

The Corporation of the Municipality of Brockton



By-Law 2023-090

Being a By-Law to Authorize Entering into a Fire Services Agreement with the Corporation of the Township of Huron-Kinloss

Whereas the *Municipal Act S.O. 2001, c 25, Section 5(3)*, as amended provides that a municipal power, including a municipality's capacity rights, powers and privileges under section 9, shall be exercised by By-Law;

And Whereas Section 11 of the *Municipal Act, 2001, S.O. 2001 c. 25*, as amended, allows a municipality to provide any service or thing that the municipality considers necessary or desirable for the public.

And Whereas Section 2(5) of the *Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4*, as amended, authorizes a Municipality to enter into agreements to provide and/or receive fire protection services to lands or premises that are situated outside the territorial limits of the Municipality;

And Whereas the Corporation of the Municipality of Brockton wishes to enter into a Fire Services Agreement with the Corporation of the Township of Huron-Kinloss to provide temporary fire services;

And Whereas the Council of the Corporation of the Municipality of Brockton passed Resolution 23-18-16 on September 12, 2023 authorizing the signing of an agreement between the Township of Huron-Kinloss and the Municipality of Brockton to provide temporary fire services;

Now Therefore the Council of The Corporation of the Municipality of Brockton enacts as follows:

- 1.0 That The Corporation of the Municipality of Brockton Council hereby authorizes entering into a Fire Services Agreement with the Corporation of the Township of Huron-Kinloss as contained in the attached Schedule "A" attached hereto and forming a part of this By-Law for the temporary period of September 15, 2023 to November 3, 2023;
- 2.0 That the execution of the Fire Services Agreement by the Clerk and Fire Chief attached hereto and forming a part of this By-Law is hereby ratified, and that the Clerk and Fire Chief are authorized to execute any other documents related to the agreement and to affix the Corporate Seal thereon upon receipt of all necessary documentation and securities.
- 3.0 This By-Law shall come into full force and effect upon final passage.
- 4.0 This By-Law may be cited as the "Huron-Kinloss Fire Services Agreement By-Law".

Read, Enacted, Signed and Sealed this 26th day of September, 2023.

Mayor – Chris Peabody

Director of Legislative and Legal Services (Clerk)
– Fiona Hamilton



September 15th, 2023

Memorandum of Understanding

Subsection 2 (5) of the Fire Protection and Prevention Act, 1997, S.O. 1997, Chapter 4, as amended ("FPPA"), authorizes a municipality to enter into agreements with other municipalities to provide and/or receive fire protection services.

The Corporation of the Township of Huron-Kinloss (Huron-Kinloss) wishes to engage the Municipality of Brockton (Brockton) to provide temporary support for specific Fire Services and Brockton agrees to do so, on the terms and conditions set out in this Memorandum of Understanding.

1. Term of Agreement

The provision of the Services under this arrangement will commence on September 15th, 2023, and will automatically terminate on November 3rd, 2023 unless agreed by both parties to extend.

2. Appointment of Fire Chief

Huron-Kinloss Fire Chief has appointed South Bruce's Fire Chief as Acting Fire Chief for the period of September 15th, 2023 to November 3rd, 2023 to support Huron-Kinloss in the absence of a Fire Chief to provide specific services identified below.

South Bruce Fire Chief is delegating authority on an interim basis to Brockton Fire Chief as a back up in South Bruce Fire Chief's absence.

3. Services

Brockton will provide temporarily the following administrative and supervisory services (which, for greater certainty, will be provided by Brockton's Fire Chief):

Exercising the powers and duties imposed on the Fire Chief by FPPA, and other regulations as delegated by the Huron-Kinloss Fire Chief and as identified below;

- a) Ensuring enforcement of the Ontario Fire Code - Through necessary inspections and overseeing the issuing of required notices and orders; This would include issuance of Part 1 tickets which must be issued within 30 days of offence;
- b) Fire Code Inspection/Investigation - For serious items that are found or come in as a complaint - Interpreting and ensuring application and enforcement of appropriate and applicable legislation, codes and bylaws;
- c) Administration – Submitting reports and maintaining files on incidents as attended to required authority, including, but not limited to the, Office of the Fire Marshal;
- d) Fire Investigations - In conjunction with the Deputy Chief(s), or designate(s), overseeing investigations of major fires, assisting other agencies involved, and ensuring preparation of all documentation and correspondence relating to investigation. Attending incidents where there is a death or serious injury, fires of a suspicious nature, an explosion, large loss, the cause of the fire has not been determined, laws and/or codes have been violated and as required or requested.
- e) Immediate Threat to Life - Situations that must be addressed at the moment:
 - may include removing of persons from an unsafe residence or building, resolve any other immediate Life Safety concerns.
- f) Vulnerable Occupancy Inspections/Drills – Time Requirements as needed through legislation.

