

THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE

BY-LAW NO. 46-2018

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Being a by-law to authorize the execution of an Information Technology Services Agreement with The Corporation of the County of Middlesex for the provision of IT Services to the Municipality of Thames Centre.

**WHEREAS** Section 5(3) of the Municipal Act, 2001, c.25, as amended, authorizes a municipality to pass by-laws to exercise its municipal powers;

**AND WHEREAS** the Council of The Corporation of the Municipality of Thames Centre is desirous of entering into an Information Technology Services Agreement with The Corporation of the County of Middlesex for the provision of IT Services to the Municipality of Thames Centre;

**NOW THEREFORE** the Council of The Corporation of the Municipality of Thames Centre **HEREBY ENACTS AS FOLLOWS:**

1. **THAT** entering into an Information Technology Services Agreement with The Corporation of the County of Middlesex is hereby approved and authorized.
2. **THAT** the Mayor and Clerk be and they are hereby authorized and directed to execute on behalf of the Corporation of the Municipality of Thames Centre the said Information Technology Services Agreement, in substantially the same form as attached hereto and forming a part of this By-law.
3. **THAT** the Agreement shall take effect and come into force upon the signing thereof by all parties thereto.
4. **THAT** this By-law shall come into force and take effect upon the final passing thereof.

**READ a FIRST and SECOND** time this 7<sup>th</sup> day of May, 2018.

**READ a THIRD** time and **FINALLY PASSED** this 7<sup>th</sup> day of May, 2018.

Ma 

Deputy Clerk, T. Michiels

**INFORMATION TECHNOLOGY SERVICES AGREEMENT**

**SERVICE AGREEMENT** effective this 7<sup>th</sup> day of May, 2018.

**BETWEEN:**

**THE CORPORATION OF THE COUNTY OF MIDDLESEX**  
(hereinafter called the "**County**")

- and -

**THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE**  
(hereinafter called the "**Municipality**")

**WHEREAS:**

- A. The County is a municipality and an upper-tier municipality as defined by the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended or replaced (hereinafter the "**Municipal Act**");
- B. The Municipality is a lower-tier municipality and local municipality as defined by the *Municipal Act*;
- C. Local municipalities located within the geography of the County of Middlesex and County Councillors have expressed interest in having the County provide information technology services to the local municipalities;
- D. Section 9 of the *Municipal Act* provides that municipalities have the capacity, rights, powers and privileges of natural persons, which includes the power to do things that natural persons can do, such as, *inter alia*, provide information technology services and enter into agreements;
- E. Subsection 11(1-2) of the *Municipal Act* provides broad authority for upper-tier municipalities to manage their respective financial affairs and to provide any service the upper-tier municipality considers desirable for the public;
- F. County Council considers the County provision of information technology services to the local municipalities to be desirable, effective and valuable to the community;
- G. Subsection 19(2)3 and 20 of the *Municipal Act* allows an upper-tier municipality to provide a service in a local municipality as long as one of the purposes of its provision is for lower-tier municipal purposes, there is consent from the local municipality, and the municipalities enter into an agreement with respect to the provision of such services;
- H. The Municipality desires and consents for Information Technology Services to be provided by the County and confirms that the purpose of delivery of such service from the County is to pool resources with the County in a cooperative effort to provide local municipalities with high quality information technology services at a cost which is not prohibitive (hereafter referred to as the "**Initiative**");

- I. The Municipality acknowledges that, in reliance on the local municipalities' express and collective desire for the Initiative, the County has hired information technology staff to provide information technology services to the local municipalities and that it would be detrimental to the County in terms of human resources and employment law costs if the Municipality were to terminate this Agreement;
- J. Section 8 of the *Municipal Act* provides that the powers of municipalities shall be interpreted broadly so as to confer broad authority to enable municipalities to govern their own affairs;
- K. This Agreement sets out the conditions upon which the County will provide information technology services to the Municipality; the requirements of said services; and the methods for requesting said services;
- L. The CAO or the CAO's designate is authorized to administer this Agreement for the Municipality and execute any such further documents as may be necessary to give effect to services herein described;
- M. The Director of ITS and his or her designate is authorized to administer this Agreement on behalf of the County and execute any such further documents as may be necessary to give effect to services herein described.

**NOW THEREFORE THIS AGREEMENT WITNESSETH THAT**, in consideration of the payment of the sum of TWO DOLLARS (\$2.00) from each Party to the other and for other good and valuable consideration, including the covenants herein, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

#### **Recitals**

- 1. The above recitals are true and hereby incorporated into this Agreement by reference.

#### **Definitions**

- 2. In this Agreement, in addition to terms defined elsewhere in this Agreement, the following terms have the following meanings:
  - (a) **"Agreement"** means this Agreement, including all Schedules, as it may be confirmed, amended, modified, supplemented or restated by written agreement between the Parties;
  - (b) **"Business Day"** means any day excluding a Saturday, Sunday or statutory holiday in the Province of Ontario.
  - (c) **"Change Order(s)"** means a Change Order substantially in form of *Schedule "C"* which adds, removes or modifies a service to be provided to the Municipality by the ITS Department for the duration and at the cost set out in the Change Order. Any duly endorsed Change Order(s) by the Municipality and the Director of ITS shall be an amendment to this Agreement and shall be appended hereto.

