hereinafter called “**ADRC**”)

WHEREAS the Town would like to retain the services of Edward T. McDermott of ADRC as its Integrity Commissioner under the authority of section 223.3 (1) of the *Municipal Act, 2001*, S.O. 2001, c. 25 (the “**Act**”) to perform the Services of this position in accordance with the terms of the Act and the provisions of this Agreement;

AND WHEREAS, the Regional Municipality of Niagara (the “**Region**”) solicited, in an Request For Proposals, issued Friday March 24, 2017, the role of Integrity Commissioner on the understanding that the appointed individual would be appointed for both: (a) the Region; and, (b) any interested “Lower Tier Municipalities”;

NOW THEREFORE, in consideration of the provision of Integrity Commissioner services to the Town, ADRC and the Town agree as follows:

Services

1. As permitted by the Agreement, ADRC agrees to provide Integrity Commissioner services to the Town, wherein Edward T. McDermott (hereinafter the “**Commissioner**”) shall act as the appointed Integrity Commissioner, in accordance with the authority for such appointment as prescribed in Section 223.3 (1) of the Act, along with other ADRC support persons.
2. ADRC agrees to provide to the Town the deliverables set out in Section A of Appendix D – RFP Particulars (the “**Services**”) of Niagara Region’s Request for Proposals 2017-RFP-15, issued March 24, 2017 attached hereto as Schedule “A” (the “**RFP**”). The Services shall be provided in accordance with the terms of the Agreement, the RFP, and the response to the RFP submitted by ADRC attached hereto as Schedule “B” (the “**Proposal**”). If there

is any contradiction between the Agreement, the RFP, and the Proposal, then the terms of the Agreement shall prevail.

3. Services shall be performed in accordance with the Town's Code of Conduct for Members of Council (the "**Code**"), as amended. A copy of the Town's current Code currently is attached to the Agreement as **Schedule "C"**.
4. The Commissioner is appointed for the purpose of addressing Integrity Commissioner-related complaints made against members of Council, the process for which is outlined in the Town's Code ("**Formal Complaints**"). The Commissioner's jurisdiction over complaints is established only upon ADRC's receipt of a Formal Complaint, which has been sent to ADRC by the Town Clerk. ADRC shall not provide advice, of any kind, to persons who wish to file or are thinking about filing a Formal Complaint to ADRC. ADRC shall not provide advice to any persons who require assistance to initiate the commencement of a Formal Complaint.
5. Any time after the Effective Date, the Town, upon written notice to ADRC, may delete, extend, increase, vary, or otherwise alter: (a) the Code; and, (b) the Services. Except in the case of adding an Optional Service, as contemplated by section 2 of the Agreement, prior to changing the Services, the Town must consult with and seek approval from ADRC. If the scope of Services is materially altered without ADRC's consent, then ADRC may unilaterally terminate the Agreement, which would be effective immediately.
6. (a) Independently, ADRC shall perform the Services to meet the requirements of the Town, as set out in the Code, the RFP, and the Proposal. ADRC shall complete any portion or portions of the Services on a flexible and as-needed basis, as required by the Town. ADRC shall provide a status report to the Town's Council through the Town Clerk from time to time, as required.

(b) In making reports to be delivered to Town Council, ADRC shall use the proper administrative reporting procedures, as directed by the Town Clerk.

Term, Termination, and Expiration

7. (a) Subject to the provisions of this Agreement, the initial Term of this Agreement shall commence on the Effective Date and end on March 31, 2022 (the "**Term**"). The Town shall, in its sole discretion, have the unilateral option to renew for an additional four-year period on the same terms and pricing. This option shall not be impacted by the failure to renew of Niagara Region or of any other Lower Tier Municipality participating in the initial cooperative Request for Proposals for Integrity Commissioner Services.

(b) Upon 30 days written notice to the other party, either party may terminate the Agreement, the Services thereunder, or any portion thereof. If the Town determines or is informed that ADRC has a conflict of interest with respect to the Services, the Town shall ask ADRC to

make arrangements to ensure the Services are provided without a conflict (whether through assignment or otherwise) in a manner satisfactory to the Town. If ADRC is unable to make reasonable and appropriate arrangements, then the Town may terminate this Agreement immediately. Upon receipt of written notice of termination, ADRC shall perform no further Services other than those reasonably necessary to close out ADRC's Services. In such an event, ADRC is entitled to payment for any Services rendered and disbursements incurred.

(c) Should a conflict of interest arise, ADRC shall disclose such conflict to the Town and shall make arrangements to ensure Services are provided without a conflict (whether through assignment or otherwise) in a manner satisfactory to both the Town and ADRC. If unable to address the conflict to the satisfaction of both the Town and ADRC, ADRC may, at any time by notice in writing to the Town, terminate the Agreement. Upon ADRC's delivery of written notice to the Town, ADRC shall not, without the consent of the Town Clerk, perform any further Services other than those reasonably necessary to close out ADRC's Services. In such an event, ADRC is entitled to payment for any Services rendered and disbursements incurred.

(d) Upon any termination of this Agreement, ADRC shall provide to the Town's next Integrity Commissioner all material/documentation related to any investigations underway and such documentation/material shall become the property of the new Integrity Commissioner of the Town. In the event the Town has not contracted the services of a new Integrity Commissioner upon termination of this Agreement, ADRC shall make arrangements with the Town to transfer documentation/material relating to ongoing investigations to the Town Clerk in a manner that satisfies ADRC, in its sole discretion.

(e) Following termination of the Agreement, ADRC shall retain all records and documentation relating to the Services for a retention period of 15 years following termination (TOMRMS Category L04, E+15) (the "**Retention Period**"). Upon the completion of the Retention Period, ADRC shall dispose of records in the manner set out in the Town's Records Retention policy.

ADRC Warranties

8. ADRC warrants that neither ADRC, nor any of its employees or agents providing Services to the Town has any conflicts of interest. Specifically, ADRC warrants that neither the Commissioner, nor any other employee or agent of ADRC providing Services are employed by the Town; have any financial interest in matters involving the Town; have any interest in matters before the Town's Council; or, have any interest in any work undertaken by the Town. ADRC further agrees that neither ADRC, nor its employees or agents involved in providing Services will not have any involvement in political campaigning, endorsements, or related conflicts of interest, with any current member of the Town's Council, Committees, Local Boards, or with any current member of a council, committee or local board of a local municipality within the Town preceding or during the Term of the Agreement. ADRC acknowledges that ADRC and the Commissioner shall be

and always remain impartial and neutral. ADRC warrants that the Services shall be performed professionally and in accordance with the law.

Compensation

9. (a) On a monthly basis, the Town shall pay ADRC: (i) \$350 per hour (+ HST) for services rendered by the Commissioner; and, (ii) \$275 per hour (+HST) for work of the Commissioner's designates, as well as, administration. In addition the Town shall reimburse ADRC for the following expenses:
 - (i) mileage within the Town that is reasonably necessary to perform ADRC's Services at a rate of \$0.50 / km in the Town. The Town agrees that particulars of travel within the Town shall not be disclosed to the Town by ADRC if believed that doing so may compromise confidentiality of a complainant or participant in an investigation;
 - (ii) mileage at a rate of \$0.50/km for reasonable travel to and from the offices of the Town;
 - (iii) reimbursement for other modes of transportation to and from the Town, provided such travel is reasonable. Reimbursement for non-driving modes of transportation are capped at an amount equal to the expense that would be paid for mileage as per section (ii) above;
 - (iv) reasonable accommodation in the Town, provided said accommodation is deemed necessary, and is authorized by the Town Clerk, in advance.
 - (v) a per diem of \$10.00 to cover miscellaneous expenses pertaining to each night of authorized accommodation in the Town, and meals related to such overnight visits will be reimbursed on a receipt basis at rates not to exceed \$12.00/day for breakfast, \$16.00/day for lunch, and \$30.00/day for dinner;
 - (vi) long distance telephone charges, fax expenses, and photocopying.
- (b) The rates set out above are consistent with rates paid to employees of the Town. Such rates will be increased any time the corresponding rates are increased for employees of the Town.
- (c) Should ADRC require a meeting space in the Town during the course of an investigation, the Town shall provide such space in a Town facility on an as needed and as available basis. In arranging for such space, the Town will be mindful of the importance of confidentiality. If the Commissioner, in its sole discretion determines that confidentiality may be compromised in the space provided by the Town, then ADRC may request space in another Town facility.
- (d) With respect to service of summonses or subpoenas, as requested by ADRC, and at the expense of the Town, the Town shall print the Commissioner's reports and will provide documentation of Services provided.
- (e) The Town shall provide public access to the Code through its website. The Town shall also provide information about: the Code; ADRC's and the Commissioner's functions; and,

the complaint process on its website. ADRC's Services do not include development of a website.

(f) If the Town Clerk refuses to authorize any of ADRC's expenses contemplated by the Agreement, ADRC is entitled to appeal directly to the Chief Administrative Officer ("CAO") of the Town.

(g) If the payment of expenses, ADRC feels are necessary for the reasonable performance of the Services, is refused on appeal to the Town's CAO, then ADRC has the option of appealing such decision directly to the Town's Council, and any decision by the Town's Council shall be final and binding on ADRC.

10. Unless such costs are authorized, in writing, by the Town Clerk (in advance), ADRC shall not assume responsibility for, nor seek reimbursement from, the Town for any costs incurred by ADRC not specifically set out in the Agreement.
11. ADRC shall submit an invoice to the Town for all services completed in the immediately preceding month. Interest at the annual rate of 5 percent per annum will be paid on the total outstanding unpaid balance commencing 30 days after the Town has received ADRC's invoice. Any applicable Harmonized Sales Tax shall be added to each monthly invoice as prescribed by law from time to time and shall be paid to ADRC by the Town. ADRC shall provide its HST Registration Number on all invoices to the Town.

Insurance and Indemnification

12. (a) Indemnity, Commercial General Liability Insurance, and Automobile Insurance

ADRC agrees to indemnify and save harmless and shall obtain, maintain, pay for, and provide evidence of insurance and Workplace Safety and Insurance Board Clearance, as required by sections 8.01 to 8.04 of Niagara Region's standard form of Agreement 'Terms and Conditions' found on Niagara Region's website; referenced in the RFP as forming part of the resulting agreement with ADRC and reproduced on Schedule "D" to this Agreement.

- (b) Professional Liability Insurance

ADRC shall obtain, maintain, pay for, and provide evidence of Errors and Omissions insurance with limits of not less than \$2 million (\$2,000,000.00), inclusive per claim, covering services or activities by ADRC and ADRC's agents and employees (inclusive of the Commissioner) that are professional in nature and thereby excluded under the Commercial General Liability Policy. The coverage under the Errors and Omissions policy shall be maintained continuously during the term of this Agreement and for two (2) years after the termination or expiration of this Agreement and shall cover insurable losses arising out of or in association with an error or omission in the rendering of or failure to render the Services. If coverage is cancelled within the two (2) year period after termination or expiration of this Agreement, then ADRC shall provide the Town with notice within

thirty (30) days of Cancellation and shall be required to purchase an extended reporting endorsement to confirm that coverage is maintained.

Representation of ADRC

13. The Commissioner is appointed under authority of subsection 223.3(1) of the Act and, as such, is responsible for performing the Services in an independent manner. The Commissioner may identify himself publicly as the Integrity Commissioner appointed by the Town. ADRC shall be an independent contractor and shall not be considered and shall at no time represent itself or permit any of its employees or agents to represent themselves to be legal counsel, an agent, or an employee of the Town.

Confidentiality

14. The Commissioner is entitled to have access to all books, financial records, electronic data processing records, reports, files, and all other papers, things or property belonging to or used by the municipality or a local board that the Commissioner believes to be necessary for an inquiry.
15. ADRC, the Commissioner, and every person acting under the instructions of either ADRC or the Commissioner shall preserve secrecy with respect to all matters that come to their knowledge in the course of its Services, save and except information that may be disclosed in a criminal proceeding, as required by law or otherwise set out in subsection 223.5(2) of the Act.
16. ADRC shall comply and cause the Commissioner to comply with the confidentiality provisions of the Act and specifically: the requirements set out in sections 223.5, 223.6, 223.7, and 223.8 of the Act; the confidentiality provisions contained in the Form of Terms and Conditions found at www.niagararegion.ca/business; the requirements set forth in the part titled "Article 6 –Confidentiality", which are incorporated into the Agreement by reference herein; and, the requirements of the Code.
17. Except as may be required by law, ADRC shall not disclose confidential information that was the subject of a closed meeting under section 239 of the Act, or which could create the obvious identification of a person who is subject to an investigation.
18. In the event the Commissioner believes access is required to files and documents for which solicitor client privilege is claimed, then ADRC shall discuss such request with the Town's Legal Counsel. If, in the opinion of the Legal Counsel, such request needs to be approved by the Town's Council, then the direction of Town's Council will be sought by the Legal Counsel.

19. Upon receipt of a Formal Complaint pursuant to the Code, the Commissioner may conduct an informal investigation or may elect to exercise the inquiry powers under sections 33 and 34 of the *Public Inquiries Act*, as contemplated by subsection 223.4(2) of the Act.

General Conditions

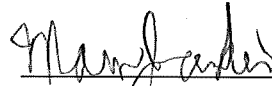
20. Except as set out herein, neither ADRC, nor any person, firm, or corporation associated or affiliated with or subsidiary to ADRC shall have an interest either directly or indirectly with the business of the Town.
21. ADRC is not permitted to assign this Agreement in whole or in part.
22. ADRC recognizes and agrees that the Commissioner has been selected by the Town to perform the Services based on his unique qualifications for the position, combined with the available support systems provided by ADRC as described in the Proposal. In the event of any delegation of the Services by ADRC to an agent, employee, or other person beyond what is expressly set out in the Proposal, ADRC will notify the Town Clerk of the identity of the proposed designate, as well as his or her qualifications, experience, and expertise necessary to perform the Services to the same standard as the Commissioner.
23. Nothing herein shall preclude the Commissioner from delegating his authority to individuals referred to in the proposal or such other individuals who may be agreed to by the Town in accordance with the provisions of the *Municipal Act, 2001*.
24. Powers and Services assigned to ADRC under this Agreement shall apply to ADRC only while in performance of the Services during the Term of this Agreement.
25. This Agreement supersedes all previous agreements, arrangements, or understandings between the parties whether written or oral in connection with or incidental to ADRC's Services.
26. Any dispute, difference or disagreement between the parties hereto in relation to the Agreement may, with the consent of both parties, be referred to arbitration. No person shall be appointed to act as arbitrator who is in any way interested, financially or otherwise, in the conduct of the Services or in the business or other affairs of either the Town or ADRC. The award of the arbitrator shall be final and binding upon the parties. The provisions of *Arbitration Act, 1991*, S.O., 1991, as amended shall apply.
27. The headings used in the Agreement are for convenience of reference only and do not limit or otherwise affect the meaning of the terms, provisions, interpretation, or language of the Agreement.

IN WITNESS THEREOF ADRC has set its corporate seal attested by the hands of its duly authorized officers and the Town has affixed its corporate seal attested by the hands of its duly authorized officers on the day and year first above written.

SIGNED, SEALED AND DELIVERED

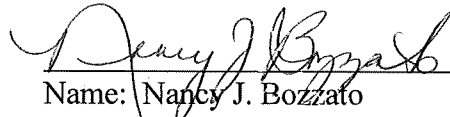
THE TOWN OF PELHAM

PER:



Name: Marvin Junkin

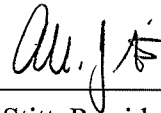
Title: Mayor, Town of Pelham



Name: Nancy J. Bozzato

Title: Town Clerk

ADR CHAMBERS INC.



Allan Stitt, President

*I have authority to bind the
corporation*

SCHEDULE 'A'
TO PROFESSIONAL SERVICES AGREEMENT
dated _____ **, 2019

Between:
The Town of Pelham
and
ADR Chambers Inc.

Request for Proposals 2017-RFP-15 For the Position of Integrity Commissioner
dated March 24, 2017



Request for Proposal

for

**POSITION OF INTEGRITY COMMISSIONER FOR THE REGIONAL MUNICIPALITY
OF NIAGARA**

Request for Proposal No.: 2017-RFP-15

Issued: Friday March 24, 2017

Submission Deadline: 2:00:00 PM Thursday April 20, 2017

**Submission Location: THE PURCHASING OFFICE
The Regional Municipality of Niagara
Campbell West Building
1815 Sir Isaac Brock Way
Thorold, Ontario, L2V 4T7**

TABLE OF CONTENTS

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS	1
1.1 Invitation to Proponents	1
1.2 Niagara Region's Procurement Bylaw	2
1.3 Niagara Region Contact	2
1.4 Accommodations for Proponents with Disabilities	3
1.5 Contract for Deliverables	3
1.6 RFP Timetable	3
1.7 Proponent Meeting	3
1.8 Proposal Submission	4
PART 2 – EVALUATION AND RANKING	6
2.1 Stages of Proposal Evaluation	6
2.2 Stage I – Mandatory Requirements	6
2.3 Stage II – Rated Criteria	6
2.4 Stage III - Pricing	6
2.5 Stage IV - Ranking and Selection of Top-Ranked Proponent	6
PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS	7
3.1 General Information and Instructions	7
3.2 Communication after Issuance of RFP	8
3.3 Finalization of Contract, Notification and Debriefing	8
3.4 Conflict of Interest and Prohibited Conduct	9
3.5 Confidential Information	11
3.6 Reserved Rights, Limitation of Liability and Governing Law	12
APPENDIX A – CONTRACT TERMS AND CONDITIONS	14
APPENDIX B – FORM OF PROPOSAL	19
APPENDIX C – PRICING FORM	21
APPENDIX D – RFP PARTICULARS	22
A. THE DELIVERABLES	22
B. MATERIAL DISCLOSURES	24
C. MANDATORY REQUIREMENTS	24
D. RATED CRITERIA	24
E. EVALUATION AND RANKING METHOD	25
APPENDIX E – CONDITIONS OF AWARD	27
APPENDIX F – BID IRREGULARITIES	28
APPENDIX G - REDACTED CONSOLIDATED BILL 91-2013	29
APPENDIX H - CODE OF CONDUCT FROM PROCEDURAL BY-LAW	41

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

1.1 Invitation to Proponents

This Request for Proposal ("RFP") is an invitation by The Regional Municipality of Niagara ("Niagara Region") to prospective proponents to submit proposals for the provision of **POSITION OF INTEGRITY COMMISSIONER FOR THE REGIONAL MUNICIPALITY OF NIAGARA**, as further described in Appendix D – RFP Particulars (the "Deliverables").

The Niagara Region is inviting proposals from qualified individuals or groups with pertinent expertise and experience for the provision of Integrity Commissioner Services to the Council of the Niagara Region, in accordance with sections of 223.3 and 223.8 of the Ontario Municipal Act, 2001, ("the Act").

