THE CORPORATION OF THE CITY OF PETERBOROUGH

BY-LAW NUMBER 09-139

BEING A BY-LAW TO EXECUTE AN AGREEMENT FOR THE DEVELOPMENT OF AN IMMIGRATION SERVICES WEB-BASED PORTAL

THE CORPORATION OF THE CITY OF PETERBOROUGH BY THE COUNCIL THEREOF HEREBY ENACTS AS FOLLOWS:

That the Mayor and Clerk be hereby authorized to execute an agreement between the Corporation of the City of Peterborough and the Community Opportunity Innovation Network for the development of an immigration services web-based portal in the form attached hereby as Schedule “A”, and to affix the Seal of the Corporation thereto.

By-law read a first, second and third time this 5th day of October, 2009

(Sgd.) D. Paul Ayotte, Mayor

(Sgd.) John Kennedy, Deputy Clerk
THIS AGREEMENT dated this ______ day of ___________________ 2009

B E T W E E N:

THE CORPORATION OF THE CITY OF PETERBOROUGH
(the ‘Client’)

and

THE COMMUNITY OPPORTUNITY AND INNOVATION NETWORK
A duly incorporated non-profit corporation
(‘COIN’)

WHEREAS, the Client has requested COIN to perform the services set out in Appendix “A” hereof in connection with the ‘Project’ (as herein defined) and COIN has agreed to perform such services subject to the Terms and Conditions of this Agreement;

NOW THEREFORE WITNESSETH that in consideration of the covenants contained herein, the Client and COIN agree as follows:

‘Project’ – means establishing and managing an “Immigrant Portal Project” for the Client in accordance with the Client’s agreement with Her Majesty the Queen in the Right of Ontario, as represented by the Minister of Citizenship and Immigration (the “Province”) which forms part of this agreement and is attached hereto as Appendix “A”;

ARTICLE 1 - GENERAL CONDITIONS

1.01 Retainer
The Client hereby retains the services of COIN in connection with the Project and COIN hereby agrees to provide the services described herein under the general direction and control of the Client.

1.02 Services
The services to be provided by COIN for the Project are set forth herein and in the attached Appendix ‘A’ and include such changes, alterations or additions as may be made under Section 1.07 are hereinafter called the ‘Services’. COIN acknowledges and agrees that Appendix “A” shall be read and interpreted in a manner consistent with COIN performing the obligations of the Recipient on behalf of the Client.

The Client is relying on COIN’s representation and warranty that it is capable of performing the obligations of the Recipient as contained in Appendix “A”.
COIN shall establish a steering committee consisting of five people, one from each of: the City, the New Canadian Centre, the Executive Committee of the Peterborough Partnership Council on Immigration Integration ("PPCII") and one member from the PPCII Integration Strategy Committee and one person from the Greater Peterborough Area Economic Development Corporation or the Workforce Development Board.

COIN shall establish and hold steering committee meetings on monthly basis, and hold such other such other additional meetings as are necessary to satisfactorily deliver the Services.

COIN shall prepare and deliver reports to the City’s Manager of Arts Culture and Heritage on 15 September 2009 and on 1 March 2010 in order that the City can satisfy its reporting and accounting requirements to the Province under Article 11 and Schedule B of Appendix “A”.

Concerning Appendix “A”, COIN acknowledges and agrees that the Services it provides to the Client include:

- The transfer and assignment of ownership and control of all domains and sub-domains related to the Project, forthwith upon completion of the Project;
- CD-ROM and/or DVD copies of the software and documentation related thereto;
- A back-up copy (in a form acceptable to the Client) of the entire database;
- The requirement that the software contain the ability to restore the database to any particular calendar day within the term of the Project. In the vernacular, the software shall contain “restore points” acceptable to the Client;
- All the documentation associated with the development of the portal module itself, including:
  - The development process used to create the portal module;
  - Information related to addressing and resolving security and user concerns;
  - The testing parameters used during the set-up and pilot project phases;
  - The Name and contact information of the person who performed the testing;
  - All information about what bugs were identified and how and what solutions were identified and implemented;
  - Working modules and notes about each component, if module sources of codes were used; and
  - All required implementation instructions.
1.03 **Compensation**
Provided COIN is not in breach of any of its obligations contained herein, the Client shall make payment to COIN in accordance with Appendix “A” and Article 3.2 “Reports”. The parties agree and acknowledge that the upset amount for the Project is as contained in Article 3.3. Nevertheless, that the amounts, as currently described on each line of Schedule ‘D’ of Appendix “A” may change provided the upset amount is not exceeded.

