

## SERVICES AGREEMENT

**THIS AGREEMENT** made this 12th day of December, 2018.

**BETWEEN:**

The corporation of the Town of Cobourg  
(Hereinafter referred to as "the Town")

-and-

The Corporation of the County of Northumberland  
(Hereinafter referred to as "the County")

**AND WHEREAS** The Town and the County (hereinafter referred to as "the parties") wish to put an agreement in writing;

**NOW THEREFORE WITNESSETH** that in consideration of the mutual covenants and agreements and for other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged by the parties hereto) the parties hereto covenant and agree each with the other as follows:

**1. TERMS OF CONTRACT AND DUTIES**

- a) The Town shall engage the County to provide the Town with the services detailed in Schedule "A" attached hereto (the "Services"). Such Schedule "A" becomes and forms part of this Agreement.
- b) The engagement of the County pursuant to this Agreement shall commence on the date provided for in Schedule "A" attached hereto. Unless terminated in accordance with Article 3 below, this Agreement shall expire on the date provided for in Schedule "A".
- c) The parties shall review the terms and conditions of and the performance of the Services delivered under this Agreement on an ongoing basis.
- d) This Agreement shall come into force and take effect upon February 26<sup>th</sup>, 2018 and shall continue in full and force effect for a period of five years up to and including the last day of December 2023 unless earlier terminated in accordance with the provisions of this Agreement

## **2. CHANGES TO SERVICES**

- a) The parties acknowledge that the County and the Town may agree to the provision of additional Services by the County to the Town, which Services will be covered by the terms of this Agreement. In such event, the additional Services shall be set out in additional schedules and identified as to date. Upon execution by both parties of such additional schedules, the Services under such additional schedules shall be deemed to be included under this Services Agreement.
- b) The Town shall have the right to request change orders from time to time affecting the County's Services hereunder. If any such changes cause an increase or decrease in the cost of the Services, or the time required for performance, an equitable adjustment to the terms of this Agreement shall be made and agreed upon prior to the County being required to honor the change order. Such change in Services, term and payment, shall be included as a further Schedule and executed by both parties to be effective.

## **3. TERMINATION OF CONTRACT**

### **By the Town of Cobourg**

- a) Notwithstanding the provisions of Section 1 hereof, this Agreement may be terminated by the Town in the following manner and circumstances:
  - (i) At any time, without cause, on the giving by the Town of twelve (12) months' notice in writing to the County to such effect.
  - (ii) Immediately on the giving of written notice to the County in the event of a material default by the County of its obligations hereunder, which default is not corrected within one hundred and 20 (120) days of notice by the Town to the County.
- b) The termination of this Agreement shall not affect the liabilities of either party hereto for amounts due or accruing due to the other party at the date of termination, which debts shall continue to be binding and enforceable obligations. Furthermore, the indemnities herein provided for the benefit of the Town shall survive any termination of this agreement and shall continue in full force and effect for the benefit of the County.
- c) In the event that termination occurs part way through this Agreement, then the County shall be paid for all Services performed to the date of termination in accordance with the terms of this Agreement. This is without prejudice to

any claim by the Town for damages in the event the Agreement is terminated due to the default of the the County, which claim of damages may be set off against amounts owing to the County.

**By the County of Northumberland**

d) Notwithstanding the provisions of Section 1 hereof, this Agreement may be terminated by the County in the following manner and circumstances:

(iii) At any time, without cause, on the giving by the County of twelve (12) months' notice in writing to the Town to such effect.

(iv) Immediately on the giving of written notice to the Town in the event of a material default by the Town of its obligations hereunder, which default is not corrected within one hundred and 20 (120) days of notice by the County to the Town.

e) The termination of this Agreement shall not affect the liabilities of either party hereto for amounts due or accruing due to the other party at the date of termination, which debts shall continue to be binding and enforceable obligations. Furthermore, the indemnities herein provided for the benefit of the County shall survive any termination of this agreement and shall continue in full force and effect for the benefit of the Town.

f) In the event that termination occurs part way through this Agreement, then the County shall be paid for all Services performed to the date of termination in accordance with the terms of this Agreement. This is without prejudice to any claim by the County for damages in the event the Agreement is terminated due to the default of the the Town, which claim of damages may be set off against amounts owing to the County.