A successful individual candidate will be appointed as the Region's Integrity Commissioner by By-Law, and there will be no substitutions of the successful candidate appointed except as expressly provided herein. The successful individual candidate may contract through another legal entity including but not restricted to a personal service corporation or a partnership or other entity of which the successful candidate is a partner or employee (the "Non-Arms' Length Entity"). The resulting Contract shall be non-assignable. Notwithstanding section 223.3(3) of the *Municipal Act, 2001*, the successful candidate must understand that Niagara Region in choosing the successful candidate is relying on the expertise and qualities of that individual chosen. As such, the duties and responsibilities of the Integrity Commissioner including the giving of all opinions and exercise of any discretion shall rest with the chosen individual. The successful candidate may assign certain tasks to an associate under his or her direct supervision. The successful candidate may delegate his or her duties in accordance with this RFP or as otherwise provided by applicable law.

Neither the Integrity Commissioner, nor any partner or employee of the Non-Arms' Length Entity, shall have any involvement in political campaigning, endorsements or any other related conflict of interest with respect to the Niagara Region during the term of the Contract and shall not have had such involvement at any time since the most recent municipal election.

Conflict of interest is further defined within section 3.4.1 of this RFP. In addition to the examples in section 3.4, any financial interest in other work undertaken by Niagara Region could be considered a conflict of interest that could or could be seen to exercise an improper influence over an objective, unbiased and impartial exercise of its independent judgement.

Niagara Region recognizes that the Integrity Commissioner as an individual may belong to or contract through a Non-Arms' Length Entity which might as a separate legal entity have a financial interest in work undertaken by Niagara Region. Niagara Region agrees that if the Non-Arms' Length Entity is retained or engaged by Niagara Region on matters unrelated to the successful candidates appointment, such retainers shall not be deemed to constitute a conflict of interest. However should a matter arise for consideration of the Integrity Commissioner that directly involves any file that the Non-Arms' Length Entity is handling or involved with, the Integrity Commissioner shall recuse himself or herself from dealing with the matter and provide Niagara Region with recommendations as to an alternate Integrity Commissioner who may be delegated the responsibility to deal with the matter.

Since the successful individual candidate will be appointed as the Region's Integrity Commissioner by By-Law, then there will be no substitutions of the successful candidate

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

appointed. The successful individual candidate may contract through another legal entity including but not restricted to a personal service corporation or a partnership or other entity of which the successful candidate is a partner or employee. Notwithstanding section 223.3(3) of the *Municipal Act, 2001*, the successful candidate must understand that Niagara Region in choosing the successful candidate is relying on the expertise and qualities of that individual chosen. As such, the duties and responsibilities of the Integrity Commissioner including the giving of all opinions and exercise of any discretion shall rest with the chosen individual. The successful candidate may assign certain tasks to an associate under his or her direct supervision. The successful candidate may delegate his or her duties in accordance with this RFP or as otherwise provided by applicable law.

Services will be required on a flexible and as needed basis, which may require work to be conducted outside regular office hours. This work will include but not be limited to attendance at meetings and responding to phone calls, and e-mail enquiries.

The Niagara Region has not previously held a retainer fee for these services therefore the hourly rate supplied shall only be paid when working on approved work by the Regional Clerk.

Lower Tier Municipality Participation – Non Mandatory

Lower Tier Municipalities and Local Boards (Agency) who originally did not participate in the initial bid, who wish to acquire the services at the same prices and under the same terms and conditions which the Integrity Commissioner is providing to the Region under this Agreement, and provided that the Integrity Commissioner agrees to provide such services to the Agencies, then each such member Agency may make individual arrangements with the Integrity Commissioner (e.g. issuing a purchase order) and the terms and conditions of this Agreement shall apply as between the member agency and the Integrity Commissioner.

Proponents shall provide a Yes or No answer to the above applicability to their own Proposal. It is not a mandatory requirement to do so. If a Proponent has limitations to a limited number of lower tier municipalities, Proponents should provide that list within their technical proposal.

Please refer to Appendix D – RFP Particulars for a detailed description of the Deliverables, material disclosures and mandatory requirements.

Please refer to Appendix E – Conditions of Award for requirements that the proponent must satisfy if selected to enter into a contract for the Deliverables.

1.2 Niagara Region's Procurement Bylaw

Niagara Region's procurement processes are governed by its Procurement By-Law No. 02-2016 ("Niagara Region's By-law"). It is the proponent's responsibility to become familiar with and comply with Niagara Region's By-law, which is available on line at:

<http://www.niagararegion.ca/government/bylaws/pdf/2016/Procurement-By-law-02-2016.pdf>

If the terms of the RFP are more restrictive than the terms of Niagara Region's By-law, the terms of the RFP will prevail.

1.3 Niagara Region Contact

For the purposes of this procurement process, the "Niagara Region Contact" shall be:

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

Jeffrey Mulligan
Manager Purchasing Services
Niagara Region
905-980-6000 ext. 3343 Jeffrey.Mulligan@niagararegion.ca

Proponents and their representatives are not permitted to contact any employees, officers, agents, elected or appointed officials or other representatives of Niagara Region, other than the Niagara Region Contact, concerning matters regarding this RFP. Failure to adhere to this rule may result in the disqualification of the proponent and the rejection of the proponent's proposal.

1.4 Accommodations for Proponents with Disabilities

Niagara Region is committed to providing equal treatment to people with disabilities with respect to the use and benefit of municipal services, programs and goods in a manner that respects their dignity and that is equitable in relation to the broader public. In accordance with the *Ontario Human Rights Code*, *Ontarians with Disabilities Act, 2001* (ODA) and *Accessibility for Ontarians with Disabilities Act, 2005* (AODA), the Niagara Region will accommodate for a disability, ensuring full and equitable participation throughout the RFP process.

If a proponent requires this RFP in a different format to accommodate a disability, the proponent must contact the Niagara Region Contact as soon as possible and in any event prior to the Submission Deadline. The RFP in the different format will be issued only to the requesting proponent and all addenda will be issued in such different format only to the requesting proponent.

1.5 Contract for Deliverables

The selected proponent will be required to enter into a contract with Niagara Region for the provision of the Deliverables based on the Contract Terms and Conditions set out in Appendix A to the RFP (the "Contract"). It is Niagara Region's intention to enter into the Contract with only one (1) legal entity.

The Initial Term shall commence upon Regional Council Approval anticipated in the 2nd quarter of 2017 with a term ending March 31, 2019.

Provided sufficient services have been completed in the Initial Term, in Quarter 1 of 2019, a Report will be brought forward to Regional Council with a recommendation of extension for the four (4) year period, April 1, 2019 to March 31, 2023.

1.6 RFP Timetable

Issue Date of RFP	Friday March 24, 2017
Deadline for Questions	Thursday, April 13, 2017
Deadline for Issuing Addenda	Friday, April 14, 2017
Submission Deadline	2:00:00 PM on Thursday April 20, 2017
Public Opening	2:15 on Thursday April 20, 2017 Committee Room 4 Campbell West Building 1815 Sir Isaac Brock Way Thorold Ontario
Anticipated Date for Entering into Contract	June 1, 2017

The RFP timetable is tentative only, and may be changed by Niagara Region at any time.

1.7 Proponent Meeting

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

Not Applicable

1.8 Proposal Submission

1.8.1 Proposals Must Be Submitted to Prescribed Location

Proposals must be submitted at:

THE PURCHASING OFFICE
The Regional Municipality of Niagara
Campbell West Building
1815 Sir Isaac Brock Way
Thorold, Ontario, L2V 4T7

1.8.2 Proposals Must Be Submitted on Time

Proposals must be submitted at the location set out above on or before the Submission Deadline. Proposals submitted after the Submission Deadline will be rejected. Onus and responsibility rests solely with the proponent to deliver its proposal to the exact location (including floor, if applicable) indicated in the RFP on or before the Submission Deadline. Niagara Region does not accept any responsibility for submissions delivered to any other location by the proponent or its delivery agents. Proponents are advised to make submissions well before the deadline. Proponents making submissions near the deadline do so at their own risk.

In the event of any question regarding the timely receipt of any submission, the time on the clock designated by the Manager of Purchasing Services will absolutely prevail over any other timepiece regardless of any discrepancies between the time on the Manager of Purchasing Services' designated clock and actual time.

1.8.3 Proposals Must Be Submitted in Prescribed Format

Proponents must submit **Nine (9)** hard copies of their proposal enclosed in a sealed package that is prominently marked with the RFP title and number (see RFP cover page) and the full legal name and return address of the proponent. One (1) hard copy shall be labelled "Master".

The hard copies of the Pricing Form (Appendix C) and any other information in respect of pricing must be separated from the rest of the proposal and enclosed in a separate envelope marked "Pricing Envelope". The separate Pricing Envelope must be packaged in the sealed envelope or box with the rest of the proposal.

Proponents must also include in the sealed package one (1) electronic copy of their proposal saved on a USB key. If there is a conflict or inconsistency between the hard copy and the electronic copy of the proposal, the hard copy of the proposal shall prevail.

1.8.4 Proposal Submission Content

Proponents must include all forms and other documents or information listed under Section C – Mandatory Requirements in Appendix D – RFP Particulars. Other than inserting the information requested, a proponent may not make any changes to any of the required forms included in this RFP. Any proposal containing any such changes, whether on the face of the form or elsewhere in the proposal, may be disqualified. Irregularities in proposal submissions will be addressed in accordance with Appendix F – Bid Irregularities.

PART 1 – INVITATION AND SUBMISSION INSTRUCTIONS

Proposals should also include the suggested proposal content for evaluation described in Section D of Appendix D – RFP Particulars. Failure to provide the requested information will negatively affect the scoring of the proposal in the evaluation process.

1.8.5 Amendment of Proposals

Proponents may amend their proposals prior to the Submission Deadline by submitting the amendment in a sealed package prominently marked with the RFP title and number and the full legal name and return address of the proponent to the location set out above. Any amendment should clearly indicate which part of the proposal the amendment is intended to amend or replace.

1.8.6 Withdrawal of Proposals

Proponents may withdraw their proposals prior to the Submission Deadline. To withdraw a proposal, a notice of withdrawal must be sent to the Niagara Region Contact and must be signed by an authorized representative of the proponent. Withdrawn proposals will be returned unopened to the proponent.

1.8.7 Proposals Irrevocable after Submission Deadline

Proposals shall be irrevocable for a period of **one hundred twenty (120) days** running from the moment that the Submission Deadline passes.

[End of Part 1]

PART 2 – EVALUATION AND RANKING

2.1 Stages of Proposal Evaluation

Niagara Region will conduct the evaluation and ranking process in accordance with the stages set out below.

2.2 Stage I – Mandatory Requirements

Stage I will consist of a review to determine which proposals comply with all of the mandatory requirements. Proposals that do not comply with all of the mandatory requirements as of the Submission Deadline will, subject to the express and implied rights of Niagara Region, be disqualified and not evaluated further. The mandatory requirements are listed and described in Section C of Appendix D – RFP Particulars.

2.3 Stage II – Rated Criteria

In Stage II, Niagara Region will evaluate each compliant proposal on the basis of the rated criteria set out in Section D of Appendix D – RFP Particulars.

2.4 Stage III - Pricing

After completion of Stage II, Niagara Region will evaluate the submitted pricing in each qualified proposal in accordance with the evaluation and ranking method described in Section E of Appendix D – RFP Particulars.

2.5 Stage IV - Ranking and Selection of Top-Ranked Proponent

After the completion of Stage III, proponents will be ranked in accordance with the evaluation and ranking method described in Section E of Appendix D – RFP Particulars. Subject to the reserved rights of Niagara Region, the top-ranked proponent with the highest score will be selected to enter into the Contract in accordance with Part 3.

[End of Part 2]

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

3.1 General Information and Instructions

3.1.1 RFP Incorporated into Proposal

All of the provisions of this RFP are deemed to be accepted by each proponent and incorporated into each proponent's proposal. A proponent who submits conditions, options, variations or contingent statements to the terms as set out in this RFP, including the terms of the Contract in Appendix A, either as part of its proposal or after receiving notice of selection, may be disqualified. If a proponent is not disqualified despite such changes or qualifications, the provisions of this RFP, including the terms of the Contract set out in Appendix A, will prevail over any such changes or qualifications in the proposal.

3.1.2 Proponents to Follow Instructions and Submit Only Requested Information

Proponents should structure their proposals in accordance with the instructions in this RFP. Information must be provided in the form requested. Niagara Region will not consider any supplementary information or documents that proponents have not been requested to submit.

3.1.3 Proposals in English

All proposals are to be in English only.

3.1.4 Information in RFP Only an Estimate

Niagara Region and its advisers make no representation, warranty or guarantee as to the accuracy of the information contained in this RFP or issued by way of addenda. Any quantities shown or data contained in this RFP or provided by way of addenda are estimates only and are for the sole purpose of indicating to proponents the general scale and scope of the Deliverables. It is the proponent's responsibility to obtain all the information necessary to prepare a proposal in response to this RFP.

3.1.5 Examination of Site

Not Applicable

3.1.6 Proponents Shall Bear Their Own Costs

The proponent shall bear all costs associated with or incurred in the preparation and submission of its proposal.

3.1.7 Proposal to Be Retained by Niagara Region

Except as otherwise provided in this RFP, Niagara Region is under no obligation to return the proposal or any accompanying documentation submitted by a proponent.

3.1.8 Trade Agreements

Proponents should note that procurements falling within the scope of Chapter 5 of the Agreement on Internal Trade are subject to that trade agreement, but the rights and obligations of the parties shall be governed by the specific terms of this RFP.

3.1.9 No Guarantee of Volume of Work or Exclusivity of Contract

Niagara Region makes no guarantee of the value or volume of work to be assigned to the successful proponent. The Contract will not be an exclusive contract for the provision of the described Deliverables. Niagara Region may contract with others for goods and services the same as or similar to the Deliverables or may obtain such goods and services internally.

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

3.2 Communication after Issuance of RFP

3.2.1 Proponents to Review RFP

Proponents shall promptly examine all of the documents comprising this RFP, and

- (a) shall report any errors, omissions or ambiguities; and
- (b) may direct questions or seek additional information

to the Niagara Region Contact on or before the Deadline for Questions. All communications must be made in writing by email and shall be deemed to be received once the email has entered into the Niagara Region Contact's email inbox. No such communications are to be directed to anyone other than the Niagara Region Contact, and Niagara Region shall not be responsible for any information provided by or obtained from any source other than the Niagara Region Contact. Niagara Region is under no obligation to provide additional information, but may do so in its sole and absolute discretion. It is the responsibility of the proponent to seek clarification from the Niagara Region Contact on any matter it considers to be unclear. Niagara Region shall not be responsible for any misunderstanding on the part of the proponent concerning this RFP or its process.

3.2.2 All New Information to Proponents by Way of Addenda

This RFP may be amended only by an addendum in accordance with this section. If Niagara Region, for any reason, determines that it is necessary to provide additional information relating to this RFP, such information will be communicated to all proponents by addenda issued in the same manner that this RFP was originally issued. Each addendum forms an integral part of this RFP. Such addenda may contain important information, including significant changes to this RFP. Proponents are responsible for obtaining all addenda issued by Niagara Region. In the Form of Proposal (Appendix B), proponents should confirm their receipt of all addenda by setting out the number of each addendum in the space provided.

3.2.3 Post-Deadline Addenda and Extension of Submission Deadline

If Niagara Region determines that it is necessary to issue an addendum after the Deadline for Issuing Addenda, Niagara Region may extend the Submission Deadline for a reasonable period of time.

3.2.4 Verify, Clarify and Supplement

When evaluating proposals, Niagara Region may request further information from the proponent or third parties in order to verify, clarify or supplement the information provided in the proponent's proposal. The response received by Niagara Region shall, if accepted by Niagara Region, form an integral part of that proponent's proposal.

3.3 Finalization of Contract, Notification and Debriefing

3.3.1 Selection of Proponent and Finalization of Contract

Notice of selection by Niagara Region to the selected proponent shall be in writing. The selected proponent shall enter into the Contract in the form attached as Appendix A to this RFP and satisfy any other applicable conditions, as set out in Appendix E – Conditions of Award of this RFP, within fourteen (14) days of notice of selection. This provision is solely for the benefit of Niagara Region and may be waived by Niagara Region in its sole and absolute discretion.

3.3.2 Failure to Enter into Contract

In addition to all other remedies available to Niagara Region, if a selected proponent fails to enter into the Contract or satisfy any other applicable conditions, as set out in Appendix E – Conditions of Award of this RFP, within fourteen (14) days of notice of selection, Niagara Region may, in its sole and absolute discretion and without incurring any liability, withdraw the selection of that proponent and either proceed with the selection of another proponent or cancel the RFP process.

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

3.3.3 Notification to Other Proponents

Once the Contract is entered into by Niagara Region and a proponent, the other proponents may be notified directly in writing and shall be notified by public posting in the same manner that this RFP was originally posted of the outcome of the procurement process.

3.3.4 Debriefing

Proponents may request a debriefing after receipt of a notification of the outcome of the procurement process. All requests must be in writing to the Niagara Region Contact and must be made within thirty (30) days of such notification. The intent of the debriefing information session is to aid the proponent in presenting a better proposal in subsequent procurement opportunities. Any debriefing provided is not for the purpose of providing an opportunity to challenge the procurement process or its outcome.

3.3.5 Proposal Dispute Resolution Procedure

If a proponent wishes to challenge the RFP process, the proponent must submit a written objection providing sufficient detail regarding their complaint (a "Substantive Objection") to the Director of Procurement and Strategic Acquisitions within 7 days from notification of the outcome of the RFP process. Niagara Region will respond to a Substantive Objection in accordance with the following steps:

- (a) The Director of Procurement and Strategic Acquisitions will arrange a debriefing with the proponent to explain the RFP process that led to the selection of the successful proponent.
- (b) The Director of Procurement and Strategic Acquisitions will investigate the complaint and will make a recommendation to the Commissioner of Corporate Services/Treasurer, CAO or Council, as appropriate.
- (c) Should the proponent continue to have concerns about the RFP process and is not satisfied with the decision, the proponent may then request, in writing to the Commissioner of Corporate Services/Treasurer, a mediator, to assist in resolving any outstanding issues between the proponent and Niagara Region.
- (d) The recommended mediator will be approved by both the proponent and Niagara Region.
- (e) The mediator shall make his/her best efforts to assist the parties to reach a mutually acceptable solution.
- (f) Costs for the mediator shall be equally shared by Niagara Region and the proponent.
- (g) Any resolution reached through the mediation process shall remain confidential if requested by either of the parties.

3.4 Conflict of Interest and Prohibited Conduct

3.4.1 Conflict of Interest

Niagara Region may disqualify a proponent for any conduct, situation or circumstances, determined by Niagara Region, in its sole and absolute discretion, to constitute a Conflict of Interest.

