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TOWN OF BIG RIVER

BYLAW 2004 - 12

A BYLAW OF THE TOWN OF BIG RIVER TO PROVIDE FOR ENTERING INTO AN AGREEMENT WITH THE CITY OF PRINCE ALBERT WITH RESPECT TO A DISPATCH SERVICES AGREEMENT.

The Council of the Town of Big River, in the Province of Saskatchewan, enacts as follows:

1. THAT the Town of Big River is hereby authorized to enter into an Agreement with the City of Prince Albert, the terms of which are set out and attached hereto.
2. THAT the Mayor and the Administrator of the Town of Big River are hereby authorized to sign and execute the agreement.
3. THAT BYLAW NO. 15/01 be repealed.

Read a Third Time and Adopted

this 20th of December, 2004



[Handwritten signature]

 Mayor

[Handwritten signature]

 Administrator

Certified A True Copy
 of Bylaw # 2004-12
[Handwritten signature]

 Town Administrator

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THIS AGREEMENT made in duplicate effective this 1st day of January 2005

BETWEEN:

THE CITY OF PRINCE ALBERT, a municipal corporation in the Province of Saskatchewan, (hereinafter referred to as "Emergency Communications Center").

--and--

Town of Big River

(hereinafter referred to as the Municipality)

WHEREAS pursuant to the provisions of The Cities Act, The Urban Municipality Act 1984 and The Rural Municipality Act 1989, a municipal council may authorize the making of an agreement for the performance of any matter or service that is considered to be a benefit to the municipality including, but not limited to, the provision of emergency services such as police, fire and ambulance services;

WHEREAS the parties hereto wish to enter into an agreement pursuant to which the Emergency Communications Center will provide specified dispatch services (hereinafter referred to as "Dispatch Services") to the Municipality; and


WHEREAS the Emergency Communications Center and the Municipality acknowledge and agree that it is desirable that the Emergency Communications Center provide such specified Dispatch Services to the Municipality as set forth herein.

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

1. The preamble hereto shall form an integral part of this agreement.

Definitions

2. In this agreement the following words and expressions shall have the meanings herein set forth unless inconsistent with the subject matter or context:
 - (a) "Dispatch" is a process where, after receipt of a 9-1-1 call, an appropriate emergency response agency is contacted for response and the 9-1-1 operator may stay on line with the caller if required until such time as the emergency response agency has arrived on the scene;
 - (b) "Dispatch Services" means those services provided by Emergency Communications Center to the Municipality.

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- (c) "Fire Services" means those fire services provided either by the Municipality or pursuant to a Fire Mutual Aid Agreement;
 - (d) "Force Majeure" means any cause not within the control of Emergency Communications Center including, without limitation, interruption of telecommunications, gas, electric or other utility service, acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, earthquakes, fires, lightning, storms, floods, high water, washouts, inclement weather, orders or acts of military authorities, civil disturbances and explosions;
 - (e) "Resident" means a natural person, who is ordinarily resident within the municipal boundaries of the Municipality, as these boundaries exist from time to time. The population figures provided annually by the Province of Saskatchewan known as the "Municipal Directory" shall be deemed to be the population of the Municipality for the purposes of Paragraph 8 herein;
 - (f) "Service Area" means that geographic area located within the municipal boundaries of the Municipality, as they exist from time to time;
 - (g) "Service Fee" means that amount to be calculated and paid annually by the Municipality to the Emergency Communications Center pursuant to this agreement;

Engagement

3. The Municipality hereby agrees to engage the Emergency Communications Center to provide the Municipality with Dispatch Services ,
4. The Municipality further acknowledges that the delivery of the Dispatch Services to be provided by Emergency Communications Center is partially dependent upon information to be provided by the Municipality. The Emergency Communications Center will not be liable for any failure to deliver Dispatch Services which arises due to inaccurate information provided by the Municipality or due to necessary information being unavailable from SaskTel or the Municipality.

Term of Agreement

5. This Agreement shall commence upon a mutually agreed upon date and remain in full force for the ensuing period, concluding December 31, 2006, (hereinafter referred to as "the term") unless extended or renewed as provided herein.

Renewal

6. Unless written notice is given at least six (6) months prior to the expiry of the term or any renewal term, the term shall be automatically renewed for a further period of one (1) year commencing on the day immediately following the last day of the term or the day immediately following the last day of any renewal term, as the case may be, and all of the other terms and conditions of this agreement shall remain in full force and effect.

Service Fee

7. The Municipality shall pay to the Emergency Communications Center the annual service fee as calculated in Paragraph 2 in accordance with the following schedule:
 - (a) For each full calendar year, payment is due and payable in advance with each annual payment due no later than January 30th of the calendar year in which Dispatch Services were provided.
 - (b) If that period is of duration of less than one calendar year, payment will be due within 60 days of commencement of the Dispatch Services.

