

The Corporation of the City of Port Colborne

By-law No. _____

Being a By-law to Authorize Entering into a Memorandum of Understanding with The Port Colborne Public Library

Whereas at its meeting of January 28, 2025, the Council of The Corporation of the City of Port Colborne (Council) approved the recommendations of the Corporate Services Department, Report No. 2025-23, Subject: Port Colborne Public Library – Memorandum of Understanding; and

Whereas Council is desirous of entering into a Memorandum of Understanding with the Port Colborne Public Library (Library), for the purposes of sharing congruent values of the City, providing residents with library services and resources in the City of Port Colborne in accordance with the *Public Libraries Act*, establishing and maintaining a strategic plan, including mission and vision that is congruent with the City, being inclusive in the fostering of a welcoming, livable, and health community, and abiding by all applicable laws and regulations; and

Now therefore the Council of The Corporation of the City of Port Colborne enacts as follows:

1. That The Corporation of the City of Port Colborne enters into a Memorandum of Understanding with the Port Colborne Public Library, for the purposes of sharing congruent values of the City, providing residents with library services and resources in the City of Port Colborne in accordance with the *Public Libraries Act*. establishing and maintaining a strategic plan, including mission and vision that is congruent with the City, being inclusive in the fostering of a welcoming, livable, and health community, and abiding by all applicable laws and regulations.
2. That the Mayor and City Clerk be, and they are hereby authorized and directed to sign the said Memorandum of Understanding, attached hereto as Schedule “A”, together with any documents necessary to complete the conditions of the said agreement, and the City Clerk is hereby authorized to affix the Corporate Seal thereto.

Enacted and passed this 28th day of January 2025.

William C. Steele
Mayor

Charlotte Madden
City Clerk

MEMORANDUM OF UNDERSTANDING

BETWEEN:

**THE PORT COLBORNE PUBLIC
LIBRARY**
(hereinafter referred to as the "Library")

-and-

THE CORPORATION OF THE CITY OF PORT COLBORNE
(hereinafter referred to as the "City")

WHEREAS the City is The Corporation of the City of Port Colborne, incorporated pursuant to the provisions of the *Municipal Act, 2001, S.O., 2002, c.25* as amended;

AND WHEREAS the Library is The Port Colborne Public Library that has been established pursuant to the provisions of the *Public Libraries Act, R.S.O., 1990, c. P-44* as amended;

AND WHEREAS the elected Council of the City appoints the members of the Library Board and funds the Library through the City budget process in accordance with Section 24 of the Public Libraries Act;

AND WHEREAS the City is the owner of the facility at 310 King Street in the City of Port Colborne, including land and building;

AND WHEREAS the Library is a separate independent corporate board of the municipality with independent corporate status from the City, subject to the provisions of the *Public Libraries Act*, and has been established to provide public library services to the residents of the City of Port Colborne;

AND WHEREAS the City employs staff who have expertise in certain support service function and it is important to the Library that such expertise is utilized to the benefit of the Library;

AND WHEREAS the City and Library are committed to cost-effective delivery of services, avoiding unnecessary duplication and costs, and minimizing the impact of support services on property taxpayers;

AND WHEREAS the City and Library wish to enter into a Memorandum of Understanding (MOU) to outline the shared support services provided by the City to the Library and other operational processes.

NOW THEREFORE this agreement witnesses that in consideration of the Library funding and facility provided and the obligations herein expressed and for the other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledge) the Library and City hereby agree as follows:

1) **Acknowledgement of Management Roles and Relationship**

- a) CAO refers to the Chief Administrative Officer for the City of Port Colborne. The CAO is an employee of the City Council.
- b) CEO refers to the Chief Executive Officer who is Secretary and Treasurer for The Port Colborne Public Library. The CEO is an employee of the Library Board.

- c) The Director of Corporate Services / Treasurer of the City of Port Colborne is an employee of the City reporting to the City CAO. Whereas the Library's financial statements are consolidated into the City's financial statements, the City Treasurer will have all the powers and authority of the Library Treasurer, including the responsibility to prepare and attest to the Library audited financial statements.
- d) The Library agrees that financial transactions can be processed through the City bank account(s) with reconciliations through due to/from account(s). Cheques written from the City bank account(s) can be signed by City cheque signatories provided the underlining transaction are first approved by the Library CEO or designate.
- e) The City CAO and/or Director of Corporate Services / Treasurer will meet regularly either together or separately to discuss matters of joint interest.
- f) The City CAO and Library CEO may each designate members of their respective staffs to address any items that may arise out of the operation of this MOU.
- g) While it is understood that the Library CEO does not have the authority to direct City Staff, it is agreed that the Library CEO may directly approach City Directors and Managers for assistance and support as necessary to coordinate support services and other topics identified in this MOU, inclusive of any attached schedules.

