

This agreement made this 11th day of October 2018

BETWEEN:

COURTENAY FIRE PROTECTION DISTRICT

c/o Sandy Todd
3964 Dove Creek Road
Courtenay, BC V9J 1S1
(hereafter called the "District")

OF THE FIRST PART

AND:

CITY OF COURTENAY

830 Cliffe Ave
Courtenay, BC V9N 2J7
(hereafter called the "City")

OF THE SECOND PART

WHEREAS

- A. The District desires to enter into an agreement with the City for the provision of fire protection services in the Courtenay fire protection service area (the Service Area);
- B. The District has requested that the City provide municipal fire protection services for land and improvements within the Service Area;
- C. The City is authorized to enter into an agreement with The District to provide municipal fire protection services pursuant to section 13(1) of the *Community Charter*, and;
- D. The District and the City have resolved to enter into this agreement believing it to be mutually beneficial.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the promises and the mutual covenants and agreements hereinafter set forth in this agreement, the parties hereby agree to the terms and conditions contain in this agreement as follows:

1. DEFINITIONS

- (a) "Extraordinary Fire" means a fire response call that, in the opinion of the Fire Chief, acting reasonably, requires any of the following:
 - i) Use of foam or fire retardant gels
 - ii) Fire crew and fire truck
 - iii) Specialized machinery costs
 - iv) Mutual aid costs
 - v) Wildfire suppression costand is materially beyond what is typically required to respond to a fire in the City.
- (b) "Extraordinary Fire Costs" means costs, over and above those costs associated with a fire that is not an extraordinary fire.
- (c) "Fire Chief" means the person appointed as the chief of the fire department of the City or designate authorized by the Fire Chief to act on their behalf, or the senior ranking member of the fire department of the City present at the fire.

- (d) "Fire Protection Services" means fire services comparable to the fire services provided by the fire department within the boundaries of the City and includes but is not limited to response to and attendance at all dispatched fire alarms, fire suppression, fire investigation and reporting, hazardous material handling, fire prevention activities, vehicle extrication, first responder medical services, and related activities.
- (e) "Net Cost" for the purpose of calculating the cost to the District shall mean the City's budgeted expenditures for the Fire Protection Service for the fiscal year, which for certainty may include any capital costs, debt service costs, or capital reserve funds for capital assets, less any expected revenues and contributions from the capital reserve fund to the fire department.
- (f) "Scene Security Costs" means costs associated with securing a fire-damaged premise from unauthorized entry.
- (g) "Service Area" means the service area established by "Courtenay Fire Protection District"
- (h) "Term" means the period of time commencing January 1, 2019 (replacing existing contract) and expiring on December 31, 2023 subject to an annual appropriation of funds as set out in section 6.

2. SERVICES

- (a) The Fire Protection service shall be provided within the Service Area on a 24-hour basis by the City.
- (b) The fire department resources in the Service Area under this agreement will be under the sole direction of the Fire Chief.
- (c) The number of firefighters and type of apparatus and equipment deemed necessary to provide adequate fire protection services are to be dispatched at the sole discretion of the Fire Chief and such firefighting personnel, equipment and apparatus may vary depending on the circumstances of each emergency.
- (d) The Fire Chief will have control, direction and management of all fire fighting personnel and apparatus and of all fire suppression and safety measures at a fire in the service area. Without limiting the generality of the foregoing, the Fire Chief may order the evacuation of the premises in the service area in an emergency arising from a fire or risk of explosion, where in the Fire Chiefs sole discretion there is a danger to life or property, and may order the demolition of any building or part of a building in order to prevent the spread of fire or damage to persons or property.
- (e) The Fire Chief may order the suspension of the use of water in the Service Area for purposes other than firefighting during an emergency.
- (f) In the event of simultaneous fire emergencies, the Fire Chief will have sole discretion as to the deployment of personnel and apparatus of the City fire department. The City shall not be held liable in any manner whatsoever for the decision of the Fire Chief concerning this provision.
- (g) The Fire Suppression Service provided by the City will be dependent on the availability of water at the site of the fire.
- (h) As part of the services provided under this agreement, the City shall ensure that the Fire Chief or their designate, provide advice and make recommendations to the District:
 - i) the establishment and administration of fire brigades and departments;

- ii) the provision of adequate water supply and pressure;
 - iii) the installation and maintenance of fire protection equipment;
 - iv) the enforcement of measures for the prevention or suppression of fire and the protection of life and property;
 - v) fire prevention generally;
- (i) The Fire Chief shall administer the system for issuing permits for open burning under Bylaw No. 54 being "Courtenay Fire Protection Bylaw No. 54, 1997", as amended from time to time, including the collection of any permit fees. To ensure that the Fire Chief is able to properly administer this system, the Fire Chief shall be consulted for input prior to the creation of any bylaw changes.

