



**Municipality of Middlesex Centre
By-Law 2018-108**

Being a by-law to authorize the execution of a Section 158 Agreement between 2536221 Ontario Inc. “Developer” and the Municipality of Middlesex Centre as the “Municipality” for the lands described in Schedule “A” of the Agreement

WHEREAS 2536221 Ontario Inc. is the owner of certain lands in the Municipality of Middlesex Centre legally described in Schedule “A” of the agreement;

AND WHEREAS the Municipality and the Developer have entered into a Vacant Land Condominium Agreement dated December 19, 2018;

NOW THEREFORE the Municipality of Middlesex Centre enacts as follows:

- 1) **THAT** the Section 158 Agreement, attached hereto be and the same, is hereby approved and ratified;
- 2) **AND THAT** the Mayor and Clerk be hereby authorized to execute the attached Agreement on behalf of the Municipality of Middlesex Centre following the execution of the Agreement by 2536221 Ontario Inc.

Passed this 19th day of December 2018.

Aina DeViet, Mayor

Ann Wright, Clerk

THIS AGREEMENT made this 19th day of December, 2018.

B E T W E E N:

2536221 ONTARIO INC., a corporation incorporated under the laws of the Province of Ontario having its registered office in the City of London and the County of Middlesex (hereinafter referred to as the “**Developer**”)

OF THE FIRST PART

- and -

MUNICIPALITY OF MIDDLESEX CENTRE (hereinafter referred to as the “**Municipality**”)

OF THE SECOND PART

WHEREAS the Developer is the owner of the land described in Schedule “A”, (hereinafter referred to as the “**Land**”);

AND WHEREAS the Developer and the Municipality entered into a vacant land condominium agreement dated November 28th, 2018 (hereinafter referred to as the “**Vacant Land Condominium Agreement**”);

AND WHEREAS paragraph 43 of the Vacant Land Condominium Agreement requires that, when the Developer submits to the Municipal Engineer a Completion Certificate, it shall be accompanied by, amongst other things, an agreement made by the Developer in favour of the Municipality that complies with section 158 of the *Condominium Act, 1998*, as amended, which ensures the installation and completion of all of the Site Development Works, as defined in the Vacant Land Condominium Agreement;

AND WHEREAS the Parties have agreed that this Agreement satisfies the requirement of paragraph 43.2 of the Vacant Land Condominium Agreement for an agreement made by the Developer in favour of the Municipality that complies with section 158 of the *Condominium Act, 1998(Ontario)*, as amended, which ensures the installation and completion of all of the said Site Development Works;

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the mutual covenants and agreements in this Agreement and other good and valuable consideration, the receipt and sufficiency of which consideration is acknowledged, the Developer and the Municipality hereby covenant and agree with each other as follows:

1. The Parties agree that words and phrases defined in the Vacant Land Condominium Agreement shall have the same meaning when used in this Agreement.
2. The Developer covenants and agrees with the Municipality as follows:
 - 2.1 Until all dwellings have been completed on all of the units as shown on the Condominium Plan, the Developer shall maintain, repair and replace, the private common element streets to the satisfaction of the Municipal Engineer; and that the Developer shall continue to do so thereafter until after all such dwellings have been completed on all of the units as shown on the Condominium Plan; and that, after all such dwellings have been completed, the Developer shall complete the installation and construction of the private common element streets, including asphalt repair, correcting any settlement, applying a final course of asphalt, restoring curbs and making final adjustments to and parging of manholes and catchbasins such that all is in good order and repair, in accordance with the approved plans and specifications and otherwise in accordance with this Agreement and to the satisfaction of the Municipal Engineer.
 - 2.2 The Developer shall operate and maintain, for at least one year, the stormwater facilities, which have been constructed and installed as required by paragraph 21 of the Vacant Land Condominium Agreement, in accordance with the current guidelines and standards prescribed by the Municipality and otherwise in accordance with the design objectives set out in the documentation referred to in paragraph 19 of the Vacant Land Condominium Agreement.
 - 2.3 The Developer shall continue to operate and maintain such stormwater facilities until the Developer has delivered a certificate issued by the Developer's Engineers that such stormwater management facilities and features required as part of the Site Development Works, have been in full service for at least one (1) year and that such facilities have during that one (1) year period operated in accordance with the current guidelines and standards prescribed by the Municipality and otherwise in accordance with the design objectives set out in the documentation referred to in paragraph 19 of the Vacant Land Condominium Agreement; and such certificate shall be accompanied by such engineer's report of monitoring of the stormwater management facilities and the monitoring results which demonstrate that such design objectives have been met to the satisfaction of the Municipal Engineer.
 - 2.4 The Developer shall construct and install utilities and street lighting, if any such utilities or street lighting is not yet completed, provided that all such utilities and street lighting shall be installed and completed to the satisfaction of the Municipal Engineer pursuant to paragraph 41 of the Vacant Land Condominium Agreement.
 - 2.5 The Developer shall complete landscaping, plantings and grading of the Land in accordance with the plans and specifications approved in accordance with the Vacant Land Condominium Agreement and otherwise to the satisfaction of the Municipal Engineer until after all dwellings have been completed on all of the units as shown on the Condominium Plan, and in this connection the parties agree that the delivery of a Final Grading Certificate contemplated by clause 59.10 may

