

AGREEMENT FOR THE PROVISION OF SERVICES

This Agreement is made effective on the 24th day of March, 2021, upon approval by Middlesex Centre.

B E T W E E N:

THE CORPORATION OF THE TOWNSHIP OF ADELAIDE METCALFE
a corporation incorporate pursuant to the laws of Province of Ontario
(hereinafter referred to as "Adelaide Metcalfe")

OF THE FIRST PART

- and -

MUNICIPALITY OF MIDDLESEX CENTRE
a corporation incorporate pursuant to the laws of the Province of Ontario
(hereinafter referred to as "Middlesex Centre")

OF THE SECOND PART

WHEREAS Adelaide Metcalfe and Middlesex Centre are desirous of entering into a relationship whereby Adelaide Metcalfe will retain the services of certain Middlesex Centre employees;

AND WHEREAS the *Municipal Act, 2001*, section 20(1) provides that a municipality may enter into an agreement with one or more municipalities or local bodies, as defined in section 19 of the *Municipal Act, 2001*, or a combination of both to jointly provide, for their joint benefit, any matter which all of them have the power to provide within their own boundaries;

AND WHEREAS the parties to this Agreement wish to enter into this Agreement for the sharing of Building Officials;

AND WHEREAS a breakdown of costs for services rendered will be allocated proportionately to those receiving services from Middlesex Centre, which may be revised from time-to-time;

AND WHEREAS Adelaide Metcalfe and Middlesex Centre wish to clarify certain obligations and rights in respect of relationship between the municipalities;

THEREFORE THIS AGREEMENT WITNESSETH THAT, in consideration of the mutual covenants and undertakings contained herein and the provision of other good and valuable consideration by each Party to the other, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby mutually covenant and agree as follows:

1. Recitals

- 1.1 The above recitals are true and herby incorporated into this Agreement by reference.

2. General

- 2.1 Adelaide Metcalfe hereby agrees to retain the services of employees of Middlesex Centre, subject to the terms in this agreement, who shall perform such duties and exercise such responsibilities as are assigned by Adelaide Metcalfe and agreed to by Middlesex Centre in writing from time to time as it relates to building services including the services of Middlesex Centre's Building Officials.
- 2.2 In carrying out the agreed upon duties and responsibilities, employees of Middlesex Centre shall comply with all applicable law federal, provincial and municipal including but not limited to all by-laws, policies, procedures, rules and regulations in force from time to time and that are applicable to the building services being provided by Middlesex Centre in this Agreement.
- 2.3 Middlesex Centre shall carry out the building services agreed upon by the Parties in a diligent, faithful and honest manner.
- 2.4 Neither Adelaide Metcalfe nor Middlesex Centre nor any of their respective employees or representatives are employees of the other party and neither Middlesex Centre nor Adelaide Metcalfe shall represent to the contrary to any entity or individual. Neither party shall be liable for any obligations incurred by the other party other than specified herein and as agreed to in writing by the parties, it being specifically understood that the respective activities of each of the parties shall be operated separately. This Agreement is not intended to create and shall not be deemed to have created the relationship of partners or joint venturers or any other relationship between the parties hereto.
- 2.5 Adelaide Metcalfe agrees to appoint, by by-law, those Building Officials from Middlesex Centre that will be performing the building plan review and building permit inspection services under the provisions of this Agreement.

3. Duration of Agreement

- 3.1 This Agreement shall be for a term of three (3) years and shall begin on March 15, 2021 (the "Commencement Date") and shall continue to remain in effect for a three (3) year term ending on March 15, 2024 (the "**Initial Term**") and shall be automatically renewed for a subsequent three (3) year term (the "**Renewal Term**") unless either party terminates this Agreement by providing the other party with written notification of the termination ninety (90) days prior to the effective date of termination set out above for the Initial Term and Renewal Term.

- 3.2 This Agreement and the building services provided by Middlesex Centre may be terminated by Adelaide Metcalfe in their sole and absolute discretion any time, upon providing the other party a minimum of thirty (30) days' written notice of the termination (the "**Termination Notice**").
- 3.3 In the event Adelaide Metcalfe exercises its option to terminate this Agreement and the Building Services provided by Middlesex Centre under the terms of this Agreement pursuant to section 3.2 above, Adelaide Metcalfe shall pay a total of six (6) months fees based on an average of the services provide in a one year period prior to the termination. Such payment shall be made by Adelaide Metcalfe within a period of fifteen (15) days upon providing the Termination Notice to Middlesex Centre as set out in this section 3.3.
- 3.4 In the event Middlesex Centre exercises its option to terminate this Agreement and the Building Services provided to Adelaide Metcalfe under the terms of this Agreement pursuant to section 3.2 above, the obligations and services provided by Middlesex Centre shall cease **three (3) months following the date** set out in the Termination Notice with no further obligation or responsibility to Adelaide Metcalfe upon which date the terms and conditions of this Agreement shall become null and void.