- (d) **“Communication”** means any notice, demand, request, consent, approval or other communication which is required or permitted by this Agreement to be given or made by a Party;
- (e) **“Consultant(s)”** means a third party(ies) whose services are procured by the ITS Department upon the recommendation of the Director of ITS and paid for by the Local Municipalities whether individually or as a cooperative purchasing scenario.
- (f) **“Director of ITS”** means the person appointed to hold the position of the Director of Information Technology Services of the ITS Department.
- (g) **“IT”** means Information Technology.
- (h) **“ITS”** means Information Technology Services.
- (i) **“ITS Department”** means the department of the County having the mandate and responsibility for the provision of Information Technology Services.
- (j) **“ITS Staff”** means employees of or independent contractors contracted with the County ITS Department.
- (k) **“IT Security”** means systems or processes designed to mitigate unauthorized access to computers, networks and/or data. This could be in the form of privacy and confidentiality policies, employee education and training or IT systems or services which attempt to limit the exposure to the unauthorized access, use, disclosure, disruption, modification, inspection, recording or destruction of information.
- (l) **“Local Municipalities”** means all of the local municipalities which are located within the geography of the County of Middlesex and, each of which have entered into a Service Agreement with the ITS Department.
- (m) **“Options Menu”** means the services listed in *Schedule “B”*, which may be provided by the ITS Department in the event of a duly endorsed Change Order(s) by the Municipality and the Director of ITS for the duration and at the cost set out in Change Order(s).
- (n) **“Parties”** means The Corporation of the County of Middlesex and THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE collectively and **“Party”** means one of them.
- (o) **“Services”** means the information technology services list set out in *Schedule “A”* to be provided for the Term of this Agreement and for the cost set out in section 10(a) of this Agreement, subject to Change Order(s).

### Term

3. Subject to the termination and amendment provisions of this Agreement (ss. 20-22 and 25), the term of this Agreement shall be for five (5) years commencing on the

effective date noted at the top of page one (1) of this Agreement (hereafter, the "Term"). The Term shall be automatically renewed for two further five (5) year terms commencing on the anniversary date of each five-year term, provided that neither Party terminates this Agreement in accordance with ss. 20-22, on or before the applicable renewal date.

### Information Technology Services

4. The ITS Department shall provide THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE with ITS, as set out in the following documents:
  - (a) **Schedule "A"** Services List – sets out the services to be provided for the Term of this Agreement for the cost set out in section 10(a) of this Agreement, subject to Change Order(s).
  - (b) **Schedule "B"** Options Menu - sets out services which are not included in the cost set out in section 10(a) of this Agreement but may be provided by the ITS Department in the event of a duly endorsed Change Order(s) by the Municipality and the Director of ITS for the duration and at the cost set out in Change Order(s).
  - (c) **Schedule "C"** Change Order Form – provides a form of Change Order Form to be used by the Parties.
  - (d) **Schedule "D"** Regular Service Level Guidelines – a guideline document which sets out incident response guidelines.
  
5. The scheduling and delivery times for Services will be discussed between the Director of ITS and the Municipality and the ITS Department shall use reasonable efforts to cooperate with and accommodate the scheduling requests of the Municipality.
  
6. Any change, modification or addition of a service to the Services, to be effective, must be processed through a Change Order(s) substantially in the form of *Schedule "C"* and endorsed by the Municipality and the Director of ITS. Change Orders shall generally identify the following:
  - (a) The nature of the change such as addition, deletion or modification of the service;
  - (b) The duration of the change;
  - (c) How the Services are affected;
  - (d) The increase or decrease of the cost of the Services as a result of the Change Order.

It is the responsibility of the Municipality to ensure that all Change Orders are compliant with local purchasing by-laws or policies. The County shall be permitted to rely upon the signature of the CAO or his or her designate as confirmation of compliance with any such policy or by-law.

Any duly endorsed Changer Order(s) by the Municipality and the Director of ITS shall be an amendment to this Agreement and shall be appended hereto.

### **Consultants to be Procured by the County ITS Department**

7. From time to time, it may be necessary for the ITS Department, on the recommendation of the Director of ITS, to procure Consultant(s) to assist with the provision of IT Services. Consultants may be retained where the ITS Department requires:
  - (a) specialized expertise;
  - (b) additional support for significant projects;
  - (c) additional support for short deadlines,
 or in any other circumstance deemed appropriate by the Director of ITS.
8. Where the Director of ITS recommends the procurement of Consultant(s), he/she shall notify the Municipality in writing of such recommendation with written reasons why the Consultant is necessary. It shall be the sole responsibility of the ITS Department to procure the Consultant(s) in accordance with the County purchasing policy and pay such Consultant(s) directly.
9. Any amounts due and payable to a Consultant or incurred by the County in procuring the consultant pursuant to section 7 shall be calculated and recovered from the Municipality. Prior to awarding the procurement of a Consultant to a particular individual or entity the ITS Department shall provide the name of a proposed Consultant to the Municipality so that it may advise the ITS Department of any potential conflicts of interest. Where the consultant may be performing services that will benefit more than one of the Local Municipalities, then the cost of the consultant will be divided between the benefitting Local Municipalities on a *pro rata* basis or as set out by the Director of ITS in writing to the Municipality.