be deferred until all such dwellings have been completed on all of the units as shown on the Condominium Plan.

- 2.6 This Agreement shall provide that the following provisions of the Vacant Land Condominium Agreement shall continue to apply mutatis mutandis:
- a. Paragraph 22 (Sign of Condominium Plan);
 - b. Paragraph 24 (Supervision of Construction);
 - c. Paragraph 25 (Standard of Work and Variations);
 - d. Paragraph 26 (General Maintenance);
 - e. Paragraph 27 (Maintenance of Drains);
 - f. Paragraph 28 (Haul Roads);
 - g. Paragraph 32 (Utilities Co-ordination);
 - h. Paragraph 35 (Letter of Credit) adjusted to provide that the Letter of Credit is required to be amended to reference and stand as security for the obligations arising under both the Vacant Land Condominium Agreement and this Agreement;
 - i. Paragraph 36 (Security for All Developer's Obligations);
 - j. Paragraph 38 (Insurance) adjusted to provide an amended Insurance Certificate is required which confirms coverage applies to the obligations arising under both the Vacant Land Condominium Agreement and this Agreement;
 - k. Paragraph 39 (Indemnity);
 - l. Paragraph 43 (Completion Certificate of Site Development Works) adjusted to apply to the exceptions referred to in clause 43.1;
 - m. Paragraph 46 (Construction Lien);
 - n. Paragraph 47 (Right of Inspection);
 - o. Paragraph 48 (Municipal Engineer Orders);
 - p. Paragraph 49 (Remedies);
 - q. Paragraph 50 (Court Action);
 - r. Paragraph 52 (Realizing Security);
 - s. Paragraph 53 (Call on Letter of Credit);

- t. Paragraph 54 (Replacement of Letter of Credit);
 - u. Paragraph 65 (Municipal Costs);
 - v. Paragraph 66 (Complaint Procedure);
 - w. Paragraph 68 (Right to Contest Municipality's Costs);
 - x. Paragraph 69 (Conflict of Requirements);
 - y. Paragraph 70 (Expense of Developer);
 - z. Paragraph 71 (Interest and Liens);
 - aa. Paragraph 72 (Estoppel);
 - bb. Paragraph 74 (Time of Essence);
 - cc. Paragraph 75 (Giving of Notice);
 - dd. Paragraph 76 (Assignment);
 - ee. Paragraph 77 (Severability);
 - ff. Paragraph 78 (Number and Gender); and
 - gg. Paragraph 79 (Interpretation).
- 2.7 The Developer shall post a letter of credit security to ensure the Developer discharges all of its obligations set out this Agreement.
- 2.8 Not later than ten (10) days after the registration of the Declaration and Description under the Condominium Act, 1998, as amended, the Developer shall give notice to the Ministry of the Environment and Climate Change,
- i. advising of the date of registration of the Declaration and Description for the vacant land condominium,
 - ii. offering to register the private common element water supply infrastructure as a non-municipal year-round residential drinking water system under the Safe Drinking Water Act and associated regulations,
 - iii. giving the notice contemplated by subsection 10.1(1) of O.Reg. 170/03 with respect to such private common element water supply infrastructure in the event the Ministry of Environment and Climate Change determines that the Safe Drinking Water Act and associated regulations apply to such water supply infrastructure,
- and shall provide to the Municipality confirmation that the notice has been sent, along with a copy of the notice.