1.04 **Staff and Methods**
COIN shall use current state of the art principles and shall skilfully and competently perform the Services and shall employ only skilled and competent staff under the supervision of COIN's Executive Director.

1.05 **Data and Documents**
Any data and documents or copies thereof required for the Project shall be exchanged between the parties on a reciprocal basis. Documents prepared by COIN for the Client may thereafter be used by the Client. The Client has and shall retain ownership of the data and documents. COIN shall be entitled to retain a copy of all data and documents produced or gathered for the Project. Exchange of data and documents will be by hard copy and/or electronic files as determined by the Client.

1.06 **Records and Audit**
COIN shall keep copies of all records, invoices and supporting documents for a period of seven (7) years and shall co-operate with any audit initiated by the Client or the Province.

1.07 **Changes and Alterations and Additional Services**
With the consent of COIN the Client may in writing at any time after the execution of the Agreement or the commencement of the Services delete, extend, increase, vary or otherwise alter the Services forming the subject of the Agreement.

1.08 **Suspension or Termination**
The Client may at any time by notice in writing to COIN suspend or terminate the Services or any portion thereof at any stage of the undertaking. Upon receipt of such written notice, COIN shall perform no further Services other than those reasonably necessary to close out his Services.

1.09 **Indemnification**
COIN shall indemnify and save harmless the Client from and against all claims, actions, losses, expenses, costs or damages of every nature and kind whatsoever which the Client, his employees, officers or agents may suffer as a result of the negligence of COIN, his employees, officers or agents in the performance of this Agreement.
1.10 **Insurance**  
For the duration of the Project, COIN shall obtain and maintain Comprehensive General Liability Insurance, with limits of ONE MILLION DOLLARS ($1,000,000.00) naming the “The Corporation of the City of Peterborough” as an additional named insured. When requested, COIN shall forthwith provide the Client with proof of such insurance.

It is understood and agreed that, for the duration of the Project, the coverage provided by this policy of insurance shall not be changed or amended in any way nor cancelled by COIN.

1.11 **Assignment**  
Neither party may assign this Agreement without the prior consent in writing of the other.

1.12 **Previous Agreements**  
This Agreement, including the Appendices and Schedules attached hereto which form part of this agreement, supersedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the Project.

1.13 **Supervisor**  
COIN’s Executive Director shall be responsible for ensuring COIN’s satisfactory performance of its obligations hereunder.

1.14 **Inspection**  
The Client, or persons authorized by the Client, shall have the right, at all reasonable times, to inspect or otherwise review the Services performed, or being performed, under the Project and the premises where they are being performed.

1.15 **Publication**  
COIN agrees to obtain the consent of the Client before publishing or issuing any detailed information regarding the Project.

1.16 **Confidential Data**  
COIN shall not divulge any specific information identified as confidential, communicated to or acquired by them, or disclosed by the Client in the course of carrying out the Services provided for herein. No such information shall be used by COIN on any other project without the prior written approval of the Client.

1.17 **Time**  
COIN shall perform the Services expeditiously to meet the requirements of the Client and shall complete any portion or portions of the Services in such order as the Client may require and the Client shall have the right to take possession of and use any completed or partially completed portions of the Work notwithstanding any provisions expressed or implied to the contrary.

The Client shall make any decisions which he is required to make in connection therewith within a reasonable time so as not to delay the work of COIN.
1.18 **Contract Time - Commencement and Completion of Work**
The work shall be started within seven (7) days of the written order to commence work and carried on to completion and full possession there of given to the Client in the time specified in the Proposal, unless an extension of time has been granted by the Client in writing, in accordance with Article 1.19, in which case it shall be carried out to completion and possession given to the Client within the additional time allowed.

