



REPORT

To: Chair and Directors

Report Number: CS-BRD-013

From: David Sturgeon, Protective Services Manager

Date: January 14, 2021

Subject: Tomslake Fire Protection Agreement and Liability Protection

RECOMMENDATION #1: [Corporate Weighted]

That the Regional Board approve entering into a fire protection agreement with the Tomslake and District Volunteer Fire Department Society for the Tomslake Fire Protection Area for a period of two years effective January 14, 2021; further, that the Chair and Chief Administrative Officer be authorized to sign the agreement.

RECOMMENDATION #2: [Corporate Weighted]

That the Regional Board approve the Municipal Insurance Association of BC Service Provider Agreement between the Peace River Regional District (PRRD) and the Tomslake and District Volunteer Fire Department Society to provide perpetual associate member liability protection to the Department when providing fire protection services on behalf of the Regional District, unless otherwise cancelled by the Regional Board with 30 days written notice to the Society; further, that the Chair and Chief Administrative Officer be authorized to sign the agreement

RECOMMENDATION #3: [Corporate Weighted]

That the Regional Board approve entering into a fire protection agreement with Saddle Hills County and the Tomslake & District Volunteer Fire Department Society to provide cross border fire protection services in Gundy, Alberta consistent with the Ministerial Order in Council Number 0439 April 1, 1998 for a period of five years effective January 14, 2021; further that the Chair and Chief Administrative Officer be authorized to sign the agreement.

BACKGROUND/RATIONALE:

Fire Protection Agreement

The Tomslake & District Volunteer Fire Department (TVFD) has been providing fire protection services for the PRRD since 1983 when the service was established. Their last agreement expired in 2016 and was not updated at that time as it was expected that the new *Fire Safety Act* would be coming into force which could have materially affected their agreement. Although the agreement was not updated, the Department and the PRRD have been acting in good faith of the agreement and following all provisions.

A new two year agreement is presented to the Regional Board for consideration as the *Fire Safety Act* is expected to come into force in the next 2-3 years. From all the information received from the Office of the Fire Commissioner over the last five years, regional districts across BC will be taking increased responsibility with respect to BC Fire Code inspections and fire investigations in electoral areas once the Act comes into force. As such it is likely that with significant changes to the fire service in BC that

the rural fire protection agreements may also require changes and therefore the agreement is recommended at this time for an initial two year term.

Minor “housekeeping” amendments to the agreement have been made including:

1. Intro: adding an email address for notices.
2. Section 1: updated the definition of “Fire Protection” to include only those services provided by the Fire Departments.
3. Section 1: updated the term to two years. Indications are that the *Fire Safety Act* should be coming forward in the next 2-3 years which will probably require a major change in the agreement and even possibly the fire service across all of BC. (Note that in section 21, it allows for one or more extensions of 2 years if needed).
4. Section 2 (f): added training per the Playbook for exterior operations.
5. Section 7: funding payable in two installments per year.
6. Section 10: budget due Nov 15 to meet the annual budget calendar cycle.
7. Section 16 (a): updated this section to include that if the Regional Board approves adding the Fire Department to the MIABC policy, they don’t need to obtain additional commercial general liability insurance.
8. Insurance section: removed the clauses about the PRRD insuring the Fire Department’s assets, as they hold their own property insurance.
9. Section 17 (b): added an indemnity clause for the PRRD.
10. Section 21: changed the term renewal for a 2 year period due to changes coming forward as a result of the *Fire Safety Act*.
11. Section 23: took out notices by “fax” and added “email.”
12. Signatures: changed one of the signatories from the PRRD “Corporate Officer,” to the PRRD “Chief Administrative Officer.”

Liability Protection

In 2015, the Municipal Insurance Association of BC (MIABC) created an Associate Member program to provide commercial general liability coverage for independently run fire services societies to a limit of \$5,000,000 per claim. These societies must:

- 1) Be sponsored by an existing MIABC member and they are only covered for liability arising from the services they provide on behalf of the sponsoring member (e.g., fire protection services on behalf of the Peace River Regional District); and
- 2) Must have a service agreement for the provision of services with the member.

The coverage falls under the sponsoring member’s policy; therefore, any claims will count against the sponsoring member, and the sponsoring member’s deductible applies, in this case, \$100,000 per occurrence. The cost to add the Department to the PRRD’s policy is \$250 per year. Alternatively, if the Department acquires its own commercial general liability insurance, the cost is \$7,500-\$8,000 per year. Staff is proposing that the term of this agreement with MIABC be for a perpetual term; however, the Regional Board may cancel the coverage with 30 days written notice to the Society to provide them with enough time to obtain their own insurance.