For the purposes of this RFP, the term "Conflict of Interest" includes, but is not limited to, any situation or circumstance where:

- (a) in relation to the RFP process, the proponent has an unfair advantage or engages in conduct, directly or indirectly, that may give it an unfair advantage, including but not limited to (i) having, or

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

having access to, confidential information of Niagara Region in the preparation of its proposal that is not available to other proponents, (ii) communicating with any person with a view to influencing preferred treatment in the RFP process (including but not limited to the lobbying of decision makers involved in the RFP process), or (iii) engaging in conduct that compromises, or could be seen to compromise, the integrity of the RFP process; or

- (b) in relation to the performance of its contractual obligations contemplated in the contract that is the subject of this procurement, the proponent's other commitments, relationships or financial interests (i) could, or could be seen to, exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement, or (ii) could, or could be seen to, compromise, impair or be incompatible with the effective performance of its contractual obligations.

For the purposes of section (a) (i) above, proponents should specifically consider whether there were any individuals (employees, advisers, or individuals acting in any other capacity) who (a) participated in the preparation of the proposal; **AND** (b) were employees of Niagara Region within twelve (12) months prior to the Submission Deadline.

In addition to any other situation that may constitute a conflict of interest, suppliers will not be permitted to submit a proposal if the supplier participated in the preparation of the RFP, and any such proposal submitted will be disqualified.

3.4.2 Disqualification for Prohibited Conduct

Niagara Region may disqualify a proponent or terminate the Contract if, in the sole and absolute determination of Niagara Region, the proponent has engaged in any conduct prohibited by this RFP or Niagara Region's By-law.

3.4.3 Prohibited Proponent Communications

A proponent shall not engage in any communications that could constitute a Conflict of Interest and should take note of the Conflict of Interest declaration set out in the Form of Proposal (Appendix B).

3.4.4 Proponent Not to Communicate with Media

A proponent may not at any time directly or indirectly communicate with the media in relation to this RFP or any Contract entered into pursuant to this RFP without first obtaining the written permission of the Niagara Region Contact.

3.4.5 No Lobbying

A proponent, including any agent or representative of a proponent, may not, in relation to this RFP or the evaluation and selection process, engage directly or indirectly in any form of political or other lobbying whatsoever to advocate for any interest that may be affected by the RFP process or to influence the outcome of the RFP process.

In accordance with Niagara Region's Procurement By-law:

- (a) "Lobbying" means the advocacy of an interest that is affected, actually or potentially by the procurement process or individuals involved in the procurement process including seeking to influence the outcome of the procurement process or subsequent award of a contract.
- (b) Proponents, their staff members, or anyone involved in preparing a proposal, shall not engage in any form of political or other lobbying whatsoever or seek to influence the outcome of the procurement process or subsequent award. This restriction extends to all of Niagara Region's staff and anyone

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

involved in preparing the RFP or participating in the proposal evaluation process, and members of Council.

- (c) Niagara Region may reject any proposal by a proponent that engages in lobbying, without further consideration, and may terminate that proponent's right to continue in the procurement process.
- (d) During a procurement process, all communications shall be made through the Niagara Region Contact. No proponent or person acting on behalf of a proponent or group of proponents, shall contact any elected official, consultant or any employee of Niagara Region to attempt to seek information or to influence the outcome of the procurement process.
- (e) Elected officials shall refer any inquiries about a procurement process to Niagara Region's Commissioner of Corporate Services/Treasurer.

3.4.6 Illegal or Unethical Conduct

Proponents shall not engage in any illegal business practices, including activities such as proposal-rigging, price-fixing, bribery, fraud, coercion or collusion. Proponents shall not engage in any unethical conduct, including lobbying, as described above, or other inappropriate communications, offering gifts to any employees, officers, agents, elected or appointed officials or other representatives of Niagara Region, deceitfulness, submitting proposals containing misrepresentations or other misleading or inaccurate information, or any other conduct that compromises or may be seen to compromise the competitive process provided for in this RFP.

3.4.7 Past Performance or Past Conduct

Niagara Region may prohibit a supplier from participating in a procurement process based on past performance or based on inappropriate conduct in a prior procurement process. Such inappropriate conduct shall include but not be limited to the following: (a) illegal or unethical conduct as described above; (b) the refusal of the supplier to honour its pricing or other commitments made in its proposal; (c) failure to disclose a conflict of interest or (d) any other conduct, situation or circumstance described in Niagara Region's By-law.

3.5 Confidential Information

3.5.1 Confidential Information of Niagara Region

All information provided by or obtained from Niagara Region in any form in connection with this RFP either before or after the issuance of this RFP

- (a) is the sole property of Niagara Region and must be treated as confidential;
- (b) is not to be used for any purpose other than replying to this RFP and the performance of the Contract;
- (c) must not be disclosed without prior written authorization from Niagara Region; and
- (d) shall be returned by the proponents to Niagara Region immediately upon the request of Niagara Region.

3.5.2 Confidential Information of Proponent

Proponents are advised that the disclosure of information received in proposals or otherwise relevant to the RFP process will be in accordance with the provisions of all relevant access to information and privacy legislation including primarily the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended ("MFIPPA"). Proponents should identify any confidential information in their proposals. Niagara Region will make reasonable efforts to maintain the confidentiality of such information, subject to its disclosure requirements under MFIPPA or any disclosure requirements

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

imposed by law or by order of a court or tribunal. Proponents are advised that their proposals will, as necessary, be disclosed, on a confidential basis, to advisers retained by Niagara Region to advise or assist with the RFP process. If a proponent has any questions about the collection and use of personal information pursuant to this RFP, questions are to be submitted to the Niagara Region Contact.

3.6 Reserved Rights, Limitation of Liability and Governing Law

3.6.1 Reserved Rights of Niagara Region

Niagara Region reserves the right to

- (a) make public the names of any or all proponents;
- (b) request written clarification or the submission of supplementary written information in relation to the clarification request from any proponent and incorporate a proponent's response to that request for clarification into the proponent's proposal;
- (c) assess a proponent's proposal on the basis of
 - (i) a financial analysis determining the actual cost of the proposal when considering factors including quality, service, price and transition costs arising from the replacement of existing goods, services, practices, methodologies and infrastructure (howsoever originally established);
 - (ii) information provided by references;
 - (iii) the proponent's past performance under previous contracts with Niagara Region;
 - (iv) the information provided by a proponent pursuant to Niagara Region exercising its clarification rights under this RFP process; or
 - (v) other relevant information that arises during this RFP process;
- (d) waive formalities and accept proposals that substantially comply with the requirements of this RFP;
- (e) verify with any proponent or with a third party any information set out in a proposal;
- (f) check references other than those provided by any proponent;
- (g) disqualify any proponent whose proposal contains misrepresentations or any other inaccurate or misleading information;
- (h) disqualify any proponent who has engaged in conduct prohibited by this RFP;
- (i) make changes, including substantial changes, to this RFP provided that those changes are issued by way of addenda in the manner set out in this RFP;
- (j) select a proponent other than the proponent whose proposal reflects the lowest cost to Niagara Region;
- (k) reject any proposal that contains pricing which appears to be unbalanced or unreasonable;
- (l) cancel this RFP process at any stage;
- (m) cancel this RFP process at any stage and issue a new RFP for deliverables the same as or similar to the Deliverables;

PART 3 – TERMS AND CONDITIONS OF THE RFP PROCESS

- (n) accept any proposal in whole or in part; or
- (o) reject any or all proposals;

and these reserved rights are in addition to any other express rights or any other rights that may be implied in the circumstances.

3.6.2 Limitation of Liability

By submitting a proposal, each proponent agrees that

- (a) neither Niagara Region nor any of its employees, officers, agents, elected or appointed officials, advisors or representatives will be liable, under any circumstances, for any claim arising out of this RFP process including but not limited to costs of preparation of the proposal, loss of profits, loss of opportunity or for any other claim; and
- (b) the proponent waives any right to or claim for any compensation of any kind whatsoever, including claims for costs of preparation of the proposal, loss of profits or loss of opportunity by reason of Niagara Region's decision not to accept the proposal submitted by the proponent, to enter into a contract with any other proponent or to cancel this RFP process, and the proponent shall be deemed to have agreed to waive such right or claim.

3.6.3 Governing Law and Interpretation

The terms and conditions in this Part 3 – Terms and Conditions of RFP Process

- (a) are included for greater certainty and are intended to be interpreted broadly and separately (with no particular provision intended to limit the scope of any other provision);
- (b) are non-exhaustive (and shall not be construed as being intended to limit the pre-existing rights of the parties); and
- (c) are to be governed by and construed in accordance with the laws of the province of Ontario and the federal laws of Canada applicable therein.

[End of Part 3]

APPENDIX A – CONTRACT TERMS AND CONDITIONS

The Contract for Deliverables will be the Niagara Region Form of Agreement as follows:

NIAGARA REGION FORM OF AGREEMENT

BETWEEN:

THE REGIONAL MUNICIPALITY OF NIAGARA

(referred to as "Niagara Region")

AND:

[*INSERT FULL LEGAL NAME OF SUPPLIER*]

(referred to as the "Supplier")

In consideration of their respective agreements set out herein, the parties covenant and agree as follows:

1. Contract Documents

The contract between the parties in respect of:

[Insert Name of Project or Brief Description of Deliverables – should match the description used as the title of the RFX document]

is comprised of the following documents, which are collectively referred to as the "Contract":

- (a) this Agreement;
- (b) the Schedule of Deliverables, Rates and Specific Provisions, attached hereto as **Schedule 1**;
- (c) Form of Agreement Terms and Conditions found at www.niagararegion.ca/business
- (d) the [*Insert RFX Document Name and #*], including any addenda, (the "Solicitation Document"); and
- (e) all the documentation submitted by the Supplier in response to the Solicitation Document (the "Supplier's Submission").

2. Interpretive Value of Contract Documents

Any ambiguity, conflict or inconsistency between or among the documents comprising the Contract will be resolved by giving precedence to the express terms of the documents in the order in which they appear above, so that a first mentioned document shall prevail notwithstanding any term or aspect of a later mentioned document.

3. Execution

This Agreement may be executed and (i) delivered by facsimile transmission or (ii) scanned and delivered by electronic transmission, and when so executed and delivered, will be deemed an original.

APPENDIX A – CONTRACT TERMS AND CONDITIONS
NIAGARA REGION FORM OF AGREEMENT

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

The Regional Municipality of Niagara

Per:

Name:

Title:

Date of Signature:

I have authority to bind the corporation

[Insert Full Legal Name of Supplier**]**

Per:

Name:

Title:

Date of Signature:

I have authority to bind the corporation

APPENDIX A – CONTRACT TERMS AND CONDITIONS
SCHEDULE 1 TO NIAGARA REGION FORM OF AGREEMENT

Schedule 1 to Niagara Region Form of Agreement – Schedule of Deliverables, Rates and Specific Provisions

A. Description of Deliverables

[*Describe the Deliverables. Reference can be made to the Solicitation Document and/or Supplier Submission, as appropriate*]

B. Rates and Disbursements

B.1 Maximum Fee

Notwithstanding anything else in the Contract, the total amount payable by Niagara Region to the Supplier under the Contract shall not exceed [*insert maximum contract amount*] (\$xxx).

B.2 Personnel and Rates

The following individuals are responsible for the provision of the Deliverables. The Rates for these individuals are set out below and shall remain fixed during the Term of this Contract:

[*insert personnel and rate information or replace this section with other applicable form of rate breakdown*]

C. Payment Terms

The payment terms for the Contract are as follows: [*insert payment terms (i.e. monthly invoices, full payment upon acceptance, progress payments, etc.)*]

D. Client and Supplier Representatives

The **Niagara Region Representative** and contact information for the Contract is:

[*insert name and title of Niagara Region's representative in charge of the contract and contact details, including mailing address and email address*]

The **Supplier Representative** and contact information for the Contract is:

[*insert name and title of Supplier representative in charge of the contract and contact details, including mailing address and email address*]

E. Term of Contract

The Contract shall take effect on the [*insert date*] (the “**Effective Date**”) and shall be in effect for a period of [*insert # of years or months] from the Effective Date, with an option in favour of Niagara Region to extend the term for an additional period of [*insert extension period, if applicable, or revise this language as necessary*], unless it is terminated earlier in accordance with the terms of the Contract or otherwise by operation of law.

APPENDIX A – CONTRACT TERMS AND CONDITIONS
SCHEDULE 1 TO NIAGARA REGION FORM OF AGREEMENT

F. Specific Provisions

[*Insert any additional contract performance terms, including identifying any specific individuals responsible for delivery. In addition, indicate if there are modifications to the Standard Terms and Conditions in Schedule 2 and note any express deletions from Supplier's Submission or negotiated changes to the Solicitation Document, if applicable*]

[The following provisions are optional and should only be included if applicable.]

F.1 Additional Insurance Requirements

1) Professional/Errors and Omissions Liability

- a) Errors and Omissions insurance insuring the Supplier in an amount not less than TWO MILLION DOLLARS (\$2,000,000) per claim.
- b) The coverage under the Errors and Omissions policy shall be maintained continuously during the term of this Contract and for two (2) years after the termination or expiration of this Contract and shall cover insurable losses arising out of or in association with an error or omission in the rendering of or failure to render the Services. If coverage under the policy is cancelled within the two (2) year period after the termination or expiration of this Contract, the Supplier shall provide Niagara Region with notice within thirty (30) days of cancellation and shall be required to purchase an extended reporting endorsement to confirm that coverage is maintained.

APPENDIX B – FORM OF PROPOSAL

1. Proponent Information

Please fill out the following form, and name one person to be the contact for the RFP process and for any clarifications or communication that might be necessary.	
Full Legal Name of Proponent:	
Any Other Relevant Name under Which the Proponent Carries on Business:	
Street Address:	
City, Province/State:	
Postal Code:	
Phone Number:	
Fax Number:	
Company Website (If Any):	
Proponent Contact Person and Title:	
Proponent Contact Phone:	
Proponent Contact Facsimile:	
Proponent Contact E-mail:	

2. Offer

The proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required under the RFP. By submitting a proposal, the proponent agrees and consents to the terms, conditions and provisions of the RFP, including the Contract Terms and Conditions and offers to provide the Deliverables in accordance therewith at the rates set out in the Pricing Form (Appendix C).

3. Rates

The proponent has submitted its rates in accordance with the instructions in the RFP and in the Pricing Form set out in Appendix C.

4. No Prohibited Conduct

The proponent declares that it has not engaged in any conduct prohibited by this RFP

5. Conflict of Interest

The proponent has considered the definition of "Conflict of Interest" in Section 3.4 of the RFP and declares that there is no Conflict of Interest relating to the preparation of its proposal, and no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

6. Disclosure of Information

The proponent hereby agrees that any information provided in this proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or if required by order of

APPENDIX B – FORM OF TENDER

a court or tribunal. The proponent hereby consents to the disclosure, on a confidential basis, of this proposal by Niagara Region to Niagara Region's advisers retained for the purpose of evaluating or participating in the evaluation of this proposal.

7. Proposal Irrevocable

The proponent agrees that its Proposal shall be irrevocable for a period of **one hundred twenty (120) days** following the Submission Deadline.

8. Enter into Contract

The proponent agrees that in the event its proposal is selected by Niagara Region, in whole or in part, it will enter into the Contract based on the term and conditions set out in Appendix A to this RFP in accordance with the terms of this RFP.

9. Offer Applicable to Lower Tier Municipalities and/or Local Boards

The proponent offers the services at the same prices and under the same terms and conditions which the proponent is providing to the Region under this Agreement.

Yes or No (please circle applicable answer)

10. Addenda

The proponent is deemed to have read and accepted all addenda issued by Niagara Region prior to the Deadline for Issuing Addenda. The onus remains on proponents to make any necessary amendments to their proposals based on the addenda. The proponent is requested to confirm that it has received all addenda by completing the statement below:

The proponent has received **addendum/addenda numbers** _____ **to** _____, inclusive, and all changes specified therein have been included in the proponent's pricing.

Proponents who fail to complete this section will be deemed to have received all issued addenda.

Signature of Witness

Signature of Proponent Representative

Name of Witness

Name of Proponent Representative

Title of Proponent Representative

Date

I have the authority to bind the proponent

ORIGINAL SIGNATURES ONLY; NO ELECTRONIC

APPENDIX C – PRICING FORM

1. Instructions on How to Complete Pricing Form

- (a) Rates shall be provided in Canadian funds, inclusive of all applicable duties and taxes except for Harmonized Sales Tax (HST), which should be itemized separately.
- (b) Rates quoted by the proponent shall be all-inclusive and shall include all labour and material costs, all travel and carriage costs, all insurance costs, all costs of delivery to Niagara Region, all costs of installation and set-up, including any pre-delivery inspection charges, and all other overhead, including any fees or other charges required by law.
- (c) An Hourly Rate shall be provided for both the Principal and Associates being provided for this assignment. Where an individual is a sole proprietor or single entity a rate for the Principal is only required. The rates provided shall be utilized as per the Financial Proposal Evaluation provide below.

2. Pricing Form

#	Description	Unit of Measure	Total
1	Principal Services	Hourly Rate	\$
2	Associates Services	Hourly Rate	\$

3. Associate Services

Provide a summary of the services that could be provided by associates when/if retained as the Region's Integrity Commissioner.

Please utilize Chart as a template to provide Position Name/Title/Job Description and name of staff that could provide support to the Integrity Commissioner.

SCHEDULE OF ASSOCIATE SERVICES AND NAMES OF STAFF

Position Name/Title/Job Description	Name of Staff
1.	
2.	
3.	
4.	
5.	

COMPANY:	SIGNATURE:
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APPENDIX D – RFP PARTICULARS

A. THE DELIVERABLES

The Niagara Region is an upper tier municipality located in southern Ontario, Canada, between Lake Ontario and Lake Erie. The region encompasses a total area of 1,852 km² with a population of approximately 450,000.

As a municipal government, Niagara Region is composed of 31 representatives from the 12 area municipalities, namely Fort Erie, Grimsby, Lincoln, Niagara-on-the-Lake, Niagara Falls, Pelham, Port Colborne, St. Catharines, Thorold, Wainfleet, Welland and West Lincoln. The Region is composed of a Regional Chair, the 12 Mayors of the twelve municipalities and 28 directly elected Councillors.

DUTIES AND RESPONSIBILITIES

An Integrity commissioner is required by the Niagara Region.

The Integrity Commissioner will be required to provide services on an as required basis in accordance with sections 223.3 to 223.8 of the Municipal Act, 2001. The services are related to, but not limited to, the following duties and responsibilities:

- act as an Advisor to Regional Council
- conduct investigations regarding alleged breaches of the Code of Conduct governing members of Council.
- provide information to Council as to their obligations under the Code of Conduct, Policies and Procedures, rules and legislation governing members on ethical behaviour.
- provide advice to individual members on request of Council regarding specific situations as they relate to the application of the Code of Conduct, Policies and Procedures, rules and legislation governing members on ethical behaviour.
- provide advice to Council on other policies and procedures that relate to the ethical behaviour of members.
- providing information to the public regarding the Code of Conduct and the obligations of Members under the Code of Conduct, Policies and Procedures, rules and legislation governing members on ethical behaviour.
- provide an annual report to Council summarizing the activities of the Integrity Commissioner.

