

East Fenwick Secondary Plan Terms of Reference

1.0 Introduction

The Town of Pelham has identified the need for a Consultant Team to undertake the work associated with the development of a Secondary Plan for the East Fenwick Community. These Terms of Reference define the scope of work and process for the preparation of the Secondary Plan for East Fenwick. It is anticipated that the Region of Niagara will be a funding partner for this project, however procurement for this project is directed by the Town.

Sealed Proposals in the prescribed format (see Section 3 “Proposal Submission”), will be received by the Office of the Clerk, at the Town of Pelham, 20 Pelham Town Square, P. O. Box 400, Fonthill, Ontario L0S 1E0, no later than 2:00 p.m. local time on **Thursday, March 23, 2017**. Proposals received after this time will be returned unopened.

The Town bears no responsibility for any Proposal(s) which are lost, misplaced or are not considered as a result of failure to follow the instructions for the exterior of the envelope.

By signing and delivering a Proposal, the Proponent agrees that, if the Proposal is accepted and any necessary agreement is negotiated, the Proponent will enter into such agreement with the Town prior to the commencement of the work.

The Proposal shall be prepared and submitted at the sole expense of the Consultant Team and without cost to the Town.

All Proposals received by the Office of the Clerk become the property of the Town and as such are subject to the *Municipal Freedom of Information and Protection of Privacy Act*.

A Proposal, whether or not it has been accepted, and any rights thereunder, shall not be assigned by the Consultant without the prior written consent of the Town which shall not under any circumstances relieve the Consultant of any liabilities and obligations under the Proposal.

2.0 The Project

The development of a Secondary Plan for East Fenwick has been identified as a priority by Council. The Secondary Plan will guide future growth and development in East Fenwick, including the greenfield area.

2.1 Project Goals

The project goals are to develop a Secondary Plan for the East Fenwick urban area that will provide the framework:

- for permitting new development compatible with the character of Fenwick and consistent with Provincial, Regional and Local planning policies and legislation
- to establish appropriate land use designations and policies that will support the future development of East Fenwick for an appropriate and compatible mix of uses, local services and community infrastructure
- to identify existing transportation and infrastructure, i.e. water, sanitary and storm services, available in and around the study area and upgrades that may be required to the systems to support the Secondary Plan
- to establish a system of public space areas and linkages with natural heritage areas
- to provide for an implementation and phasing plan
- to establish design guidelines for built form and public realm development that is consistent with the policy objectives of the Secondary Plan and the provision of well-designed attractive and accessible public spaces that prioritize the pedestrian experience.

The Secondary Plan will be adopted by Town Council and approved by the Region of Niagara.

2.2 Study Area

The Study Area includes that area within the urban area boundary of Fenwick that is bounded by Memorial Drive to the north, Balfour Street to the west, land on the south side of Welland Road to a depth of approximately 120m to the south and Cream Street to the east and comprises approximately 95 ha (235 acres).

Canboro Road bisects through the Study Area and is identified as an arterial road and Welland Road along the south boundary is considered to be a collector road with all the other streets being local roads.



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The lands are designated Urban Living Area/Built Boundary with the majority of the area is identified within the Greenfield Overlay and a portion of the area is designated

Environmental Protection Three in the Town Official Plan. The Official Plan also identifies provincially significant wetlands, woodlands and deer wintering area within the Study Area. Also, the Study Area is included within an area designated as being part of a highly vulnerable aquifer.

The Region of Niagara Official Plan also identifies a significant portion of the Secondary Plan area as a designated greenfield area with the remainder as built up along with environmental protection and environmental conservation areas relating to provincially significant wetlands and significant woodlands.

2.3 Background Information

The Regional Niagara Official Plan establishes the urban area boundary for the Village of Fenwick and the Town of Pelham Official Plan provides the land use planning framework including land use designations and development guidelines for development within the urban area. A Secondary Plan for East Fenwick has been identified as being required in the Town Official Plan to provide for detailed land use planning policies for a mix of uses including policies that address infrastructure requirements, and natural and cultural heritage considerations.