### **Financial Provisions**

#### *Base Cost + Actual Costs Adjustment*

10. The County shall be compensated for the provision of IT Services by the Municipality in accordance with the **Base Cost + Actual Costs Adjustment** formula set out below:
  - (a) The base cost for the Services for the Municipality provided herein shall be \$30,000 (hereafter the, "**Base Cost**"), as set out in *Schedule "A"*.
  - (b) The Municipality shall pay to the County the Base Cost in quarterly invoices produced on or about March 31, June 30, September 30, and December 31 of each year during the Term of this Agreement.

- (c) Invoices are payable within 30 days from the date the invoice is issued by the County.
- (d) An annual costs reconciliation and adjustment (hereafter the “**Actual Costs Adjustment**”) will be made in December of each year during the Term of this Agreement to ensure that the Municipality’s annual payment for the Services aligns with the actual cost to ITS of providing the Services. The Actual Costs Adjustment shall take into account the costs associated with any Change Order(s) made during the year and any other consideration deemed relevant by the Director of ITS, including but not limited to:
  - (i) the impact that the Services for the Municipality has had on the human resources of the ITS Department;
  - (ii) salary and benefits of ITS Staff;
  - (iii) infrastructure costs;
  - (iv) licensing costs; and
  - (v) software and hardware costs.

The annual Actual Costs Adjustment, if any, will be reflected on the Municipality's final invoice for the year issued on or around December 31. A report detailing the Actual Costs Adjustment will be provided by the Director of ITS to the CAO of the Municipality or his or her designate.

#### *Annual Review*

- 11. The ITS Department shall perform an annual review (hereafter the “**Annual Review**”) in December of each year during the Term of this Agreement, and any renewals thereof, which will take into account both the Actual Costs Adjustment noted above and any anticipated Change Order(s) anticipated for the upcoming year, for the purposes of adjusting the Base Cost of the Services for the upcoming year. In determining the Base Cost for the upcoming year, the ITS Department shall take into account:
  - (a) any Change Order(s) made during the year;
  - (b) the Municipality’s actual or anticipated ITS needs for the upcoming year;
  - (c) the impact that the Services for the Municipality has had on the human resources of the ITS Department;
  - (d) salary and benefits of ITS Staff;
  - (e) infrastructure costs;
  - (f) licensing costs;
  - (g) software and hardware costs; and

- (h) any other consideration deemed relevant by the Director of ITS.

Without limiting the foregoing, the Parties acknowledge and agree that, subject to any cost adjustment required by any Change Order(s) made during the year and any addition or removal of services based on the anticipated needs of the Municipality for the upcoming year, the Base Cost will increase by a minimum of two percent (2%) each year to account for increased labour and operation costs.

Following the Annual Review, the Director of ITS, in consultation with the Municipality, shall amend *Schedule "A"* to adjust the Base Cost of the Services for the upcoming year. Any Change Order(s) made during the year that are intended to be in effect during the upcoming year shall be incorporated into the amended *Schedule "A"* at that time. The amended *Schedule "A"* shall come into effect January 1 of the year following the Annual Review.

#### *Renegotiation Out of Necessity*

12. Notwithstanding the foregoing or any other provision of this Agreement, at any time during the Term of this Agreement, whether due to an Annual Review or otherwise, the Director of ITS in his or her sole discretion determines that that the Services being provided to the Municipality by the ITS Department are having a significant impact on human resources of the ITS Department which warrants an adjustment to the price, the price of the Services shall be renegotiated as between the Director of ITS and the Municipality's CAO and this Agreement shall be amended as a result of the renegotiation. In the event that the Director of ITS and the Municipality's CAO are unable to reach a renegotiated agreement within four (4) weeks from the time the Municipality was notified of the need for a price change, the price shall be considered a dispute and the dispute resolution mechanism provided for in section 27 of this Agreement shall commence.

#### **County Responsibilities**

13. The County covenants that it shall be responsible for the following:
- (a) the provision of the Services, as defined in *Schedule "A"* of this Agreement, subject to the limitation of liability set out in section 14 of this Agreement.

For clarification purposes, IT Security, as defined herein, are designed to mitigate unauthorized access to computers, networks and/or data, but do not guarantee total protection against computer viruses, unauthorized use of, or access to any computer; or the loss of, loss of use of, damage to, corruption of, inability to access or inability to manipulate electronic data, for such is beyond the scope of the Services. The Municipality remains responsible for any and all losses resulting from the aforementioned causes, subject to section 14 of this Agreement.

- (b) providing best efforts to leverage shared services to reduce overall ITS costs to Local Municipalities located in the geography of Middlesex County;



- (c) its own employees, Councillors, officers, and agents engaging in the furtherance of their duties, wherever situate, in relation to the performance of the Services under this Agreement; and
- (d) subject to the limitation or liability in section 14 of this Agreement, the negligence of its own employees and agents in the furtherance of their duties under this Agreement.