**4. REMUNERATION**

- a) Payment to the County for the term of the contract shall be as outlined in Schedule "A" attached hereto.
- b) In the event that termination of the Agreement occurs part way through the term, the County shall be paid for all Services performed to the date of termination in

accordance with the terms of Schedule "A" and this article 3, subject to the holdback specified in section 3(b), which may be applied to effect the completion of the Services by another party if required. This is without prejudice to any claim by the Town for damages in the event the Agreement is terminated due to the default of the County.

#### **5. CONFIDENTIALITY OF INFORMATION**

- a) The County shall not disclose to anyone outside the employ of the Town without written permission of the Town any aspect of the Town's business except as required in the course of exercising the services with the Town hereinbefore specified. This Agreement will continue to restrict the County's disclosure of such information after the termination of this Agreement.
- b) After the termination of this Agreement, the County shall promptly return to the Town any of the Town's information, materials and other property which may subsequently be in the County's possession, without further request from the Town.
- c) The County shall not copy or reproduce any information obtained as a result of or in connection with the County's provision of consulting services to the Town by any means whatsoever without the express written consent of the Town except as required by his/her duties. All such permitted copies shall contain any proprietary and confidential notices which appear on the originals of the information.
- d) Any of the Town's procedures, opportunities, projects, publications, or potential developments is and shall continue to be the property of the Town notwithstanding that the County may have worked in connection therewith, or may have been responsible therefore. Any such procedures, opportunities, projects, publications, or potential developments which he/she may work on or develop as part of his/her work with the Town are and shall continue to be the property of the Town as a "work for hire" under the copyright law.

#### **6. REPRESENTATIONS, WARRANTIES, & COVENANTS**

- a) The County represents and warrants that it is and shall continue to be a corporation duly incorporated, organized and subsisting under the laws of Ontario with good and sufficient power, authority and right to enter into and deliver this Agreement.
- b) The County represents and warrants that the Services will function, operate and perform in accordance with the specifications set out in Schedule "A" attached hereto (except to the extent such specifications are modified by the

parties from time to time).

- c) The County agrees that it will perform the Services in a competent manner, in accordance with this Agreement, all applicable laws, and industry standards.
- d) The County represents and warrants that it is operating and shall continue to operate in compliance with all applicable laws, rules, regulations, notices, approvals and orders of Canada and of the Province of Ontario and all municipalities thereof in which its business is carried on, including in compliance with all tax and employment laws.

**7. NATURE OF RELATIONSHIP.**

Neither party shall incur any obligation on the other's behalf, nor commit the other in any manner without the other's prior written consent.

**8. INDEMNITY**

The County hereby indemnifies and saves harmless the Town from any suit, action, cause of action, claim or damages whatsoever of any nature and kind arising from the breach by the County of any of the terms of this Agreement or the negligence of the County in performing the Services.

**9. SEVERABILITY**

If any provision or portion of any provision in this Agreement shall be held by a Court of competent jurisdiction to be unenforceable, invalid or illegal, such provision or such portion of the provision shall be severable and shall be deemed to be completed and the remaining provisions or portions shall remain valid and binding.

**10. GOVERNING LAW**

This Agreement shall be construed in accordance and governed by the laws in force in the Province of Ontario and as interpreted by the Courts of that Province.

**11. BINDING EFFECT**

This Agreement shall be binding upon the parties, their heirs, executors, administrators, successors and assigns provided that this Agreement shall be personal to The County and may not be assigned by him/her.

**12. NOTICE**

Any notice required or desired to be given hereunder shall be delivered in person or sent by prepaid registered mail, or fax or email if confirmation of delivery is obtained, addressed as follows:

(a) To the Town at:

Stephen Peacock CAO  
55 Kings St. West  
Cobourg ON K9A2M2

(b) To the County at:

Jennifer Moore CAO  
555 Courthouse Rd.  
Cobourg ON K9A5J6

Or at such other address as may be furnished in writing from time to time by either party to the other. Any notice mailed as aforementioned by registered mail shall be deemed to have been received three (3) business days after the posting thereof, and by electronic means, the first business day following delivery.

**13. TIME OF THE ESSENCE**

Time shall be of the essence in the performance of obligations pursuant to this Agreement.

**14. HEADINGS**

The headings in this Agreement are for convenience and reference only and shall not form part of this Agreement.