Fenwick is considered to be a historical rural village that is surrounded by agricultural and rural land uses. The eastern portion of urban area of Fenwick has generally not been developed due to the lack of municipal services. A significant portion of the Secondary Plan area is considered to be a greenfield area. The Official Plan has identified the following issues to be addressed in the Secondary Plan:

- Conformity with the Provincial Growth Plan and Regional Policy Amendment 2-2009. Specifically, the Secondary Plan will need to identify and permit a range of housing types and densities, the intent of which is to achieve the Provincial requirement of 50 people and jobs per hectare
- A sub-watershed plan prepared in accordance with the requirements of the NPCA and the Region
- Options for water and sanitary sewer servicing
- Stormwater management
- The ability of the soils to support urban development due to hydrological and hydrogeological characteristics
- The identification of important natural features, and recommendations for their protection
- The mix, density and phasing of proposed land uses

- Affordability
- The need for new or expanded parks, schools or other community facilities
- Transportation including integration with existing roads and an assessment of pedestrian connections to trails and parklands of new development
- Stage 1 Archaeological Assessment and,
- The preparation of urban design principles and an implementation strategy to provide guidance on the issues of accessibility, active transportation and quality building and site design.

Note that since the adoption of the Town Official Plan, the Town has completed a Cultural Heritage Master Plan including mapping of areas of archaeological potential (Stage 1 Archaeological Assessment).

2.4 Scope of Work

The following identifies the scope of work associated with the Secondary Plan preparation:

- Identify and examine existing land uses, sites with cultural heritage value/features, and areas with natural heritage features, the plan area's soils, geology and surface and ground water conditions, existing water and wastewater systems, stormwater management and transportation systems. This work is the existing condition characterization, identification of constraints and identification of areas of opportunities for growth and development
- Identify areas suitable for development, areas to be retained in natural condition and areas required for infrastructure requirements
- Determine the appropriate mix of land uses and amenities within the Secondary Plan area that will fit the character of Fenwick, integrate with existing development and align with Provincial, Regional and Local growth management
- Determine municipal servicing requirements including water, sanitary, and storm requirements to support development and mix of land uses including location of facilities and type of facilities, i.e. stormwater management facilities, pumping stations, and any improvements or upgrades that may be required
- Determine transportation/road network requirements and improvements to support development, including active transportation and the urbanization of the existing street system and future road network
- Develop appropriate policies to support mix and range of appropriate land uses, including infill, and new development policies that recognize the character of Fenwick and are consistent with Provincial, Regional and Local planning policy objectives

- Develop urban design guidelines to guide both public and private development including streetscape, open space, pedestrian and active transportation, accessibility and built form guidelines based on the policy direction set out in the Secondary Plan
- Develop a phasing plan and implementation plan
- Demonstrate how collaborative community planning, building and design approaches and consultation will be incorporated in the process of preparing the Secondary Plan and implementing the Secondary Plan's recommendations.

2.5 Work Program

The Consultant Team shall develop a work program to achieve the scope of work for this project. The Work Program can be broken down into four stages as follows:

- Project initiation, data collection, research, analysis and identification of existing condition, opportunities and constraints of the plan area
- Identification of development areas, the appropriate mix and type of land uses for the plan area and infrastructure requirements to support future development
- Policy development for land use areas, infrastructure, complete streets, natural heritage considerations, public realm improvements, design guidelines and an implementation and phasing plan
- Finalize East Fenwick Secondary Plan, Council adoption and Regional approval process.

For each stage the Consultant Team shall identify the meetings required with the Steering Committee, agencies, landowners/developers, Town staff, the public and Council. The Consultant Team should also identify what resources are required by the Town to undertake an effective and collaborative public consultation and community engagement process.

2.6 Community Engagement

It is anticipated that the Consultant Team will lead the community engagement process. Community engagement is expected to take the form of a community design charrette which will involve the public and the landowners within the project area. The Town also has the ability to utilize Place Speak as a forum for community engagement. Regular meetings with the Steering Community as well as workshop/open house sessions with the public, staff, agencies and Council will form part of the broader community

engagement and collaboration. Other appropriate methods of community consultation and engagement will be considered.

2.7 Deliverables

- Minutes from all meetings with the Steering Committee within 5 days of the meeting.
- Summary Report outlining the results of the community design charrette
- Supporting Studies
- Secondary Plan
- Secondary Plan in Official Plan amendment format

All material can be filed electronically with the Town in addition to one unbound hard copy of reports, including draft reports.

All electronic materials provided by the Consultant are to be provided in Microsoft Office format (i.e. documents in Microsoft Word and presentation materials in PowerPoint). Mapping should be compatible with the Town GIS and AutoCad.

