

JOINT FIRE SERVICE AGREEMENT

Dated this 14th day of October, 2011.

BETWEEN:

"Fire Association"

- AND -

THE MUNICIPALITY OF WHEATLAND COUNTY, a Local Authority of the Province of Alberta;
(hereinafter called "Wheatland County")

(herein collectively referred to as the "Parties")

WHEREAS the Fire Association owns, operates and manages a Fire Department for emergency fire suppression services; and

AND WHEREAS Wheatland County has a need for emergency fire suppression services for the people and property within Wheatland County; and

AND WHEREAS Wheatland County under Section 7 (a) of the Municipal Government Act, has enacted Bylaw 2010-03, the Fire Associations operating within Wheatland County Bylaw, that sets policy for the Fire Associations, operating within Wheatland County providing fire suppression services for the safety, health, welfare and protection of people and property within Wheatland County; and

AND WHEREAS under Section 7(1) of the Forest and Prairie Protection Act, states the Council of a Municipal District is responsible for fighting and controlling all fires within the boundaries of the Municipal District; and

AND WHEREAS Wheatland County has a Fire Capital Agreement in place with the Fire Association that addresses the term, purchase, ownership, maintenance, retirement and replacement, insurance, indemnity, arbitration and notice for fire capital assets; and

AND WHEREAS Wheatland County has a Fire/Disaster Mutual Aid Agreement in place with the Town, Villages and Fire Associations within Wheatland County for the provision of assistance in the event of a disaster or emergency; and

AND WHEREAS Wheatland County has designated the municipality into Fire Emergency Response Areas as set out and outlined in the Fire Emergency Response Area Map, attached and forming Schedule "A-1" of this agreement; and

JOINT FIRE SERVICE AGREEMENT

AND WHEREAS Wheatland County has designated the municipality into Rescue Emergency Response Areas as set out and outlined in the Rescue Emergency Response Area Map, attached and forming Schedule "A-2", of this agreement;

NOW THEREFORE, in consideration of the mutual provisions and covenants contained hereunder in this Agreement, the Parties agree as follows:

1. **IN THIS AGREEMENT**, unless the context otherwise requires:
 - a) **"Emergency"** means a sudden unexpected happening or unexpected occasion for action; events or unexpected occasions requiring trained Firefighters to use their skill and judgement in the application of firefighting equipment and techniques to manage or properly extinguish fires and to provide emergency rescue services;
 - b) **"Fire Suppression"** means the process of controlling and/or extinguishing fires for the purpose of protecting people from injury, death and/or property loss.
 - c) **"Rescue"** means to access, stabilize and evacuate distressed or injured individuals by whatever means necessary, without endangering risk to health and safety, to ensure their timely transfer to appropriate care or to a place of safety.
 - d) **"Designated Area"** means the geographic area within Wheatland County that defines the boundaries for the Fire Association to perform fire suppression or rescue emergency services, as set out in Schedule A-1, Fire Response Area Map and Schedule A-2, Rescue Response Area Map.
 - e) **"Priority of Response"** means that all Emergency calls from within the designated areas will receive reasonable response from the Fire Association fire suppression, rescue crews when, in the opinion of the Fire Association or its designate, it can reasonably do so without impairing the Fire Association's capacity to protect life or property within the Fire Association's designated area.
 - f) **"Fire Coordinator"** means the County operational resource person assigned as a liaison and recognized leader to chair meetings, communicate with rural fire departments and Fire Chiefs, assist with grant applications, issue fire permits, acts as the main contact to the Fire Commissioners Office, and is the County Fire Marshal.

2. **TERM OF AGREEMENT**

The term of this Agreement will be effective from January 1, 2011 and will continue to be in affect or until otherwise withdrawn or cancelled as indicated in Point #10 of this Agreement. The parties may jointly agree to review this Agreement or amend the schedules from time to time, provided that all parties agree to review and amend as set out in Clause 11(i) of this agreement.

3. **FIRE SERVICE**

The Fire Association agrees to provide fire suppression and rescue emergency services from the date of this Agreement forward to the residents in the designated areas, and more particularly agrees to:

- a) Make its best efforts to provide Priority of Response to emergency calls from within the designated areas, within the terms and conditions of the Agreement.
- b) Be responsible for the billing and collection of any fire fees that may be applicable and retain all revenues received.