### **County Indemnity**

14. The County hereby releases, indemnifies, and holds harmless the Municipality, its Mayor, Councillors, employees, directors, officers, and agents from and against any and all claims, causes of action, or losses suffered by the Municipality as a direct result of the negligent provision of the Services by County employees acting in the furtherance of this Agreement, however, the total amount of any such claims, causes of action, or losses for which the County may be liable to the Municipality in any calendar year shall be strictly limited to fifty-thousand dollars (\$50,000.00).

### **Responsibilities of the Municipality**

15. The Municipality covenants that it shall be fully responsible for the following:
- (a) Its own corporate operations and activities;
  - (b) Its own employees, Councillors, officers, and agents engaging in the furtherance of their duties, wherever situate;
  - (c) Its own negligence or the negligence of its own employees, Councillors, Mayors, directors, officers, and agents;
  - (d) Without limiting clauses 15(a-c), the operating and capital costs associated with the IT systems, software, hardware, licensing, warranties, and other related costs of the IT systems, software, and hardware which it owns, maintains or licenses;
  - (e) Without limiting clauses 15(a-c), appropriately budgeting for its own IT operating and capital expenditures, as recommended by Director of ITS;
  - (f) Determining, as the ultimate client, and in consideration of the recommendations of the ITS Department, which IT services are to be included in *Schedule "A"* on an annual basis;
  - (g) Without limiting clause 15(f), where IT Security is provided as part of the Services, ensuring implementation of, and adherence to, the security and mitigation measures recommended by the ITS Department;

- (h) Without limiting clauses 15(a-c), losses arising directly or indirectly from computer viruses, unauthorized use of, or access to any computer, or the loss of, loss of use of, damage to, corruption of, inability to access or inability to manipulate electronic data;
- (i) Providing best efforts to the Director of ITS notice of upcoming projects, strategies and objectives that may impact IT resources;
- (j) Adhering to technology standards as determined by the ITS Department;
- (k) Without limiting clause 15(a-c), ensuring that third party vendor agreements (underpinning contracts) are in place for appropriate service coverage;
- (l) Assigning a knowledgeable primary contact to facilitate IT related inquiries and approvals;
- (m) Without limiting clause 15(a-c), adopting and adhering to appropriate ITS policies; and
- (n) Providing to the ITS Department any and all relevant information relating to its: IT systems; the use of its IT systems; software; hardware; licensing; and warranties.

#### **Indemnity from the Municipality**

16. The Municipality hereby releases, indemnifies, completely holds harmless and agrees to defend the County, including the County's Warden. Councillors, employees, directors, officers, agents and legal counsel from and against any and all claims, causes of action, demands, losses, costs, charges, fees, expenses, duties, dues, accounts, covenants, or other proceeding of every kind or nature whatsoever at law or in equity brought against, suffered by or imposed which arise out of or are related to any loss, damage or injury to any person or property (including injury resulting in death) which is caused by its operations, activities or the negligence of its employees, directors, or officers, including but not limited to: losses arising directly or indirectly from computer viruses, unauthorized use of, or access to any computer, or the loss of, loss of use of, damage to, corruption of, inability to access or inability to manipulate electronic data, subject to section 14 of this Agreement.

#### **Force Majeure**

17. Despite any section of this Agreement, no Party shall be liable for damages caused by delay or failure to perform its obligations under this Agreement where such delay or failure is caused by an event beyond its reasonable control (hereinafter referred to as a "Force Majeure Event"). The Parties agree that an event shall not be considered a Force Majeure Event if a reasonable person owing duties to others in the same or similar circumstances as provided for under this Agreement would have put in place contingency plans to either materially mitigate or negate the effects of such an event. If a Party seeks to excuse itself from its obligations under this Agreement due to a Force Majeure Event, that Party shall immediately notify the other Party(ies) of the delay or non-performance, the reason for such delay or non-performance, and the

anticipated period of delay or non-performance. In addition, the Party excusing itself due to a Force Majeure Event shall use its best efforts to remedy any such non-performance, except that nothing herein contained shall require any such party to make settlement of any labour dispute on terms unacceptable to it.

### **Compliance with Law and Confidentiality**

18. The Parties agree to treat each other's information that is not publicly available, including information relating to the business affairs, operations, human resources and proprietary practices as confidential.
19. Notwithstanding section 18 above, both Parties acknowledge that each of them, being an Ontario municipality, is subject to the *Municipal Freedom of Information and Protection of Privacy Act*, RSO 1990, c M56 ("MFIPPA") and as a result, some information may be required to be disclosed by either party as a statutory requirement. The Parties agree that notwithstanding section 18 of this Agreement, either Party shall have no obligation with respect to the disclosure of confidential information and does hereby fully and finally release the other, its respective Warden, Mayor, Councillors, officers, directors, employees, agents, and legal counsel from any liability for disclosing confidential information in the event that the Party that discloses confidential information does so in accordance with a lawful statute applicable in Ontario, including MFIPPA, or PHIPA or is ordered to disclose such information by the Office of the Information and Privacy Commissioner or any court or tribunal of competent jurisdiction.