Service Fee Calculation

8. The service fees paid by the Municipality during the term of this agreement shall be as follows:
 - (a) For the year (2005 and 2006) \$1.25 per resident within the Service Area.

Covenants of Emergency Communications Center

9. The Emergency Communications Center covenants and agrees with the Municipality:
 - (a) To provide Dispatch Services to all municipal emergency response services on a year round, 24 hours per day, seven (7) days per week basis during the term of this agreement in respect of all 9-1-1 calls originating within the Service Area;
 - (b) To keep and maintain proper records with respect to the provision of the Dispatch Services including total calls received, and any other information the parties may jointly determine;

Covenants of the Municipality

10. The Municipality covenants and agrees with the Emergency Communications Center:
- (a) To be responsible to allow public information relating to Enhanced 9-1-1 services to be available in the Service Area;
 - (b) To be responsible to provide without cost to the Emergency Communications Center copies of maps indicating service boundaries and occupancies as requested by the Emergency Communications Center;
 - (c) To give written notice of no less than ninety (90) days of any changes to service;
 - (d) To give written notice by fax, or mail of changes to service levels;
 - (e) To accept this contract as invoice for schedule of payments;
 - (f) To exert reasonable efforts in providing sufficient information in a timely manner which will enable the Emergency Communications Center to effectively deliver the Dispatch Services;
 - (g) To install and maintain a functional alerting system for the sole purpose of emergency dispatching and that the Emergency Communications Center will be the primary user of this system.

Force Majeure

11. The Emergency Communications Center shall not be liable to the Municipality for any failure of or delay in the performance of its obligations and hereunder not be deemed to be in breach of this agreement, if such failure or delay has arisen from "Force Majeure."
12. Where the Emergency Communications Center is prevented from carrying out its obligations hereunder due to Force Majeure, the Emergency Communications Center shall, as soon as possible, give notice of the occurrence of such Force Majeure to the Municipality and Emergency Communications Center shall thereupon be excused from the performance of such obligations for the period of time directly attributable to the effect of the Force Majeure.

Waiver

13. No consent or waiver, express or implied, by either party for any breach or default by the other party in the performance of the other party of its obligations hereunder shall be deemed or construed to be a consent or waiver for any other breach or default in the performance or obligations hereunder by such party. Failure on the part of either party to complain or any act or failure to act of the other party or to declare the other party in default, irrespective of how long such failure continues, shall constitute a waiver by such party of its rights hereunder.



Unenforceability

14. If any term, covenant or condition of the agreement or the application thereof to any party or circumstance shall be invalid or unenforceable to any extent, the remainder of this agreement or application of such term, covenant or condition to a party or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby and each remaining term, covenant or condition of this agreement shall be valid and shall be enforceable to the fullest extent permitted by law.

Entire Agreement

15. This agreement constitutes the entire agreement between the parties hereto relating to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions, whether oral or written, of the parties and there are no general or specific warranties, representations or other agreements by or among the parties in connection with the entering into of this agreement or the subject matter hereof except as specifically set forth herein.

Conflict Resolution

16. In the event that any matter shall be in dispute with respect to this agreement, then such matter in dispute shall be resolved in the following manner:
- (a) Initially the parties shall attempt to resolve the matters in dispute by way of negotiation;
 - (b) In the event that the matter in dispute cannot be resolved by way of negotiation the parties shall appoint a mediator and shall take appropriate steps to resolve the matter in dispute by way of mediation;
 - (c) In the event that the matter in dispute cannot be resolved through the mediation process then either party can refer the matter to arbitration and the arbitration shall be conducted pursuant to the provisions of *The Arbitration Act 1992* for the Province of Saskatchewan.

Amendments

17. This agreement may be altered or amended in any of its provisions when any such changes are reduced to writing and signed by the parties hereto but not otherwise.

Further Assurances

18. The parties hereto and each of them do hereby covenant and agree to do such things and execute such further documents, agreements and assurances as may be necessary or advisable from time to time in order to carry out the terms and conditions of this agreement in accordance with their true intent.

Indemnification Clause

19. The Municipality agrees that it shall indemnify and save harmless the Emergency Communications Center from all claims, actions, demands, injuries, damages, losses, costs or other proceedings whatsoever and by whomsoever made, including its officers, managers, invitees, licensees, employees, servants, volunteers or agents, which may be brought or prosecuted:
- (a) Arising out of any breach, violation or non performance of any covenant or provision hereof on the part of the Municipality;
 - (b) With respect to any injury, death or damage resulting from the negligence and/or willful acts of the Municipality;
 - (c) With respect to any damage that may be sustained by reason of any reasonable temporary suspension, interruption or discontinuance in whole or in part from whatever cause arising in respect of services supplied by the Emergency Communications Center.
- 19.1 The Emergency Communications Centre agrees that it shall indemnify and save harmless the Municipality from all claims, actions, demands, injuries, damages, losses, costs or other proceedings whatsoever and by whomsoever made, including its officers, managers, invitees, licensees, employees, servants, volunteers or agents, which may be brought or prosecuted:
- a) Arising out of any breach, violation or non performance of any covenant or provision hereof on the part of the Emergency Communications Centre;
 - b) With respect to any injury, death or damage resulting from the negligence and/or willful acts of the Emergency Communications Centre.