MANDATE

The Integrity Commissioner would operate under the following mandate:

APPENDIX D – RFP PARTICULARS

Advisory

Provide written and oral advice on request of Council respecting the Code of Conduct governing the ethical behaviour of Members.

Provide to Regional Council an annual report on findings in complaint cases and advice provided for the preceding year

Educational

Provide outreach programs at the request of Council for Council and staff on legislation, protocols and office procedures with regards to ethics.

Complaint Investigation

Assess and investigate complaints about a Council Member from:

- another Member of Council,
- the public.

Complaints are investigated using the current complaint protocol process as found in Appendix H – Code of Conduct for the Members of Council and Complaint Protocol.

Complaint Adjudication

Determine whether a member of Council has, in the Integrity Commissioner's opinion, violated the Code of Conduct. Make recommendations on appropriate penalties if applicable.

The Integrity Commissioner will be directly responsible to and shall report to the Regional Council. The contact/contract administrator for the Integrity Commissioner shall be the Regional Clerk and/or their designate. This shall be for reviewing and managing the financial aspects of the Contract, receiving and processing invoices to payment.

The Region is currently reviewing its Code of Conduct and related processes and procedures.

Bill 68, Modernizing Ontario's Municipal Legislation Act, 2016, if enacted, would, in part:

- Require municipalities to establish codes of conduct for members of municipal council and of local boards
- Provide the public and municipal councillors with access to integrity commissioners either by appointment or through a commissioner of another municipality;
- Provide broadened powers to Integrity Commissioners to investigate complaints, provide advice and initiate investigations related to conflicts of interest and the municipality's code of conduct

The Integrity Commissioner will be required to provide services on an as required basis in accordance with any decisions of the Province of Ontario with respect to Bill 68, Modernizing Ontario's Municipal Legislation Act, 2016.

APPENDIX D – RFP PARTICULARS

B. MATERIAL DISCLOSURES

Not Applicable

C. MANDATORY REQUIREMENTS

1. Form of Proposal (Appendix B)

Each proposal must include a Form of Proposal (Appendix B) completed and signed by an authorized representative of the proponent.

2. Pricing Form (Appendix C)

Each proposal must include a Pricing Form (Appendix C) completed according to the instructions contained in the form.

3. AODA Standards of Accessibility Compliance

Information and communications (without limitation, documents, materials and presentations) provided to Niagara Region as part of the Deliverables, which shall be posted to Niagara Region's website shall be provided in an AODA compliant format, specifically without limitation, meaning that the said documents must conform to World Wide Web Consortium Web Content Accessibility Guidelines (WCAG) 2.0 Level AA.

D. RATED CRITERIA

1. Summary of Rated Criteria

The following is a summary of the rated criteria and weightings for the evaluation of proposals. If a minimum threshold is identified, proponents who do not meet the minimum threshold score will not proceed to the next stage of the evaluation process.

Evaluation Criteria		Weight Factor
1.	Qualifications and Experience – Investigative Experience Respondents are to give at least three (3) examples which demonstrate how their previous experience aligns with the role of the proposed Integrity Commissioner, such as: <ul style="list-style-type: none">• impartiality and neutrality and confidentiality in managing sensitive inquiries and conducting investigations and making appropriate recommendations;• consideration shall be given to the principles of “maintaining confidentiality” and working in confidence• expertise with investigative techniques and procedures and in gathering of evidence and its legal interpretation; and• adjudicative skills, or similar related experience.	30
2a.	Qualifications and Experience - General Municipal Knowledge Respondents shall provide: A minimum of three (3) examples which demonstrate broad knowledge and experience related to municipal government, the role of a municipal integrity commissioner, as well as practices, procedures, methods and mandates related to the municipal sector. Within this section Proponents shall identify number of years as an Integrity Commissioner, the name of municipalities currently or previously an Integrity Commissioner for and demonstrate participation in	15

APPENDIX D – RFP PARTICULARS

	Integrity Commissioner associations	
2b.	Qualifications and Experience – Knowledge of Ontario Municipal Law Respondents shall provide: A minimum of three (3) examples which demonstrate broad knowledge and experience related to municipal government, the role of a municipal integrity commissioner, as well as practices, procedures, methods and mandates related to the municipal sector and demonstrate knowledge of the role of municipal councillor. The examples shall also demonstrate an experience in the review and application of many codes. Proponents shall also demonstrate their understanding of procedural fairness and applicable administrative law.	15
3.	Public Relations and Education Respondents shall provide examples which demonstrate past experiences where they have successfully dealt with elected officials, the media and the public. Provide examples of education and training for Councils and the public.	5
	Benchmark to Proceed to Interview/Financial Review	49 out of 65%
4.	Interviews	10
5.	Financial Proposal Evaluation See Section E – Evaluation and Ranking Method for details on how financials shall be evaluated	25
Total		100

E. EVALUATION AND RANKING METHOD

The ranking of proponents will be based on the total score calculated by adding the pricing points to the total points for rated criteria.

proponent's total score = total points for rated criteria + pricing points

Pricing is worth **25** points.

As there will be no retainer for this service, the Financial Proposal Evaluation shall be based on the composite hourly rates of the principal and the associate. The composite rate shall be based on 60% of the principal and 40% of the associates. The Proponent that has the lowest composite hourly rate shall receive the full marks and all other Proponents shall be based on the mathematical formula below to obtain their evaluation score out of 25%.

Composite Hourly Rate = (60% x Proponents Principal Rate) + (40% x Proponents Associate Rate)

$$\text{Cost Proposal Score} = \left(\frac{\text{Lowest Composite Hourly rate Value}}{\text{Proponent's Composite Hourly Rate Value}} \right) \times 25 \text{ Marks}$$

APPENDIX D – RFP PARTICULARS

Scoring Category	Description	Numeric Score
Fail	Requirement is not met or is not acceptable.	0
Poor	Minimally addresses the component, but one or more major considerations of the component are not addressed.	1 - 3
Fair	The response addresses some aspects of the component, but minor considerations may not be addressed.	4 - 6
Good	The response addresses the component and provides a reasonably good quality solution.	7
Very Good	There is a high degree of confidence in the proponent's response as a proposed solution to address the component.	8 - 9
Exceptional	The proposed solution goes above and beyond the requirements as well as provides a high degree of confidence in its effectiveness.	10

APPENDIX E – CONDITIONS OF AWARD

The selected proponent must satisfy the following conditions and provide the following information within 14 days of the notice of selection:

1. Certificate of Insurance

The selected proponent must provide Niagara Region with a Certificate of Insurance acceptable to Niagara Region and, if requested by Niagara Region, certified copies of the insurance policies. The Certificate of Insurance must comply with the insurance requirements outlined in the Contract Terms and Conditions (Appendix A) and must be on Niagara Region's form of Certificate of Insurance, which can be found on Niagara Region's website – www.niagararegion.ca/business/fpr/cert-insurance.aspx. If the Certificate of Insurance is provided in a non-original form (e.g. a facsimile, photocopy or scanned electronic copy), the proponent acknowledges and agrees that Niagara Region is fully entitled to treat any such Certificate as an original and that the proponent will be responsible for the accuracy and validity of the information contained therein. . If required by Niagara Region, certified copies of all the above-mentioned policies shall be delivered to Niagara Region. All subsequent policy renewals and certificates of insurance thereafter, during the time that the Contract is in force, shall be forwarded to Niagara Region within fifteen (15) days of their renewal date.

2. Workplace Safety and Insurance Board Clearance

The selected proponent shall provide:

- (a) A valid, current Clearance Certificate declaring that the selected bidder is registered with Workplace Safety and Insurance Board ("WSIB"), and has an account in good standing; or
- (b) A Letter of Good Standing issued by WSIB.

If WSIB coverage is not required by law to be carried by the selected proponent, the selected proponent shall provide one of the following (as the case may be):

- (a) An Exemption Letter from WSIB, satisfactory to Niagara Region's Director of Legal and Court Services;
- (b) An Independent Operators Status Certificate issued by WSIB; or
- (c) Such further and other evidence as may be satisfactory to Niagara Region's Director of Legal and Court Services.

In addition to the indemnification provided by the selected bidder elsewhere in this RFP, the selected bidder agrees to indemnify Niagara Region and its respective elected officials, directors, officers, agents, employees, and volunteers, successors and assigns for all losses, claims, expenses (including reasonable legal fees) or other charges related to the selected bidder's status with WSIB.

APPENDIX F – BID IRREGULARITIES

NOTE: In this Appendix, references to “bids” shall be interpreted to mean “proposals” and references to “bidders” shall be interpreted to mean “proponents”.

RESPONSES FOR ADMINISTERING IRREGULARITIES CONTAINED IN BIDS

	<u>IRREGULARITY</u>	<u>RESPONSE</u>
1.	Late Bids.	Automatic rejection. Returned unopened to the bidder.
2.	Unsealed Envelopes.	Automatic rejection.
3.	Insufficient Financial Security	
	A) No Bid Deposit, uncertified cheque, or financial security not an original (e.g. a photocopy or a facsimile of a financial security).	Automatic rejection.
	B) Amount of financial security is insufficient:	Automatic rejection.
	i. Amount of security is expressed as a percentage of the total bid sum.	Automatic rejection, unless in the opinion of Procurement and Strategic Acquisitions and Commissioner of Enterprise Resource Management Services, the insufficiency in the financial security is de minimus (trivial or insignificant).
	ii. Amount of security is expressed only as a dollar figure.	Automatic rejection.
	C) i. Name or signature of Supplier is missing or incomplete.	Automatic rejection.
	ii. Seal of Supplier is missing or incomplete.	Two (2) working days* to obtain missing or incomplete items.
	D) Name, signature, or seal of bonding company is missing or incomplete.	Automatic rejection.
	E) Failure to provide a letter of agreement to bond (if required).	Automatic rejection.
4.	Bid Document – execution	
	A) Bids completed in erasable medium.	Automatic rejection.
	B) i. Signature of representative authorized to bind the Supplier missing or incomplete on the prescribed form which is to be submitted in response to a Bid Solicitation.	Automatic rejection.
	ii. Electronic signature of representative or absence of corporate seal authorized to bind the Supplier shown on the prescribed form which is to be submitted in response to a Bid Solicitation.	Two (2) working days* to obtain original signature.
	C) Form of Proposal missing or	Two (2) working days* to correct to the satisfaction

APPENDIX F – BID IRREGULARITIES

	IRREGULARITY		RESPONSE
		incomplete.	of Procurement and Strategic Acquisitions, otherwise automatic rejection.
	D)	Form of Quotation or Tender missing or incomplete.	Automatic rejection.
	E)	Signature of witness, if required, missing or incomplete.	Two (2) working days* to correct, otherwise automatic rejection.
	F)	Date of Bid missing or incomplete.	Two (2) working days* to correct, otherwise automatic rejection or, if stated in the Bid Solicitation, automatic rejection.
5.	Incomplete, illegible or obscure Bids or Bids which contain information not called for, erasures, overwriting or strike outs (not initialed).		Two (2) working days* to correct to the satisfaction of Procurement and Strategic Acquisitions, otherwise automatic rejection.
6.	Document, in which all necessary Addenda have not been acknowledged.		Two (2) working days* to confirm Bid to the satisfaction of Procurement and Strategic Acquisitions or, if stated in the Bid Solicitation, automatic rejection.
7.	Failure to attend mandatory site visit (if required).		Automatic rejection.
8.	Bid received on documents other than those provided in the Bid Solicitation.		Automatic rejection, unless allowed for in the Bid Solicitation.
9.	Failure to insert the bidder's business name in the space provided in the Bid Solicitation form.		Automatic rejection unless, in the opinion of Procurement and Strategic Acquisitions and Commissioner of Enterprise Resource Management Services, the incomplete nature is trivial or insignificant.
10.	Mathematical errors.		Two (2) working days* to initial the corrections as made by the Corporation. Unless otherwise stated in the Bid, the unit price shall prevail and the total Bid price shall be adjusted accordingly. The Corporation reserves the right to waive initialing and accept Bid as corrected.
11.	Qualified Bids (Bids qualified or restricted by an attached statement).		Automatic rejection
12.	Bids containing minor obvious clerical errors.		Two (2) working days* to confirm Bid to the satisfaction of Procurement and Strategic Acquisitions.
13.	Any other irregularities.		The Commissioner of Enterprise Resource Management Services, or Designate, shall have authority to waive other irregularities or grant two (2) working days * to initial such other irregularities considered to be minor.

** Where "working days" specified, this is from the hour the Bidder is notified by Niagara Region staff of the irregularity

APPENDIX G – REDACTED CONSOLIDATED BILL 91-2013

THE REGIONAL MUNICIPALITY OF NIAGARA

BY-LAW NO. 91-2013

A BY-LAW TO ESTABLISH THE OFFICE OF AN INTEGRITY COMMISSIONER

WHEREAS Council desires to provide for an Integrity Commissioner to help ensure that members of Council conform to ethical standards of behaviour in carrying out their duties and are held to account for adherence to their Code of Conduct and any other applicable Regional procedures, rules or policies;

WHEREAS section 223.3 of the *Municipal Act*, 2001, S.O. 2001, c. 25, authorizes the Regional Municipality of Niagara to appoint an Integrity Commissioner who performs functions with respect to the application of the Code of Conduct for members of Council and other procedures, rules or policies governing their ethical behaviour;

WHEREAS sections 223.4 to 223.8 of the *Municipal Act*, 2001, S.O. 2001, c. 25, provide that an Integrity Commissioner appointed under section 223.3 has certain powers, duties and protections, including: the powers of a commission under Parts I and II of the *Public Inquiries Act*, R.S.O. 1990, c. P.41; the duty to preserve secrecy with respect to all matters that come to their knowledge in the course of performing their functions; and the protection of not being a competent or compellable witness in a civil proceeding;

WHEREAS sections 8, 9 and 10 of the *Municipal Act*, 2001, S.O. 2001, c. 25, authorize the Regional Municipality of Niagara to pass by-laws necessary or desirable for municipal purposes, and in particular paragraph 2 of subsection 10(2) authorizes by-laws respecting the accountability and transparency of the municipality and its operations; and

WHEREAS sections 23.1 and 23.2 of the *Municipal Act*, 2001, S.O. 2001, c. 25, authorize the Regional Municipality of Niagara to delegate its powers and duties, including legislative and quasi-judicial powers under the *Municipal Act*, 2001, S.O. 2001, c. 25, to an individual who is an officer, employee or agent of the Regional Municipality of Niagara;

NOW THEREFORE the Council of The Regional Municipality of Niagara enacts as follows:

1. In this By-law:

- (a) "Region" means The Regional Municipality of Niagara;
- (b) "Code of Conduct" means the Code of Conduct for members of Council, as approved by Council from time to time, as it existed on the date of the event or events giving rise to a Complaint;
- (c) "Complaint" means a request by Regional Council, a member of Council, an employee of the Region, a resident of the Region, or a person who has business, institutional or other premises in the Region, that the Integrity Commissioner conduct an inquiry into an event or series of events alleged to contravene the Code of Conduct or any other procedures, rules or policies governing the ethical behaviour of members of Council;
- (d) "Complainant" means a person who makes a Complaint;
- (e) "Council" means the Region's Council;
- (f) "Municipal Act" means the *Municipal Act*, 2001, S.O. 2001, c. 25, as amended;
- (g) "Municipal Freedom of Information and Protection of Privacy Act" means the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended; and
- (h) *Public Inquiries Act*", means the *Public Inquiries Act*, R.S.O. 1990, c.P.41, as amended.

Appointment

2. ***Council shall appoint < > to be the Integrity Commissioner for the period of one year commencing upon the initiation date of the contract.***

3. The Integrity Commissioner shall be paid such remuneration and expenses as are determined or directed to be determined by Council.

4. The Integrity Commissioner may be removed for cause, before the expiry of their term of office, by Council.

As Amended
February 6, 2014
By-law No. 12-2014

Role

5. The role of the Integrity Commissioner is to help ensure that members of Council perform their functions in accordance with the Code of Conduct and other procedures, rules or policies governing their ethical behaviour.

Duties

6. The Integrity Commissioner shall:
- (a) Prepare written materials for distribution to and use by members of Council regarding the role of the Integrity Commissioner and ethical obligations and responsibilities of members of Council under the Code of Conduct and any other procedures, rules or policies governing their ethical behaviour.
 - (b) Upon request, provide advice to individual members of Council regarding their ethical obligations and responsibilities under their Code of Conduct and any other procedures, rules or policies governing their ethical behaviour.
 - (c) Provide advice and recommendations to Council regarding amendments to the Code of Conduct and any other procedures, rules or policies governing their ethical behaviour.
 - (d) Prepare and deliver a report to Council containing a summary of their activities during the term of their contract.

**Responding to Existing and New Complaints Regarding A Member of Council:
Replaced by By-law No. 110-2013, October 10, 2013; and as amended by By-law No. 12-2014**

7. The Integrity Commissioner shall:

- | | |
|---|---|
| <i>As Amended
February 6, 2014
By-law No. 12-2014</i> | (a) Respond to complaints received, <i>about alleged violations of the Code of Conduct for Members of Council in effect during the time of the alleged violation(s); and</i> |
| <i>As Amended
February 6, 2014
By-law No. 12-2014</i> | (b) <i>retain jurisdiction of any complaints that are made to the Integrity Commissioner during the term of the contract.</i> |

Making A Complaint Regarding A Member Of Council:

8. (1) Council may refer a Complaint directly to the Integrity Commissioner.
(2) A Complaint referred to the Integrity Commissioner under subsection (1) shall contain the information required to complete Appendix A to this By-law, but is not required to be in the form of an affidavit.
9. Existing complaints submitted from January 17, 2013 to August 1, 2013 regarding a member of Council shall contain the information required to complete Appendix A to this By-law, but is not required in the form of an affidavit.
10. A Complainant may make a Complaint, regarding a member of Council by filing with the Regional Clerk a completed and sworn Appendix A to this By-law, and the Regional Clerk shall forward such a Complaint, without added comment, to the Integrity Commissioner.
11. A Complainant filing a Complaint under section 10, may file the completed and sworn Appendix A to this By-law in a sealed envelope and the Regional Clerk shall forward the Complaint to the Integrity Commissioner unopened.
12. A Complaint regarding a member of Council shall not be made available to the public except as may be required under the *Municipal Freedom of Information and Protection of Privacy Act*.