### **Termination**

#### *By the Municipality*

20. The Municipality may terminate this Agreement by providing six (6) months written notice to the County. The effective date of termination by the Municipality shall be exactly six (6) months after notice is effectively received by the County in accordance with section 23 of this Agreement (the "**Termination Date**"). The Municipality acknowledges that in the event the Municipality terminates this Agreement, it will no longer receive ITS, from the County, but it will remain liable for:
  - (a) Paying to the County all costs that, but for the termination, would have been associated with providing the Services for the remainder of the year in which the Termination Date occurs;
  - (b) Paying the County an amount sufficient to cover the Municipality's share of any and all long-term obligations incurred for the benefit of the Municipality by the County in reliance upon the Municipality's commitments to the Initiative, including but not limited to, the hiring of IT personnel, leasing, licensing, early termination costs, consultants and all other non-avoidable future costs identified; and
  - (c) The return of any hardware and/or software licenses that is not owned solely by the Municipality to the County.

*By the County*

21. The County may terminate this Agreement at any time without cost or penalty upon providing six (6) months written notice to the Municipality.

*Due to Dissolution*

22. In the event the Municipality dissolves as a Corporation, this Agreement shall terminate. In the event the County dissolves as a Corporation, this Agreement shall terminate. In either event, termination due to dissolution shall occur as of the date the corporate entity ceases operations. Each of the Parties covenant to inform the other immediately as soon as it has knowledge that the dissolution the cessation of operations is either being considered and/or has any semblance of likelihood.

**Notices**

23. Acceptable Communications between the Parties shall include communications which are:
  - (a) delivered personally or by courier;
  - (b) sent by prepaid registered mail;
  - (c) transmitted by facsimile, e-mail or functionally equivalent electronic means of transmission, charges (if any) prepaid.

Any Communication must be sent to the intended Party at its address for service listed on the signature pages of this Agreement or to any other address as any Party may at any time advise the other by Communication given or made in accordance with this section. Any Communication delivered to a 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 4:00pm (local time of the recipient), the Communication will be deemed to have been given or made and received on the next Business Day.

**Further Assurances**

24. The Parties 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.

**Amendment and Waiver**

25. 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.

**Assignment and Enurement**

26. Neither this Agreement nor any right or obligation under this Agreement may be assigned by any Party, other than provided for herein, without the prior written consent of the other Parties. This Agreement enures to the benefit of and is binding upon the Parties and their respective heirs, executors, administrators, estate trustees, trustees, personal or legal representatives, successors and permitted assigns.

**Dispute Resolution**

27. Upon written requests to resolve any disputes arising from this Agreement which are sent by one Party to another, the Parties hereby agree to resolve all disputes pursuant to this section. Upon receipt by the receiving Party of a written request to resolve disputes, the Parties shall first attempt to resolve all disputes by way of formal negotiation between the Parties and their appointed representatives. Generally, at first instance an attempt to resolve any dispute shall be performed by the Municipality's staff and the Director of ITS. Should the dispute remain unresolved for a period of thirty (30) or more days then the matter may be escalated to the respective CAOs of the County and the Municipality. If the disputes cannot be settled within sixty (60) days from the receipt of the written request to resolve disputes by the receiving Party, then the Parties shall enter into a structured negotiation on a without prejudice basis with the assistance of a mediator appointed by them. If the disputes cannot be settled within ninety (90) days from the receipt of written request to resolve disputes by the receiving Party, or such longer period as may be agreed to by the Parties, the Parties shall, refer the matter forthwith to an arbitration which shall finally resolve the dispute(s). The aforementioned arbitration shall be conducted in accordance with the *Ontario Arbitration Act, 1991, c 17*, as amended or replaced.

**Voluntary Enforceable Agreement**

28. The Parties warrant that this Agreement is voluntary, that none of the Parties are under any legal disability and that each Party has had an opportunity to seek the advice of independent legal counsel with respect to this Agreement.

**Counterparts**

29. This Agreement may be executed and delivered by the parties in one or more counterparts, each of which will be an original, and each of which may be delivered by facsimile, e-mail or other functionally equivalent electronic means of transmission, and those counterparts will together constitute one and the same instrument.

**Severability**

30. 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.

**Governing Law**

31. This Agreement is governed by, and is to be construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable in that Province.

***[ONE (1) SIGNATURE PAGE FOLLOWS]***

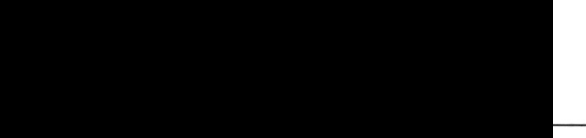
**IN WITNESS WHEREOF** this Agreement has been executed by the Parties hereto on the date(s) set out below and the Parties agree that this Agreement shall be effective on the date set out at the top of page one (1) of this Agreement.

