

THIS AGREEMENT, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020

B E T W E E N

THE CORPORATION OF THE TOWN OF TILLSONBURG

(hereinafter "the Town of Tillsonburg")

- and -

THE CORPORATION OF THE TOWN OF FORT ERIE

(hereinafter "the Town of Fort Erie")

WHEREAS:

1. Pursuant to the provisions of *the Municipal Act*, S.O. 2001, S.O. 2001, c. 25, as amended, the parties have enacted By-laws to authorize an agreement between the parties;
2. *The Fire Protection and Prevention Act*, S.O. 1997, c. 4, as amended, authorizes a municipality to provide and/or receive fire protection services to or from other municipalities;
3. The Town of Tillsonburg operates fire protection services and holds fire protection assets including fire communications personnel and equipment suitable to meet municipal responsibilities required by *the Fire Protection and Prevention Act*, through a fire department situated within the Town of Tillsonburg;
4. The Town of Tillsonburg has agreed to provide such Fire Communications services to the Town of Fort Erie

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

**Services Provided:**

5. The Town of Tillsonburg shall supply fire communications services to the TOWN OF FORT ERIE the particulars of which are as described in Schedule "A" to this agreement.
6. The fire communications services provided by the Town of Tillsonburg shall comply with *the Standard Operating Guidelines*, which regulate the operation and maintenance of the Tillsonburg Fire & Rescue Services Fire Communications.

**Consideration:**

7. The TOWN OF FORT ERIE shall pay fees to the Town of Tillsonburg as described in Schedule "B" to this agreement.

**Term:**

8. This agreement shall remain effective for a period of five (5) years from the date of signature. If not expressly renewed in writing or supplanted by a succeeding agreement, this Agreement shall be deemed to have been automatically renewed for a period of indefinite duration of annual fees to be negotiated by the parties one year prior to such renewal unless and until one of the parties provides written notice of termination as contemplated in paragraph nine below.
9. Notwithstanding the provisions of paragraph eight above, either of the parties may withdraw from this Agreement upon providing twelve months written notice to the other party (hereinafter “the party withdrawing”).

**Service Commencement Date:**

10. The Town of Tillsonburg shall provide fire communications services in accordance with this agreement effective on January 1, 2021.

**Indemnity and Limitation of Liability:**

11. Each party (the “Indemnifying Party”) agrees to indemnify and save the other party (the “Indemnified Party”) harmless, along with their respective councillors, officers, employees and agents from any liability, action, claim, loss, damage, payment, cost, fine, fine surcharge, recovery or expense, including assessable legal fees arising out of the performance of the Indemnifying Party’s obligations under this Agreement, save and except in respect of any liability, action, claim, loss, damage, payment, cost, fine, fine surcharge, recovery or expense, including assessable legal fees, directly attributable to, arising from, or caused by the negligence or breach of contractual obligation hereunder by the Indemnified Party.
12. Notwithstanding that set forth in paragraph eleven above, the parties agree that no party or parties shall be held responsible for damages caused by delay or failure to perform its or their undertakings under the terms of the agreement when the delay or failure is due to fires, strikes, floods, acts of God or the Queen’s enemies, lawful acts of public authorities, or delays or defaults caused by common carriers which cannot reasonably be foreseen or provided against.
13. Notwithstanding any other provision in this contract or any applicable statutory provisions, neither party shall be liable to the other party for special or consequential damages or damages for loss of use arising directly or indirectly

from any breach of this contract, fundamental or otherwise, or from any tortious acts or omissions of their respective employees or agents, save and except when such damages or losses are directly attributable to, arise from, or are caused by the breach of contractual obligation, fundamental or otherwise, or from any tortious acts, including negligence, by such party, including its or their respective employees or agents. Without limiting the generality of the foregoing, the parties specifically agree that the Town of Tillsonburg shall not be liable for any damages arising as a result of any injury or damage caused or sustained by personnel, apparatus, or equipment of the fire department of the TOWN OF FORT ERIE while engaged in the provision of fire protection services. Nothing in this provision shall be interpreted to affect or interfere with the right of any of the parties to take action to enforce the terms of this Agreement.

14. The parties hereto agree that no provision herein, or any part thereof, shall be interpreted or act so as to affect, restrict, prohibit, or interfere with the right of any party hereto, either individually or in combination, to demand or otherwise take action or commence proceedings to enforce the terms of this Agreement.