All deliverables shall become the property of the Town.

Town Staff will be responsible for preparing and circulating any public and agency notices.

2.8 Schedule and Meetings

The project schedule is anticipated to be completed in 9 months. The Consultant Team should identify the number of meetings that are anticipated with the Steering Committee, agencies and staff, landowner/developers, the number and type of community engagement sessions that are expected and the number of Council meetings. Ongoing dialogue with the Project Manager is expected through the duration of the project.

2.9 Steering Committee

The Steering Committee is comprised of members/representatives from the following:

- Town Planning Department
- Town Public Works Department

- Town Recreation, Culture and Wellness Department
- Regional Planning and Development Services
- Regional Public Works
- Niagara Peninsula Conservation Authority
- Developer Representative

The Project Manager for this project will be Barbara Wiens MCIP, RPP, Director of Community Planning and Development.

2.10 Available Studies

- Town of Pelham Official Plan
- Region of Niagara Official Plan
- Town of Pelham Heritage Master Plan
- Downtown Master Plan for Fonthill and Fenwick
- Active Transportation Master Plan
- Town of Pelham Engineering Design Standards
- Region of Niagara Model Urban Design Guidelines

3.0 Proposal Submission

3.1 Date and Place for Receiving Submissions

Five (5) hard copies and one electronic version of the Proposal shall be submitted in a sealed envelope.

All submissions must be received before **2:00 pm local time, Thursday, March 23, 2017** by the Office of the Clerk, and shall be addressed as follows:

**Request for Proposal
East Fenwick Secondary Plan
Office of the Clerk
Town of Pelham
20 Pelham Town Square, P. O. Box 400
Fonthill, ON L0S 1E0**

Please note that all Consultants submitting a Proposal are solely responsible to ensure that their submissions are received by the Office of the Clerk on or before the deadline. Submissions received after the indicated deadline will be returned to the submitting Consultant unopened.

In the event of any question regarding the timely receipt of a submission, the time on the clock designated by the Town Clerk will prevail over any other timepiece regardless of any discrepancies between the time on the Town Clerk's designated clock and the actual time.

3.2 Documentation

Proposals must be submitted as per the following:

- One set of documents carrying original signatures and marked as “MASTER”.
- Four (4) sets may be photocopied and marked as “DUPLICATE”.
- One electronic version (i.e. CD, Flash Drive, etc.), in Microsoft Word.

The Proposal must be signed by responsible officers of the lead Consultant with the company clearly identified. All sub-consultants and their area of expertise should also be identified.

3.3 Proposal Format

The Consultant shall include a clear outline in a brief cover letter to undertake this assignment. Each copy of the Proposal must include the following information:

- The Consultant's understanding of the objectives of the study
- The proposed methodology for carrying out the project requirements
- A detailed project schedule that identifies major components of the project and their anticipated start and completion dates
- Predicted number of meetings with the Steering Committee, agencies, public consultation sessions, developers/landowners, Town and Regional staff, and Town Council
- A description of the Consulting Team including sub-consultants, the lead persons, and the relevant experience and qualifications of each individual along with an estimate of the percentage of time each key member will be responsible for on this project
- Relevant experience with references for similar projects and the identification of any clients in the project area. A minimum of three references must be provided. Experience with preparing Secondary Plans would be an asset
- Relevant details of any sub-consultants that will be used for this project. Sub-consultants will be paid for and supervised by the lead Consultant
- Commitment (time and resources) expected to be provided by the Town and the Region and agencies, i.e., Niagara Peninsula Conservation Authority
- A detailed budget, broken down by tasks, for completing all aspects of the East Fenwick Secondary Plan Update, including the upset limit

- Disbursement costs which may include mileage, telephone/fax charges, printing and reproductions, courier services, and computer services, etc. and
- A fee schedule indicating a per diem rate and hourly rate for each team member and sub-consultants, if any, on the project team for the duration of the project.

Proponents are encouraged to submit any value added/innovation recommendations as part of the Proposal for consideration as well as control measures that will be employed to ensure the project remains on target and on budget.

