

BOUNDARY ROAD AGREEMENT

THIS BOUNDARY ROAD AGREEMENT made as of this @ day of @, 2021

BETWEEN:

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY
(hereinafter called "Wellesley")

PARTY OF THE FIRST PART

- and -

THE CORPORATION OF THE TOWNSHIP OF WOOLWICH
(hereinafter called "Woolwich")

PARTY OF THE SECOND PART

WHEREAS:

- A. WHEREAS Wellesley and Woolwich have joint jurisdiction over the highway forming part of the boundary between Wellesley and Woolwich shown in bold in Schedule "A" attached to this Agreement (the "Townline");
- B. AND WHEREAS, pursuant to s. 29.1 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "Act"), municipalities having joint jurisdiction over a boundary line highway may enter into an agreement under which each municipality agrees to keep any part of the highway in repair for its whole width and to indemnify the other municipality from any loss or damage arising from the lack of repair for that part;
- C. AND WHEREAS Wellesley and Woolwich are adjoining municipalities and are desirous of entering into an agreement for the maintenance and apportioning of liability from any loss or damage arising from the lack of repair of the Townline including all shared bridges, culverts, guiderails, traffic control devices, pavement marking, traffic signing and trees thereon.
- D. AND WHEREAS Wellesley and Woolwich are committed to cooperatively making decisions on capital works on the Townline shared by Wellesley and Woolwich through an open, transparent, collaborative and consensus-building process.

NOW THEREFORE THIS AGREEMENT WITNESSETH AS FOLLOWS:

Road Maintenance

1. Wellesley hereby covenants and agrees to provide road maintenance services to meet or exceed standards defined by *Minimum Maintenance Standards For Municipal Highways*, O. Reg. 239/02, as amended, issued pursuant to the Act, (the "Regulation") for services listed in Schedule "B" hereto (the "Maintenance Services") on the section of Steffler Road (Township Road 23) between Listowel Road (Regional Road 85) and Hemlock Hills Drive (Township Road 22), (the "Wellesley Section A") for a period of ten (10) years from the 1st day of XXXX, 2021 to the 31st day of XXXXX, 2031, as illustrated on Schedule "A".
2. Wellesley hereby covenants and agrees to provide road maintenance services to meet or exceed standards defined by the Regulation for the Maintenance Services on the section of Kressler Road (Township Road 2) between Cedar Grove Road and Weimar Line (Regional Road 14), (the "Wellesley Section B") for a period of ten (10) years from the 1st day of XXXX, 2021 to the 31st day of XXXXX, 2031, as illustrated on Schedule "A".
3. The parties hereby covenant and agree that all costs associated with the obligations as set out in paragraphs 1-2 shall be shared equally between the parties in accordance with the following:

- (a) Wellesley shall pay all the initial costs associated with the foregoing maintenance and repair obligations, and remit quarterly statements to Woolwich detailing the actual cost of labour and materials for the maintenance and repair obligations the foregoing quarter (the “**Quarterly Statements**”);
 - (b) Upon receipt of a Quarterly Statement, Woolwich hereby agrees that it shall be responsible to reimburse or pay Wellesley for half of all reasonable labour and materials costs incurred for such quarter’s maintenance and repair obligations, with such reimbursement or payment to be made by Woolwich within thirty (30) days after receipt of the Quarterly Statement;
 - (c) Wellesley shall, to the best of its abilities, provide Woolwich with an annual estimate of costs to be incurred for the maintenance and repair of the Wellesley Sections A and B for the following calendar year, which shall be provided to Woolwich no later than August 31st in the preceding year and provide sufficient details to allow Woolwich to prepare its budget for same; and
 - (d) Wellesley hereby agrees that it shall not materially increase the costs or expenses for maintaining or repairing Wellesley Sections A or B, insofar as Wellesley is reasonably able to control such costs or expenses. Where a material increase has been caused by Wellesley, in whole or in part, Woolwich shall not be responsible for paying such increased amounts and shall only be required to reimburse or pay Wellesley for such labour and materials expenses that would be incurred without the material increase.
- 4(a) Each party shall at their own respective expense, during the entire term of this agreement, provide and keep in force for the benefit of each other party a comprehensive general liability insurance policy in an amount of not less than five million dollars (\$5,000,000.00) including providing coverage for bodily injury, death and property damage in connection with the obligations set out in paragraphs 1-5, naming the other party as an additional insured. The policy shall provide for cross liability between the insured and a waiver of subrogation against the named insured and a provision that the insurance may not be cancelled without thirty (30) days prior written notice to the named insured.
- (b) Each party shall furnish to the other party upon execution of this Agreement, copies of a certificate of insurance, showing that it has complied with the provisions of paragraph 4(a) above. Each party shall maintain such insurance in full force and effect during the entire term of this Agreement and shall not change its insurance arrangements without thirty (30) days prior written notice to the other party.
5. Wellesley shall be exclusively liable for damages incurred by reason of neglect to maintain and keep the Wellesley Sections A and B in repair, and Woolwich shall be relieved, indemnified and held harmless by Wellesley from all liabilities in respect of Wellesley’s maintenance and repair, or any omissions thereof, of the Wellesley Sections A and B. Notwithstanding the foregoing, in the event that a third party makes a claim against Wellesley and/or Woolwich based on an alleged neglect to maintain and keep the Wellesley Sections A and B in repair, the parties shall cooperate in the defence of such claim and shall each bear their own legal costs.
6. During the currency of this Agreement, either Wellesley or Woolwich shall have the right to call a joint meeting for the consideration of the construction, maintenance or repair of any portion of the said road which is unsatisfactory to Wellesley and/or Woolwich.