**THE CORPORATION OF THE COUNTY OF MIDDLESEX**

Date: June 12, 2018

Address for Service:  
Attn: County Clerk  
399 Ridout Street N.  
London, ON N6A 2P1

Per:   
Margay Wilkins, Warden

Per:   
Kathleen Bunting, County Clerk


*We have authority to bind the Corporation*

**THE CORPORATION OF THE MUNICIPALITY OF THAMES CENTRE**

Date: May 7, 2018

Address for Service:  
Attn: Margaret Alexander, Clerk  
4305 Hamilton Rd.  
Dorchester, ON N0L 1G3

Per:   
Jim Maudsley, Mayor

Per:   
Tena Michiels, Clerk (Deputy)

*We have authority to bind the Corporation*

**Schedules:**

- A = Services List
- B = Options Menu
- C = Change Order Form
- D = Regular Service Level Standards

## **SCHEDULE "A"**

### **SERVICES**

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| Service Desk   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <b>Service Description</b><br><br>The Service Desk is a customer service focused single point of contact with the ITS Department. It is responsible for the efficient and effective resolution of incidents or service requests. The Service Desk tracks, logs and manages all incidents and service requests using an Information Technology Service Management (ITSM) system to ensure that all Service Level Standards are met. |                       |   |                      |

| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| Website / Web Application Hosting   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <b>Service Description:</b><br><br>Website / Web Application Hosting is the business of housing, serving and maintaining files for one or more websites which are made accessible to the Internet. This service provides adequate storage and bandwidth to ensure the website or web application performs as expected.<br><br>This service also includes related services such as domain name registration and renewal, DNS management, disaster recovery planning, AODA compliance reporting and availability monitoring.<br><br><b>Below is a list of web sites and web applications that the Municipality owns which are hosted using Middlesex County IT infrastructure.</b> <ul style="list-style-type: none"><li>• Municipal Website (<a href="https://thamescentre.on.ca">https://thamescentre.on.ca</a>)</li><li>• Learning Management System (<a href="https://training.middlesex.ca">https://training.middlesex.ca</a>)</li></ul> |                       |   |                      |



| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| IT Procurement  | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>IT procurement is the series of activities and procedures necessary to acquire information technology products and services.</p> <p>By consolidating IT procurement, it creates opportunities to leverage economies of scale when purchasing equipment or services.</p> <p>IT procurement also drives technology standards to ensure that overall cost effectiveness and efficiencies are found within the Municipality.</p> <p>Functions of IT Procurement include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Vendor Relationship Management</li> <li>• Equipment Purchasing</li> <li>• Technology Standards</li> <li>• Economies of Scale</li> <li>• Leveraging Vendor of Record Programs</li> <li>• Equipment Research and Recommendations</li> <li>• Procurement Vehicles: Request for Quotes and Request for Proposals</li> </ul> |                       |   |                      |

| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| IT Asset Management   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>IT Asset Management is the set of business practices that join financial, contractual and inventory functions to support life-cycle management and strategic decision making for an IT environment. IT Assets are defined using the ITS Department's Asset Management policy. For example (without limiting the foregoing), switches, routers and computers are assets. Keyboards and mice are not considered assets.</p> |                       |   |                      |

| Service Name   | Effective Date  | Duration of additional/changed service | Service Level |
|--|-----------------|--|---------------|
| Management of Software Licensing and Hardware Maintenance Agreements   | January 1, 2018 | For the duration of the Agreement      | Regular       |
| <p><b>Service Description:</b></p> <p>This service ensures the Municipality is in compliance with all software licensing requirements that the ITS Department is responsible for supporting and maintaining.</p> <p>This service also ensures that the appropriate hardware renewal / maintenance agreements of critical IT infrastructure are in place.</p> |                 |  |               |

| Service Name                       | Effective Date  | Duration of additional/changed service | Service Level |
|------------------------------------|-----------------|--|---------------|
| Application Management and Support | January 1, 2018 | For the duration of the Agreement      | Regular       |

**Service Description:**

Application Management and Support is a service that manages and maintains software applications throughout their lifecycle. This includes installation, maintenance and upgrades, troubleshooting, end-user support and basic usability assistance.

**The following is a list of software applications included in this Agreement as of the Effective Date.**

- Keystone
- Microsoft Office
- Drain Tracker
- FirePro
- Laserfiche Server
- Laserfiche Forms
- Laserfiche Client
- Laserfiche Web
- Laserfiche WebLink
- eGenda
- Adobe Acrobat
- Symantec Backup Exec
- Veeam Backup and Recovery
- Sage HRMS Accounting
- Stone Orchard (Cemetery)
- Great Plains (Legacy)
- VisionSuite (Road Sign)
- Panda Antivirus
- ArcMap
- Max Enterprise (Arena)
- CheckPoint Mobile
- Questica
- SQL Server 2008/2012
- Microsoft Exchange
- Microsoft Outlook Web Access
- Exchange Active Sync
- VMWare
- Windows IIS

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| Network Monitoring   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>This service monitors the performance and availability of critical IT infrastructure and services allowing the ITS Department to proactively respond to service disruptions.</p> |                       |   |                      |

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| IT Security  | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>IT Security Services are defined as systems or processes which attempt to mitigate or prevent unauthorized access to computers, networks and/or data. This could be in the form of privacy and confidentiality policies, employee education and training or IT systems or services which attempt to limit the exposure to the unauthorized access, use, disclosure, disruption, modification, inspection, recording or destruction of information.</p> <ul style="list-style-type: none"> <li>• Email Security Filtering</li> <li>• Network Perimeter Security (Firewall)</li> <li>• Anti-virus Software</li> <li>• Secure Data Destruction and Equipment Recycling</li> <li>• Incident Response</li> <li>• Intrusion Prevention System</li> <li>• Ransomware Early Detection and Notification</li> <li>• Secure Remote Access</li> <li>• Basic URL and Application Filtering</li> </ul> |                       |   |                      |