3.4 Proposal Evaluation and Selection

Proposals received on time will be reviewed and deviations and/or exceptions to the requirements of these Terms of Reference will be noted and assessed. Proposals will be evaluated and scored according to the following weighting framework:

	Proposal Component	Weight
1	Technical & Management	75%
2	Oral Presentation and Interview	20%
3	Fee	5%

A score of 50% out of the maximum 75% for the Technical and Management aspects of the proposal must be obtained to be considered for the Consultant Team to be short-listed and invited to proceed to the Oral Presentation and Interview as well as consideration of the Fee component. Attachment A identifies the criteria that will be used to evaluate each Proposal Component. Total weighted scores will be tabulated and may be included within public reports to Council.

3.5 Upset Limit

The upset limit for this project will be \$130,000.00, excluding HST. Once the Consultant has been approved, minor revisions to the scope of the assignment may be negotiated. Where such work has been requested and approved by the Town, the Consultant shall submit proper documentation of any additional service to support invoices beyond the upset limit.

No invoice for services rendered will be honoured if that invoice puts the total cost of the job over the upset limit set out in the written agreement. If additional costs are to be incurred over the upset limit, the Consultant shall obtain written authorization from the Town to proceed with these additional costs prior to the additional charges being incurred. Further, the Town will not honour any work that was not authorized. Verbal

authorization, regardless of the source, will not be honoured in considering invoices. Any invoice received that does not meet the above requirements will be returned unpaid, and no late payment charges can be claimed.

4.0 GENERAL TERMS AND CONDITIONS

4.1 Withdrawal of Proposals

A Proposal may be withdrawn unopened after it has been deposited, if such request is received in writing by the Clerk prior to the deadline specified for receipt of Proposals. Requests for withdrawal received after the Closing Date/Time will not be accepted. Withdrawal of a Proposal must be made in writing to the Clerk's Department and delivered by e-mail, facsimile, registered mail, courier, or in person.

The withdrawal of a Proposal will not preclude a Proponent from submitting another Proposal prior to the Closing Date/Time.

4.2 Questions, Discrepancies and Omission

A Consultant seeking clarification or discovering discrepancies or omissions in these Terms of Reference or having doubt as to the meaning or intent of any part thereof shall notify the Bid coordinator Mara Bray via email at mbray@pelham.ca. The email subject line MUST reflect the Town of Pelham document number and title. All questions must be received at least six (6) business days prior to the bid closing date. All questions received later than six (6) business days before the closing date will not be answered.

It is understood and acknowledged that the Town shall not be held liable or responsible for verbal instructions or explanations. Only written Addenda issued by the Town during the bidding period shall become part of these Terms of Reference.

During the bidding period, Bidders may be advised by Addenda of required additions and deletions from or alterations to the requirements of the proposal. All such changes shall become an integral part of the proposal and shall be allowed for in the price submitted by the Consultant.

Addenda cannot be issued later than five (5) working days before the closing date without extending the closing date and time. All registered document takers will be notified of all or any addendums/information changes. Bidders shall confirm the receipt of all addendum(s) by clicking the appropriate check box within the electronic bid system.

The Town reserves the right to distribute any or all questions received and responses given pertaining to discrepancies and omissions to all bidders.

The Town bears no responsibility for any oral communication instruction or suggestions.

The Town will post these Terms of Reference including all addenda, questions and answers on the Town website. Consultants must register on the Town website at <http://bids.pelham.ca>

4.3 Acceptance or Rejection of Proposals

The Town reserves the right in its total discretion to accept or reject any or all Proposals for any reason whatsoever, and to accept or reject any Proposal if considered best for the Town. All documentation is subject to review by Staff for accuracies and compliance with the specifications, terms and conditions of these Terms of Reference.

4.4 Invoicing and Payment

The Consultant acknowledges and agrees that after the delivery of the goods and/or services and in accordance with the terms and conditions herein and of the written purchase orders, payment of such shall be made by the Town within thirty (30) days after receipt of invoices. EFT is the mandatory method of payment for the Town of Pelham. All new vendors must complete a vendor Request form and EFT form prior to processing of a purchase order.

Original invoices must be submitted to the attention of the Accounts Payable Department.

It is preferred to send all invoices electronically to the attention of the Accounts Payable Department at: accountspayable@pelham.ca

Where this is not possible invoices can be delivered to:

Accounts Payable Department
Town of Pelham
P.O. Box 400
20 Pelham Town Square,
Fonthill, ON L0S 1E0

All invoices must clearly state the purchase order number. Invoices shall contain the Vendor's HST registration number, and the HST amount as a separate item. Incomplete invoices will not be paid.