Inquiry Into Complaints Regarding A Member of Council

13. Where a Complaint regarding a member of Council is received by the Integrity Commissioner, they shall conduct an inquiry promptly, thoroughly and in a manner that ensures the member of Council who is the subject of the Complaint is given an opportunity to know the nature of the Complaint against them and to make representations respecting the Complaint to the Integrity Commissioner.
14. Information concerning the nature of a Complaint disclosed to a member of Council under section 13 shall be used by the member only for the purpose of making representations respecting the Complaint to the Integrity Commissioner and not for any other purpose.
15. In conducting an inquiry into a Complaint regarding a member of Council, the Integrity Commissioner may exercise any power given to them under this By-law or under Part V.I of the Municipal Act, including the power to conduct or not to conduct an inquiry under the *Public Inquiries Act*.
16. (1) If the Integrity Commissioner is satisfied that a Complaint regarding a member of Council does not contain sufficient information to set out a *prima facie* contravention of the Code of Conduct or other procedures, rules or policies governing a member of Council's ethical behaviour, they shall stay the inquiry into the Complaint.
(2) Before staying an inquiry under subsection (1), the Integrity Commissioner shall give the Complainant an opportunity to provide additional information respecting

the Complaint and in doing so shall explain to the Complainant what additional information would be required to set out a *prima facie* contravention of the Code of Conduct or other procedures, rules or policies governing a member of Council's ethical behaviour.

- (3) Where the Complainant provides additional information under subsection (2), the Integrity Commissioner shall consider all of the information provided and shall reassess whether there is sufficient information to set out a *prima facie* contravention of the Code of Conduct or other procedures, rules or policies governing a member of Council's ethical behaviour.
 - (4) Where the Integrity Commissioner has stayed an inquiry into a Complaint and, after the stay, additional information is provided which, on its own or together with the information provided before the stay, sets out a *prima facie* contravention of the Code of Conduct or other procedures, rules or policies governing a member of Council's ethical behaviour, the Integrity Commissioner shall lift the stay and conduct the inquiry.
17. (1) If the Integrity Commissioner is satisfied, after considering the information contained in a Complaint and any other relevant information, that a Complaint regarding a member of Council is frivolous, vexatious or not made in good faith, they shall not conduct an inquiry or, where that becomes apparent in the course of an inquiry, shall terminate the inquiry.
- (2) Where, pursuant to subsection (1), the Integrity Commissioner decides not to proceed with an inquiry they shall prepare and file a report under section 21, which applies with necessary modifications, setting out that decision.

Penalties and Delegation Regarding a Contravention by a Member of Council

18. The penalties for a member of Council who contravenes the Code of Conduct or other procedures, rules or policies governing the member's ethical behaviour shall be those authorized under subsection 223.4(5) of the *Municipal Act*, namely:
- (a) a reprimand;
 - (b) suspension of remuneration paid to the member in respect of the member's services as a member of Council for period of up to 90 days.
19. ***Deleted by By-law No. 105-2013, September 19, 2013.***
20. ***Deleted by By-law No. 105-2013, September 19, 2013.***

Reporting An Inquiry Into A Complaint Regarding a Member of Council

21. (1) Where the Integrity Commissioner has completed an inquiry into a Complaint regarding a member of Council, they shall, within 10 days of completing the evidence gathering and investigation portion of the inquiry, prepare and file with the Regional Clerk a report to Council regarding the inquiry.
- (2) Where, in the opinion of the Integrity Commissioner, it is not possible to prepare and file a report to Council within the time set out in subsection (1), they may advise Council of this together with the reasons for their inability to prepare and file the report to Council and request an extension of time for the preparation and filing of the report. Council may, after considering the request, grant the Integrity Commissioner permission to file their report on or before a new fixed date.
22. The Integrity Commissioner shall provide a copy of their report filed under section 21 to the Complainant, to the member of Council who is the subject of the Complaint and to all other members of Council at the same time as filing the report with the Regional Clerk.
23. The report filed under section 21 shall include:
- (a) the nature of the Complaint;
 - (b) the evidence gathered from the Complaint and from the inquiry;
 - (c) the Integrity Commissioner's findings of fact regarding the Complaint, which findings shall be made in accordance with the civil standard on the balance of probabilities;
 - (d) the Integrity Commissioner's decision, based on the findings of fact, that the member of Council contravened or did not contravene the Code of Conduct or other procedures, rules or policies governing a member of Council's ethical behaviour;
 - (e) where the Integrity Commissioner decides that the member of Council has contravened the Code of Conduct or other procedures, rules or policies governing the member's ethical behaviour, the penalty under section 18, if any, to

be imposed, including a copy of a letter of reprimand, if imposed, or a copy of the notice of suspension of remuneration, if imposed.

24. (1) Where the Integrity Commissioner imposes a penalty suspending the remuneration paid to a member of Council, they shall notify the Commissioner of Corporate Services of the suspension and the period of time of the suspension.
- (2) The Commissioner of Corporate Services shall ensure the remuneration of the member of Council is suspended in accordance with the notice of the Integrity Commissioner under subsection (1).
25. Where the Integrity Commissioner has filed a report in respect of an inquiry with the Regional Clerk under section 21, the Regional Clerk shall place the report on the next available Council Agenda as an information item.

Confidentiality

26. (1) The Integrity Commissioner is entitled to have access to such information belonging to or used by the Region, including legal advice that has been given to Council, Standing Committees, the Board of Health or Regional Departments, as they are satisfied is necessary to conduct an inquiry.
- (2) A disclosure to the Integrity Commissioner of legal advice under subsection (1):
- (a) shall be deemed not to constitute a waiver of solicitor-client privilege;
 - (b) shall be used only for the purpose of conducting an inquiry and not for any other purpose; and
 - (c) the contents or substance of such legal advice shall not be disclosed in any public report prepared by the Integrity Commissioner or any person acting under the instructions of the Integrity Commissioner.
27. The Integrity Commissioner and every person acting under the instructions of the Integrity Commissioner:
- (a) shall preserve the secrecy of all confidential documents, material or information, whether belonging to the Region or not, that come into their possession or to their knowledge in the course of their duties; and
 - (b) without limiting the obligation to preserve secrecy under subsection (a), shall ensure that they and, in particular, any reports they prepare, comply at all times with the *Municipal Freedom of Information and Protection of Privacy Act* and with the Council Procedural By-law regarding personal and personnel information.

General Provisions

28. 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* (Canada), the Commissioner shall immediately refer the matter to the

APPENDIX G - REDACTED CONSOLIDATED BILL 91-2013

appropriate authorities and suspend the inquiry until any resulting police investigation and charge have been finally disposed of, and shall report the suspension to Council.

29. Appendix A which is attached to this By-law forms a part of it.
30. This By-law may be referred to as the Integrity Commissioner By-law.
31. That this by-law shall come into force on the day upon which it is passed.

THE REGIONAL MUNICIPALITY OF NIAGARA

Original Signed By:

(Gary Burroughs, Regional Chair)

Original Signed By:

(Janet Pilon, Regional Clerk)

Passed: August 2, 2013

Integrity Commissioner - Complaint Form

Appendix A

Please note that a member of Council who is the subject of a Complaint under section 10 of the Integrity Commissioner By-law will be informed of the identity of the Complainant.

Affidavit

(Complaint under section 10 of the Integrity Commissioner By-law)

Affidavit of _____ *[full name]*,

I, _____ *[full name]*, of the

City/Town/Other of _____ *[municipality of residence]* in the
Province of Ontario

MAKE OATH AND SAY/AFFIRM:

- 1. I am a member of The Regional Municipality of Niagara's Council/a Niagara Region employee/a Niagara Region resident/a person who has business, institutional or other premises in the Niagara Region.**
- 2. I have personal knowledge of the facts as set out in this affidavit because**

[insert reason(s), e.g. I work for. . . , I attended the meeting at which . . . , etc.].

3. I have reasonable and probable grounds to believe that a member of the Regional Municipality of Niagara's Council, _____ *[name of member]*, has contravened section(s) _____ *[specify section(s)]* of the Code of Conduct for members of the Regional Municipality of Niagara's Council; other procedure, rule or policy, the particulars of which are as follows:

[Set out the statements of fact in consecutively numbered paragraphs in the space below, with each paragraph being confined as far as possible to a particular statement of fact.

If you require more space, please attach an additional page or pages, numbered consecutively, with a statement at the top of each additional page that the contents form part of this affidavit.

If you wish to include documents or other exhibits to support this Complaint, please refer to them as Exhibit A, B, etc. and attach them to this affidavit.

If you are relying on the information of others, please indicate this and identify the source of the information by name, providing contact information if possible.]

Schedule A Attached ☐

4. This affidavit is made for the purpose of making a Complaint for consideration by the Regional Municipality of Niagara's Integrity Commissioner and for no other purpose.

SWORN before me at the City of Thorold, in the Province of Ontario on

_____ (Month) _____ (Day), _____ (Year)

A Commissioner for taking affidavits, etc. Complainant (Signature)
(Signature of Commissioner)

Signing a false affidavit may expose you to prosecution under section 131 and 132 or 134 of the Criminal Code (Canada) and also to civil liability for defamation.

**Notice of Collection of Personal Information pursuant to the
*Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)***

Personal information contained on this form is collected under the authority of the *Municipal Act, 2001, S.O. 2001, c. 25, as amended, and will be used for the purposes of an inquiry by the Integrity Commissioner into a Complaint regarding a member of Council pursuant to the Integrity Commissioner Bylaw. Questions about this collection may be directed to: (need to insert details of either Regional Clerk or the Integrity Commissioner).*

Schedule A

To the affidavit required at s. 3 of the Formal Complaint Procedure

APPENDIX H – CODE OF CONDUCT FROM PROCEDURAL BY-LAW

Purpose of the Code of Conduct

The Niagara Region is well respected by the general public, clients, employees, elected officials, suppliers, communities, and governments due to its excellent track record of ethical conduct and high integrity. The purpose of this Code of Conduct is to outline the responsibilities and procedures to be followed.

Scope of the Code of Conduct

This Code of Conduct applies to every member of Council of Niagara Region. Members of Council are encouraged to discuss any situations of concern or doubt regarding the code with the Regional Chair. The Code of Conduct helps to ensure that the members of Regional Council share a common basis for acceptable conduct. These standards are designed to provide a reference guide and a supplement to the legislative parameters within which the members of Council must operate. These standards should serve to enhance public confidence that Regional Municipality of Niagara's elected representatives operate from a base of integrity, justice and courtesy.

The Code of Conduct is a general standard that augments the provincial laws and Regional by-laws that govern the conduct. It is not intended to replace personal ethics.

General Principles

All members of Council shall observe the highest standard of ethical conduct. They are expected to act honestly, independently, impartially, with discretion and without regard to self-interest and to avoid any situation liable to give rise to a conflict of interest. They are expected to be mindful of the importance of their duties and responsibilities, to take into account the public character of their function and to conduct themselves in a way that maintains and promotes the public's trust in the Regional Municipality of Niagara. All members of Council have a duty to act honestly, in good faith and in best interests of the Regional Municipality of Niagara. All members shall serve their constituents in a conscientious and diligent manner. No member shall use the influence of office for any purpose other than the exercise of his or her official duties.

Foster Respect for Decision-making Process

All Members of Council shall accurately communicate the decisions of Council, even if they disagree with Council's decision, such that respect for the decision-making processes of Council is fostered.

Release of Confidential Information Prohibited

Members of Council have a duty to hold in strict confidence all information concerning matters dealt with at meetings closed to the public. A Member of Council shall not, either directly or indirectly, release, make public or in any way divulge any such information or any aspect of the meeting closed to the public deliberations to anyone, unless expressly authorized by Council or required by law to do so.

Members of Council shall not release information in contravention of the provisions of the Municipal Freedom of Information and Protection of Privacy Act and shall comply with the provisions of the Information Access and Privacy Protection Policy for Niagara Region.

Members of Council shall not release information subject to solicitor-client privilege, unless expressly authorized by Council or required by law to do so.

Members of Council shall not misuse confidential information (information that they may have knowledge of by virtue of their position as Councillor that is not in the public domain, including e-mails and correspondence from other Members of Council or third parties) such that it may cause detriment to the Corporation, Council or others, or benefit or detriment to themselves or others.

Avoiding Conflict of Interest and Unethical Behaviour

Members of Council of Niagara Region shall avoid conflict of interest or unethical behaviour. This policy will assist members of Council to identify and handle potential conflicts of interest and provide a useful reference guide to help to ensure consistency in dealing with situations. It is intended to supplement other professional codes in use.

Compliance with the *Municipal Conflict of Interest Act* and Avoidance of Conflicts

The Members of Council shall fully comply with the provisions of the *Municipal Conflict of Interest Act*. This Act outlines the procedure to be followed if a party wishes to pursue an alleged contravention of the *Municipal Conflict of Interest Act*. Members of Council shall also avoid conflict of interest or unethical behaviour in the following situations (note conflicts are not limited to the following):

Members of Council shall not use their position within the Region to gain any particular interest personal or family advantage or benefit in utilizing any service provided by the Region or in conducting any business on behalf of the Region.

- (i) Members of Council shall not be involved as an official of the Region in judging, inspecting or making a decision on any matter in which they have a personal or family interest. Any Member of Council involved shall immediately declare a conflict of interest as soon as such conflict is identified.

Respect, Truth, Honesty and Integrity

1. Members of Council shall respect the values of truth, honesty and integrity in all Niagara Region matters, issues and activities.

APPENDIX H - CODE OF CONDUCT FROM PROCEDURAL BY-LAW

2. Members of Council shall not impose their personal, moral or religious standards on others as every person is an individual with specific rights, values, beliefs and personality traits to be respected at all times.
3. Members of Council shall respect the right to confidentiality and privacy of all clients, volunteers and employees and be aware of their responsibilities under relevant legislation, corporate and departmental policies, ethical standards and where appropriate, professional standards. No discussion regarding clients, volunteers or employees will be conducted other than with authorized persons in accordance with corporate and department policy.

Pursuit of Excellence

1. Members of Council shall act in the best interest of the community, in a responsible manner, and be held accountable for their actions.
2. Members of Council shall strive to achieve the highest standards of competence.
3. Members of Council shall be cognizant of their position within the Region and the trust and influence that can be afforded these positions by clients and community agencies. Employees shall ensure that they are operating in a manner that does not violate trust relationships or abuse the power of the position.

Gifts and Benefits

Members shall not accept fees, gifts, hospitality or personal benefits that are connected directly or indirectly with the performance of duties as Regional Councillors, except compensation authorized by law.

This section does not apply to tokens, mementoes, souvenirs, or such gifts or benefits that are received as an incident of protocol or social obligation that normally accompanies the responsibilities of office.

No Member shall seek or obtain by reason of his or her office any personal privilege or advantage with respect to Regional services not otherwise available to the general public and not consequent to his or her official duties.

Conduct

As representatives of the Region, every member of Council has the duty and responsibility to treat members of the public, one another and staff appropriately and without abuse, bullying or intimidation and to ensure that the municipal work environment is free from discrimination and harassment. A member shall not use indecent, abusive, or insulting words or expressions toward any other member, any member of staff or any member of the public. A member shall not speak in a manner that is discriminatory to any individual based on the person's race, ancestry, place of origin, creed, gender, sexual orientation, age, colour, marital status or disability. Members shall ***be encouraged (added January 16, 2014, By-law No. 01-2014)*** to disable the audible signals on their cell phones during any Committee or Regional Council meetings.

Influence on Staff

APPENDIX H - CODE OF CONDUCT FROM PROCEDURAL BY-LAW

Under the direction of the Chief Administrative Officer, Regional staff serve Council as a whole. Without a specific delegation from Council, no individual member of Council has executive authority over municipal staff. Members of Council shall be respectful of the fact that staff work for the Region as a body corporate and are charged with making recommendations to Council that reflect their professional expertise and a corporate perspective without undue influence from any member or group of members. Members of Council shall not maliciously or falsely injure the professional or ethical reputation of staff.

Complaint Procedure (*amended July 2, 2015, By-law No. 65-2015*)

The procedure for filing complaints alleging that a member of Council has contravened the Code shall be governed by the policies of Council as amended from time to time.

SCHEDULE 'B'
TO PROFESSIONAL SERVICES AGREEMENT
dated _____ **, 2019

Between:
The Town of Pelham
and
ADR Chambers Inc.

Proposal for The Regional Municipality of Niagara
For the Position of Integrity Commissioner
dated April 17, 2017
submitted by ADR Chambers Inc.



**ADR
CHAMBERS**
MEDIATORS • ARBITRATORS

Schedule B

**PROPOSAL FOR
THE REGIONAL MUNICIPALITY OF NIAGARA**

FOR THE POSITION OF INTEGRITY COMMISSIONER

Request for Proposal

**Thursday, April 20, 2017
2:00 p.m., Local Time**

SUBMITTING: Nine (9) hard copies, including one labeled "Master",
and one electronic copy of the proposal saved on a USB key.

PROPONENT'S NAME:

ADR Chambers Inc.
180 Duncan Mill Road, 4th Floor
Toronto, Ontario, M3B 1Z6
Tel: (416) 307-0002
Fax: (416) 307-0011
Email: allan@adr.ca
Authorized Representative: Allan Stitt

DELIVER TO:

THE PURCHASING OFFICE
The Regional Municipality of Niagara
Campbell West Building
1815 Sir Isaac Brock Way
Thorold, Ontario, L2V 4T7



ADR CHAMBERS PROPOSAL

Thank you for the opportunity to submit a proposal to the Regional Municipality of Niagara respecting the position of an Integrity Commissioner.

Mandatory Requirement #1 (Form of Proposal (Appendix B)) is attached hereto at **Schedule A**.

Mandatory Requirement #2 (Pricing Form (Appendix C)) is enclosed in a separate sealed envelope marked "Pricing Envelope" as directed in the RFP.

INTRODUCTION TO OUR COMPANY

ADR Chambers Inc. ("ADRC") has a panel of dispute resolution experts who provide dispute resolution and investigation services. ADRC opened in 1994 and, in 2004, it merged with the Stitt Feld Handy Group to create the leading alternative dispute resolution firm in the country. The Stitt Feld Handy Group has trained over 38,000 people worldwide in negotiation and conflict resolution processes and techniques. In 2010, ADRC also merged with Dispute Resolution Services, another provider of mediation and arbitration services, and is now one of the largest providers of dispute resolution and third party neutral services in North America. ADRC has approximately 50 full-time employees and 40 active panel members. Many of our panel members have conducted investigations and many have experience in municipal law.

We were responsible for administration of the Office of the Integrity Commissioner ("OIC") for the City of Brampton from 2011 to 2014. We have served as Integrity Commissioner for the City of Markham since July 2013; for the City of Kitchener since July 2016; and for the City of Waterloo since October 2016. We were appointed as Integrity Commissioner for the Township of Woolwich in March 2017.

In December 2015, ADRC was appointed as the Ombudsman for the Regional Municipality of Halton and for the Regional Municipality of York. We have been providing Municipal Ombudsman Services as of January 1, 2016. We were appointed as the Ombudsman for the Regional Municipality of Durham in July 2016.