2) Purpose

- a) The Library in its capacity as a library under the Public Libraries Act in the City of Port Colborne shall:
 - i) Share congruent values of the City.
 - ii) Provide residents with library services and resources in the City of Port Colborne in accordance with the *Public Libraries Act*.
 - iii) Establish and maintain a strategic plan, including mission and vision that is congruent with the City.
 - iv) Be inclusive in the foster of a welcoming, livable, and healthy community.
 - v) Abide by all applicable laws and regulations.

3) Term, Updates and Dispute Resolution

- a) This MOU shall commence on September 1, 2024 and continue until such time as either party terminate or review this MOU.
- b) This MOU shall be reviewed in the second year of each Public Library board term.
- c) Either party may terminate or review this MOU upon providing to the other party no less than six months written notice after making a bonafide effort to resolve any dispute, through the processes identified in 3 (e) of this MOU, that has or is causing the action of termination.
- d) If at any time during the term of this agreement either party deems it necessary or expedient to make any alteration or addition to this MOU, the party desiring the alteration or addition shall give written notice of the proposed amendment(s) to the other party. If agreement to the amendment(s) is obtained, an addendum to this MOU will be prepared or this MOU will be updated to incorporate the proposed amendment(s). The addendum or updated MOU will commence at a mutually agreed upon date to be incorporated into the addendum or updated MOU once approved by City Council and the Library Board.
- e) Any matters in dispute between the parties in relation to this MOU may be referred by either party to a committee to be struck including two members of City Council and two members of the Library Board who are not also Councillors, and the City CAO and Library CEO. This committee shall be

tasked with determining a process of dispute resolution which may include third party mediation.

4) **Covenants**

- a) The City and Library agree to:
 - i) share and consult with each other regarding any service delivery review that may either impact upon, or be helpful to either or both parties.
 - ii) commit to ongoing collaboration with regard to programs and services, in order to minimize duplications and schedule conflicts, and to maximize opportunities.
 - iii) share policies and procedures and for Library policies and procedures to be equal to or greater than City policies and procedures when addressing topics related to risk management and the related protection of people, the environment, property and the corporations referring to both the City and Library.
 - iv) consult each other prior to making changes to policies and procedures that could impact the other organization or the risk profile of either organization.
 - v) the provision of support services identified in Schedule A.
 - vi) the recording of costs related to support services identified in Schedule A being reported in the financial reporting of the Library and for those costs to be funded by the City. The costs recorded in many cases will be allocated costs using allocation methodology consistent with the Province of Ontario Financial Information Return.
 - vii) coordinate programming and events, including the communication of programming and events through shared outlets, including but not limited to a shared digital community calendar and front counter teams.
 - viii) Liaise in decision making for closures outside of normal schedule hours, including but not limited to weather events.
- b) The City and Library agree that the:
 - i) Library is the sole employer of Library employees.
 - ii) City nor any of its' employees will provide legal advice. Should the Library require legal advice external legal counsel should be obtained.
 - iii) Customary legal costs associated with support services such as collective bargaining and contract negotiation for the procurement of goods and services will be paid by the City. All other legal costs will be the responsibility of the Library.
 - iv) Library will adopt and adhere to the requirements of any City Risk Management and Insurance Program(s), including Cyber Security.
 - v) The Library will be included under the City's insurance program and Library Board members will be afforded the same insurance coverage as City Councillors .
 - vi) Library shall offer City services through the Library which are appropriate to improved service to the community, provided the delivery of such services is within the scope and skill of the Library employees, do not require additional Library staff or additional funding to staff the service is provided, and do not impact on other services provided by employees of the Library.
 - vii) Library agendas and minutes of the Library Board are presented to Council for information only.

5) **Indemnity**

- a) The Library shall defend, indemnify and save harmless the City, its elected officials, officers, employees and agents from and against any and all claims of any nature, actions, causes of action, losses, expenses, fines, costs (including legal costs), interest or damages of every nature and kind whatsoever, including but not limited to bodily injury, sickness, disease or death or to damage to or destruction of tangible property including loss of revenue or incurred expense resulting from disruption of service, arising out of or allegedly attributable to the negligence, acts, errors, omissions, misfeasance, nonfeasance, fraud or willful misconduct of Library, its directors, officers, employees, agents, contractors and subcontractors, or any of them, in connection with or in any way related to the delivery or performance of this MOU.

6) Notices

- a) Any demand, notice, direction, or other communication made or given hereunder (Communication) shall be in writing and shall be made or given by personal delivery, courier, facsimile transmission, or sent by registered mail, charges prepaid, addressed as follows:

To the Library:	Attention: Secretary Port Colborne Public Library 310 King Street Port Colborne, ON L3K 4H1 (905) 834-6512
To the City:	Attention: City Clerk 66 Charlotte Street Port Colborne, ON L3K 3C8 (905) 835-2900

or to such other address or facsimile number as either party may, from time to time, designate in accordance with this section.