4.5 Billing

Invoicing addresses, electronic payment information and other billing information will be supplied to the successful Consultant.

4.6 Intent of Scope of Work

It is the intent of the scope of work to describe specific details of services required. It is the responsibility of the successful Consultant to supply any service not described in the scope of work but which may be reasonably implied to discharge the scope of work covered in these Terms of Reference.

4.7 Incurred Costs

The Town will not be liable nor reimburse any Consultant for costs incurred in the preparation of submissions, attendance at meetings and related travel costs, or any other services that may be requested as part of the preparation of the proposal or proposal evaluation process.

4.8 Proposal Expiry Date

Consultants acknowledge that offers contained within their Proposal shall remain open for acceptance by the Town for a period of not less than ninety (90) days from the closing date of acceptance of the Proposals.

4.9 Harmonized Sales Taxes (HST)

All base prices shall exclude HST. Payment under the Contract shall be subject to value added taxes in effect at the time of invoicing.

4.10 Insurance

The successful lead Consultant and all sub-consultants shall purchase and maintain at all times during the term of project the insurance coverage listed below:

(a) Comprehensive General Liability Insurance

Commercial general liability insurance insuring the Proponent and covering all services as described in the scope of work. The policy will be extended to include bodily injury and property damage, personal and advertising injury, products and completed services, blanket contractual, a severability of interest and cross liability clause to a limit of not less than two million dollars (\$2,000,000) per occurrence. A commercial general liability policy that has an aggregate limit will be acceptable.

(b) Errors and Omissions

The successful Consultant is required to have Errors and Omissions liability insurance insuring the Proponent in the amount of not less than two million dollars (\$2,000,000) per claim in the aggregate. The coverage under the policy shall be maintained continuously until expiry or termination of the contract Agreement.

If coverage under the Errors and Omissions policy is cancelled within the two year period after the completion or termination on the work, the Proponent shall provide the Town with notice within ninety days of cancellation and shall be required to purchase an extended reporting endorsement to ensure that coverage is maintained.

(c) Other Insurance

Any other type or form of insurance as otherwise may be required from time to time as identified at any time by either party.

All insurance policies shall be:

- Written with an insurer licensed to do business in Ontario;
- Be non-contributing with, and will apply only as primary and not excess to any other insurance or self-insurance available to the Proponent; and
- Contain an undertaking by the insurers to notify the Town in writing not less than thirty days before any material change in risk cancellation of coverage.

Certificates of insurance originally signed by authorized insurance representatives, or if required by the Town, and certified copies of all of the above-mentioned policies shall be delivered to the Town prior to the commencement of services. All subsequent policy renewals and certificates on insurance thereafter, during the term of this work is in force, shall be forwarded to the Town within sixty days of their renewal date.

4.11 Workplace Safety and Insurance Board Clearance

Upon Award, the Consultant shall provide a valid, current Clearance Certificate indicating that the Proponent is registered with Workplace Safety and Insurance Board ("WSIB"), and has an account in good standing, or, if WSIB coverage is not required by law to be carried by the Proponent, either:

- (a) An Exemption Letter from WSIB, satisfactory to the Clerk; or
- (b) An Independent Operators Status¹ Certificate issued by WSIB.

In addition to the indemnification provided by the Proponent herein, the Proponent agrees to indemnify the Town for all losses, claims, expenses (including reasonable legal fees) or other charges related to the Proponent's status with WSIB.

4.12 Failure to Perform

Failure to comply with all terms and conditions of these Term of Reference and failure to supply all documentation as required, within the specified time period, shall be just cause for cancellation of the award. The Town shall then have the right to award to any other Consultant, or issue a new Request for Proposal.

4.13 Collusion

A reasonable suspicion or collusion between two or more Consultants will be sufficient cause for the rejection of all Proposals so affected. It will be the responsibility of the Town to determine if collusion has occurred.

4.14 Ability and Experience of Proponents Submitting Proposals

Each Consultant making a submission shall satisfy the Town as to their ability and experience in supplying the services offered in their submission. The Town will not award a contract to any Consultant that cannot furnish evidence satisfactory to the Town that they have the necessary ability, dedication, equipment, capital and experience to provide the services required.