We also run the ADR Chambers Banking Ombuds Office ("ADRBO"), which reviews decisions of the Royal Bank of Canada, TD Bank, and DirectCash Bank when customers of those banks are not satisfied with the outcome of their bank's internal Ombudsman process. Following an investigation of a complaint, our investigators may make non-binding recommendations to the bank.



PROPOSED INTEGRITY COMMISSIONER

We propose **Edward T. McDermott** to be the Region's Integrity Commissioner.

Mr. McDermott is an investigator, mediator and arbitrator with ADRC. He has over 35 years of negotiation, mediation, arbitration and legal experience. Mr. McDermott retired as a senior partner of the law firm Osler, Hoskin and Harcourt LLP, where he built an active labour and employment law practice from 1974 to 2009.

As part of his Ombuds and Integrity Commissioner work, Mr. McDermott has conducted numerous mediations, investigations and workplace restoration projects in both the private and public sectors and has been instrumental in helping to resolve many of these disputes. Mr. McDermott is a member of the discipline hearings panel of the Investment Industry Regulatory Organization of Canada ("IIROC") with responsibility for adjudication on complaints filed against members of the investment industry.

Mr. McDermott was the Deputy Integrity Commissioner for the OIC for the City of Brampton and is on our rosters for the provision of Integrity Commissioner services and municipal Ombuds services. He has represented several municipalities, including the City of Toronto for 25 years; the Regional Municipality of Durham; and the Regional Municipality of York. Mr. McDermott also serves as part-time Vice Chair of the Ontario Labour Relations Board.

Mr. McDermott received his B.A. from the University of Toronto in 1964, and his LL.B. from Osgoode Hall in 1967. He was called to the Bar in 1969, and was then appointed to and served as law clerk to the Chief Justice of the High Court for the Supreme Court of Ontario. Mr. McDermott has consistently been named as one of Canada's top 500 lawyers in Lexpert/American Lawyer Media Guide to the Leading 500 Lawyers in Canada, and a leading labour lawyer in Canada in many other publications.

Please find a copy of Mr. McDermott's biography attached to this proposal at **Schedule B**.

PROPOSED ASSOCIATES

We propose the following Associates or Investigators to assist Mr. McDermott in carrying out his responsibilities as Integrity Commissioner for the Regional Municipality of Niagara:

- **Ben Drory** is a mediator, arbitrator, and investigator with ADRC. He has worked as an investigator with the ADRBO and is its current Compliance Officer. He also currently serves as the Lead Investigator for the OIC for the City of Markham. Mr. Drory earned J.D. and M.B.A. degrees from the University of Toronto, and was called to the Ontario Bar in 2004. He is designated as a Qualified Mediator

(Q.Med.), Qualified Arbitrator (Q.Arb.), and as a Certified Coach Practitioner (C.C.P.).

- **Deborah Anschell** is a mediator, arbitrator, and investigator with ADRC. She serves as an investigator for the ADRBO, and is the Lead Investigator for the OIC for the City of Waterloo. She has 20 years of litigation experience, both in private practice and as corporate counsel. She is also a Deputy Judge of the Ontario Small Claims Court. Ms. Anschell earned her LL.B. at the University of Toronto in 1982, and her LL.M. in ADR at Osgoode Hall Law School in 1998.
- **Marshall Schnapp** is an arbitrator, mediator, and investigator with ADRC. He formerly served as an investigator with the College of Nurses of Ontario. He is the Ombudsman for the ADRBO and for our Municipal Ombuds Services, previously having served as an investigator for these programs. Mr. Schnapp is also an investigator for ADRC's OIC. Prior to joining ADRC, Mr. Schnapp established a conflict management practice. Mr. Schnapp earned his law degree and Master of Laws in Alternative Dispute Resolution at Osgoode Hall Law School.

Copies of our Proposed Associates' biographies are attached to this proposal at **Schedule C**.

1. Qualifications and Experience – Investigative Experience

Example #1 – Office of the Integrity Commissioner

Mr. McDermott's previous experience in ADRC's OIC demonstrates his impartiality and neutrality, his confidentiality in managing sensitive inquiries; his expertise with investigative techniques and procedures and in gathering of evidence and its legal interpretation; and his adjudicative skills.

Example #2 – Municipal Ombuds Services

Mr. McDermott is one of the senior investigators for ADRC's Municipal Ombuds Services. His involvement in our municipal Ombuds investigations demonstrates his impartiality, neutrality, and ability to maintain confidentiality in managing sensitive inquiries. In addition, his involvement demonstrates his expertise with investigative techniques and procedures and in the gathering of evidence and its legal interpretation.

Example #3 – ADR Chambers Banking Ombuds Office Investigations

Due to his involvement in the ADRBO, Mr. McDermott has extensive experience with conducting investigations and other similar sensitive inquiries, and he has extensive expertise with investigative techniques and procedures.



Example #4 – Workplace Investigations for Government Clients

Mr. McDermott has been retained by various provincial (Ontario) ministries and City of Toronto agencies to undertake workplace investigations and restoration projects, where conflicts between workplace parties have had deleterious impacts on the work units' abilities to function at optimum levels. While the details of such retainers are confidential, it has been necessary to: investigate all of the issues at play; interview various employees at all levels; attempt to mediate and resolve some or all of the issues; and ultimately prepare reports with appropriate recommendations to assist the parties in restoring healthy and vibrant workplaces. These investigations have required Mr. McDermott to remain impartial and neutral and to maintain confidentiality in managing sensitive inquiries. In addition, this work has allowed Mr. McDermott to grow his expertise with investigative techniques and procedures and in the gathering of evidence and its interpretation.

Example #5 – Lawyer in Private Practice

As a former practicing lawyer, Mr. McDermott has extensive expertise with investigatory procedures and applicable legal principles, particularly as they relate to evidence and legal interpretation. Mr. McDermott is also accustomed to maintaining confidentiality due to solicitor-client privilege.

Example #6 – Mediator and Arbitrator for Private Disputes

Mr. McDermott has proven impartiality and neutrality as he has over 35 years of mediation and arbitration experience. His work as a mediator requires him to maintain confidentiality, and his work as an arbitrator provides him with extensive adjudicative skills and experience.

In addition, Mr. McDermott is a member of the discipline hearings panel of the Investment Industry Regulatory Organization of Canada ("IIROC") with responsibility for adjudication on complaints filed against members of the investment industry.

2a. Qualifications and Experience – General Municipal Knowledge

Example #1 – Office of the Integrity Commissioner

Mr. McDermott has been involved in ADRC's OIC operations since 2011. He served as the Deputy Integrity Commissioner for the City of Brampton from 2012 to 2014. In this role, Mr. McDermott conducted investigations, reviewed investigation reports, and became familiar with the role of a municipal integrity commissioner, in addition to furthering his familiarity with the practices, procedures, methods and mandates found within a municipal government.



Example #2 – Municipal Law in Private Practice

Mr. McDermott represented several municipalities over the course of his legal career, including the City of Toronto for over 25 years; the Regional Municipality of Durham; and the Regional Municipality of York. While the details of such retainers are confidential, Mr. McDermott gained broad knowledge and experience related to municipal government, as well as practices, procedures, methods and mandates related to the municipal sector.

Example #3 – Municipal Ombuds Services

As a result of his extensive experience in municipal law, Mr. McDermott is one of the senior investigators for ADRC's Municipal Ombuds Services. Mr. McDermott provides assistance where required to junior investigators and those investigators who require his municipal law expertise.

Number of years as an Integrity Commissioner and the names of municipalities currently or previously served as Integrity Commissioner:

ADRC has been providing Integrity Commissioner Services for six years (since 2011), and Mr. McDermott has been involved in those operations from the beginning.

ADRC is currently the Integrity Commissioner for the City of Markham; the City of Kitchener; the City of Waterloo; and the Township of Woolwich.

ADRC is also the Municipal Ombudsman for the Regional Municipality of Halton, the City of Burlington, the Town of Milton, the Town of Oakville, the Regional Municipality of York, the Town of East Gwillimbury, the Township of King, the Regional Municipality of Durham, the Municipality of Clarington, the Town of Whitby, and the Township of Brock.

2b. Qualifications and Experience – Knowledge of Ontario Municipal Law

Example #1 – Office of the Integrity Commissioner

Mr. McDermott has provided confidential advice to Members of Council, he has conducted investigations and drafted reports, and he has reviewed the reports of other investigators. This work has necessarily assisted Mr. McDermott to learn about the role of a municipal integrity commissioner; practices, procedures, methods and mandates related to the municipal sector; and the role of municipal councillors. In his involvement in the OIC, Mr. McDermott has reviewed and applied several codes of conduct for Members of Council, and has regularly adhered to (and advised others on) procedural fairness.



Example #2 – Municipal Ombuds Services

As a result of his extensive knowledge of Ontario municipal law, Mr. McDermott is one of the senior investigators for ADRC's Municipal Ombuds Services. Mr. McDermott is familiar with and accustomed to interpreting and applying the provisions of various municipal statutes, regulations, policies and other enabling documents, as well as ensuring procedural fairness.

Example #3 – Lawyer in Private Practice

Over the course of his legal career, Mr. McDermott has represented several municipalities, including the City of Toronto for 25 years, the Regional Municipality of Durham, and the Regional Municipality of York. This has provided him with broad knowledge and experience related to municipal government, the role of municipal councillors, and the practices, procedures, methods and mandates related to the municipal sector.


3. Public Relations and Education

Mr. McDermott has had dealings with elected officials, the media, and the public in his previous role as Deputy Integrity Commissioner for the City of Brampton.

Mr. McDermott is accustomed to dealings with the public as a result of a long career as a practicing lawyer, including serving as the head of Osler LLP's Employment and Labour Department; as a mediator, arbitrator, and investigator; and as a volunteer member of the Executive Board of the Conference of Independent Schools, the President of the York Downs Golf & Country Club, and as the Chair of the Board of Directors of Holy Trinity School.

Mr. McDermott will be developing materials and providing education and training to Members of Council of the Township of Woolwich in person next month.

All of the foregoing is respectfully submitted this 17th day of April 2017.



Allan Stitt, President, ADR Chambers
I have the authority to bind the Proponent



ADR
CHAMBERS
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The Regional Municipality of Niagara
Position of Integrity Commissioner

Schedule A: Form of Proposal (Appendix B)

APPENDIX B – FORM OF PROPOSAL

1. Proponent Information

Please fill out the following form, and name one person to be the contact for the RFP process and for any clarifications or communication that might be necessary.	
Full Legal Name of Proponent:	ADR Chambers Inc.
Any Other Relevant Name under Which the Proponent Carries on Business:	ADR Chambers, Stitt Feld Handy Group
Street Address:	180 Duncan Mill Road, 4th Floor
City, Province/State:	Toronto ON
Postal Code:	M3B 1Z6
Phone Number:	(416) 362-8555
Fax Number:	(416) 362-8825
Company Website (If Any):	www.adrchambers.com
Proponent Contact Person and Title:	Allan Stitt President
Proponent Contact Phone:	(416) 307-0002
Proponent Contact Facsimile:	(416) 307-0011
Proponent Contact E-mail:	allan@adr.ca

2. Offer

The proponent has carefully examined the RFP documents and has a clear and comprehensive knowledge of the Deliverables required under the RFP. By submitting a proposal, the proponent agrees and consents to the terms, conditions and provisions of the RFP, including the Contract Terms and Conditions and offers to provide the Deliverables in accordance therewith at the rates set out in the Pricing Form (Appendix C).

3. Rates

The proponent has submitted its rates in accordance with the instructions in the RFP and in the Pricing Form set out in Appendix C.

4. No Prohibited Conduct

The proponent declares that it has not engaged in any conduct prohibited by this RFP

5. Conflict of Interest

The proponent has considered the definition of "Conflict of Interest" in Section 3.4 of the RFP and declares that there is no Conflict of Interest relating to the preparation of its proposal, and no foreseeable Conflict of Interest in performing the contractual obligations contemplated in the RFP.

6. Disclosure of Information

The proponent hereby agrees that any information provided in this proposal, even if it is identified as being supplied in confidence, may be disclosed where required by law or if required by order of

APPENDIX B – FORM OF TENDER

a court or tribunal. The proponent hereby consents to the disclosure, on a confidential basis, of this proposal by Niagara Region to Niagara Region's advisers retained for the purpose of evaluating or participating in the evaluation of this proposal.

7. Proposal Irrevocable

The proponent agrees that its Proposal shall be irrevocable for a period of **one hundred twenty (120) days** following the Submission Deadline.

8. Enter into Contract

The proponent agrees that in the event its proposal is selected by Niagara Region, in whole or in part, it will enter into the Contract based on the term and conditions set out in Appendix A to this RFP in accordance with the terms of this RFP.

9. Offer Applicable to Lower Tier Municipalities and/or Local Boards

The proponent offers the services at the same prices and under the same terms and conditions which the proponent is providing to the Region under this Agreement.

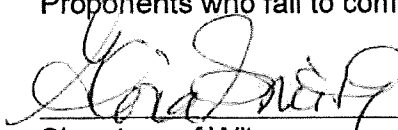
☒ **Yes** or **No** (please circle applicable answer)

10. Addenda

The proponent is deemed to have read and accepted all addenda issued by Niagara Region prior to the Deadline for Issuing Addenda. The onus remains on proponents to make any necessary amendments to their proposals based on the addenda. The proponent is requested to confirm that it has received all addenda by completing the statement below:

The proponent has received **addendum/addenda numbers** _____ **to** _____, inclusive, and all changes specified therein have been included in the proponent's pricing.

Proponents who fail to complete this section will be deemed to have received all issued addenda.



Signature of Witness

 per Allan Stitt

Signature of Proponent Representative

Gloria Smith

Name of Witness

Allan Stitt

Name of Proponent Representative

President

Title of Proponent Representative

April 17, 2017

Date

I have the authority to bind the proponent

ORIGINAL SIGNATURES ONLY; NO ELECTRONIC



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The Regional Municipality of Niagara
Position of Integrity Commissioner

Schedule B: Biography of Edward T. McDermott

EDWARD T. (TED) McDERMOTT

Edward T. McDermott is a mediator, arbitrator and investigator with ADR Chambers.

Ted has over 35 years of negotiation, mediation and arbitration experience and has represented numerous clients before arbitrators, administrative tribunals and all levels of the courts in a variety of matters. He has particular expertise in all aspects of labour and employment law and has participated in approximately 2,000 cases involving wrongful dismissals, collective bargaining negotiations, human rights proceedings, employment law, labour relations, and workplace restoration issues.

He has conducted numerous investigations involving complaints by both customers and employees for major financial institutions and other private and public companies and he has been instrumental in helping to resolve a significant number of these disputes. Ted is a member of the discipline hearings panel of IIROC with responsibility for adjudication on complaints filed against members of the investment industry. He served as Deputy Integrity Commissioner as part of ADR Chambers' Office of the Integrity Commissioner for the City of Brampton, and is involved as an investigator and senior advisor for ADR Chambers' Municipal Ombuds Services and Office of the Integrity Commissioner.

Ted received his B.A. from the University of Toronto in 1964 and his LL.B. from Osgoode Hall in 1967. He was called to the Bar in 1969 and was then appointed to and served as law clerk to the Chief Justice of the High Court for the Supreme Court of Ontario, following which he commenced private practice as a partner with the firms of White, Bristol, Beck and subsequently Paulin, McDermott. He then joined Osler LLP where he was a senior partner and head of the firm's Employment and Labour Department. He has consistently been named as one of Canada's top 500 lawyers in *Lexpert/American Lawyer Media Guide to the Leading 500 Lawyers in Canada* and a leading labour lawyer in Canada in many other publications.

Ted was a past Chair of the Labour Section of the Canadian Bar Association, Ontario and National Branches. He has also served, on a volunteer basis, as the Chair of the Board of Directors of Holy Trinity School, a member of the Executive Board of the Conference of Independent Schools, and President of the York Downs Golf & Country Club.



**Schedule C: Biographies of Ben Drory,
Deborah Anschell, and Marshall Schnapp**

BEN DRORY

Ben Drory is a mediator, arbitrator, and investigator with ADR Chambers.

Ben mediates and arbitrates insurance, commercial, landlord/tenant, public policy and publishing disputes.

Ben earned J.D. and M.B.A. degrees from the University of Toronto, and was called to the Ontario Bar in 2004 after articling in corporate/commercial law. He is designated as a Qualified Mediator (Q.Med.) and as a Certified Coach Practitioner (C.C.P.). Ben developed and taught a full-term course (ADR 511) in accident benefits mediation and arbitration at Humber College.

Ben has worked as an investigator with the ADR Chambers Banking Ombuds Office and is the current Compliance Officer. He is also the Lead Investigator for the Office of the Integrity Commissioner for the City of Markham, and is an investigator for the Office of the Integrity Commissioner for the City of Kitchener, the City of Waterloo, and the Township of Woolwich, as well as the ADR Chambers Ombuds Office. Ben has also administered the ADR Chambers Investment Industry Regulatory Organization of Canada's (IIROC) arbitration program.

Ben writes regularly for the ADR Institute of Ontario, and is a mediation coach in the Humber College ADR program. He was also previously a Director of a Toronto-based legal aid clinic, and a member of the United Way of Greater Toronto's community-based panel analyzing member agency performance and funding.

Ben is actively involved in community matters, volunteering with local clinics to mediate disputes including families, neighbours.

DEBORAH ANSHELL

Deborah Anshell is a mediator, arbitrator, and investigator with ADR Chambers. She serves as an investigator with the ADR Chambers Banking Ombuds Office, the ADR Chambers Ombuds Office, and with the ADR Chambers Office of the Integrity Commissioner.

Deborah is a member of the Law Societies of Upper Canada, Alberta and British Columbia. Deborah earned her LL.M. in ADR at Osgoode Hall Law School in 1998 and her LL.B. at the University of Toronto in 1982. Deborah has mediation experience in insurance (disability, life, subrogation, occupiers' liability, fidelity bonds, motor vehicle, property and casualty, professional negligence), real estate, employment, health law, and corporate/commercial matters. She also has 20 years of litigation experience, both in private practice and as corporate counsel.

Originally from Alberta, Deborah was a litigation lawyer in private practice in Calgary and Toronto. From 1989 through 2002, Deborah practiced as a litigator with Confederation Life Insurance Company and Manulife Financial.

From 2002 until 2006, Deborah practiced mediation and facilitated the settlement of hundreds of complex civil cases in a variety of subject matters. Deborah was a Roster Mediator for the Ontario Mandatory Mediation Program from its inception. Between 2006 and 2008, Deborah was Claims Counsel at the Lawyers' Professional Indemnity Company, handling errors and omissions claims against lawyers.

