

The Corporation of the Municipality of Brockton



By-Law 2020-123

Being a By-Law to Authorize the Signing of an Agreement With Her Majesty the Queen in Right of Ontario as Represented through the Solicitor General operating through the Ontario Fire College for the Purpose of Establishing a Regional Fire Training Centre Within the Municipality of Brockton.

Whereas the *Municipal Act, 2001, S.O. 2001, c. 25*, Section 5(1), as amended, provides that the powers of a municipal corporation are to be exercised by its council;

And Whereas the *Municipal Act, 2001, 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 the Council for the Corporation of the Municipality of Brockton deems it expedient to enter into an agreement with her Majesty the Queen in Right of Ontario as represented by the Solicitor General operating through the Ontario Fire College with respect to operating a Regional Fire Training Centre within the Municipality of Brockton;

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 enter into an agreement with her Majesty the Queen in Right of Ontario as represented by the Solicitor General operating through the Ontario Fire College which is attached as "Schedule A" and forms part of this By-Law;
- 2.0 The execution by the Mayor and Clerk of said agreement between the Corporation of the Municipality of Brockton and the Ontario Fire College is hereby authorized, ratified, and confirmed.
- 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 "Ontario Fire College Agreement By-Law".

Read, Enacted, Signed and Sealed this 27th day of October, 2020.

Mayor – Chris Peabody

Clerk – Fiona Hamilton

EMERGENCY SERVICES TRAINING AND REGISTRATION AGREEMENT in effect as of October 27, 2020

BETWEEN:

The Corporation of the Municipality of Brockton (the “Town”)

- and -

Her Majesty the Queen in Right of Ontario as represented by the Solicitor General operating through the Ontario Fire College (the “OFC”)

WHEREAS:

- The OFC is mandated in the *Fire Protection and Prevention Act, 1997*, as part of the Office of the Fire Marshal, to develop and provide training programs to improve practices relating to fire protection services;
- The Town owns and operates a Facility suitable for training firefighters, including firefighters from other fire departments;
- Both Parties recognize that this Agreement promotes the Parties’ shared interest and mandate in providing training, for the benefit of the citizens of Ontario;
- The Town agrees to offer the Facility to the OFC at no charge to the OFC, based on the terms and conditions prescribed herein;

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

Part 1: Definitions and Interpretation

1.01 *Definitions* - In this Agreement, the following terms have the following meanings:

“**Agreement**” means the body of this Agreement, and any appendices attached hereto;

“**Course**” means a course offered by the OFC, as prescribed in Appendix “A” herein;

“**Facility**” means part or all of the premises situated at **510 Napier Street, Walkerton, ON NOG 2V0, which is owned and operated by the Town, Fiona Hamilton, Clerk 519-881-2223 ext. 124.**

“**OFC Address**” and “**OFC Representative**” mean: **1495 Muskoka Road North, Gravenhurst, Ontario, P1P 1R8, Guy Degagné, Assistant Deputy Fire Marshal, 705-644-2260, Guy.Degagne@ontario.ca;**

“**Party**” means the OFC or the Town and “**Parties**” means both of them; and,

“**Town Address**” and “**Town Representative**” mean: 100 Scott St., Walkerton, Ontario N0G 2V0, Tel: 519-881-2223 ext. 124, fhamilton@brockton.ca.

1.02 *No indemnities created* - Notwithstanding anything else in this Agreement, any express or implied reference to the OFC providing an indemnity or any other form of indebtedness or contingent liability that would directly or indirectly increase the indebtedness or contingent liabilities of the Government of Ontario, whether at the time of execution of the Agreement or at any time during the Term of the Agreement, is contrary to the Ontario *Financial Administration Act*, and shall be void and of no legal effect.

1.03 *Entire Agreement* - This Agreement, including Appendix “A”, embodies the entire agreement between the Parties with regard to the subject matter herein and supersedes any prior understanding or agreement, collateral, oral or otherwise, existing between the Parties at the date of execution of the Agreement.

1.04 *Enforceability of Agreement* - If any term or condition of this Agreement, or the application thereof to the Parties or to any persons or circumstances, is to any extent invalid or unenforceable, the remainder of this Agreement, and the application of such term or condition to the Parties, persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

1.05 *Force Majeure* - Neither Party shall be liable for damages caused by delay or failure to perform its obligations under this Agreement where such delay or failure is caused by an event beyond its reasonable control. The Parties agree that an event shall not be considered beyond one’s reasonable control if a reasonable business person applying due diligence in the same or similar circumstances under the same or similar obligations as those contained in the Agreement would have put in place contingency plans to either materially mitigate or negate the effects of such event. Without limiting the generality of the foregoing, the Parties agree that force majeure events shall include natural disasters and acts of war, insurrection and terrorism but shall not include shortages or delays relating to supplies or services. If a Party seeks to excuse itself from its obligations under this Agreement due to a force majeure event, that Party shall immediately notify the other Party of the delay or non-performance, the reason for such delay or non-performance and the anticipated period of delay or non-performance.