- 2.10 The Developer shall make such amendments to the Declaration as are necessary in the opinion of the Municipal Solicitor to satisfy the requirements of clause 158(1)(b)(iii) of the *Condominium Act, 1998* as amended.
3. To be clear, nothing in this Agreement alters or in any way derogates from the Developer's continuing obligations under the Vacant Land Condominium Agreement which the Parties agree continues in full force and effect in accordance with its terms to be binding upon the Developer and upon its successors and assigns, as owners and occupiers of the Land. If and to the extent of any inconsistency or conflict in the obligations of the Developer between the Vacant Land Condominium Agreement and this Agreement, the more demanding obligations shall prevail.
 4. Until the Declaration has been amended as required by paragraph 6 below, the Developer shall not accept any offer to purchase any unit as shown on the Condominium Plan unless the Developer has given to such offeree, prior to the making of such offer, written advice to the effect that the common element infrastructure specified in the Declaration and Description have not all been completed to the satisfaction of the Municipality. If at the time of the execution and delivery of this Agreement the Developer has already entered into one or more agreements of purchase and sale for units as shown on the Condominium Plan, the Developer shall provide notice to such purchasers within 10 days after the execution and delivery of this Agreement and prior to the transfer of the unit which is the subject matter of the agreement of purchase and sale.
 5. The Municipality agrees to and does hereby authorize the Municipality's Director of Public Works and Engineering to sign the Statement of Municipality attached as Schedule "B" to this Agreement, which signed Statement of Municipality is to be attached as Schedule "G" to the Declaration to be registered to establish the vacant land condominium contemplated by the Vacant Land Condominium Agreement.
 6. The Developer agrees that, after completion by the Developer of its obligations under paragraph 2 of this Agreement, the Developer shall use its best efforts to cause the Declaration to be amended as necessary to satisfy the requirements of clause 158(1)(b)(iii) of the *Condominium Act, 1998*, as amended, to include in the Declaration a Certificate of Engineer required by the *Condominium Act, 1998*, as amended, and the regulations thereunder in substantially the form attached as Schedule "C" to this Agreement; without limiting the generality of the foregoing, the Developer's best efforts shall include condominium board authorization of the amendment and registration of the amendment in compliance with the *Condominium Act, 1998* as amended.
 7. Forthwith after the registration of the amendment to the Declaration contemplated by paragraph 6 above, the Developer will provide the Municipality of the particulars of registration and provide to the Municipality a copy of the of the amendment as registered.
 8. The Developer acknowledges and agrees that the Developer's obligations under this Agreement shall not be completed such that security provided under this Agreement may be released until the amendment to the Declaration required by paragraph 6 above has been effected in accordance with the procedural, including notice, requirements of the *Condominium Act, 1998*, as amended.