Deborah was the 2007-2008 Chair of the ADR Section of the Ontario Bar Association, Vice-Chair of the ADR Section for the 2006-2007 term, and Newsletter Editor for the ADR Section from 2002-2005. Deborah was also on the executive of the Corporate Counsel Section of the OBA for many years. In 2007, she was on the organizing committee of the Roger Fisher Tribute. She is presently a member of the Continuing Legal Education Committee of the OBA. Deborah was a contributing editor, Carswell's Practice Cases from 1991-1996. Deborah is a member of The Advocates' Society, the Canadian Bar Association, and the Toronto Lawyers' Association. She is a frequent speaker and writer on mediation and litigation for the Canadian Institute and the Ontario Bar Association.

MARSHALL SCHNAPP

Marshall Schnapp is an arbitrator, mediator, and investigator with ADR Chambers. He formerly served as an investigator with the ADR Chambers Banking Ombuds Office and as an investigator for ADR Chambers' provision of Municipal Ombudsman Services through the ADR Chambers Ombuds Office, before assuming the role of Ombudsman. Marshall is also an investigator for the ADR Chambers Office of the Integrity Commissioner. In addition, he formerly served as an investigator for the College of Nurses of Ontario, and he practiced law in a litigation firm for several years.

Prior to joining ADR Chambers, Marshall established a conflict management practice, which offered the following services: investigation, mediation, training, coaching, facilitation, workplace restoration and conflict management system design. He has a wide range of work experience in many sectors including: not-for-profit, law, recruitment, technology, insurance, healthcare and regulated health professions. Marshall's experience covers both non-union and unionized organizations.

Marshall has completed wide ranging studies and skills development courses relating to Alternative Dispute Resolution (ADR), including his law degree and Master of Laws in Alternative Dispute Resolution (ADR) at Osgoode Hall Law School.

He has also participated in several intensive ADR skills courses and workshops, such as the Negotiation Teaching Workshop at the Dispute Resolution Research Center at the Kellogg School of Management and the Program on Negotiation at Harvard Law School and received training by the International Ombudsman Association. As well he recently completed a Human Rights training program at Osgoode Hall Law School. He also has a Certificate in Adjudication for Administrative Agencies, Boards & Tribunals, Society of Ontario.

Over the past 15 years, Marshall has practiced as an arbitrator, mediator, investigator, and litigator. He is a member of the Law Society of Upper Canada, the ADR Institute of Ontario and the International Association for Conflict Management.

APPENDIX C – PRICING FORM

APPENDIX C – PRICING FORM**1. Instructions on How to Complete Pricing Form**

- (a) Rates shall be provided in Canadian funds, inclusive of all applicable duties and taxes except for Harmonized Sales Tax (HST), which should be itemized separately.
- (b) Rates quoted by the proponent shall be all-inclusive and shall include all labour and material costs, all travel and carriage costs, all insurance costs, all costs of delivery to Niagara Region, all costs of installation and set-up, including any pre-delivery inspection charges, and all other overhead, including any fees or other charges required by law.
- (c) An Hourly Rate shall be provided for both the Principal and Associates being provided for this assignment. Where an individual is a sole proprietor or single entity a rate for the Principal is only required. The rates provided shall be utilized as per the Financial Proposal Evaluation provide below.

2. Pricing Form

#	Description	Unit of Measure	Total
1	Principal Services	Hourly Rate	\$ _{350.00}
2	Associates Services	Hourly Rate	\$ _{275.00}

3. Associate Services

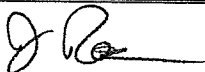
Provide a summary of the services that could be provided by associates when/if retained as the Region's Integrity Commissioner.

Please utilize Chart as a template to provide Position Name/Title/Job Description and name of staff that could provide support to the Integrity Commissioner.

SCHEDULE OF ASSOCIATE SERVICES AND NAMES OF STAFF

Position Name/Title/Job Description	Name of Staff
1. Investigate complaints or provide advice or training/education	Ben Drory
2. services as delegated by Mr. McDermott	Deborah Anshell
3.	Marshall Schnapp
4. Administrative services as required by Mr. McDermott or investigators	Allan Stitt
5.	Jenn Rosen

Josée Thibodeau

COMPANY: ADR Chambers	SIGNATURE: 
--------------------------	---

SCHEDULE 'C'
TO PROFESSIONAL SERVICES AGREEMENT
dated _____ **, 2019

Between:
The Town of Pelham
and
ADR Chambers Inc.

The Town of Pelham's
Code of Conduct for Members of Council



THE TOWN OF PELHAM CODE OF CONDUCT FOR MEMBERS OF COUNCIL

1.0 Application

1.1 This Code of Conduct applies to Members of the Council of the Town of Pelham, including the Mayor and, unless specifically provided, with necessary modifications to all Town committees, agencies, boards and commissions, which are defined as local boards in the *Municipal Act, 2001*.

1.2 The purpose of this Code of Conduct is to establish a general standard to ensure that all Members share a common basis for acceptable conduct, and to which all Members are expected to adhere to and comply with. This Code of Conduct augments other laws which Members are governed by and which requires Members to follow the Procedural By-law and other sources of applicable law, including but not limited to:

- *Municipal Act, 2001*
- *Municipal Conflict of Interest Act*
- *Municipal Elections Act, 1996*
- *Municipal Freedom of Information and Protection of Privacy Act*
- *Human Rights Code*
- *Occupational Health and Safety Act*
- *Provincial Offences Act*
- *Criminal Code*

2.0 Statement of Principles

2.1 This Code of Conduct is intended to set a high standard of conduct for Members in order to provide good governance and a high level of public confidence in the administration of the Town by its Members as duly elected public representatives to ensure that they each operate from a foundation of integrity, transparency, justice, truth, honesty and courtesy.

2.2 The following key statements of principle are intended to guide Members and assist with the interpretation of the Code of Conduct:

- Members shall serve and be seen to serve the public in a conscientious and diligent manner;
- Members shall observe and act with the highest standard of ethical conduct and integrity;
- Members shall avoid the improper use of the influence of their office and act without self-interest;

- Members shall act and are expected to perform their functions with honesty, integrity, accountability and transparency;
- Members shall perform their duties and arrange their private affairs in a manner that promotes public confidence and that will bear close public scrutiny;
- Members shall be cognizant that they are at all times representatives of the Town and of Council, recognize the importance of their duties and responsibilities, take into account the public character of their function, and maintain and promote the public trust in the Town; and
- Members will uphold the spirit and the letter of the laws of Canada, Ontario and the laws and policies adopted by Council.

3.0 Definitions

3.1 The following terms shall have the following meanings in this Code of Conduct:

- (a) "CAO" means the Chief Administrative Officer of the Town;
- (b) "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;
- (c) "confidential information" means information or records that are in the possession, in the custody or under the control of the Town that the Town is either precluded from disclosing under the *Municipal Act, 2001* or other applicable legislation, its Procedural By-law or any of its other by-laws, policies, rules or procedures, or that it is required to refuse to disclose under the *Municipal Freedom of Information and Protection of Privacy Act* or other legislation;
- (d) "conflict of interest" means a situation in which a Member has competing interests or loyalties between the Member's personal or private interests and his or her public interests as an elected representative such that it might influence his or her decision in a particular a matter;
- (e) "Council" means the council for the Town;
- (f) "fiduciary" means the obligation of a person in a position of authority to act on behalf of another, assuming a duty to act in good faith and with care, candor and loyalty in fulfilling this obligation;
- (g) "Member" means a Member of the Council for the Town;
- (h) "non-pecuniary interest" means a private or personal interest that a Member may have that is non-financial in nature and that would be considered by a reasonable person, apprised of all the circumstances, as being likely to influence the Member's decision in any matter in which the non-pecuniary interest arises, and may include, but is not limited to, an interest that arises from a relationship with a person or entity;
- (i) "parent" means a person 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;
- (j) "spouse" means a person to whom the person is married or with whom the person is living in a conjugal relationship outside marriage;
- (k) "staff" means the CAO and all commissioners, officers, directors, managers, supervisors and all individual members of staff, whether full-time, part-time, contract,

seasonal or volunteer, as well as agents and consultants acting in furtherance of the Town's business and interest;

(l) "Town" means The Corporation of the Town of Pelham.

4.0 General Obligations

4.1 In all respects, Members shall:

- (a) make every effort to act with good faith and care;
- (b) conduct themselves with integrity, courtesy and respectability at all meetings of the Council or any committee and in accordance with the Town's Procedural By-law or other applicable procedural rules and policies;
- (c) seek to advance the public interest with honesty;
- (d) seek to serve their constituents in a conscientious and diligent manner;
- (e) respect the individual rights, values, beliefs and personality traits of any other person;
- (f) refrain from making statements known to be false or with the intent to mislead Council or the public;
- (g) accurately communicate the decisions of Council and respect Council's decision-making process even if they disagree with Council's ultimate determinations and rulings; and
- (h) refrain from making disparaging comments about another Member or unfounded accusations about the motives of another Member.

5.0 The Role of Staff

5.1 Council as a whole approves the budget, policies and governance of the Town through its by-laws and resolutions. Individual Members do not direct or oversee the functions of the staff of the Town.

5.2 The Town's staff serve Council and work for the Town as a body corporate under the direction of the CAO. Inquiries of staff from Members should be directed to the CAO or to the appropriate senior staff as directed by the CAO. Members shall not publicly criticize staff. Should a Member have any issue with respect to staff such issue shall be referred to the CAO who will direct the matter to the particular staff member's appropriate superior.

5.3 Members shall respect the role of staff in the administration of the business affairs of the Town. Members shall respect that staff:

- (a) provide advice and make policy recommendations in accordance with their professional ethics, expertise and obligations and that Members must not falsely or maliciously injure the reputation of staff members whether professional or ethical or otherwise;
- (b) work within the administration of justice and Members must not make requests, statements or take actions which may be construed as an attempt to influence the independent administration of justice and, therefore, Members shall not attempt to

intimidate, threaten, or influence any staff member from carrying out that person's duties, including any duty to disclose improper activity; and
(c) carry out their duties based on political neutrality and without undue influence from any individual Member and, therefore, Members must not invite or pressure any member of staff to engage in partisan political activities or be subjected to discrimination or reprisal for refusing to engage in such activities.

6.0 Town Property

6.1 Council is the custodian of the assets of the Town. The community places its trust in Council and those it appoints to make decisions for the public good in relation to these assets.

6.2 By virtue of their office or appointment, Members must not use or permit the use of the Town's land, facilities, equipment, supplies, services, staff or other resources for activities other than the business of the Town. No Member shall seek financial gain for themselves, family or friends from the use or sale of Town owned intellectual property, computer programs, technological innovations, or other patent, trademarks or copyright held by the Town.

7.0 Gifts and Benefits

7.1 Gifts to Members risk the appearance of improper influence. Gifts may improperly induce influence or create an incentive for Members to make decisions on the basis of relationships rather than in the best interests of the Town. A Member shall not accept a fee, advance, gift, gift certificate, cash, hospitality or any form of personal benefit connected directly or indirectly with the performance of his or her duties except as provided in Section 10.2. A gift, benefit or hospitality provided with the Member's knowledge to a Member's spouse, child, or parent, 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. Any doubt concerning the propriety of the gift should be resolved by the Member not accepting or keeping it.

7.2 For greater clarity, despite Section 10.1, Members are entitled to accept any compensation, remuneration or benefits authorized by law and shall not accept any gift or benefit in their public capacity other than in the following circumstances:

- (a) such gifts or benefits that normally accompany the responsibilities of office and are received as an incident of protocol or social obligation;
- (b) a political contribution otherwise reported by law, in the case of Members running for office;
- (c) services provided without compensation by persons volunteering their time;
- (d) nominal tokens, mementos or souvenirs received as an incident of protocol or social obligation that normally accompanies the responsibilities of elected office or at a function honouring the Member;
- (e) food, lodging, transportation and entertainment provided by provincial,

regional and local governments or any agencies or subdivisions of them or 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;

(f) entrance fees or food and beverages consumed at banquets, receptions or similar events, if:

(i) attendance serves a legitimate municipal business purpose related to the normal business of the Town,

(ii) the person extending the invitation or a representative of the organization is in attendance, and

(iii) the value is reasonable and the invitations are infrequent;

(g) gifts of nominal value (for example, a baseball cap, t-shirt, flash drive, book, etc.); and

(h) any gift or benefit, if the Integrity Commissioner is of the opinion, before the gift or personal benefit has been accepted, that it is unlikely that receipt of the gift or benefit gives rise to a reasonable presumption that the gift or benefit was given in order to influence the Member in the performance of his or her duties.

7.3 A Member who have received and accepted and gift or benefit pursuant to Section 10.2 shall file a disclosure of the gift or benefit indicating the person, body or entity from which it was received together with the estimated value of the gift or benefit. The list shall be provided to the Town's Clerk on a quarterly basis commencing on March 31 of every year and shall be a matter of public record and posted to the Town's website.

7.4 No Member shall seek or obtain by reason of his or her office any personal privilege or advantage with respect to municipal services not otherwise available to the general public and not connected directly or indirectly to the performance of the Member's duties.

8.0 Confidential Information

8.1 Members receive confidential information from a number of sources as part of their work as elected officials. This includes information received in confidence by the Town that falls under the privacy provisions of the *Municipal Freedom of Information and Protection of Privacy Act* and other applicable privacy laws and information received during closed meetings of Council. Examples of types of information that a Member must keep confidential, unless expressly authorized by Council or as required by law, include, but are not limited to:

(a) matters related to ongoing litigation or negotiation, or that is the subject of solicitor-client privilege;

(b) information provided in confidence, for example the identity of a complainant where a complaint is made in confidence;

- (c) price schedules in contract tender or Request for Proposal submissions if so specified;
- (d) personnel matters about an identifiable individual;
- (e) “personal information” as defined in the *Municipal Freedom of Information and Protection of Privacy Act*; and
- (f) any census or assessment data that is deemed confidential.

8.2 A Member shall not disclose the content of any confidential information, or the substance of deliberations, of a closed meeting. A Member has a duty to hold any information received at closed meetings in strict confidence for as long and as broadly as the confidence applies. All confidential documents received at a closed meeting are to be turned into the Clerk at the end of the closed meeting. A Member shall not, either directly or indirectly, release, make public or in any way divulge any such information or any confidential aspect of the closed deliberations to anyone, unless authorized by Council or as required by law.

8.3 A Member shall not disclose, use or release confidential information in contravention of applicable privacy laws. Members are only entitled to information in the possession of the Town that is relevant to matters before the Council, or a committee. Otherwise, Members enjoy the same access rights to information as any other member of the community or resident of the Town and must follow the same processes as any private citizen to obtain such information.

8.4 Members shall not misuse confidential information in any way or manner such that it may cause detriment to the Town, Council or any other person, or for financial or other gain for themselves or others.

8.5 Members shall respect the right to confidentiality and privacy of all clients, volunteers and staff, and should be aware of their responsibilities under applicable legislation, Town policies, procedures and rules, ethical standards and, where appropriate, professional standards.

8.6 A Member shall not disclose any confidential information received by virtue of his or her office, even if the Member ceases to be a Member.

9.0 Discrimination and Harassment

9.1 Members shall treat all members of the public, one another and staff with respect and without abuse, bullying or intimidation and ensure that their work environment is free from discrimination and harassment.

9.2 Members shall not use indecent, abusive or insulting words, phrases or expressions toward any member of the public, another Member or staff. Members shall not make comments or conduct themselves in any manner that is discriminatory to any individual based on the individual's race, colour, ancestry, citizenship, ethnic origin, place of origin, creed or religion, gender, sexual orientation, marital status,

family status, disability, age or record of offences for which a pardon has not been granted.

9.3 Members shall comply with the Town's "Respectful Workplace Policy" and "Council/Staff Relations Policy".

10.0 Improper Use of Influence

10.1 Members shall not use the influence of their office or appointment for any purpose other than the exercise of his or her official duties in the public interest.

10.2 Members shall not use the status of their position to influence the decision of another person to the private advantage or non-pecuniary interest of themselves, their parents, children or grandchildren, spouse, or friends or associates, or for the purpose of creating a disadvantage to another person or for providing an advantage to themselves.

10.3 Members who are asked to support charitable activities within the community may do so by accepting honorary roles, lending their names to organizations or events and encouraging public support of events. In doing so, Members shall ensure that they do not have a conflict between their private interest and their duties to the public. Members shall not directly solicit funds nor receive funds for charitable purposes in their role as a Member. Members shall remain at arms-length from financial aspects of external events which they support in their public capacity and shall not participate in decisions concerning the disbursement of funds or determining the beneficiaries of the funds.

11.0 Conflicts of Interest

11.1 Members shall avoid conflicts of interest, both pecuniary and non-pecuniary. Members shall take proactive steps to mitigate conflicts of interest in order to maintain public confidence in the Town and its elected officials. Members are encouraged to seek guidance from the Integrity Commissioner when they become aware that they may have a conflict between their responsibilities to the public as a Member and any other interest, pecuniary or non-pecuniary.

12.0 Council Policies and Procedures

12.1 Members shall observe and adhere to the policies, procedures and rules established by Council.

13.0 Election Activity

13.1 Members of Council are required to conduct themselves in accordance with the *Municipal Elections Act, 1996* and any Town policies. The use of the Town's resources, both property and staff time, for any election-related activity is strictly

prohibited. Election-related activity applies to the Member's campaign and any other election campaigns for municipal, provincial or federal office.

14.0 Respect for the Code of Conduct

14.1 Members shall respect the process for complaints made under the Code of Conduct or through any process for complaints adopted by the Town. Members shall not act in reprisal or threaten reprisal against a person who makes a complaint or provides information to the Integrity Commissioner during an investigation. Members shall interact courteously and respectfully with the Integrity Commissioner and with any person acting under the direction of the Integrity Commissioner.

14.2 Members shall cooperate with requests for information during any investigations or inquiries under the Code. Members shall not destroy documents or erase electronic communications or refuse to respond to the Integrity Commissioner where a complaint has been lodged under the Code or any process for complaints adopted by the Town.

15.0 Penalties for Non-Compliance with the Code of Conduct

15.1 Where Council receives a report from the Integrity Commissioner that there has been a violation of the Code of Conduct by a Member, Council may impose the following penalties on the Member:

- (a) a reprimand; or
- (b) a suspension of the remuneration paid to the Member in respect of his or her services as a Member for a period up to 90 days.

15.2 Council may, on the basis of a recommendation from the Integrity Commissioner, also take any or all of the following actions in furtherance of a reprimand, and require that the Member:

- (a) provide a written or verbal apology;
- (b) return property or make reimbursement of its value or of money spent;
- (c) be removed from or not be appointed to the membership on a committee of Council;
- (d) be removed from or not be appointed as chair of a committee of Council.

