

Bill No. 601
2017

By-law No. A. - _____

A by-law to approve the Automatic Aid Agreement between The Corporation of the City of London and The Corporation of the Municipality of Central Elgin; and to authorize the Mayor and Clerk to execute the Agreement.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS section 10 of the *Municipal Act, 2001* provides that the City may provide any service or thing that the City considers necessary or desirable for the public, and may pass by-laws respecting same, and respecting economic, social and environmental well-being of the City, and the health, safety and well-being of persons;

AND WHEREAS section 2 of the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c. 4 provides that a municipality may enter into an agreement to (a) provide such fire protection services as may be specified in the agreement to lands or premises that are situated outside the territorial limits of the municipality, and (b) receive such fire protection services as may be specified in the agreement from a fire department situated outside the territorial limits of the municipality;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. The Automatic Aid Agreement attached as Schedule "A" to this by-law between The Corporation of the City of London and The Corporation of the Municipality of Central Elgin regarding the provision of certain fire protection services by Central Elgin to specified areas within London is hereby authorized and approved.
2. The Mayor and City Clerk are authorized to execute the Automatic Aid Agreement authorized and approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on October 17, 2017.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – October 17, 2017
Second Reading – October 17, 2017
Third Reading – October 17, 2017

SCHEDULE "A"

THIS AUTOMATIC AID Agreement effective this 1st day of January, 2018.

Between:

THE CORPORATION OF THE MUNICIPALITY OF CENTRAL ELGIN
("Central Elgin")

- And -

THE CORPORATION OF THE CITY OF LONDON
("London")

WHEREAS the *Fire Protection and Prevention Act, 1997*, S.O. 1997, c.4 provides:

- i) In subsection 2(6) that a municipality may enter into an automatic aid agreement to provide or receive the initial or supplemental responses to fires, rescues and emergencies;
- ii) in subsection 2(5)(a) that a municipality may enter into an agreement to provide such fire protection services as may be specified in the agreement to lands or premises situated outside the territorial limits of the municipality;
- iii) in subsection 2(5)(b) that a municipality may enter into an agreement to receive such fire protection services as may be specified in the agreement from a fire department situated outside the territorial limits of the municipality;
- iv) in subsection 6(5) that the fire chief may exercise all the powers assigned to him or her under this Act within the territorial limits of the municipality and within any other area in which the municipality has agreed to provide fire protection services, subject to any conditions specified in the agreement; and,
- v) in subsection 13(3) that a firefighter or such other person as may be authorized by the fire chief may, without a warrant, enter on lands or premises that are outside the territorial limits of the municipality of the fire department that employs the firefighter or fire chief for the purposes of fighting a fire or of providing rescue or emergency services on such lands or premises if the council of the municipality has entered into an automatic aid agreement or any other agreement under which the entry is permitted;

AND WHEREAS Central Elgin and London have reached agreement for the provision of certain Fire Protection Services by Central Elgin to specified areas within London under this automatic aid Agreement;

AND WHEREAS Municipal Council for each Municipality has, by by-law, authorized execution of this automatic aid Agreement;

NOW THEREFORE, in consideration of the payment of the sum of ONE (\$1.00) DOLLAR by each party to the other, the receipt and sufficiency of which is hereby acknowledged, and the mutual covenants herein contained, the parties hereto agree as follows:

1.0 Definitions

1.1 In this Agreement,

- i) "Fire Department" means the fire department established by and for each of the respective parties to this Agreement;
- ii) "Designate" means the person who, in the absence of the Fire Chief, is assigned to be in charge of the activities of the Fire Department for such municipality and, in connection therewith, has the same powers and authority as the Fire Chief;
- iii) "Fire Chief" means, individually, the Chiefs of the London Fire Department and Central Elgin Fire Rescue, as the context requires;
- iv) "Fire Protection Services" includes fire suppression, rescue and emergency services, but does not include for the purposes of this Agreement fire prevention, fire safety education, or fire inspections;
- (v) "Response Area" means a geographic area within the territorial limits of the City of London depicted and outlined in red on Schedule A1 attached hereto.

2.0 Term

2.1 This Agreement shall be deemed to come into force and effect and commence on the 1st day of **January, 2018**, and shall continue to and end on the **31st** day of **December 2022**, unless terminated earlier pursuant to the terms of this Agreement.

Termination

2.2 Central Elgin may terminate this Agreement upon written notice to London at least twelve (12) calendar months prior to the effective date of such termination. London may terminate this Agreement upon written notice to Central Elgin at least six (6) calendar months prior to the effective date of such termination. Should the Agreement terminate prior to December 31st of any year, London's payment obligation shall be pro-rated. In the event that the Agreement is so terminated, neither party shall have any right to claims, losses, or damages arising from the said termination of this Agreement.