- b) Any communication made by personal delivery or by courier shall be conclusively deemed to have been given and received on the day of actual delivery thereof or, if such day is not a business day, on the first business day thereafter. Any communication made or given by email on a business day before 5:00 p.m. (local time of the recipient) shall be conclusively deemed to have been given and received on such business day, and otherwise shall be conclusively deemed to have been given and received on the first business day following the transmittal thereof. Any communication that is mailed shall be conclusively deemed to have been given and received on the fifth business day following the date of mailing but if, at the time of mailing or within five business days thereafter, there is or occurs a labour dispute or other event that might reasonably be expected to disrupt delivery of documents by mail, any Communication shall be delivered or transmitted by any other means provided for in this section. When used in this agreement, "business day" shall mean a day other than a Saturday, Sunday, or any statutory holiday in the Province of Ontario.

7) General Provisions

- a) The City and Library shall, without charge, at any time and from time to time, within ten (10) days after request by the other party, certify by written instrument to the other party or any other person, firm or corporation specified by the other party, that this agreement is unmodified and in full force and effect (or, if there have been any modifications, that this agreement is in full force and effect as modified and stating the modifications), whether or not there are then existing

any known set-offs or defences against the enforcement of any of the agreements, terms, covenants or conditions of the certifying party and, if so, specifying the nature of same and confirming the dates, if any, to which any charges hereunder have been paid.

- b) This agreement constitutes the entire agreement of the parties with respect to the matters governed by it and supersedes all prior agreements and understandings, whether written or oral, relative to the subject matter hereof. Except as otherwise specifically set forth in this agreement, neither party makes any representation or warranty, express or implied, statutory, or otherwise, to the other. This agreement may not be amended or modified except by a written instrument executed by both parties.
- c) If any covenant, provision, or restriction contained in this agreement is found to be void or unenforceable in whole or in part by a competent authority, it shall not affect or impair the validity of any other covenant, provision or restriction and, without limitation, each of the covenants, provisions and restrictions contained herein and hereby declared to be separate and distinct covenants, provisions and restrictions.
- d) Unless the context otherwise requires, words importing the singular in number only shall include the plural and *vice versa*, words importing the use of gender shall include the masculine, feminine and neuter genders, and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities.

IN WITNESS WHEREOF the parties hereto have caused this MOU to be duly executed as of the day and year first above written.

THE CORPORATION OF THE CITY OF PORT COLBORNE

William C. Steele, Mayor

Bryan Boles, Interim CAO

Charlotte Madden, City Clerk

THE PORT COLBORNE PUBLIC LIBRARY

Bryan Ingram, Chair

Rachel Tkachuk, CEO

SCHEDULE “A”

Support Services

- 1) The City and Library agree the City’s Human Resource (HR) Department will:
 - a) Provide advice to the Library
 - b) Maintain job descriptions and the pay equity plan at the direction of the Board with respect to the Library CEO and at the direction of the Library CEO with respect to all other Library employees
 - c) Support the Library with recruitment, performance appraisals, discipline and termination as requested by the Board or Library CEO
 - d) Administer the payroll and benefit program of the Library
 - e) Administer health and safety claims of the Library
 - f) Provide Library employees access to City wide training and wellness programs
 - g) Communicate with individual Library employees directly and confidentially, as applicable, to fulfill the agreed upon support services
- 2) The City and Library agree the City’s Financial Service (Finance) Department will:
 - a) Provide advice to the Library
 - b) Support the Library with the budget process as requested by the Board or Library CEO
 - c) Perform banking and investment services
 - d) Perform accounting and tax services
 - e) Support procurement tasks and initiatives
 - f) Make available and maintain a purchasing card program
 - g) Administer development charge
 - h) Maintain reserve accounts
 - i) Support the Library with accounts receivable as requested by the Library CEO
 - j) Preparation of annual financial statements
 - k) Coordinate the Library audit(s) and tax filings
- 3) The City and Library agree the City’s Information Technology (IT) Department will:
 - a) Support all City related software and hardware used by the Library
 - b) Provide second level support for Library specific software
 - c) Support the Library in maintaining any software and hardware inventory listing to support current and future planning needs that ties into the City’s Asset Management Plan (AMP)
- 4) The Library agrees to use the same software and information technology systems and follow City related policies and procedures or maintain equal to or greater than City policies and procedures when addressing topics related to risk management and the related protection of people, the environment, property and the corporations referring to both the City and Library related to:
 - a) Human resource and payroll system
 - b) Accounting system
 - c) Payment processing system(s)
 - d) Core infrastructure technology platforms and/or related software for email, data storage and retention
 - e) Website platform
 - f) Cell and office phone system

- g) Internet
- 5) City and Library agree the City's Facilities Department will:
- a) Facilitate all facility related capital projects
 - b) Facilitate all maintenance
 - c) Facilitate all property management tasks, including but not limited to facility cleaning and grounds maintenance
 - d) Incorporate Library assets in the City's AMP
- 6) The City and Library agree the City's Clerk Department will:
- a) Provide advice to the Library
 - b) Coordinate board training, as required, and in consultation with the Library CEO.