JOINT FIRE SERVICE AGREEMENT

- c) Maintain and insure all equipment at an operational level.
- d) Obtain sufficient liability insurance on equipment and for all personnel (permanent staff and volunteer staff).
- e) Be responsible for the operation and management of the service and will pay the costs and expenses of such services as they fall due.
- f) Be responsible for all recruitment, remuneration and ongoing training and management of all fire personnel.
- g) Assign at its discretion, on a per incident basis, firefighting equipment and Firefighters to suppress fire and rescue needs occurring in the designated area.
- h) Provide Wheatland County, on an annual basis, in writing, as to the status and condition of their fire assets and equipment, training and fire and emergency response statistics, active members, and a budget for long term planning purposes.
- i) Provide an annual financial statement, audited, as defined by the Societies Act, to the County Chief Financial Officer that identifies all revenues, expenditures assets and liabilities associated with the Fire Association and Volunteer Fire Fighters no later than June 1st of the following year. Operational funds will not be released by the Chief Administrative Officer until the annual audited financial statement is accepted by Wheatland County.
- j) Fire Associations agree to provide their respective selection for Fire Chief to the Wheatland County Fire Coordinator. Wheatland County Council will approve the appointment of the Fire Chief so that the Fire Chief and Fire Fighters qualify for Workers Compensation Board coverage under Wheatland County's Workers' Compensation Board policy.

Wheatland County agrees to:

- a) Provide acceptable call answer and dispatch services for all fire suppression and rescue emergency services.
- b) Provide operating funds to the Fire Association in return for the services outlined in this agreement with these funds to be approved, annually in the Wheatland County budget, Bylaw 2010-03 and current policies.
- c) Provide capital funds to the Fire Association in return for the services outlined in this agreement with these funds to be approved, annually in the Wheatland County budget, Bylaw 2010-03, current policies and as per Fire Capital Agreement.
- d) Provide Workers' Compensation coverage for fire personnel listed as volunteers for the Fire Association.
- e) Provide insurance to the Fire Association, as required, to ensure adequate coverage to address accidental death, disability (if applicable), liability, property including building and contents and heavy equipment and automotive with costs for such coverage to be determined and paid for through mutual understanding between the Fire Association and the Wheatland County.
- f) Utilize in long term planning, budgeting and financing of fire operations, the information provided annually by the Fire Association, regarding the status and condition of their fire assets and equipment, training and fire and emergency response statistics and budget information.

JOINT FIRE SERVICE AGREEMENT

- g) To provide a Fire Coordinator to assist rural fire associations and fire departments with the following services:
 - i) Chairman for Fire Chief meetings, training meetings and fire capital meetings;
 - ii) Attend Fire Department meetings when requested;
 - iii) Main contact person for Fire Chiefs and Fire Associations for Wheatland County;
 - iv) Grant application submissions for Fire Departments;
 - v) Fire Permits;
 - vi) Institute fire bans during dry conditions;
 - vii) Main contact person to the Fire Commissioners office representing Wheatland County

4. ASSETS

It is hereby agreed by all the Parties that capital assets will be addressed in the Fire Capital Agreement and that the said Fire Capital Agreement must remain in place for the duration of this Joint Fire Service Agreement.

5. WHEATLAND COUNTY FIRE RESPONSE AREA MAP

- a) The Fire Response Area map, as set out in Schedule A-1, shall define the boundaries for the Fire Association to perform fire suppression services for Wheatland County. This boundary is defined as the "Cluny Fire Response Area 2" on this Schedule A-1.
- b) The Fire Associations may be called outside the boundaries of their fire service area with such calls to fall under the Mutual Aid Agreement that the Parties have signed.

6. WHEATLAND COUNTY RESCUE RESPONSE AREA MAP

- a) Whereas, the Fire Association does not have a designated Rescue Response Area, it is understood and agreed that the Fire Associations may be called outside the boundaries of their Fire Response Area to assist with calls in areas that fall under the Mutual Aid Agreement.
- b) It is agreed and understood by Wheatland County and the Fire Association that:
 - i. The Fire Association may perform rescue services at their own discretion, utilizing as a guideline: training expertise, that is, to only provide those services that fire personnel have been trained to provide with the goal to mitigate risk and promote safety and; follow Standard Operating Procedures at all times.

7. LIABILITY

Each party, as applicable (the "indemnitor") will indemnify and hold harmless the other party and its directors, officers, employees, agents and representatives (the "indemnitee") from and against any direct damages, injuries, losses and other liabilities claimed against the indemnitee, and all related costs and expenses (including reasonable legal fees on a solicitor and his own client full indemnity basis) suffered or incurred by the indemnitee in relation to any claims, cause or causes of action, action or actions, suits or proceedings by a third party ("Claim") which arises from damage to property or injury to or death of persons resulting from the Indemnitor's failure to perform its obligations under this Agreement which failure is caused by the negligence or willful act of the Indemnitor or any of its directors, officers, employees, agents or representatives acting within the scope of their

JOINT FIRE SERVICE AGREEMENT

authority or employment or training. The indemnity will be limited to an amount in proportion to the degree to which the Indemnitor or its directors, officers, employees, agents or representatives acting within the scope of their authority or employment or training are at fault. As used herein, "willful act" will mean any act or omission, which is an intentional tort or a breach of any of the obligations under this Agreement.