Capital Works

7. On or before August 31st of each calendar year, Wellesley and Woolwich agree to provide each other with a three (3) year capital forecast for capital works on the road segments identified on Schedule “A”, including cost estimates for budgetary purposes, needs justification, and the basis for the cost estimates. The cost of all agreed upon capital works, including but not necessarily limited to, Class Environmental Assessments, legal survey, geotechnical investigation, heritage assessments, design, approvals, contract administration, and construction on the section of the Townline shown in Schedule “A” shall be equally shared by both parties. A list of items eligible for equal cost sharing is presented in Schedule ‘C’ and is referred to herein as “Capital Works”.
- Within 30 calendar days of capital budget approval, Wellesley shall provide written notification to Woolwich confirming capital budget status of their proposed boundary road Capital Works. Likewise, within 30 calendar days of capital budget approval, Woolwich shall provide written notification to Wellesley confirming capital budget status of their respective boundary road Capital Works. For clarity, no Capital Works shall be carried out unless they have been approved in advance by the councils for both parties.
8. Wellesley and Woolwich agree that the costs listed in Schedule “D” are ineligible for cost sharing.
9. Wellesley and Woolwich agree that decisions regarding Capital Works will be made through collaboration and consensus between the two municipalities recognizing that ultimately Council approvals will be required prior to the tendering and construction off such Capital Works. Furthermore, Wellesley and Woolwich agree a Community Engagement Strategy shall be prepared,

endorsed and implemented by the lead municipality (as chosen by the parties, acting cooperatively) which ensures residents and businesses in both municipalities are engaged in the consultation process for Capital Works.

- 10. Prior to the implementation of any Capital Works, Wellesley and Woolwich agree that the lead municipality shall submit a work plan and cost estimate for each project phase to the other party for review and approval.,. Wellesley and Woolwich agree that any changes to the mutually agreed upon project scope shall be presented by the lead municipality to the partner municipality prior to commencement of additions to the Capital Works. The partner municipality shall provide written concurrence of the project scope change and any adjustments to the agreed-upon project budget.

Other

- 11. Either party may terminate this agreement at any time and without cause upon 180 days written notice to the other party, but each party shall remain responsible for any Capital Works committed to prior to giving notice even if invoices for such works extend past the termination date.
- 12. Subject to the right of termination set out in paragraph 11 above, this Agreement shall automatically renew on XXXX, 2031, for a further 5 year term, and indefinitely on every 5th anniversary thereafter unless terminated by either party.
- 13. If Wellesley and Woolwich are unable to agree on any matter arising out of this Agreement, or the carrying into effect thereof, such difference shall be determined by arbitration pursuant to the *Municipal Arbitrations Act*, R.S.O. 1990, c. M.48, as amended, upon an application by either the Wellesley or Woolwich.
- 14. This Agreement shall be effective from the date first set out above.
- 15. This Agreement shall inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns.

IN WITNESS WHEREOF the Parties have caused the Agreement to be executed by their respective officers which are duly authorized, as of the date first above written.

THE CORPORATION OF THE TOWNSHIP OF WELLESLEY
Per:

THE CORPORATION OF THE TOWNSHIP OF WOOLWICH
Per:

Joe Nowak, Mayor

Sandy Shantz, Mayor

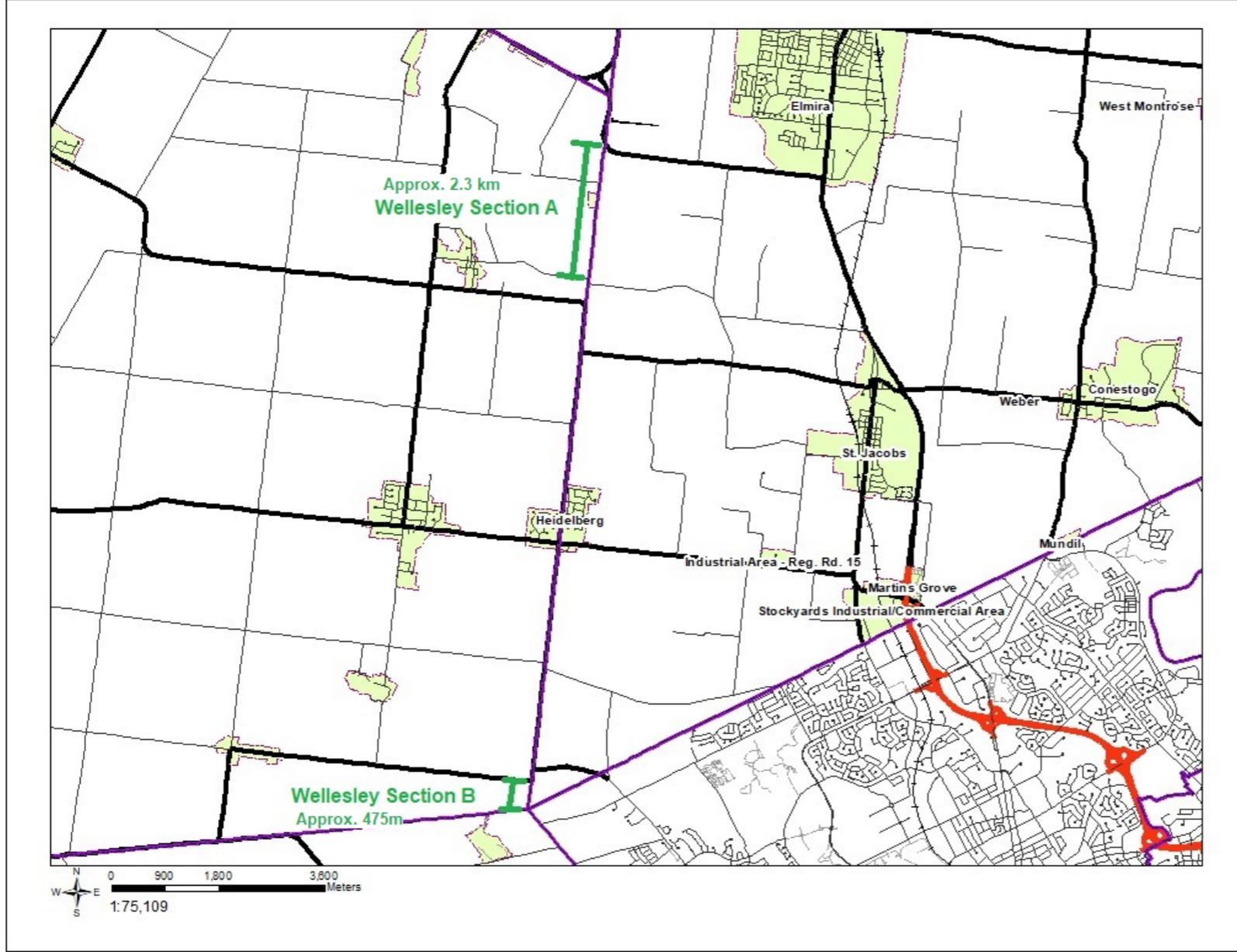
Grace Kosch, Clerk

Valrie Hummel, Clerk

We have authority to bind the Corporation

We have authority to bind the Corporation

SCHEDULE "A"



SCHEDULE "B"

Description of Maintenance Services

Routine Road Patrols

Winter Maintenance Patrols

Snow Plowing/Sanding/Salting

Asphalt Repair

Ditching

Driveway entrance permitting and approvals

Road crossing culverts that are less than 3.0m in span

Signs

Roadside Grass Mowing

Tree Removal/Trimming

Shouldering

Line Painting

SCHEDULE "C"

Eligible Items for Cost Sharing

The following items are eligible for cost sharing:

Municipal Class Environmental Assessment

- Notice of Commencement
- Determination of Class of EA
- Identify Alternate Solutions
- Pre-Engineering field survey work
- Legal Survey Work
- Preliminary Design Development - Prepare Alternative Design Concepts for Preferred Solution
- Natural Environmental Features Review
- Archaeological Assessments
- Geotechnical Investigations
- Engage Stakeholders including Ministry of Natural Resources and Forestry (MNR), Grand River Conservation Authority (GRCA), First Nations and Metis, and community interest groups.
- Cultural Heritage Evaluation Report/Heritage Impact Assessment
- Public Information Centres
- Environmental Study Report/Project File Report
- Notice of Completion

Permits and Approvals

- Applications for necessary permits and approvals from regulatory agencies

Contract Documents

- Development of Construction Design Drawings and Specifications
- Environmental Species at Risk Mitigation
- Final Design Drawing and Construction Specifications
- Tender Preparation

Construction

- Construction
- Contract Administration and Inspection

General for Construction, Detailed Design, and Municipal Class Environmental Assessments

- Condition Assessments
- Load Testing
- Feasibility Studies
- Land Acquisition or Leasing
- Temporary or Permanent Utility Relocation
- Vehicle/equipment rentals
- Applicable Consulting Services

Staff time.

SCHEDULE "D"

Ineligible Items for Cost Sharing

The following items are ineligible for cost sharing:

- Meals