4.15 Freedom of Information and Protection of Privacy Act

The Proposal and any other documentation submitted by the Consultant prior to the closing date specified in these Terms of Reference shall become the property of the Town and shall not be returned. The Proposal shall be subject to *Freedom of Information and Protection of Privacy Act*. The Consultant must identify any information contained in the Proposal that is submitted in confidence.

4.16 Vendor Performance

The Town and Region may, at their sole discretion, reject a submission if the Consultant making the submission:

- (a) Has, at any time threatened, commenced or engaged in legal claims or litigation against the Town or the Region;
- (b) Previously provided goods or services to the Town or the Region in an unsatisfactory manner;
- (c) Has failed to satisfy an outstanding debt to the Town or Region;
- (d) Has a history of illegitimate, frivolous, unreasonable or invalid claims;
- (e) Provides incomplete, unrepresentative or unsatisfactory references; or
- (f) Has engaged in conduct that leads the Town or Region to determine that it would not be in the Town's best interest to accept the submission.

4.17 Assignment of Contract

Sub-contracting out the services will not be permitted without the prior written consent of the Town. Any work undertaken by sub-contractors shall in no way relieve the Consultant of his/her responsibilities to the Town.

4.18 Indemnification

The successful Consultant shall indemnify and save harmless the Town, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind arising out of negligence, errors or omissions, fraud or willful misconduct of the successful Consultant, its officers, employees, agents and sub-Consultants, or any of them, attributable to or in connection with the delivery of performance of the goods and services contemplated in these Terms of Reference, except to the extent that the same is attributable to or caused by the negligence of the Town, its officers, employees and agent, or any of them. This indemnity shall be in addition to and not in lieu of any insurance to be provided by the successful Consultant in accordance with the Terms of Reference.

4.19 Clarification of Submission

The Town and Region reserves the right in their sole discretion to clarify any Proposal after the Proposal submission deadline. The response received by the Town and Region from a Consultant shall, if accepted by the Town and Region, form an integral part of that Consultant's Proposal. The Town and Region reserves the right to interview any or all Consultants to obtain information about or clarification of their Proposals. In the event that the Town and Region receives information at any stage of the evaluation process which results in earlier information provided by the Consultant being deemed by the Town and Region to be inaccurate, incomplete or misleading, the Town and Region reserves the right to revisit the Consultant's evaluation result.

4.20 Conflict of Interest

Consultants making a submission shall disclose to the Town prior to award of the contract, any potential conflict of interest. If such a conflict of interest does exist, the Town may, at its sole discretion, withhold the award. This shall include identification if any member of the Consultant or Consultant team currently represents any property owner(s) within the subject area.

Sub-consultants may participate in more than one bid.

4.21 Award and Announcement

Negotiations, if any, must be successfully concluded and documented before a final recommendation is made. The first ranked Consultant, having acceptable terms and conditions as outlined in this Request for Proposal will be recommended for award. No announcement concerning the successful Consultant will be made until a complete report is prepared and approved the Town Council.

If approved by Council, the Town will notify the successful Consultant in writing, of the acceptance of its Proposal. The successful Consultant shall be bound to execute a written agreement with the Town within fourteen (14) days of contract award. The date of the contract award shall be taken as the date on which the Consultant is notified of the acceptance of its Proposal. Notice of acceptance will be deemed to have been given on the fifth (5) day following the date of mailing of the written notice. The successful Consultant must submit the following to the Town within fourteen (14) days of the contract award:

- A fully executed agreement in triplicate; and
- A certificate of insurance which complies with the insurance and indemnification requirements of the Request for Proposal.

4.22 Contract Award Document

The issue of a Purchase Order and an Agreement by the Town gives rise to a Contract between the Town and the successful Consultant in accordance with the terms and conditions sent out in these Terms of Reference, the Specifications, any applicable Addenda and any other related documents.

4.23 Negotiations

In the event that a prepared Proposal does not precisely and entirely meet the requirements of this Request for Proposal, the Town reserves the right to enter into negotiations with the selected Proponent(s) to arrive at a mutually satisfactory arrangement with respect to any modifications to the Proposal.

4.24 Performance Unsatisfactory

The Agreement will be deemed to be in default if the Consultant fails to:

- Perform any specification, term or requirement included herein, in a good and proper manner;
- Provide any deliverable(s) in accordance with the requirements incorporated in the Contract; and
- Adhere to specified delivery requirements and/or dates.