16.0 Complaint Protocol

16.1 The Complaint Protocol – Code of Conduct is Appendix 1 to the Code of Conduct.

16.2 The Complaint Protocol – Conflict of Interest Act is Appendix 2 to the Code of Conduct.

Appendix 1

Complaint Protocol - Code of Conduct

PART A - INFORMAL COMPLAINT PROCEDURE

1. Any individual who identifies or witnesses behaviour or activity by a Member that they believe contravenes the Code of Conduct may seek to address the prohibited behavior or activity themselves in the following manner by following the Informal Complaint Procedure:
 - (a) document the incident(s) where the Member may have contravened the Code of Conduct including dates, times, locations, other persons present, and any other relevant information;
 - (b) advise a third party about the concerns regarding the Member's actions;
 - (c) advise the Member that the behaviour or activity appears to contravene the Code of Conduct;
 - (d) identify to the Member the specific provision(s) of the Code of Conduct that may have been contravened;
 - (e) encourage the Member to acknowledge and agree to stop the prohibited behaviour or activity and to undertake to refrain from future occurrences of the prohibited behaviour or activity;
 - (f) request the Integrity Commissioner to assist in informal discussion of the alleged complaint with the Member in an attempt to settle or resolve the issue;
 - (g) if applicable:
 - (i) confirm to the Member that his or her response is satisfactory, or
 - (ii) advise the Member that his or her response is unsatisfactory;
 - (h) consider the need to pursue the matter in accordance with the Formal Complaint Procedure set out in Part B, or in accordance with any other applicable judicial or quasi-judicial process or complaint procedure.
2. Individuals are strongly encouraged to pursue the Informal Complaint Procedure as the first means of remedying behaviour or activity of a Member that they believe violates the Code of Conduct.
3. With the consent of both the complaining individual and the Member, the Integrity Commissioner may participate in any informal process. The parties involved are encouraged to take advantage of the Integrity Commissioner's potential role as a mediator/conciliator of issues relating to a complaint.
4. The Informal Complaint Procedure is not a precondition or a prerequisite to pursuing the Formal Complaint Procedure set out in Part B.

PART B - FORMAL COMPLAINT PROCEDURE

Formal Complaints

1.(1) Any individual who identifies or witnesses behaviour or activity by a Member that they reasonably believe contravenes the Code of Conduct may file a formal complaint to request an inquiry by the Integrity Commissioner as to whether a Member has contravened the Code of Conduct in accordance with the following requirements:

- (a) all complaints shall be in writing on the prescribed form and shall be dated and signed by an identifiable individual;
- (b) the complaint must set out reasonable and probable grounds for the allegation that the Member has contravened the Code of Conduct and must be accompanied by a supporting sworn affidavit setting out the evidence in full in support of the allegation; and
- (c) Council may also file a complaint against any of its Members by passing a resolution requesting the Integrity Commissioner to undertake an inquiry.

(2) Individuals filing a formal complaint must provide a full and complete record of evidence to the Integrity Commissioner who is under no obligation whatsoever to, but may, seek additional information to supplement or complete the evidentiary record to substantiate or support the allegation set out in the complaint.

Filing of Complaint and Classification by Integrity Commissioner

2.(1) The complaint shall be filed with the Clerk, who shall forward the matter forthwith to the Integrity Commissioner.

(2) The Integrity Commissioner shall initially classify the complaint to determine if the matter is, on its face, a complaint with respect to non-compliance with the Code of Conduct and not covered by other legislation or other Council procedures, policies or rules as set out in Section 3.

Complaints Outside Integrity Commissioner's Jurisdiction

3. If the complaint, including the supporting affidavit, is not, on its face, a complaint with respect to non-compliance with the Code of Conduct or the complaint relates to matters addressed by other legislation or complaint procedure under another Town procedure, policy or rule, the Integrity Commissioner shall advise the complainant in writing as follows:

Criminal Matter

- (a) if the complaint is, on its face, an allegation of a criminal nature consistent with the *Criminal Code*, the complainant shall be advised that:
 - (i) the Integrity Commissioner will refer it to the appropriate police service, or
 - (ii) the complainant may pursue it with the appropriate police service if the complainant wishes to pursue any such allegation;

Municipal Freedom of Information and Protection of Privacy Act

- (b) if the complaint is more appropriately addressed under the *Municipal Freedom of Information and Protection of Privacy Act*, the complainant shall be advised that

the matter must be referred to the Clerk to deal with under its access and privacy policies under the statute;

Other Procedure, Policy or Rule Applies

(c) if the complaint appears to fall within the scope of another procedure, policy or rule of the Town, the complainant shall be advised to pursue the matter under such procedure, policy or rule with the appropriate Town official;

Lack of Jurisdiction

(d) if the complaint is, for any other reason not within the jurisdiction of the Integrity Commissioner (for example, it relates to a decision of Council or a local board as a whole and not one or more individual Members), the complainant shall be so advised and provided with any additional reasons and referrals as the Integrity Commissioner considers appropriate;

Matter Already Pending

(e) if the complaint is in relation to a matter which is subject to an outstanding complaint under another process such as a court proceeding, a human rights or workplace harassment complaint or similar process, or to a civil matter that is pending before the courts, the Integrity Commissioner may, in his/her sole discretion and in accordance with legislation, suspend any investigation, in whole or in part, pending the result of the other process;

Similar Matter Already Pending

(f) if the complaint is in relation to a similar matter which is subject to an outstanding complaint before the Integrity Commissioner, the Integrity Commissioner may, in his/her sole discretion, consider the matter in conjunction with the similar matter or deal with it separately, including not undertaking an inquiry if the matter can be adequately addressed in any report and/or recommendations made with respect to the complaint in the similar matter; and

Other Ethical Code Applies

(g) if the complaint is in relation to a matter which is governed by a code of conduct, ethical code or similar procedure or policy of another body or entity which also governs the Members (for example, another board to which the Member has been appointed), the Integrity Commissioner shall consider the most appropriate forum for the complaint and may, in his/her sole discretion, defer consideration of the matter pending any determination made by the other body or entity and shall so advise the complainant and, if necessary, the Member.

Limitation Period

4. The Integrity Commissioner shall not accept a complaint for which the event giving rise to the complaint occurred or came to the attention of the complainant more than six (6) months prior to the date of the filing of the complaint. The complainant must establish that the event giving rise to the complaint occurred and/or came to the complainant's attention within six (6) months of the complaint being filed in accordance with Section 2.

Periodic Reports to Council

5.(1) The Integrity Commissioner shall provide an annual report to Council summarizing his or her activities, including a report on all complaints received and on their disposition

(including complaints deemed and ruled not to be within the jurisdiction of the Integrity Commissioner).

(2) Notwithstanding Section 5(1), Council may by resolution request that the Integrity Commissioner provide a periodic report more frequently than once a year.

Refusal to Conduct Investigation

6. If the Integrity Commissioner is satisfied, after considering the information contained in the complaint, that a complaint:

- (a) is frivolous or vexatious,
 - (b) is not made in good faith,
 - (c) constitutes an abuse of process, or
 - (d) discloses no grounds or insufficient grounds for an investigation,
- the Integrity Commissioner shall not be required to conduct an investigation and, where this becomes apparent in the course of an investigation, the Integrity Commissioner shall terminate the inquiry and provide notice to the complainant and, if necessary, to the Member.

Opportunities for Resolution

7. Following receipt and review of a formal complaint or at any time during the investigation where the Integrity Commissioner, in his or her discretion, believes that an opportunity to resolve the matter may be successfully pursued without a formal investigation, and both the complainant and the Member agree, efforts may be pursued to achieve an informal resolution.

Investigation

8. (1) The Integrity Commissioner may proceed as follows, except where the Integrity Commissioner has a full factual record and believes, in his or her discretion, that no additional information is required, or where otherwise required by the *Public Inquiries Act, 2009*, or where the Integrity Commissioner has not otherwise terminated the inquiry:

- (a) provide the Member with an outline of the complaint with sufficient particularity to allow the Member to understand the complaint against him or her but shall not have any obligation to disclose:
 - (i) the identity of the complainant, or
 - (ii) the identity of any witnesses set out in the complaint or that are questioned/interviewed by the Integrity Commissioner, unless it is essential for the Member to adequately respond to the complaint, which determination shall be made in the Integrity Commissioner's sole and absolute discretion;
- (b) request that the Member provide a written response to the allegations in the complaint to the Integrity Commissioner within ten (10) business days; and
- (c) provide a copy of the Member's response to the complainant with a request that any written reply be provided by the complainant to the Integrity Commissioner within ten (10) business days.

(2) If necessary, after reviewing the submitted materials, the Integrity Commissioner may contact and speak to or correspond with any other persons, access and examine any other documents or electronic materials, including any materials on the Town's computers and servers, and may enter any Town work location relevant to the complaint for the purpose of investigation and potential resolution.

(3) The Integrity Commissioner may, but is under no obligation, to provide the Member with a draft of the proposed draft report on the complaint.

(4) The Integrity Commissioner shall not issue a report finding a violation of the Code of Conduct on the part of any Member unless the Member has had an opportunity either in person or in writing to comment to the Integrity Commissioner on the proposed finding(s).

(5) The Integrity Commissioner may, but is under no obligation, to advise either the Member or the complainant of any proposed sanction or recommendation the Integrity Commissioner may include in the report to Council.

(6) The Integrity Commissioner may make interim reports to Council where necessary and as required to address any instances of interference, obstruction, intimidation, delay, reprisal or retaliation by the Member or by any other person encountered during the formal complaint investigation.

(7) The Integrity Commissioner shall retain all records related to the complaint and investigation but may provide copies of certain records, in confidence, to Town administrative staff who are required to ensure that any such records are securely and confidentially retained.

No Complaint Prior to Municipal Election

9. Notwithstanding any other provision of this Complaint Protocol, no complaint may be referred to the Integrity Commissioner on or after the fourth Friday in July in a regular municipal election year.

Advice Provided to Member by Integrity Commissioner

10. (1) Subject to Section 10(2), a Member is entitled to rely upon any written advice given by the Integrity Commissioner to the Member respecting the Code of Conduct in any subsequent consideration of the conduct of the Member in the same matter provided that the Member fully disclosed in writing all relevant facts known to him or her to the Integrity Commissioner and acted in accordance with the written advice provided by the Integrity Commissioner.

(2) A Member under investigation by the Integrity Commissioner shall not request advice from the Integrity Commissioner as to the Member's rights under the Code of Conduct or generally at law, nor is the Member entitled to rely upon any statement(s) made by the Integrity Commissioner during the course of the investigation that may impact the Member's rights under the Code of Conduct or at law.

Investigation Report

11. (1) The Integrity Commissioner shall report to the complainant and the Member no later than ninety (90) days after the official receipt of any complaints. If the investigation process is anticipated to or takes more than ninety (90) days, the Integrity Commissioner shall provide an interim report to Council and must advise the parties of the date the report will be available. The Integrity Commissioner may also, at his or her discretion, advise any witnesses or other persons of the date the report will be available.

(2) Where the complaint is sustained in whole or in part, the Integrity Commissioner shall report to Council outlining the findings, the terms of any settlement and/or any recommended remedial or corrective action.

(3) The Integrity Commissioner may provide a copy of the report to the complainant and the Member whose conduct has been investigated in advance of the public release of the report, in strict confidence until the report is publicly released. The Member shall have the right to address the report when it is considered by Council but cannot vote on the matter.

(4) Where the complaint is not sustained, the Integrity Commissioner is not obligated to report to Council on the result of the investigation or any findings although such information may be included in a report or as part of an annual or other periodic report by the Integrity Commissioner.

Findings

12. If the Integrity Commissioner determines that:

- (a) there has been no contravention of the Code of Conduct, or
 - (b) a contravention occurred but:
 - (i) the Member took all reasonable measures to prevent it,
 - (ii) it was trivial,
 - (iii) it was committed through inadvertence, or
 - (iv) it resulted from an error of judgment made in good faith,
- the Integrity Commissioner may so state in the report and may make appropriate recommendations pursuant to the *Municipal Act, 2001*, including but not limited to, a recommendation of no penalty.

Report to Council

13. Upon receipt of a report from the Integrity Commissioner, the Clerk shall place the report on the next regular agenda of Council for consideration by Council and Council must consider the report at that meeting and may accept or refuse the recommendations set out in the report and accept, refuse or vary any penalties or sanctions contained in the report. A report from the Integrity Commissioner may also be considered by Council in advance of its next regular meeting should Council agree to hold a special or other meeting before its next regular meeting to consider the report.

No Reports Prior to Municipal Election

14. Notwithstanding any other provision of this Complaint Protocol, the Integrity Commissioner shall not make any report to Council or to any other person on or after the fourth Friday in July in a municipal election year, until the first official meeting of the newly-elected Council following the election.

Duty of Council

15. Council shall consider and make a determination on the Integrity Commissioner's report at the same meeting at which the report is tabled.

Public Disclosure

16.(1) The Integrity Commissioner and every person acting under his or her jurisdiction shall preserve confidentiality where appropriate and where it does not interfere with the course of any investigation, except as required by law and as required by this Complaint Protocol.

(2) The Integrity Commissioner shall retain all records related to the complaint and investigation although copies may be provided to the Town's administrative staff, subject to the duty of confidentiality under subsection 223.5 of the *Municipal Act, 2001*.

(3) The identity of the Member who is the subject of the complaint shall not be treated as confidential information in the Integrity Commissioner's report to Council. The identity of the complainant may be disclosed if deemed appropriate and necessary by the Integrity Commissioner or if consented to by the complainant.

(4) All reports from the Integrity Commissioner to Council shall be made available to the public by the Clerk.

Delegation

17. The Integrity Commissioner may delegate in writing to any person, other than a Member of Council, any of the Integrity Commissioner's powers and duties under Part V.1 of the *Municipal Act, 2001*.

Code of Conduct — Formal Complaint Form

AFFIDAVIT

I, _____ (first and last name), of the
municipality of _____ in the Province of Ontario.

MAKE OATH AND SAY (or AFFIRM):

1. I have reasonable and probable grounds to believe that:

_____ (specify name of Member),
a member of the Council of the Town of Pelham, has contravened section(s)
_____ of the Code of Conduct of the Town of Pelham. The particulars
of which are attached hereto.

2. Facts constituting the alleged contravention (use separate page if required)

This affidavit is made for the purpose of requesting that this matter be reviewed and/or
investigated by the Town of Pelham's appointed Integrity Commissioner and for no
other improper purpose.

SWORN (or AFFIRMED) before me at the)
the Town of Pelham on)
_____ (date))

(Signature)

A Commissioner for taking affidavits etc.

Please note that signing a false affidavit may expose you to prosecution under ss. 131 and 132 or 134 of the
Criminal Code, R.S.C. 1985, c. C-46 and also to civil liability for defamation. 29657163.1

SCHEDULE 'D'
TO PROFESSIONAL SERVICES AGREEMENT
Dated February 4, 2019

Between:
The Town of Pelham
and
ADR Chambers Inc.

Insurance provisions:

8.01 ADRC Indemnity

ADRC hereby agrees to indemnify and hold harmless the Indemnified Parties from and against any and all liability, loss, costs, damages and expenses (including legal, expert and consultant fees), causes of action, actions, claims, demands, lawsuits or other proceedings, (collectively, "Claims"), by whomever made, sustained, incurred, brought or prosecuted, including for breaches of confidentiality or privacy or Intellectual Property rights or for third party bodily injury (including death), personal injury and property damage, in any way based upon, occasioned by or attributable to anything done or omitted to be done by ADR, its subcontractors or their respective directors, officers, agents, employees, partners, affiliates, volunteers or independent contractors in the course of performance of ADR's obligations under, or otherwise in connection with, the Agreement. ADR further agrees to indemnify and hold harmless the Indemnified Parties for any incidental, indirect, special or consequential damages, or any loss of use, revenue or profit, by any person, entity or organization, including, without limitation, the Town, claimed or resulting from such Claims. This indemnity shall be in addition to and not in lieu of any insurance to be provided by ADR in accordance with this Contract. The obligations contained in this paragraph shall survive the termination or expiry of the Contract.

8.02 Insurance

ADRC hereby agrees to put in effect and maintain insurance for the Term, at its own cost and expense, with insurers having a secure A.M. Best rating of B + or greater, or the equivalent, all the necessary and appropriate insurance that a prudent person in the business of ADRC would maintain including, but not limited to, the following:

(a) Commercial General Liability Insurance

Commercial General Liability insurance for all Deliverables to a limit of not less than five million dollars (\$5,000,000) per occurrence.

The policy will be extended to include:

- Bodily injury, death and property damage
- Cross liability and severability of interest
- Blanket contractual
- Premises and operations
- Personal and advertising injury
- Broad form property damage
- Products and completed operations
- Owner's and contractors protective
- Non-owned Automobile to a limit of not less than two million dollars (\$2,000,000)

The policy shall be endorsed to:

- Include the Town as an additional insured; and
- Contain an undertaking by the insurers to give thirty (30) days prior written notice in the event that there is a material change in the foregoing policies or coverage affecting the Additional Insured(s) or cancellation of coverage before the expiration date of any of the foregoing policies.

(b) Automobile Insurance

Automobile Insurance (OAP1) for both owned and leased vehicles with inclusive limits of not less than two million dollars (\$2,000,000).

Proof of automobile insurance will not be required if ADRC provides a signed letter stating that they do not own or lease vehicles.

(c) Additional Insurance Requirements

Any other type of insurance specified in Schedule 1 (Schedule of Deliverables, Rates and Specific Provisions) or required elsewhere under the Contract.

All policies of insurance shall be written with an insurer licensed to do business in Ontario and be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to the Town.

8.03 Proof of Insurance

ADRC shall provide the Town with proof of the insurance required by this Contract in the form of valid certificates of insurance that reference this Contract and confirm the required coverage. ADRC shall provide the Town with renewal replacements on or before the expiry of any such insurance. Upon the request of the Town, a copy of each insurance policy shall be made available to it. ADRC shall ensure that each of its subcontractors obtains all the necessary and appropriate insurance that a prudent person in the business of the subcontractor would maintain and that the Town and Indemnified Parties are named as additional insured with respect to any liability arising in the course of performance of the subcontractor's obligations under the subcontract for the provision of the Deliverables.

8.04 Workplace Safety and Insurance Act Coverage

ADRC warrants and agrees that it has complied and will comply with all applicable workplace safety and insurance laws and regulations and, if ADRC is subject to the Workplace Safety and Insurance Act ("WSIA"), will provide proof of valid WSIA coverage by means of a current clearance certificate (or other means acceptable to the Town) to the Town upon request. ADRC covenants and agrees to pay when due, and to ensure that each of its subcontractors pays when due, all amounts required to be paid by it and its subcontractors under the WSIA during the Term, failing which the Town shall have the right, in addition to and not in substitution for any other right it may have pursuant to the Contract or otherwise at law or in equity, to pay to the Workplace Safety and Insurance Board (the "WSIB") any amount due pursuant to the WSIA and unpaid by ADRC or its subcontractors and to deduct such amount from any amount due and owing from time to time to ADRC pursuant to the Contract together with all costs incurred by the Town in connection therewith. ADRC further agrees to indemnify the Indemnified Parties for any and all liability, loss, costs, damages and expenses (including legal fees) or other charges in connection with ADRC's failure to comply with any applicable workplace safety and insurance laws or related to ADRC's status with the WSIB.