Acknowledgement Clause

20. The Municipality acknowledges that uninterrupted operation of the service cannot be guaranteed by ECC in that all aspects of the service will not work perfectly all the time. The Municipality acknowledges that service has been designed and is provided without an infallible backup or disaster recovery system or facility capable of an alternate means of providing the service in the event of a fire, unavoidable catastrophe or any other cause or event of any kind beyond the control of ECC which may cause interruption in the service.



Disclaimer

21. ECC shall not be liable to the Municipality, its officers, employees, agents, contractors, subcontractors, invitees or licensees whether in contract or tort, for any property damage or any injury to or for the death of any person which may arise out of or be consequence of the service except for damages caused by the negligence of ECC's employees.

Notices

22. Whether or not so stipulated herein, all notices, communication, requests and statements required or permitted hereunder shall be in writing. Notice shall be served by one of the following means:
- (a) Personally, by delivering it to the party on whom it is to be served at the address set out herein, provided such delivery shall be during normal business hours. A personally delivered notice shall be deemed received when actually delivered as aforesaid: or
 - (b) By fax or by any other like method by which a written or recorded message may be sent, directed to the party on whom it is to be served at that address set out herein. Notice so served shall be deemed received on the earlier of:
 - (i) Upon transmission with answer back confirmation if received within the normal working hours of the business day; or
 - (ii) At the commencement of the next ensuing business day following transmission of answer back confirmation thereof; or
 - (c) By mailing via first class registered post, postage prepaid, to the party on whom it is served. Notice so served shall be deemed received seventy-two (72) hours after the date it is postmarked. In the event of postal interruption, no notice sent by means of the postal system during or within seven (7) days prior to the commencement of such postal interruption or seven (7) days after the cessation of such postal interruption shall be deemed received unless actually received.

23. Except as otherwise provided herein, notice required to be given pursuant to this agreement shall be deemed to have been received by the addressee on the date received when served by hand or courier, 48 hours after same has been sent by facsimile with receipt confirmed, or five (5) days after the same has been mailed in a prepaid envelope by single registered mail to:
- (a) City of Prince Albert Emergency Communications Center at: 1084 Central Avenue, Prince Albert, Sask. S6V 7P3
 - (b) Telephone: (306) 953-4211 Fax (306) 953-4212
Attention: Manager
 - (c) at Municipality of TOWN OF BIG RIVER
Telephone: 469-2112, Fax: 469-4856
Attention: GAIL GEAR

or to such other address as each party may from time to time direct in writing.

Headings

24. The headings in the agreement have been inserted for reference and as a matter of convenience only and in no way define, limit or enlarge the scope or meaning of this agreement or any provision hereof.

Termination

25. Either party may terminate this agreement by providing the other with 90 days notice subject to the conditions outlined in Section 20.

Enurement

26. This agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.


Governing Law and Submission to Jurisdiction

27. This agreement shall be governed by and construed in accordance with the laws of the Province of Saskatchewan

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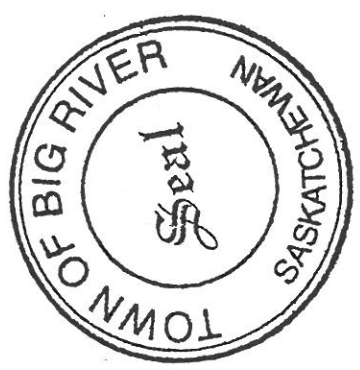
IN WITNESS WHEREOF The City of Prince Albert has hereunto affixed its corporate seal, duly witnessed by the hands of its proper officers in that behalf, duty authorized this 27th day of October, AD, 2004.

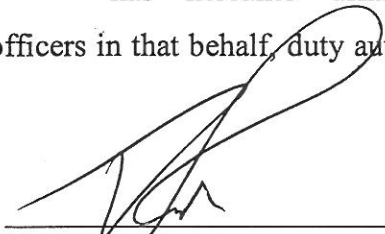
CITY OF PRINCE ALBERT



A/ MAYOR


A/ CITY CLERK

IN WITNESS WHEREOF _____ has hereunto affixed its corporate seal, duly witnessed by the hands of its proper officers in that behalf, duty authorized this 20 day of DECEMBER, AD, 2004.




REEVE/MAYOR


SECRETARY/TREASURER