4. Fees Payable

- 4.1 As full remuneration for all services provided by Middlesex Centre to Adelaide Metcalfe under the terms and conditions of this Agreement, Adelaide Metcalfe shall pay to Middlesex Centre a fee of \$71.83 per hour per Middlesex Centre employee (2021 rate) whose services are being utilized which fee shall include a cost of living and benefit increase each year (based on Middlesex Centre's wage increases, if any), and such amounts shall be incorporated immediately upon the wage increase coming into effect for Middlesex Centre. The parties agree that this remuneration shall be reviewed every three years beginning in December 2024 with any modifications to the remuneration to be subject to compliance with all terms and conditions of this Agreement.
- 4.2 Middlesex Centre shall be reimbursed by Adelaide Metcalfe for all incurred costs associated with the provision of the Building Services including but not limited to travel and other expenses actually and properly incurred by Middlesex Centre employees in connection with and directly related to services provided in this Agreement. Any mileage shall be paid at a rate commensurate with the mileage policies of Middlesex Centre in effect at that time the travel expenses was actually incurred.
- 4.3 The parties agree that Adelaide Metcalfe will not be responsible for any statutory benefits including but not limited to vacation pay, Canada Pension Plan or any other source deductions required to be paid by Middlesex Centre and/or its employees in the performance of services and duties under the terms of this Agreement. For clarification purposes at all times the Building Officials providing services to Adelaide Metcalfe as set out in section 2.4 shall be employees of Middlesex Centre and at no time will be considered or treated as employees of Adelaide Metcalfe.

5. Duties

- 5.1 The parties agree that Middlesex Centre's Building Offices shall provide Chief Building Official and Building Inspector ("**Building Official**") services to Adelaide Metcalfe and their duties shall include but not limited to plans review, processing and issuance of building permits and building inspection and as agreed to by the parties in writing and the Building Official shall at all times perform these services in a timely fashion and in accordance with all applicable law.
- 5.2 In addition to section 5.1 above, Middlesex Centre Building Officials are providing services to Adelaide Metcalfe in order to respond to any and all enforcement related matters solely related for the purposes of reviewing non-compliance of permit, planning applications and property in accordance with applicable law including but not limited to the *Building Code Act*.
- 5.3 Middlesex Centre agrees that as part of the services performed under sections 5.1 and 5.2 above, Middlesex Centre agrees to provide frequent reporting and updates to Adelaide Metcalfe Council on building permit activity and attend Council from time-to-time as deemed necessary and as requested by Adelaide Metcalfe.

6. Office Space

- 5.1 Adelaide Metcalfe shall provide office space for Middlesex Centre Building Officials at no cost to Middlesex Centre that will be available for use of Middlesex Centre Building Officials to provide the services set out in this Agreement.

7. System Requirements

- 6.1 Adelaide Metcalfe acknowledges and agrees that it shall use and rely on the same software platform as Middlesex Centre in the administration and processing of permits and applications as may be amended and or changed from time to time.
- 6.2 Adelaide Metcalfe acknowledges and agrees that it shall be responsible for training its staff to utilize the software platform identified by Middlesex Centre in section 6.1 above for the purposes of application intake, records management and financial processing.

8. Indemnity

- 8.1 Adelaide Metcalfe hereby agrees to indemnify and save harmless Middlesex Centre from any and all losses, costs, expenses, liabilities and other claims incurred by Middlesex Centre arising out of, or connected with, or in any way associated with, the performance or non-performance of Middlesex Centre's obligations under this Agreement provided that Middlesex Centre's actions are in compliance with the terms and conditions of this Agreement.
- 8.2 All liability insurance, except for WSIB Coverage, required under this Agreement must include an additional insured endorsement specifying Middlesex Centre, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Middlesex Centre's activities to be performed under this Agreement.

9. WSIB Coverage

- 9.1 Middlesex Centre shall at all times ensure that any Building Officials providing services under the terms of this Agreement are provided Workplace Safety and Insurance Board coverage.