3.0 Delivery of Fire Protection Services

- 3.1 Subject to paragraph 3.2, Central Elgin, through its Belmont Station, shall extend and provide Fire Protection Services in the Response Area.
- 3.2 London acknowledges that Central Elgin may be unable to extend and provide Fire Protection Services in the Response Area if response personnel, apparatus or equipment are required elsewhere in the municipality of Central Elgin or under the provisions of the Elgin County Mutual Aid Plan.
- 3.3 Central Elgin acknowledges that the London Fire Department will be dispatched to respond to all alarms in the Response Area, and will attend to the alarm. Central Elgin acknowledges the London Fire Department may be delayed in arriving on scene if London Fire Department is responding to other emergency events.
- 3.4 Central Elgin acknowledges that on the arrival of London Fire Department vehicles, London Fire Department Incident Commander will assume command and make the necessary arrangements to release command from the Central Elgin Fire Department as soon as practicable.
- 3.5 Central Elgin acknowledges that the London Fire Department Fire Chief maintains the rights and authorities under the *Fire Protection and Prevention Act, 1997* with respect to investigations under that Act.
- 3.6 Central Elgin shall not use firefighters as defined in Part IX of the *Fire Protection and Prevention Act*, but instead shall use volunteer firefighters in delivering Fire Protection Services under this agreement.

4.0 Delivery of Fire Protection Not to Limit Response to Request for Mutual Aid

- 4.1 Notwithstanding the generality of the definition of Fire Protection Services as contained in paragraph 1.1, Central Elgin's commitment to provide such Fire Protection Services within the Response Area does not limit, restrain, or otherwise restrict the ability or intention of the Fire Department of either party hereto to provide assistance to a request for mutual aid by one party to the other for any location outside of the Response Area or any applicable territorial limits, which assistance shall be provided without additional cost to the requesting party.

5.0 Notification and Reporting

5.1 For calls for Fire Protection Services pursuant to this agreement, Central Elgin shall ensure that its dispatch service notifies the London Fire Department Communications Division of the details within 15 seconds of dispatching Central Elgin's Belmont station.

5.2 Where there is an Emergency and where London Fire Department response is delayed, Central Elgin Fire Chief or designate shall provide details to the on-call London Chief through London Fire Department Communications Division of such Emergency within fifteen (15) minutes of Central Elgin's first vehicle arriving on scene. For the purposes of this section "Emergency" includes but is not limited to the following:

- i) Fires with fatalities or those with injuries requiring medical attention;
- ii) Any explosion;
- iii) Fires where arson is suspected regardless of dollar loss;
- iv) Incendiary fire;
- v) Fire where the value of loss of property equals or exceeds \$10,000.00;
- vi) Fires where the cause is undetermined or suspicious in nature;
- vii) Fires of unusual origin or circumstances such as:
 - (1) Unusual fire/smoke spread or
 - (2) Involves circumstances that may result in widespread public concern (i.e. environmental hazard);
- viii) Hazardous material spill;
- ix) Motor Vehicle Collision.

5.3 Within eight (8) hours of the conclusion of the provision of Fire Protection Services, Central Elgin shall submit written reports to London's Fire Chief as required and in the form as determined by the London Fire Chief.

5.4 When requested, Central Elgin shall provide to investigating agencies information and/or witness statements, orally and/or in writing regarding the provision of Fire Protection Services.

6.0 Standard of Performance

6.1 Central Elgin agrees and covenants that the extension, delivery, and provision of Fire Protection Services pursuant to this agreement shall be undertaken in a safe, proper, and prudent manner and at least to the performance standards of Central Elgin Fire Department existing on January 1, 2008.

7.0 Annual Review of Fire Protection by Fire Chief

7.1 On a periodic basis and at least once during each calendar year of the term of this

Agreement, the Fire Chiefs for each municipality shall meet to review and, if necessary, make recommendation to their respective municipal Councils for amendment to this Agreement and delivery of Fire Protection Services herein.

8.0 Service Charges

8.1.1 From January 1, 2018 until the termination of this agreement, London shall pay Central Elgin the following amounts for the extension, delivery and provision of Fire Protection Services by Central Elgin in the Response Area:

For the 2018 year - \$7,883.00

For the 2019 year - \$8,120.00

For the 2020 year - \$8,363.00

For the 2021 year - \$8,614.00

For the 2022 year - \$8,872.00

8.1.2 Central Elgin will invoice London for the extension, delivery and provision of Fire Protection Services in the Response Area under paragraph 8.1.1 on or before November 30 of each year for that calendar year, and London shall pay such invoice within thirty (30) days of the date of such invoice. Central Elgin may charge interest on any outstanding balance under this paragraph in keeping with its normal invoicing policies then in effect.