Under the “BC Fire Service Minimum Training Standards: Structural Firefighters Competency and Training Playbook,” the PRRD is the “Authority Having Jurisdiction” (AHJ) for the Tomslake Fire Department. As the AHJ, the PRRD is responsible for setting the level of service provided by the

Department, ensuring that the Department is meeting the training standards set by the Playbook that correspond to the declared level of service and accurate and appropriate records are being kept. As such, it makes sense to name the Department as an additional insured under the MIABC policy.

MIABC has confirmed that the Tomslake Fire Department will be covered for liability when they respond to Saddle Hills County for fire protection in Gundy. The PRRD and the Saddle Hills County have a response agreement with a provincial order allowing the fire department to respond.

Saddle Hills (Gundy) Fire Protection Agreement

Through the process of renewing the fire services agreement between Tomslake & District Volunteer Fire Department and the PRRD, it was identified that the PRRD was not a signatory for the agreement between Tomslake and the Saddle Hills County for fire protection in Gundy, Alberta. It had been deemed essential for the PRRD to hold the agreement between the parties as the PRRD is the “Authority Having Jurisdiction” or the AHJ. The “Gundy Rural Fire Protection Agreement” has been reviewed by the PRRD’s legal team, the Tomslake & District Volunteer Fire Department, and the Saddle Hills County. All parties agreed to the contract in principal and will sign the agreement once the Board has approved the terms. The PRRD has a standing Ministerial Order in Council Number 0439 April 1, 1998 that allows the TVFD to provide fire protection in Gundy.

The term of the agreement will be five years commencing on the 14th day of January 2021. The annual payment is to be made to the Fire Department for use at their discretion.

ALTERNATIVE OPTIONS:

1. That the Regional Board decline to enter into a fire protection agreement with the Tomslake and District Fire Department Society.
2. That the Regional Board decline to add the Tomslake and District Fire Department Society as an associate member under the PRRD’s Municipal Insurance Association’s Liability Protection Agreement.
3. That the Regional Board decline entering into a fire protection agreement with Saddle Hills County and the Tomslake & District Volunteer Fire Department Society to provide cross border fire protection services in Gundy, Alberta consistent with the Ministerial Order in Council Number 0439 April 1, 1998.
4. That the Regional Board provide further direction.

STRATEGIC PLAN RELEVANCE:

- ☒ Responsive Service Delivery
- ☒ Enhance Emergency Planning and Response Capacity

FINANCIAL CONSIDERATION(S):

The PRRD is the primary source of funds for the Department, providing \$87,870 in 2020 for a contract fee. The Department has an agreement with Saddle Hills County to provide service in Gundy, Alberta for \$12,240 in 2020. That agreement is set to expire with Saddle Hills, and going forward the PRRD should be party to that agreement as the AHJ.

The cost to add the Society to the MIABC policy is \$250 per year. If the Society obtains their own liability insurance it will be at a cost of \$7,500 to \$8,000 per year with the cost being borne by the service area tax payers.

The deductible for any claims is \$100,000, which would be borne in part by the service area. If there was a claim against the Society, it is likely the PRRD would be named in the claim as the AHJ. As such if the Society was included in the PRRD policy, only one deductible would be paid.

The County would pay the 2021 Annual Fee to the Fire Department on or before the date that is 30 days of the Agreement being fully executed and will concurrently notify the PRRD of such payment. For each year of this Agreement after 2021, the County will pay the Annual Fee to the Fire Department on or before April 15 of that year, if the County does not pay the Annual Fee by this date, services under this Agreement will cease until payment is received.

COMMUNICATIONS CONSIDERATION(S):

The decision of the Regional Board will be communicated to the Society.

OTHER CONSIDERATION(S):

As of January 1, 2013, individual volunteer fire fighters with the Tomslake, Moberly Lake, and Charlie Lake Fire Departments are considered insured under the PRRD's policy and have the same coverage as employees and other volunteers of the PRRD. They are covered for claims made by third parties for bodily injury, property damage and death (Coverage A), compensatory damages resulting from an error or omission (Coverage B), and defense costs (Coverage C) up to a limit of \$35,000,000 per occurrence, subject to the exclusions set out in the Liability Protection Agreement. The PRRD's deductible of \$100,000 applies to all claims.

Attachments:

1. Draft Tomslake Fire Protection Agreement- v.2 (Oct 16,2020) - Final
2. Tomslake MIABC Service Provider Agreement Sept 2020
3. PRRD Level of Service Policy
4. Gundy Rural Fire Protection Agreement (November 18,2020) – Final