8. DISPUTE RESOLUTION

If any dispute arises between the Parties with respect to any of the provisions of this Agreement that cannot be resolved by mutual agreement by the Parties, such dispute shall be determined by arbitration in accordance with the following terms and conditions:

- a) The Party desiring to refer a dispute to arbitration shall notify the other Party in writing of the details of the nature and extent of the dispute;
- b) Within seven (7) days of receipt of notice, the Parties shall agree upon a single arbitrator (the "Arbitrator") and in the event that the Parties are unable to agree upon the Arbitrator, the matter shall be referred to Court of Queen's Bench of Alberta to have the arbitrator appointed;
- c) Within seven (7) days of the appointment of the Arbitrator, or such further period as may be agreed upon by the parties, the Arbitrator shall resolve all matters and disputes which are the subject of the arbitration;
- d) The decision of the Arbitrator shall be final and binding upon the parties;
- e) The Arbitrator shall not alter, amend nor otherwise change the terms and conditions of this Agreement;
- f) The cost of each arbitration shall be borne by the Party against which the award is made by the Arbitrator, unless the Arbitrator decides otherwise;
- g) Except as modified herein, the provisions of the Alberta *Arbitration Act*, R.S.A. 2000, Chapter A-43, as amended from time to time, shall apply to any arbitration conducted pursuant to this Agreement; and
- h) Notwithstanding any provision contained herein to the contrary, if any dispute which has been submitted to the Arbitrator has not been determined by the Arbitrator within forty five (45) days of receipt of the notice to arbitrate, either Party at any time thereafter, but prior to a determination being made by the Arbitrator shall have the right of recourse to the Court of Queen's Bench of Alberta having jurisdiction for the determination of the dispute and upon the commencement of any action for such purpose, the jurisdiction of the Arbitrator with respect to such dispute shall cease.

9. NOTICES

All notices sent pursuant to the terms of this Agreement 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 that such delivery shall be made during normal business hours (8:30 a.m. - 4:30 p.m. on a normal business day excluding weekends and statutory holidays). Personally delivered notice shall be deemed received when actually delivered as aforesaid;
- b) by telecopier or by any other like method by which a written or recorded message may be sent, directed to the party upon 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

JOINT FIRE SERVICE AGREEMENT

- ii) normal hours of the business day; or
at the commencement of the next ensuing business day following transmission with answer back confirmation thereof if not received within the normal hours of the business day; or
- c) by single registered mail in a prepaid envelope. Notice shall be deemed received five (5) days after mailing. 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 the postal interruption shall be deemed to have been received unless actually received.

Notices shall be sent to the following addresses:

- a) Wheatland County
Hwy 1, R.R. 1
Strathmore, AB
T1P 1J6
Attention: Chief Administrative Officer
- b) Cluny Rural Fire Protection Association Limited
Box 279
Cluny, AB
T0J 0S0
Attention: President/Chairperson

10. WITHDRAWALS OR CANCELLATION

- a) In the event that either Party is unable or fails to perform the services set out in this agreement, either Party may terminate this agreement upon serving seven (7) days notice, in writing, to the other party.
- b) Notwithstanding clause 10a (above), either Party may terminate or withdraw from this Agreement by providing twelve (12) months notice of withdrawal, in writing, to the other Party.

11. GENERAL

- a) The headings in this 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 nor any provision hereof.
- b) Wherever the singular, plural, masculine, feminine or neuter is used throughout this Agreement, the same shall be construed as meaning the singular, plural, masculine, feminine, neuter, body politic or body corporate where the fact or context so requires and the provisions hereof and all covenants herein shall be construed to be joint and several when applicable to more than one party.
- c) This Agreement shall not be assignable from any party to any other person, firm or corporation without the prior written consent of the other party, which consent will not be unreasonably withheld.

JOINT FIRE SERVICE AGREEMENT

- d) This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective successors and permitted assigns.
- e) This Agreement shall be governed and construed in accordance with the laws of the Province of Alberta.
- f) No consent or waiver, express or implied, by either party to or of 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 to or of any other breach or default in the performance of obligations hereunder by such party. Failure on the part of either party to complain of 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 not constitute a waiver by such party of its rights hereunder.
- g) If any term, covenant or condition of this Agreement or the application thereof to any party or circumstance shall be invalid or unenforceable to any extent, the remainder of the 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 remain valid and enforceable.
- h) There are no conditions to this Agreement, either subsequent nor precedent, except as set forth herein. This Agreement constitutes the entire Agreement between the parties.
- i) This Agreement may be altered or amended from time to time by the mutual consent of both parties. A record of any such amendment shall be in writing and a copy thereof shall bear the signatures of the parties and shall be attached to and form part of this Agreement.
- j) The parties 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 to carry out the terms and conditions of this Agreement in accordance with their true intent.
- k) The parties acknowledge and agree that the provisions of this Agreement which, by their context, are meant to survive the termination or expiry of the Term shall survive the termination or expiry of the Term and shall not be merged therein.