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| IT Disaster Recovery Plan  | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>A disaster recovery plan is a documented process or set of procedures to recover and protect critical IT infrastructure in the event of a failure or a disaster. This is not to be confused with a Business Continuity Plan or a Continuity of Operations Plan.</p> <p>This service is required for the effective management of critical IT infrastructure and services.</p> |                       |   |                      |

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| Server virtualization  | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>Server virtualization enables more efficient use of IT resources by consolidating the number of physical servers within an organization. It allows physical resources to be better utilized by sharing such resources across multiple virtual server instances based on the performance requirements of each virtual server.</p> |                       |   |                      |

| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| User Account Management   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>Add / Modify / Disable / Remove User Accounts across various IT systems to ensure appropriate access to IT systems and services is maintained. This service also ensures accounts are appropriately assigned to employees while ensuring that the necessary security controls are in place.</p> <ul style="list-style-type: none"> <li>• User Account Management for up to 52 accounts</li> </ul> |                       |   |                      |

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| Email Account Management   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>Add / Assign / Modify / Disable / Remove Email Accounts as required to support the email communication requirements of the Municipality.</p> <ul style="list-style-type: none"> <li>• Email Account Management for up to 70 accounts.</li> </ul> |                       |   |                      |

| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| File Server / Storage Management  | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>File Server / Storage Management is the process of maintaining or increasing the performance of data storage resources and protecting the integrity of data which is stored on the Municipality's IT data storage infrastructure. This includes capacity planning, performance management, reliability of access to data and data backup.</p> |                       |   |                      |

| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| Printer/Scanner/Plotter Support   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>This service includes setup, installation and troubleshooting of the Municipality's printers, scanners or plotters. Where required, this service will also facilitate the coordination of third parties to ensure printers, scanners and plotters are functioning as expected.</p> <ul style="list-style-type: none"> <li>• Unlimited number of Printers/Scanners/Plotters</li> </ul> |                       |   |                      |

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| Desktop Support  | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>This service is responsible for the setup, installation, maintenance, testing, troubleshooting and overall management of laptop and desktop computers within the Municipality.</p> <ul style="list-style-type: none"> <li>• Desktop Support for up to 50 computers.</li> </ul> |                       |   |                      |

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| Server Support   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>This service is responsible for the setup, installation, maintenance, testing, troubleshooting and overall management of the Municipality's physical or virtual server infrastructure.</p> <ul style="list-style-type: none"> <li>• Server Support for 6 physical servers.</li> <li>• Server Support for 7 virtual servers.</li> </ul> |                       |   |                      |

| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| Network Support   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>This service is responsible for the setup, installation, maintenance, testing, troubleshooting and overall management of the Municipality's network infrastructure.</p> <ul style="list-style-type: none"> <li>• Network Support for 25 devices.</li> </ul> |                       |   |                      |

| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| Voice over IP (VoIP) Telephony Services   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>This service is responsible for the development, application and deployment of network based telecommunication services for the purpose of transmitting voice, video, fax or data.</p> <p>VoIP replaces traditional analog phone systems with digital technologies that leverage existing network infrastructure.</p> <ul style="list-style-type: none"> <li>• Voice over IP (VoIP) Telephony Services for 2 phone systems</li> </ul> |                       |   |                      |

| <b>Service Name</b>   | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|---|-----------------------|---|----------------------|
| Mobile Device Management / Cellular Account Management  | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>This service is responsible for the overall administration and management of mobile devices and cellular enabled mobile devices such as, tablets, smart phones and mobile internet devices (rocket hubs, cellular enabled Wi-Fi routers).</p> <ul style="list-style-type: none"> <li>• Mobile Device Management / Cellular Account Management of up to 25 devices.</li> </ul> |                       |   |                      |

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| Remote Access (VPN)  | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>A remote access service is any combination of hardware or software to enable users to remotely access internal corporate network or server services in a secure manner. This service allows the ITS Department to enable and support the Municipality in providing its employees remote access to internal IT resources.</p> |                       |   |                      |

| <b>Service Name</b>  | <b>Effective Date</b> | <b>Duration of additional/changed service</b> | <b>Service Level</b> |
|--|-----------------------|---|----------------------|
| After-Hours IT Emergency Support   | January 1, 2018       | For the duration of the Agreement             | Regular              |
| <p><b>Service Description:</b></p> <p>This is a service that provides the Municipality access to IT support outside of regular office hours for IT related emergencies.</p> <p>IT Emergencies are defined as, any IT related failure or disruption to network or servers that causes a significant impact on the work flow of its users.</p> |                       |   |                      |



## **SCHEDULE "B"**

### **OPTIONS MENU**

This is a list of Services that can be added to the Service Agreement using the Change Order process in section 6 of the Agreement. This list is not meant to be all inclusive of every service the ITS Department can provide. If a service is not listed below, please contact the Director of ITS.