4. Reporting Structure

In respect of the provision of Services, it is understood and agreed that:

Brockton's Fire Chief will respond to, and communicate with, the Huron-Kinloss Chief Administrative Officer (CAO) as required. However, primary reporting and supervision of Brockton's Fire Chief remains with the Brockton CAO and will follow existing Brockton Human Resources policies.

Services provided to Huron-Kinloss will be provided at the request of Huron-Kinloss CAO.

5. Fee-for-Service

In consideration for the services provided hereunder, Brockton will provide services at an hourly rate of \$75.00/hour including any mileage at \$0.68/Km.

Huron-Kinloss also understands that any costs incurred by the Brockton Fire Chief in his course of supporting the requested services of Huron-Kinloss will be covered solely by Huron-Kinloss. It is also acknowledged and understood that any future costs that might

be incurred as a result of enforcement or actions taken by the Brockton Fire Chief in his actions to support Huron-Kinloss, such as legal costs for court proceedings etc. will be borne by Huron-Kinloss.

6. Insurance

Huron-Kinloss will pay for and maintain for its own benefit and for Brockton's benefit, with insurers or through the appropriate governmental department, appropriate insurance concerning the Huron-Kinloss Fire Department and the Fire Chief Services provided by Brockton hereunder to Huron-Kinloss, including, but not limited to, liability and property damage insurance. Huron-Kinloss will provide Brockton with satisfactory confirmation of its compliance with this and/or copies of the insurance policies when requested by Brockton. Brockton agrees that anyone claiming by, through, under or on behalf of Huron-Kinloss will have no claim, right of action or right of subrogation against Brockton based on any loss or liability insurance under the above insurance.

7. Indemnity

Huron-Kinloss willfully indemnify and save Brockton, as well as all of its respective officers, councillors, employees (including, but not limited to, Brockton's Fire Chief), independent contractors and agents (collectively, "Brockton indemnitees" under this Section) harmless from and against any and all costs (including, but not limited to, costs resulting from orders, awards, settlements, penalties, fines, damages, expenses, interest, legal fees, disbursements and applicable taxes) incurred by any of the Brockton indemnitees as a result of any claims, actions, causes of action, demands, complaints, applications, investigations or similar proceedings, which result from, or relate to, directly or indirectly:

- a) any act, neglect, default, or breach of applicable law, of or by any of the Brockton indemnitees in respect of the provision or non-provision of the Services, and/or otherwise as a result of this Agreement; and/or
- b) any act, neglect, default, or breach of applicable law, of or by Huron-Kinloss and/or any of its respective officers, councillors, employees, independent contractors and/or agents.

Notwithstanding the foregoing, it is understood and agreed that Huron-Kinloss will not indemnify and save harmless the Brockton indemnitees for any such costs that:

- (i) result from the negligence of the Brockton indemnities;
- (ii) arise from any breach by the Brockton indemnities of any provision of this Agreement; or

(iii) that directly result from any act, neglect, default, or breach of applicable law, of or by any of the Brockton indemnitees performed in bad faith.

8. Nature of Relationship


- a) Brockton is not, nor is any person employed or retained by Brockton in the provision of the Services, an employee of Huron-Kinloss, and no other relationship, including a partnership or a principal and agency relationship, is created by this arrangement. The relationship created by this Agreement is exclusively that of independent contractor.
- b) Brockton will at all times act in its own capacity and right solely as an independent contractor in the provision of the Services under this Agreement and, except as may be expressly provided in this Agreement, Brockton will have full discretion as to the means, method and manner of providing the Services and will not be subject to the control and/or direction of Huron-Kinloss in doing so.
- c) It is acknowledged by both parties that the Brockton Fire Chief will respond to Brockton calls for service in priority, should calls for service be required at the same time.

9. Termination

Brockton's provision of the Services under this Agreement will automatically terminate / expire at the end of the Term, without any further notice or compensation in lieu of notice owed, unless Huron-Kinloss and Brockton enter into a written agreement to extend the provision of the Services beyond the end of the Term that sets out the terms and conditions of such extension.

This Memorandum of Understanding is hereby accepted by:

THE CORPORATION OF THE TOWNSHIP OF HURON-KINLOSS

 Recoverable Signature

X 

Mary Rose Walden

Chief Administrative Officer

Signed by: f76d7c15-05cf-4a37-9fdf-18b2d23841d4

THE CORPORATION OF THE MUNICIPALITY OF BROCKTON

X



Fiona Hamilton
Director of Legislative and Legal Services (Clerk)

X



Chris Wells
Fire Chief