9.0 Not an Agreement of Employment

9.1 Central Elgin acknowledges and agrees this Agreement shall in no way be deemed or construed to be an Agreement of Employment. Specifically, the parties agree that it is not intended by this Agreement that Central Elgin nor any person employed by, volunteering for, or associated with Central Elgin is an employee of, or has an employment relationship of any kind with London or is in any way entitled to employment benefits of any kind whatsoever from London whether under internal policies and programs of London, the *Income Tax Act*, R.S.C. 1985 c.1 (1st Supp); the *Canada Pension Act*, R.S.C. 1985, c.C-8; the *Employment Insurance Act*, S.O. 1996,c.23; the *Workplace Safety and Insurance Act*, 1997 S.O. 1997, c.26 (Schedule "A"); the *Occupational Health and Safety Act*, R.S.O. 1990, c.o.1; the *Pay Equity Act*, R. S. O. 1990, c.P.7; the *Health Insurance Act*, R.S.O. 1990, c.H.6; or any other employment related legislation, all as may be amended from time to time, or otherwise.

9.2 Notwithstanding paragraph 9.1 above, it is the sole and exclusive responsibility of Central Elgin to make its own determination as to its status under the Acts referred to above and, in particular, to comply with the provisions of any of the aforesaid

Acts, and to make any payments required thereunder.

10.0 Parties to be Saved Harmless and Indemnified

10.1 London hereby agrees to save harmless and indemnify Central Elgin, including its employees, servants, agents, representatives, and councillors and specifically including its Fire Chief and members of its Fire Department, of and from all claims, demands, losses, costs (including solicitor client costs), damages, actions, law suits, or other proceedings by whomsoever made, sustained, or prosecuted which may arise directly or indirectly from any act undertaken pursuant to the terms of this Agreement, with respect to any Fire Protection Service extended, delivered, or provided within the Response Area, except if resulting from Central Elgin's negligence or wrongful acts or omissions.

10.2 Central Elgin hereby agrees to save harmless and indemnify London, including its employees, servants, agents, representatives, and councillors and specifically including its Fire Chief and members of its Fire Department, of and from all claims, demands, losses, costs (including solicitor client costs), damages, actions, law suits, or other proceedings by whomsoever made, sustained, or prosecuted which may arise directly or indirectly from any act undertaken, or any act a prudent person would have undertaken that was not, pursuant to the terms of this Agreement, with respect to any Fire Protection Service delivered or provided within the Response Area, including: (a) any claim or finding that any of Central Elgin, Central Elgin's employees, volunteers or persons for whom Central Elgin is at law responsible are employees of, or are in any employment relationship with, London or are entitled to any Employment Benefits of any kind; or (b) any liability on the part of London, under the Income Tax Act (Canada) or any other statute (including, without limitation, any Employment Benefits statute), to make contributions, withhold or remit any monies or make any deductions from payments, or to pay any related interest or penalties, by virtue of any of the following being considered to be an employee of London, from Central Elgin; Central Elgin's employees, volunteers or others for whom Central Elgin is at law responsible in connection with the performance of Fire Protection Services or otherwise in connection with Central Elgin's business; or (c) all tickets, fines or penalties.

11.0 Insurance

11.1 London agrees that, during the term of this Agreement, it shall arrange for and maintain general liability insurance in an amount not less than TWENTY MILLION (\$20,000,000.00) DOLLARS including as additional insureds Central Elgin, its employees, servants, agents, representatives, and councillors and specifically including its Fire Chief and members of its Fire Department, for legal liability, including but not limited to bodily injury, including death, or property damage

arising out of acts or omissions related to the obligations of London under this Agreement.

- 11.2 Central Elgin agrees that, during the term of this Agreement, it shall arrange for and maintain general liability insurance in an amount not less than TWENTY MILLION (\$20,000,000.00) DOLLARS including as additional insureds London, its employees, servants, agents, representatives, and councillors and specifically including its Fire Chief and members of its Fire Department, for legal liability including but not limited to bodily injury, including death, or property damage arising out of acts or omissions related to the work, services and obligations of Central Elgin under this Agreement.

12.0 Agreement to Negotiate at the End of Term

- 12.1 Prior to the expiry of the term of this Agreement, municipal representatives, including respective Fire Chiefs, may meet to discuss acceptable terms by which the extension, delivery, and provision of such Fire Protection Services may continue thereafter. Such negotiation and agreement is subject to approval by municipal council of each party.