**Amendment:**

15. The parties may amend this agreement from time to time by further written memorandum.
16. Should any of the parties wish to amend the terms of this agreement, it shall provide a minimum of thirty days written notice to the other party of the proposed terms of amendment.

**Dispute Resolution:**

17. In the event that a dispute arises or disputes arise between the parties which cannot be resolved, the parties shall submit the dispute or disputes to arbitration using the procedure set out in *the Municipal Arbitrations Act*, R.S.O. 1990, c. M - 48, as amended.
18. In the event that a dispute or disputes is submitted for arbitration, the decision or decisions of the arbitrator shall be final and binding upon the parties to this agreement.
19. In the event that arbitration cannot be conducted using the procedure set out in *the Municipal Arbitrations Act*, the parties shall select a single arbitrator, and in the

absence of agreement on an arbitrator, the arbitrator shall be nominated by a justice of the Superior Court of Justice of the Ontario Courts under the procedure set out in *the Arbitration Act*, S.O. 1991, c. 17, as amended.


**General Provisions:**

20. This agreement is not assignable without the written consent of the parties. Any attempt to assign any of the rights, duties or obligations of this agreement without written consent is void.
21. This agreement shall not be in force, or bind any of the parties, until executed by all the parties named in it.
22. This agreement shall take effect upon its execution by the authorized representative or representatives of the Town of Tillsonburg and the TOWN OF FORT ERIE.
23. Any notice under this agreement shall be sufficiently given by personal delivery or by registered letter, postage prepaid and mailed in a Canadian post office, addressed, in the case of notice to the Town of Tillsonburg, to the municipal offices of the Corporation of the Town of Tillsonburg and, in the case of notice to the TOWN OF FORT ERIE, to the respective municipal office of the TOWN OF FORT ERIE, or to any other address as may be designated in writing by the parties, and the date of receipt of any notice by mailing shall be deemed conclusively to be ten days after the mailing.
24. No change or modification of this agreement (including the schedules to this agreement) shall be valid unless it be in writing and signed by each party.
25. The Town of Tillsonburg and the TOWN OF FORT ERIE agree that no representation, statement or agreement, other than those set out in this agreement, shall be binding upon the parties unless expressed in writing, signed by an authorized representative or by authorized representatives of each and purporting to be expressed in modification of this agreement.
26. The parties agree that each of them shall, upon reasonable written request of the other, do or cause to be done all further lawful acts, deeds and assurances whatever for the better performance of the terms and conditions of this agreement.

27. It is intended that all provisions of this agreement shall be fully binding and effective between the parties, but in the event that any particular provision or provisions or a part of one is found to be void, voidable or unenforceable for any reason whatever, then the particular provision or provisions or part of the provision shall be deemed severed from the remainder of this agreement and all other provisions shall remain in full force.
28. This agreement shall be governed by and construed in accordance with the laws of the Province of Ontario.
29. Subject to the restrictions on transfer and assignment, this agreement shall endure to the benefit of and be binding on the parties and their respective successors and assigns.

IN WITNESS WHEREOF the parties hereto have affixed their Corporate Seals attested by the hands of their proper officers and further this agreement shall be signed in counterpart with the parties named below and a copy of each counterpart shall remain attached to and form part of this agreement.

THE CORPORATION OF THE TOWN OF FORT ERIE

  
\_\_\_\_\_  
Mayor

*July 23, 2020*  
\_\_\_\_\_  
Date

*Carol Schofield*  
\_\_\_\_\_  
Town Clerk

*July 23, 2020*  
\_\_\_\_\_  
Date

THE CORPORATION OF THE TOWN OF TILLSONBURG

\_\_\_\_\_  
Mayor - Stephen Molnar

\_\_\_\_\_  
Date

\_\_\_\_\_  
CAO - Kyle Pratt

\_\_\_\_\_  
Date

## SCHEDULE "A"

The Town of Tillsonburg shall provide the following services and facilities:

1. A 24 hour, seven days a week, 365 days a year answering service, alert paging service and base radio communications dispatch service fully integrated with a Computer Aided Dispatch (CAD) system.
2. A base station manufactured and installed to industry standards complete with the TOWN OF FORT ERIE Fire Department Dispatch frequency. The Town of Tillsonburg shall operate and maintain these services and facilities from two primary public safety communications consoles located in a municipally owned building at 80 Concession Street, East, Tillsonburg. The building shall be equipped with an automatic transfer emergency generator. In the event of system maintenance and/or upgrades, all parties affected shall be granted twenty-four hours prior notification.
3. An emergency (third) backup base station manufactured and installed to industry standards complete with the TOWN OF FORT ERIE Fire Department Dispatch frequency. The Town of Tillsonburg shall operate and maintain these services and facilities from a public safety communications console located in a municipally owned building at 10 Lisgar Ave, Tillsonburg. The building shall be equipped with an automatic transfer emergency generator. In the event of system maintenance and/or upgrades all parties affected shall be granted twenty-four hours prior notification .
4. Answering, alerting and radio communications dispatch equipment shall be staffed continuously by personnel trained to the core competencies outlined in Ontario Fire Service Communicators Standard and the National Fire Protection Association (NFPA) 1061 *Standard for Professional Qualifications for Public Safety Telecommunicators*.
5. Transmission of information shall be seamless from when the information is received from the Public Safety Answering Point (PSAP) until the time an emergency is terminated by the Incident Commander and shall be provided in accordance with the time targets specified within NFPA 1221. Seamless is defined to mean without interruption and continuously from the initial call until the satisfactory resolution of the incident.
6. All emergency incident information shall be logged on the CAD system by the communicator and all telecommunications shall be captured on a digital voice recorder. At the completion of the event a detailed incident report shall be collated and forwarded to the TOWN OF FORT ERIE Fire Department via email or other means as arranged between the parties within four hours of termination of command. All audio transmissions shall be recorded from licensed dispatch channels and



dedicated phone lines and shall be available to the TOWN OF FORT ERIE Fire Department upon request as arranged between the parties. Recordings shall be made on non-interruptible, non-erasable media. All records including digital voice recordings shall be maintained for a period of two years.

7. Upon the request of the Incident Commander for any additional resources or to relay emergent messaging to other persons, the fire communicator shall relay such requests in a prioritized fashion via telecommunications equipment and shall report confirmation of same to the Incident Commander.
8. Testing of paging system equipment shall be provided as arranged by the parties.
9. The TOWN OF FORT ERIE Fire Department shall provide the following without cost to the Town of Tillsonburg:
  - a. All GIS mapping for its protection area / response zone boundaries.
  - b. All radio transmitting and receiving equipment, licensing and maintenance of same external to the boundary of the Town of Tillsonburg.
  - c. Routing of Emergency 911 telecommunications from the Public Safety Answering Point (PSAP) and the Central Ambulance Communications Center (CACC) as required to meet the approved fire protection services provided by the Municipality for its fire protection area / response zone boundaries inclusive of all required ANI/ALI, GIS mapping and all site location information so that it is seamlessly transmitted to the Secondary Public Safety Answering Point (SPSAP) serving the Tillsonburg Fire Communications Division.
  - d. The Town of Tillsonburg assumes no responsibility with respect to quality of the data received in sections 9.a., 9.b. and 9.c.

## **SCHEDULE “B”**

### **FEES TO BE PAID BY TOWN OF FORT ERIE TO THE TOWN OF TILLSONBURG**

1. The Fee Structure contained within this Agreement is predicated upon the contractual participation of the TOWN OF FORT ERIE for a period of not less than five (5) years starting January 1, 2021.
  
2. The TOWN OF FORT ERIE Fire Department shall pay to the Town of Tillsonburg an annual fee (not including HST) for each of the years as listed below:
  - 2021 - \$89,275.00
  - 2022 - \$91,060.50
  - 2023 - \$92,881.71
  - 2024 - \$94,739.34
  - 2025 - \$96,634.13
  
3. TOWN OF FORT ERIE shall tender payment to the Town of Tillsonburg in quarterly installments, to be invoiced by the Town of Tillsonburg four (4) times each year to the TOWN OF FORT ERIE.
  
4. The TOWN OF FORT ERIE agrees to pay for costs associated with implementing Next Generation 911 services for the TOWN OF FORT ERIE. These fees will be based on a cost recovery / per capita model and shall be capped at \$84,000.00. The Town of Tillsonburg will keep the Town of Fort Erie apprised of anticipated costs and implementation dates.