3. CONDITIONS OF SERVICE

- (a) The District agrees that it:
- i) shall provide through the Comox Valley Regional District accurate mapping that shows locations of homes, structures and roads within the Service Area and the District shall be responsible to ensure the accuracy of the mappings and to provide updates to the City as new developments or changes occur;
 - ii) shall recognize the Fire Chief as the local assistant to the fire commissioner (LAFC) for the Service Area pursuant to the *Fire Services Act* of British Columbia;
 - iii) shall advise the City in writing of any proposed changes to or amendments of the "Courtenay Fire Protection Bylaw No. 54, 1997";
 - iv) shall be responsible for the mutually agreed upon costs associated with an extraordinary fire.
- (b) The City agrees that it:
- i) shall use its best efforts to respond to calls in the Service Area but may choose not to respond to locations where the Fire Chief deems the access routes to be unsafe or inadequate for fire department apparatus and equipment;
 - ii) shall maintain at all times accurate records, books and accounts respecting the provision of the Fire Protection Services;
 - iii) shall submit any fire incident reports to the Office of the Fire Commissioner (OFC) that are required by the OFC and that the Fire Chief will report all fire department activity in the Service Area to the District annually by letter or email, for review and statistical tracking purposes;
 - iv) shall advise the District as soon as possible when an Extraordinary Fire takes place in the Service Area and advise if Extraordinary Fire costs were incurred that will be invoiced to the District;
 - v) shall make every effort to mitigate the costs associated with an Extraordinary Fire.

4. INSURANCE AND INDEMNIFICATION

- (a) The District will indemnify and save harmless the City, employees, officers, agents, elected officials and members of the fire department from and against all manner of actions, causes of actions, suits, claims, demands, costs (including legal fees), expenses, or liabilities of any nature whatsoever and by whosoever brought, made or suffered, for which the City shall or may become liable, incur or suffer, any way associated or connected with the provision or failure to provide the Fire Protection Services, whether arising out of injury to person (including death), loss or damage, save and except to the extent that such injuries, loss or

damage are caused or contributed to by the negligence of the City, employees, officers, agents or members of the fire department.

- (b) The City and the District shall maintain at their own expense comprehensive general liability insurance in force for the term of the agreement for all bodily injury, death, property damage, property loss, and other loss or damage in an amount not less than \$5,000,000.00 per occurrence, including a Cross Liability Clause and a 30 day written notice of insurance cancellation clause. Each party to the agreement shall provide copies of all insurance policies to the other party.
- (c) The City shall take out and maintain automotive liability insurance on all vehicles used directly or indirectly in the performance of the Fire Suppression Services under this agreement, protecting against damages arising from bodily injury (including death) and from claims of property damage, in an amount of not less than \$2,000,000.00.

5. RENEWAL AND CANCELLATION

- (a) This agreement may be terminated by either party provided notice of termination is given in writing twelve (12) months prior to termination date.
- (b) Either party wishing to renew this agreement will advise the other in writing at least six (6) months in advance of the intended date of renewal, and the terms on which such renewal is sought.
- (c) This agreement may be amended in writing with the mutual consent of both parties.

6. PAYMENT FOR SERVICES

- (a) The annual cost to the District for the provision of Fire Protection Services under this agreement shall be calculated by apportioning the net cost to the City of operating the fire department less the costs of Extraordinary Fire suppression and Scene Security Costs in either the Service Area or the City to the total net taxable value of land and improvements for general taxation purposes within the Service Area divided by the sum of total net taxable value of land and improvements for general taxation purposes within the City and the Service Area.
- (b) In 2019 and any subsequent year of the term, the District shall pay the City the District's share of the City's net cost as follows:
 - i) The calculated amount due for the year following shall be based on the City's approved current year budget plus an adjustment to actual for the year prior. The City shall submit notice of the calculated amount due for the year following by May 31st of each year. Such amount shall be paid in full not later than May 31st in the year following an invoice for payment.