This list does not contain a specific description for each Service as it is meant to promote conversation as the requirements and expectations may vary depending on the Municipality. A description will be developed to outline the requirements and expectations of the service.

- Electronic Records Management
- Security Cameras
- IT Policy Development
- Content Management
- Application Development
- Analytics and Data Management
- Report Writing
- Technology Training
- Intrusion Detection / Prevention
- Security Assessments and Audits
- Network Design
- AODA Compliance Audit and Reporting
- Information Architecture
- Intranet Services
- Consulting
- IT Strategic Planning
- Audio / Visual Components

**SCHEDULE "C"**

**CHANGE ORDER**

Pursuant to section 6 of the Information Technology Services Agreement (hereinafter, the "Agreement") entered into and duly executed by the Parties on \_\_\_\_\_ the Parties hereby agree to the following Change Order:

1. *Schedule "A"* of the Agreement is hereby amended to add the following IT services:
  - a. \_\_\_\_\_.
  - b. \_\_\_\_\_.
  - c. \_\_\_\_\_.
2. The provision of the IT services identified in section 1(a) [...etc.] shall commence on \_\_\_\_\_ and continue for the remainder of the Term of the Agreement or until \_\_\_\_\_.
3. In addition to the Base Cost set out in section 10(a) of the Agreement, the Municipality shall pay to the County \_\_\_\_\_ for the provision of the services identified in section 1(a) [...etc.]. The aforementioned sum shall be added to the Municipality's December 31, \_\_\_\_\_, invoice, in accordance with section 10(c) of the Agreement.

**THE CORPORATION OF THE  
MUNICIPALITY  
OF \_\_\_\_\_**

**THE CORPORATION OF THE  
COUNTY OF MIDDLESEX**

\_\_\_\_\_  
\_\_\_\_\_, Chief Administrative Officer

\_\_\_\_\_  
\_\_\_\_\_, Director of ITS

*I have delegated authority to bind the  
Corporation*

*I have delegated authority to bind the  
Corporation*

## **SCHEDULE "D"**

### **REGULAR SERVICE LEVEL GUIDELINES**

#### **Support Hours**

ITS support staff will be available for Service Desk and Emergency inquiries during the following hours:

| <b>Classification</b>         | <b>Hours of Service</b>   |
|-------------------------------|---|
| <b>Normal Hours</b>           | Monday through Friday, 8:00 AM to 5:00 PM EST, not including statutory holidays   |
| <b>Afterhours (Emergency)</b> | All incidents outside of the above normal hours fall into the afterhours (emergency) category. The availability of afterhours ITS services are outlined in the Middlesex ITS Emergency Support Guidelines |

#### **Priority Definitions**

Below are guidelines and examples for each priority level.

| <b>Priority 1 (Urgent)</b>  | <b>Priority 2 (High)</b>   | <b>Priority 3 (Medium)</b>  | <b>Priority 4 (Low)</b>  |
|---|--|---|--|
| <b>Mission-critical system or service is down.</b>  | <b>Mission-critical secondary system is down.</b>  | <b>Non-mission-critical system is down and a workaround is available.</b>   | <b>Service request that does not require immediate attention.</b>  |
| <b>Productivity Stopped.</b><br><br>Staff can't perform their work. (e.g. Internet is down, local network is unavailable) | <b>High Impact to Productivity.</b><br><br>Staff can perform only a small portion of their work. (e.g. Server failure, primary business software unavailable, ex. financial system unavailable). | <b>Medium Impact to Productivity.</b><br><br>Staff can perform most of their work, but some daily tasks are impacted. (e.g. Printer isn't working, there are other working printers nearby) | <b>Low Impact to Productivity.</b><br><br>Staff can perform all of their normal daily tasks. (e.g. Adjusting printer settings) |

## Response Times

### Response Times by Priority:

| Priority   |                     | Initial Response |                  | Resolution Time and Reporting |   |
|------------|---------------------|------------------|------------------|-------------------------------|---|
|            |                     | Contact Person   | Response Time    | Resolution Time               | Reporting                                   |
| 1 – Urgent | <i>Normal Hours</i> | Service Desk     | 15 Minutes       | 4 Hours                       | ITS Manager and ITS Director                |
|            | <i>After Hours</i>  | On-Call Staff    | 1 Hour           | 4 Hours                       | Escalation Manager                          |
| 2 – High   | <i>Normal Hours</i> | Service Desk     | 1 business hour  | 5 business hours              | ITS Manager                                 |
|            | <i>After Hours</i>  | On-Call Staff    | 1 Hour           | 4 Hours                       | Escalation Manager                          |
| 3 – Medium | <i>Normal Hours</i> | Service Desk     | 4 business hours | 12 business hours             | Update ticket in Incident Management System |
|            | <i>After Hours</i>  | N/A              | N/A              | N/A                           | N/A   |
| 4 – Low    | <i>Normal Hours</i> | Service Desk     | 8 business hours | 24 business hours             | Update ticket in Incident Management System |
|            | <i>After Hours</i>  | N/A              | N/A              | N/A                           | N/A   |