9. The Developer represents and warrants to the Municipality that, at the date of this Agreement and at the date of the registration of this Agreement upon title, the Developer will be the owner in fee simple of the Land.
10. The Developer consents to and will register this Agreement against the title to the Land in the appropriate Land Titles Office within thirty (30) days after the execution and delivery of this Agreement to the intent and purpose that this Agreement shall run with the Land. Forthwith after registration, the Developer shall provide to the Municipality particulars of registration and a copy of this Agreement as registered. The Municipality shall not require postponements of utility easement registrations provided they are in standard form.
11. Not later than sixty (60) days after registration of this Agreement the Developer shall cause to be delivered to the Municipality an opinion by a solicitor authorized to practice in Ontario, to the effect that at the date of signing of this Agreement and at the date of the registration of this Agreement upon title, the Developer is the owner in fee simple of the Land and that this Agreement has been registered against the Land in a first priority position, save and except for utility easement registrations provided they are in standard form and any registered agreement in favour of the Municipality. The said opinion(s) shall be addressed to the Municipality in consideration of a fee of \$1.00 payable to the Solicitor rendering the same.
12. The Parties agree that the costs of the Municipality incurred for engineering and legal fees and disbursements in connection with this Agreement are deemed to costs recoverable from the Developer as if in accordance with the provisions of paragraph 65 of the Vacant Land Condominium Agreement.
13. This Agreement shall run with the Land, and shall be binding upon the Developer and upon its successors and assigns, as owners and occupiers of the Land. From and after registration of a Condominium Plan on all or any part of the Land, under the *Condominium Act, 1998*, as may be amended or substituted from time to time, for the purposes of this Agreement, "successors and assigns, as owners and occupiers of the Land" shall mean unit owners, as successor owners and occupiers of the Land by virtue of their ownership of unit(s), together with their appurtenant undivided interest as tenants in common of the common elements shown on the Condominium Plan and the Condominium Corporation created by the registration of the Condominium Plan, which corporation has responsibility for management of the property and the assets of the condominium corporation on behalf of unit owners, including the common elements. This Agreement shall be binding upon and shall enure to the benefit of the Municipality and its successors and assigns.

signatures on next page

IN WITNESS WHEREOF the parties have hereunto executed this agreement attested to by the hands of their respective proper officers duly authorized in that behalf.

2536221 ONTARIO INC.

Per: _____

Jacob Katz

President

I have the authority to bind the company

MUNICIPALITY OF MIDDLESEX CENTRE

Per: _____

Mayor Al Edmondson

Approved and authorized by By-law
No. 2018- enacted the 19th day
of December, 2018.

Per: _____

Ann Wright, Clerk

SCHEDULE "A"

to

THE AGREEMENT made the 19th day of December, 2018.

B E T W E E N:

2536221 ONTARIO INC.

OF THE FIRST PART

- and -

MUNICIPALITY OF MIDDLESEX CENTRE

OF THE SECOND PART

LAND

PIN 08512-0169(LT)

PT LT 4, CON 1 LOBO, PTS 1,2,4,5,6 33R20082; SUBJECT TO AN EASEMENT AS IN ER1028565; SUBJECT TO AN EASEMENT OVER PT 4 33R20082 IN FAVOUR OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 AS IN ER1169786; SUBJECT TO AN EASEMENT OVER PTS 4,5 33R20082 IN FAVOUR OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9 AND 10, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9 AND 10, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9 AND 10, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PART 3, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9, 10, 13 AND 14, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9, 10, 13 AND 14, 33R20082 AS IN ER1169786; SUBJECT TO AN EASEMENT AS IN ER1173427; SUBJECT TO AN EASEMENT AS IN ER1174151; SUBJECT TO AN EASEMENT IN GROSS AS IN ER1175044; TOGETHER WITH AN EASEMENT OVER PTS 1,2,3 33R19583 AS IN ER1176713; MUNICIPALITY OF MIDDLESEX CENTRE.

SCHEDULE "B"

to

THE AGREEMENT made the 19th day of December, 2018.

B E T W E E N:

2536221 ONTARIO INC.

OF THE FIRST PART

- and -

MUNICIPALITY OF MIDDLESEX CENTRE

OF THE SECOND PART

SCHEDULE "G"

STATEMENT OF MUNICIPALITY

I hereby confirm that a bond or other security that is satisfactory to the Municipality has been posted by 2536221 Ontario Inc. with the Municipality of Middlesex Centre in respect of the proposed vacant land condominium being legally described as:

PT LT 4, CON 1 LOBO, PTS 1,2,4,5,6 33R20082; SUBJECT TO AN EASEMENT AS IN ER1028565; SUBJECT TO AN EASEMENT OVER PT 4 33R20082 IN FAVOUR OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 AS IN ER1169786; SUBJECT TO AN EASEMENT OVER PTS 4,5 33R20082 IN FAVOUR OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9 AND 10, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9 AND 10, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9 AND 10, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PART 3, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9, 10, 13 AND 14, 33R20082 AS IN ER1169786; TOGETHER WITH AN EASEMENT OVER PART OF THE COMMON ELEMENTS OF MIDDLESEX VACANT LAND CONDOMINIUM PLAN NO. 885 DESIGNATED AS PARTS 7, 8, 9, 10, 13 AND 14, 33R20082 AS IN ER1169786; SUBJECT TO AN EASEMENT AS IN ER1173427; SUBJECT TO AN EASEMENT AS IN ER1174151; SUBJECT TO AN EASEMENT IN GROSS AS IN ER1175044; TOGETHER WITH AN EASEMENT OVER PTS 1,2,3 33R19583 AS IN ER1176713; MUNICIPALITY OF MIDDLESEX CENTRE BEING ALL OF PIN 08512-0169(LT),

and that the said security is sufficient to ensure that:

1. the buildings and structures that the Declaration and Description show are included in the Common Elements will be completed and installed in accordance with the regulations made under the Act,

2. the facilities and services that the Declaration and Description show are included in the Common Elements will be installed and provided in accordance with the regulations made under the Act,
3. the items described in clause 158(3) (b) of the Act will be included in an amendment to the description.

Dated this day of , 201 .

MUNICIPALITY OF MIDDLESEX CENTRE

Per:

Director of Public Works and Engineering
Municipality of Middlesex Centre

SCHEDULE "C"

to

THE AGREEMENT made the 19th day of December, 2018.

B E T W E E N:

2536221 ONTARIO INC.

OF THE FIRST PART

- and -

MUNICIPALITY OF MIDDLESEX CENTRE

OF THE SECOND PART

Condominium Act, 1998

Certificate of Engineer

I certify that:

I Each building and structure that the declaration and description show are included in the common elements has been constructed in accordance with the regulations made under the *Condominium Act, 1998* with respect to the following matters:

(Check whichever boxes are applicable)

1,2,3 The declaration and description show that there are no buildings or structures included in the common elements.

OR

1. The exterior building envelope, including roofing assembly, exterior wall cladding, doors and windows, caulking and sealants, is weather resistant if required by the construction documents and has been completed in general conformity with the construction documents.

2. Floor assemblies of the buildings and structures are constructed and completed to the final covering.

3. Walls and ceilings of the buildings and structures are completed to the drywall (including taping and sanding), plaster or other final covering.

4. All underground garages have walls and floor assemblies in place.

OR

- There are no underground garages.
5. All elevating devices as defined in the *Elevating Devices Act* are licensed under that Act if it requires a license, except for elevating devices contained wholly in a unit and designed for use only within the unit.

OR

- There are no elevating devices as defined in the *Elevating Devices Act*, except for elevating devices contained wholly in a unit and designed for use only within the unit.
6. All installations with respect to the provision of water and sewage services are in place and operable.

OR

- There are no installations with respect to the provision of water and sewage services.
7. All installations with respect to the provision of heat and ventilation are in place and heat and ventilation can be provided.

OR

- There are no installations with respect to the provision of heat and ventilation.
8. All installations with respect to the provision of air conditioning are in place.

OR

- There are no installations with respect to the provision of air conditioning.
9. All installations with respect to the provision of electricity are in place and operable.

OR

- There are no installations with respect to the provision of electricity.
10. All indoor and outdoor swimming pools are roughed in to the extent that they are ready to receive finishes, equipment and accessories.

OR

- There are no indoor and outdoor swimming pools.

[Strike out whichever is not applicable:]

- II All facilities and services that the declaration and description show are included in the common elements

OR

~~The following facilities and services that the declaration and description show are included in the common elements:~~

~~*(Specify by reference to the item numbers in Schedule H)*~~

have been installed and provided in accordance with the requirements of the municipalities in which the land is situate or the requirements of the Minister of Municipal Affairs and Housing, if the land is not situated in a municipality.

Dated this day of , 201 .

Signed and Sealed by Professional Engineer