4.25 Exclusion

Except as expressly and specifically permitted herein, no Consultant shall have any claim for any compensation of any kind whatsoever, as a result of participating, and submitting a Proposal. Each Consultant shall be deemed to have agreed that it has no claim.

4.26 Intellectual Property

All information and data in any form, including but not limited to drawings, documents and as-built or Record drawings, which are prepared by the Consultant pursuant to this work, together with all designs or materials capable of intellectual property protection, prepared, developed or created by the Consultant, its employees or agents during the performance of the services involved in this work shall become the property of the Town unless specifically noted otherwise in the written agreement for this work. The Consultant shall not be liable for subsequent changes to or alterations of such drawings and documents.

4.27 Limitation of Damages

By submitting a Proposal, the Consultant agrees that in no event will the Consultant claim damages in excess of an amount equivalent to the reasonable costs incurred by the Consultant in preparing its Proposal for matters relating to any agreement or concerning the competitive process, and, the Consultant, by submitting a Proposal, waives any claim for loss of profits if no agreement is made with the Consultant.

4.28 Termination

Unless the Town agrees in writing to termination on a different basis, the following termination condition would apply to any Contract following an Award.

Upon giving the Consultant not less than thirty (30) days prior written notice, the Town may, at any time and without cause, cancel the Contract, in whole or in part. In the event of such cancellation, the Town shall not incur any liability to the Consultant apart from the payment for the goods, material, articles, equipment, work or services that have been satisfactorily delivered or performed by the Successful Consultant at the time of cancellation.

Failure of the Consultant to perform its obligations under the agreement shall entitle the Town to terminate the Contract upon ten (10) days written notice to the Consultant if a breach which is not remediable is not rectified at that time. In the event of such termination, the Town shall not incur any liability to the successful Consultant apart from the payment for the goods, material, articles, equipment, work or services that have been satisfactorily delivered or performed by the successful Consultant at the time of termination.

4.29 Right to Audit

The Town or anyone designated in writing by it may audit and inspect all financial and related records associated with the terms of the Contract including timesheets, accounts, records, receipts, vouchers, and other documents relating to the services and shall have the right to make copies thereof and take extract therefrom. The Consultant shall make available all facilities, physical and otherwise, for such audits and inspections and shall furnish the Town and its authorized representatives with all such information as it, or they, may from time to time require with reference to such timesheets, accounts, records, receipts, vouchers, and other documents. The Consultant shall cause all such timesheets, accounts, records, receipts, vouchers, and other documents, as aforesaid, to be preserved and kept available for audits and inspection at any reasonable time, and from time to time, until the expiration of five (5) years from the later of:

- (a) The date of termination of the Consultant or cancellation of the Contract;
- (b) The date of completion of the services hereunder; or
- (c) The expiration of such lesser or greater period of time as shall be approved in writing by the Town.

4.30 Meetings

The Consultant's representative(s), as requested by the Town and Region, shall attend all meetings required prior to and during the Contract. This shall include all regular meetings and emergency meetings.

ATTACHMENT A: SELECTION CRITERIA

CRITERIA	Weighted (%)	Points (0-10)	Weighted Points
1. TECHNICAL AND MANAGEMENT PROPOSAL			
Qualifications and Experience in similar projects (30%) <ul style="list-style-type: none"> Project Manager Project Team Combined knowledge and experience in Town of Pelham and Region of Niagara 	10% 15% 5%		
Project Understanding and Approach (35%) (including Sub-Consultants) <ul style="list-style-type: none"> Project understanding and deliverables Work plan and methodology Addressing key study elements/challenges Stakeholder engagement Value and innovation 	5% 10% 5% 10% 5%		
Project Delivery (10%) <ul style="list-style-type: none"> Project Schedule Project Team resource allocation and control Quality control of services 	5% 3% 2%		
Subtotal – Technical & Management Proposal	75%		
Benchmark of 50% to Proceed to Step 2			
2. ORAL PRESENTATION/INTERVIEW (20%)			
<ul style="list-style-type: none"> Demonstrate Project Team's understanding of the assignment and scope of the project Describe your detailed proposal and how project success will be achieved Describe the key issues/sensitivities and how they will be addressed Clearly demonstrate your expertise, critical thinking and communication skills 	5% 3% 5% 7%		
Subtotal – Oral Presentation and Interview	20%		
3. FEE PROPOSAL	5%		
TOTAL	100%		

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