1.19 **Extension of Time**
An extension of time may be granted in writing by the Client in the event of the work being delayed beyond the prescribed time for the completion as a result of causes beyond COIN's control. Such extensions shall be for such time as the Client may prescribe, and the Client shall fix the terms on which the said extension may be granted. An application by COIN for an extension may be granted. An application by COIN for an extension of time as herein provided shall be made to the Client in writing at least fifteen (15) calendar days prior to the date of completion fixed by the Contract.

**ARTICLE 2 - SERVICES**

2.1 COIN represents and warrants that it shall exercise reasonable care, skill and diligence while performing the Services and obligations described herein and in Schedule ‘A’ which is attached hereto and form part of this agreement.

**ARTICLE 3 - PAYMENT AND REPORTS**

3.1 **Basis of Payment**
   a. Save and except for the In Kind Expenses, identified in Schedule “D” of Appendix “A”, the Client shall pay COIN the fees and costs outlined in Schedule ‘D’ of Appendix “A”.

   b. The Client shall provide payment in accordance with Article 3.2 below, provided COIN has provided the Client with such records of accounting, receipts and invoices as are necessary to satisfy the Client that the funds received were expended in accordance with Schedule “D” of Appendix “A”.

3.2 **Reports**
   a. COIN shall submit reports, prepared to satisfaction of the Client, acting reasonably, to the Client for all Services completed in accordance with the following table:

<table>
<thead>
<tr>
<th>Event</th>
<th>Delivery Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interim Report to Client</td>
<td>15 September 2009</td>
</tr>
<tr>
<td>Final Report to Client</td>
<td>1 March 2010</td>
</tr>
</tbody>
</table>
b. It is agreed and acknowledged that, for each report, a draft version of each report shall be prepared and provided to the Client at least seven (7) days before the Due Date. The Client will then provide its comments back to COIN who shall incorporate the Client’s comments into each report, following which, the Client shall submit each report to the Province in accordance with Schedule “B” of Appendix “A”.

c. The Client shall, by way of four equal instalments of $35,672.40 (based upon COIN’s satisfactory performance of the Services), pay COIN the sum of $142,689.60 upon:

i. COIN and the Client executing this agreement (the “First Payment”);
ii. 31 October 2009;
iii. 31 December 2009; and
iv. 28 February 2010;

d. In addition to the foregoing payments, the Client shall make a final payment of $15,854.40 to COIN upon COIN’s (i) satisfactory completion of the Final Report and (ii) the Client’s receipt of $15,854.40 from the Province.

e. Save and except for the First Payment referred to above, each subsequent payment is contingent upon COIN satisfactorily performing its obligations under this agreement.

f. COIN shall use its best efforts to pay any invoice associated with its obligations under the Project within thirty (30) days of receiving same.

g. In the event any of the Project’s delivery dates are affected by the actions of the Province or the Client, the Client shall use its best efforts to give reasonable notice to COIN of same and, as necessary, use its best efforts to develop new delivery dates with the Province that are acceptable to COIN.

3.3 **Upset Limit**

Notwithstanding any other provisions contained in this agreement, it is understood and agreed that Upset Limits have been agreed to by COIN and the Client for the services to be performed by them under this agreement and that the combined Upset Limit is $158,544.00 (inclusive of all applicable taxes).
WITNESS THEREOF the parties hereto have caused to be executed those presents by their officers properly authorized in that behalf on the day and year first above written.

SIGNED, SEALED AND DELIVERED in the presence of:

COMMUNITY OPPORTUNITY AND INNOVATION NETWORK

Signature
Printed Name:________________________
Title:________________________
I/We have the authority to bind COIN

THE CORPORATION OF THE CITY OF PETERBOROUGH

______________________________
Paul Ayotte, Mayor

______________________________
Nancy Wright-Laking, City Clerk