10. Severability

- 10.1 The parties agree that each section of this Agreement is distinct and severable. If any section of this Agreement, in whole or in part, is or becomes illegal, invalid, void, voidable or unenforceable in any jurisdiction by any court of competent jurisdiction, the illegality, invalidity or unenforceability of that section, in whole or in part, will not affect:

- a. the legality, validity or enforceability of the remaining sections of this Agreement, in whole or in part; or
- b. the legality, validity or enforceability of that section, in whole or in part, in any other jurisdiction.

11. Governing Law

- 11.1 This agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada.

12. Further Assurances

- 12.1 The Parties hereto at all times warrant that they shall do, execute, acknowledge, deliver and/or cause to be done such other acts, agreements and other documents as may be reasonably required or desirable to give effect to the terms of this Agreement.

13. Amendment and Waiver

- 13.1 No amendment, discharge, modification, restatement, supplement, termination or waiver of this Agreement or any section of this Agreement is binding unless it is in writing and executed by the Parties to be bound. No waiver of, failure to exercise, or delay in exercising, any section of this Agreement constitutes a waiver of any other section (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

14. Enurement

14.1 This Agreement enures to the benefit of and is binding upon the Parties.

15. Assignment

15.1 Neither this Agreement nor any right or obligation under this Agreement may be assigned by any Party without the prior written consent of the other Parties.

16. Covenants

16.1 All obligations contained in this Agreement, even if not expressed to be covenants, shall be deemed to be covenants.

17. Entire Agreement

17.1 This Agreement constitutes the entire agreement between the Parties pertaining to Building Official services and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties. The Parties acknowledge that there are no representations, warranties or other agreements between the Parties in connection with the subject matter of this Agreement except as specifically set out in this Agreement and that no Party has been induced to enter into this Agreement in reliance on, and there will be no liability assessed, either in tort or contract, with respect to, any warranty, representation, opinion, advice or assertion of fact, except to the extent it has been reduced to writing and included as a term in this Agreement. Except as amended herein, the terms of this Agreement shall remain in full force and effect.

18. General Provisions

18.1 The Parties agree that:

- a. words importing the singular only shall include the plural;
- b. words importing the masculine only shall include the female;
- c. words importing a person shall include a corporation;
- d. the part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- e. all references to any statute, regulation or by-law or any provision thereof includes such statute, regulation or by-law or provision thereof as amended, revised, re-enacted and/or consolidated from time to time and any successor statute, regulation or by-law thereto; and

- f. whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.

19. Counterparts

- 19.1 This Agreement may be executed and delivered by the Parties in one or more counterparts, each of which will be an original, and those counterparts will together constitute one and the same instrument.

20. Notices

- 20.1 Any Communication shall be in writing and may be delivered:

- a. personally or by courier;
- b. by prepaid registered mail; or
- c. by facsimile; or
- d. by electronic mail or equivalent electronic means of transmission, if a hard copy of the Communication is delivered by one of the three methods of delivery referred to above.

- 20.2 Any Communication shall be delivered to the persons and addresses as follows:

to Middlesex Centre at: Arnie Marsman, Chief Building Official
10227 Ilderton Road
Ilderton, ON N0M 2A0
marsmana@middlsexcentre.on.ca

to Adelaide Metcalfe at: Morgan Calvert, CAO
2340 Egremont Drive
Strathroy, ON N7G 3H6
mcalvert@adelaidemetcalfe.on.ca

or to any other address as any of the Parties may at any time advise the other by Communication given or made in accordance with this section.

- 20.3 Any Communication delivered to the Party to whom it is addressed will be deemed to have been given or made and received on the day it is delivered at that Party's address, provided that if that day is not a Business Day then the Communication will be deemed to have been given or made and received on the next Business Day. Any Communication transmitted by facsimile, e-mail or other functionally equivalent electronic means of transmission will be deemed to have been given or made and received on the day on which it is transmitted; but

if the Communication is transmitted on a day which is not a Business Day or after 4pm (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

Signature page to follow.


IN WITNESS THEREOF the parties hereto have duly executed this Agreement in the Province of Ontario and agree to be bound thereby as of the day, month and year first written above.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

The Corporation of the Township of Adelaide Metcalfe

As authorized by By-law No. 20 of 2021

Per: 
Mayor, Kurtis Smith

Per: 
Clerk/Acting Treasurer, Jennifer Turk
We have the authority to bind the corporation.

Municipality of Middlesex Centre

As authorized by By-law No. 2021-_____

Per: _____
Mayor, Aina DeViet

Per: _____
Clerk, James Hutson