**15. AMENDMENTS**

No provision of this Agreement shall be amended, altered or waived except by a further written agreement between the parties. No waiver of a provision of this Agreement shall operate as a waiver of any other provision or of the same provision on a future occasion.

**16. ASSIGNMENT**

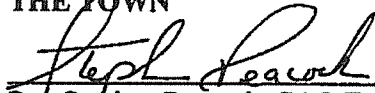
This Agreement shall not be assigned or otherwise transferred by the County without the prior written consent of the Town.

**17. AGREEMENT**

In the event of a conflict or inconsistency between the provisions of this Agreement and the Schedules the provisions of this Agreement shall prevail, then the Schedules, with respect to the conflict. This Agreement, including the Schedules, constitutes the entire agreement between the parties on the subject matter hereto.

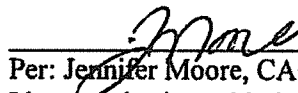
**IN WITNESS WHEREOF** the parties hereto have executed this Agreement as of the date first written above.

**THE TOWN**

  
\_\_\_\_\_  
Per: Stephen Peacock, CAO Town of Cobourg  
I have authority to bind the corporation.

Dec 14 / 18  
\_\_\_\_\_  
Date

**THE COUNTY**

  
\_\_\_\_\_  
Per: Jennifer Moore, CAO Northumberland County  
I have authority to bind the corporation

Dec 17 / 18  
\_\_\_\_\_  
Date

## **SCHEDULE "A"**

### **TERM OF CONTRACT:**

February 26, 2018 – December 31, 2023.

### **REMUNERATION:**

\$45,000 annually for duration of contract

Payments should be made by the last business day of each month based on equal payments. (Pro-rated for 2018 based on date of hire - \$40,000).

The remuneration will be increased by CPI annually on the anniversary of the agreement.

Additional work will be agreed by the Town and the County, be payable on a pro-rata basis.

Routine travel within the Town of Cobourg shall be included within the remuneration. Any travel, meals, accommodation or other out of pocket expenses incurred during out of town travel will be reimbursed by the Town upon submission of an invoice with supporting documentation as per the County expense policy.

All direct costs of manufacturing attraction such as advertising and promotion, consulting services, etc. will be paid directly by the Town. All costs must be pre-approved by the Town.

### **SERVICES TO BE PROVIDED BY THE COUNTY**

#### **Contract Summary**

The Town is looking to use the County's project management experience and expertise to support manufacturing attraction and growth.

Under the direction of the Director of Economic Development and Tourism, the Manufacturing Attraction Specialist will:

- Ensure that all strategies relating to the Town of Cobourg be developed with the Town of Cobourg and be approved by the Town of Cobourg prior to implementation
- Ensure that appropriate sales planning and service strategies are implemented to attract new investment in the manufacturing sector.



- Prepare business cases for prospective investors, provide site selection services and facilitate the establishment of operations in the County and for the Town  
Be responsible to administer and maintain the attraction of the County's/Town's manufacturing investments in accordance with legislative requirements and the County of Northumberland's/Town's related policies and procedures
- Develop and maintain investment sales and service tools as well as develop sector and market related strategies for investment attraction.
- Provide marketing and sales research and support
- Support the Ministry's investment attraction objectives
- Be aware of Ontario's economic climate, business assistance programs and conditions that affect investment opportunities in order to advise clients on how these elements relate to their business strategy and plan
- Analyze economic trends and market conditions and utilize this information to enhance investment opportunities
- Build and maintain lasting relationships
- Set priorities and manage multiple projects within a fast paced environment

#### **Reporting**

The Manufacturing Attraction Specialist will be available at the request of either party for the purposes of reviewing all client inquiries, as well as any planning and discussions related to any lead activities.

The Manufacturing Attraction Specialist will provide the CAO with a quarterly report as well as a monthly summary of activities. Presentations to town council will be at the request of the CAO. The schedule for this reporting will coincide with the annual Northumberland Council Coordinators Schedule specific to Economic Development.

#### **Responsibilities of the County**

The County will provide professional services as requested by the Town as considered appropriate under the circumstances.

#### **Responsibilities of the Town/County**

In order to ensure the accuracy of accounting data covered under this agreement both parties shall be responsible for communicating all known pertinent facts, issues and other information in a timely manner.