13.0 Amendment

- 13.1 The parties hereto agree that any amendment to this Agreement shall be in writing, executed by authorized representatives of each of the parties, in the form of an amending agreement.

14.0 Schedules

- 14.1 The following schedule is attached to and forms part of this Agreement:
Schedule A1 depicting Response Area and describing boundaries of Response Area.

15.0 Miscellaneous

- 15.1 Nothing in this Agreement shall entitle or enable Central Elgin to act on behalf of, or as agent for, or to assume or create any obligation on behalf of, or to make any representation, promise, and warranty or guarantee binding upon, or otherwise to bind London. Each of Central Elgin, any volunteer for Central Elgin, and London is independent and not the agent, employee, partner or joint venture of any of the others.

15.2 Notice

- (a) All communication between the parties with respect to the administration and operation of this Agreement shall be conducted by the following personnel:

"For Central Elgin" - Fire Chief, Central Elgin Fire Rescue Services
The Corporation of the Municipality of Central Elgin
450 Sunset Drive
ST. THOMAS, ON N5R 5V1
Fax: (519) 631-4036

"For London" - Fire Chief, London Fire ~~Services~~ Department
The Corporation of the City of London
400 Horton Street E,
LONDON, ON N6B 1L7
Fax: (519) 661-6507

- (b) Any notice or written communication between the parties other than this Agreement shall be delivered or sent by pre-paid registered mail addressed to the parties at their respective addresses listed above, or their respective facsimile numbers as noted above.
- (c) Notice shall be deemed to have been received at the date on which notice was delivered to the address as designated, or in the case of mailing, within four (4) days of the date of mailing or in the case of facsimile transmission, the day after such facsimile was transmitted.

15.3 Further Assurances

The parties shall to do or cause to be done all acts or things necessary to implement and carry into effect this Agreement to its full extent.

15.4 Successors and Assigns

This Agreement shall enure to the benefit and be binding upon the parties and their respective successors and permitted assigns.

15.5 Gender and Number

In this Agreement, words importing the singular include the plural and *vice versa* and words importing gender include all genders.

15.6 Section Headings

The insertion of headings and the division of this Agreement into sections are for convenience of reference only and shall not affect the interpretation hereof.

15.7 Entire Agreement

This Agreement constitutes the entire Agreement between the parties pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions with respect to the subject matter hereof, whether oral or written. No supplement, modification, or waiver of this Agreement shall be binding unless executed in writing by both of the parties.

15.8 Circumstances beyond the Control of Either Party

Neither party will be responsible for damage caused by delay or failure to perform under the terms of this Agreement resulting from matters beyond their control including strike, lockout or any other action arising from a labour dispute, fire, flood,

act of God, war, riot or other civil insurrection, lawful act of public authority, or delay or default caused by a common carrier which cannot be reasonably foreseen or provided against.

15.9 Severability

The invalidity or unenforceability of any provision of this Agreement or any covenant herein contained shall not affect the validity or enforceability of provision or covenant shall be deemed to be severable.

15.10 No Assignment without Consent

This Agreement is not assignable without the prior written consent of London's Fire Chief. Any attempt to assign any of the rights, duties or obligations of this Agreement without consent is void.

15.11 Applicable Law

This Agreement shall be construed in accordance with the laws of the Province of Ontario. The parties agree to attorn to the jurisdiction of the Ontario Courts.

IN WITNESS WHEREOF the parties have hereunto affixed their respective corporate seal under the hands of their duly authorized Mayor and Clerk as of the date first written above.

THE CORPORATION OF THE CITY OF LONDON

Date: _____

Matt Brown, Mayor

Date: _____

Catherine Saunders, City Clerk

THE CORPORATION OF THE MUNICIPALITY OF
CENTRAL ELGIN

Date: _____

David Marr, Mayor

Date: _____

Donald Leitch, Clerk

Schedule A1

Response Area



DESCRIPTION OF BOUNDARIES OF RESPONSE AREA – City of London

South half of lots 5 to 9 inclusive, Concession V:

Both sides of Westminister Drive starting from the East at the London-Thames Centre municipal boundary, proceeding in a westward direction to #1743.

Lots 5 to 9 inclusive, Concession VI:

Both sides of Scotland Drive starting from the East at the London-Thames Centre municipal boundary, proceeding in a Westward direction to #1743.

Lots 5 to 9 inclusive, Concession VII:

Both sides of Manning Drive starting from the East at the London-Thames Centre municipal boundary, proceeding in a Westward direction to #1769.

Lots 5 to 9 inclusive, Concession VIII:

Both sides of Glanworth Drive/Borden Avenue, starting from the East at #750 Borden Avenue at the London-Central Elgin municipal boundary, proceeding in a Westward direction to #1733.