1.06 *Notices* - Notices shall be in writing and shall be delivered by postage-prepaid envelope, personal delivery facsimile, or by email and shall be addressed to, respectively, the OFC Address to the attention of the OFC Representative and to the Town Address to the attention of the Town Representative. Notices shall be deemed to have been given: (a) in the case of postage-prepaid envelope, five (5) business days after such notice is mailed; or (b) in the case of personal delivery, email or facsimile one (1) business day after such notice is received by the other Party. In the event of a postal disruption, notices must be given by personal delivery, email or by facsimile. Unless the Parties expressly agree in writing to additional methods of notice, notices may only be provided by the methods contemplated in this paragraph.

1.07 *Changes By Written Amendment Only* - Any changes to this Agreement shall be by written amendment signed by the Parties. No changes shall be effective or shall be carried out in the absence of such an amendment.

PART 2: Delivery of Courses

2.01 *Delivery of Courses* - The OFC agrees to offer one or more Courses at the Facility, in accordance with this Agreement. The Courses offered shall be from the list of courses contained in the OFC Annual Calendar, which is posted on the OFC website, and which may be amended by the OFC from time to time, without prior notice.

2.02 *Criteria for Establishing Delivery of Courses* - The OFC shall solely determine, in its sole discretion, upon consultation with the Town:

- (a) Which Courses the OFC will offer at the Facility;
- (b) Which instructor or instructors the OFC will use to offer the Course;
- (c) Who will be eligible to register for a Course, and without limiting the generality of the foregoing, whether non-firefighters and non-Town employees shall be eligible to register for a Course;
- (d) In which locations in, or parts of the Facility a Course will be offered;
- (e) What equipment and materials will be used by the OFC during the Course; and,
- (e) At which times will a Course be offered.

2.03 The OFC shall have the opportunity to inspect the Facility prior to the commencement of the Course to ensure the Facility is appropriate for its intended use. The Town shall notify the OFC forthwith of any changes to the Facility, which may affect the offering of a Course.

2.04 The OFC shall charge the Town a fee for each employee of a Town who is enrolled in a Course, in accordance with the fee schedule set out in the most recent version of the OFC Annual Calendar.

2.05 The OFC shall require the Town to register any employee of the Town, who is enrolled in a Course, using the OFC's registration system.

2.06 The OFC reserves the right to cancel a Course at any time, at its sole discretion, and without the OFC incurring any costs or being liable for any damages.

PART 3: Obligations and Authorities of Town

3.01 *Obligations* - The Town shall:

- (a) Make its Facility available for each Course that is offered, in compliance with the requirements of the OFC as authorized and established herein;
- (b) Ensure that the Facility is fit for the purpose of providing training as authorized herein, including by providing equipment and materials as directed by the OFC;
- (c) Ensure that it obtains the written consent of the Towns employees, prior to disclosing the Towns employees' personal information to the OFC for registration or any other authorized purposes; and,
- (d) Ensure that the individual designated as the Town Representative is available for the purpose of complying with the Town's obligations as set out herein.

3.02 *Fee* - The Town may set fees for any firefighter to attend the Course, who is not an employee of the Town, provided such fees are reflective of the costs incurred by the Town in providing the Course.

PART 4: Term and Termination

4.01 *Commencement* - This Agreement shall commence on the date first written above.

4.02 *Termination* - This Agreement shall terminate upon one Party providing the other with thirty (30) days prior written notice.

PART 5: Confidentiality

5.01 *Confidentiality of Information* – The Parties acknowledge that they shall treat all information they receive from the other Party (including all written, recorded, electronic or oral information) as confidential, unless otherwise directed by the other Party.

5.02 *Freedom of Information Requests* – Both Parties acknowledge that they are subject to freedom of information legislation which governs the records that they have custody or control over. In the event that either of the Parties receives a freedom of information request for this Agreement or for the records that belong to the other Party and that have been shared pursuant to the Agreement, they shall forthwith notify the other Party.

PART 6: General

6.01 *Parties Power to Contract* - The Parties represent and warrant that they have the full right and power to enter into this Agreement and there is no agreement with any other person or any law that would in any way interfere with the rights of the Parties under this Agreement.

6.02 *Representatives May Bind the Parties* - The Parties represent that their respective representatives have the authority to legally bind them.

6.03 *Parties Not a Partner or Employee of Each Other* - The Parties shall have no power or authority to bind one another or to assume or create any obligation or responsibility, express or implied, unless expressly set out in this Agreement. Neither Party shall hold itself out as an agent, partner or employee of the other Party. Nothing in this Agreement shall have the effect of creating an employment, or partnership relationship between the Parties (or any of the Parties directors, officers, employees, agents, partners, affiliates, volunteers or subcontractors).

6.04 *No Subcontracting or Assignment* – Neither party shall subcontract or assign the whole or any part of this Agreement.

6.05 *Responsibility for employees, etc* - Both Parties agree that they are responsible for ensuring that their representatives, employees and agents are aware of the obligations of the Parties under this Agreement.

IN WITNESS WHEREOF the Parties hereto have executed the Agreement effective as of the date first above written:

The Ontario Fire College

Signature:

Name: Guy Degagne

Title: Assistant Deputy Fire Marshal

Date of Signature:

I have authority to bind the OFC.

**The Corporation of the
Municipality of Brockton**

Signature:

Name: Fiona Hamilton, Clerk

Signature:

Name: Chris Peabody, Mayor

Date of Signature:

I have authority to bind the Town.