For clarity:

- 2019 Amount Due is based on the approved 2018 budget, plus an adjustment to actual for the 2017 calendar year; Notice of the 2019 amount due would be provided by May 31st, 2018.
- 2020 Amount Due is based on the approved 2019 budget, plus an adjustment to actual for the 2018 calendar year; Notice of the 2020 amount due will be provided by May 31, 2019.

- (c) On or before November 15th of each year, further to the May advice to the District of the net cost of the service for the upcoming year, the City shall further provide the District with its estimated five-year financial plan to anticipate budget variations and proposed capital improvements.
- (d) Where the City's net cost for an upcoming years' service (as per the letter of notification provided by May 31st) exceeds the net cost for the preceding year by more than five per cent, the City's fire department budget will be discussed with the District, who will make recommendations no later than December 31 to the City . The City will advise The District of their decision on any recommendations on or before January 31.

7. PAYMENT FOR EXTRAORDINARY FIRE COSTS AND SCENE SECURITY COSTS

- (a) When the City has incurred Extraordinary Fire Costs and/or Scene Security Costs, the City shall provide to the District an invoice for the proposed charge calculated in accordance with schedule A.
- (b) If the District objects to any amount included as an Extraordinary Fire Cost or Scene Security Cost under section 7(a), it shall within ten (10) business days advise the Fire Chief in writing of its objection to the invoice and the basis for the objection. The Fire Chief and the District's board shall attempt in good faith to resolve the District's objections and if they are unable to do so, the matter shall be referred to the respective chief administrative officers.
- (c) If the chief administrative officers cannot resolve the dispute within 30 days of the dispute being referred, the dispute shall be referred for resolution under section 10(b).

8. NOTICE

- (a) Wherever in this agreement it is required or permitted that notice, demand or other communication will be given and served by either party to the other, such notice or demand will be given and served in writing and forwarded to the respective party at the address given in this agreement, provided that either party may change its address by giving the other prior notice of a change in address.

9. EFFECTIVE DATE

- (a) Notwithstanding the date of executing or date of reference of this agreement, the effective date of this agreement is January 1st, 2019.
- (b) This agreement replaces any previous agreement between the parties dealing with the provision of firefighting, fire protection or fire prevention services to the Service Area or any part of it.

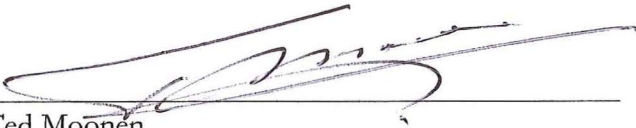
10. GENERAL

- (a) This agreement shall be governed by the laws of British Columbia and is the entire agreement between the parties regarding this subject matter.
- (b) In the event of a dispute between the parties regarding this agreement that the parties cannot resolve otherwise, the dispute shall be submitted to arbitration under the *Commercial Arbitration Act* for determination by a single arbitrator mutually acceptable to the parties.


(c) Time is of the essence of this agreement.

IN WITNESS WHEREOF the parties hereto have duly executed this agreement as of the day and year first above written.

COURTENAY FIRE PROTECTION DISTRICT



Ted Moonen
Chairperson

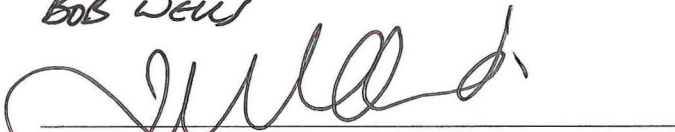


Sandy Todd
Administrator

CITY OF COURTENAY



Mayor
Bob New



John Ward
Director of Legislative Services & Deputy CAO

SCHEDULE "A"

Charges for Extraordinary Fire Costs and Scene Security Costs

Hourly cost of each fire crew and fire truck (1 hour minimum)	Costs are in accordance with the provincially established rental rates for fire apparatus and personnel identified in the Inter-Agency Working Group report as revised from time to time.
Scene security costs	Actual cost
Hourly cost of specialized machinery <ul style="list-style-type: none">(includes heavy machinery required in combating the fire)	Actual cost
Fire retardant gel/per unit cost	Actual cost
Fire retardant foam/per unit cost	Actual cost
Mutual aid costs	Actual cost