



## HALDIMAND COUNTY

**Report CMS-ES-07-2014  
of the General Manager of Community Services  
for Consideration by Council in Committee**

**RE: Mississaugas of the New Credit First Nation Fire Protection Agreement**

**OBJECTIVE:** To request Council enter into a Fire Protection Agreement with the Mississaugas of the New Credit First Nation.

### **RECOMMENDATIONS:**

1. THAT Report CMS-ES-07-2014 Re: Mississaugas of the New Credit First Nation Fire Protection Agreement-dated September 24, 2014 be received;
2. AND THAT the annual retainer and emergency response fee shall be adjusted annually on the anniversary date, by the percentage change, year over year, during the preceding year as recorded in the Statistics Canada, Consumer Price Index, All Items Index, not seasonally adjusted in Ontario identified in Catalogue number 62-001-X, Table 9-6;
3. AND THAT the Mayor and Clerk be authorized to execute a Fire Protection Agreement with the Mississaugas of the New Credit First Nation as outlined in Attachment # 1 to Report CMS-ES-07-2014.

Prepared by:

Rob Grimwood  
Manager, Emergency Services/Fire Chief  
Date: September 24, 2014

Respectfully submitted:

B. Hugh Hanly  
General Manager  
Community Services Department

Approved:

Donald G. Boyle  
Chief Administrative Officer

## **BACKGROUND:**

On April 1, 2014 Council received report CMS-ES-04-2014 that directed staff to submit a proposal in response to an RFP issued by the Mississaugas of the New Credit First Nation for fire protection services.

The Corporation of Haldimand County and prior to that, the Town of Haldimand, have been providing fire protection to the Mississaugas of the New Credit First Nation since at least 1976. During that time the agreement has been revised several times.

## **ANALYSIS:**

In response to Council's direction Emergency Services staff worked with Finance staff to complete a user fee calculation. This calculation revealed that a significant increase in the annual retainer cost would be required to reflect true cost recovery.

Staff submitted a proposal in response to the RFP that proposed an increase in the annual retainer from \$18,000 to \$60,330 and an increase in the cost per call fee from \$410/hour and \$205/half-hour thereafter to \$560/hour and \$280/half-hour thereafter.

The proposal also cleaned up some administrative language, added a clause to resolve boundary call issues and included improved fire prevention language.

Haldimand County was the successful bidder in response to the RFP for fire protection services. Following the bid, staff worked with Mississaugas of the New Credit First Nation staff to complete a proposed Fire Protection Agreement.

This agreement meets the requirements of the Emergency Services and Support Services Divisions while including all the requirements identified in Council report CMS-ES-04-2014.

## **BUDGET/LEGAL IMPLICATIONS:**

The Fire Protection Agreement (attachment 1) includes all required insurance and risk/liability language and requirements.

The new Fire Protection Agreement will result in a positive variance to the 2014 operating budget which was initially calculated based on the \$18,000 retainer. The increase to the annual retainer and emergency response fee will be included as a Council Approved Initiative in the 2015 Tax Supported Operating Budget.

The annual retainer and emergency response fees shall be adjusted annually on the anniversary date, by the percentage change, year over year, during the preceding year as recorded in the Statistics Canada, Consumer Price Index, All Items index, not seasonally adjusted in Ontario identified in Catalogue number 62-001-X, Table 9-6.

## **INTERDEPARTMENTAL IMPACTS:**

Not applicable.

## **LINKS TO STRATEGIC PLANS:**

1.1.1. Develop a long-term funding plan to sustain and grow services (including emergency services).

1.3.3. To identify, prioritize and enrich strategic partnerships within our community.

1.4.3. To identify municipal and non-municipal partners with whom we can generate mutual benefits.

## **CONCLUSION:**

Staff recommends that Council enter into the attached Fire Protection Agreement with the Mississaugas of the New Credit First Nation.

## **ATTACHMENTS:**

1. Fire Protection Agreement with the Mississaugas of the New Credit First Nation.

<b>REQUIRED AND RECEIVED COMMENTS FROM:</b> Yes or Not applicable	
Clerk's	Not applicable
Community Services Department	Not applicable
Finance	Yes
Health & Social Services Department	Not applicable
Human Resources	Not applicable
Information Systems	Not applicable
Legal	Not applicable
Public Works Department	Not applicable
Planning & Economic Development Department	Not applicable
Support Services	Yes
Other	Not applicable

**CLERK'S DIVISION REVIEW**  
**Report: CMS-ES-07-2014 - Mississaugas of the New Credit First Nation Fire Protection Agreement**

COUNCIL IN COMMITTEE: October 7, 2014  
RECOMMENDATION NO: 14

☒ Approved

☐ Approved with Amendments

☐ Defeated

☐ Deferred

☐ Other

COUNCIL: October 14, 2014  
RESOLUTION NO: 220-14

☒ Approved

☐ Approved with Amendments (Noted below)

☐ Defeated

☐ Deferred

☐ Other

Recommendation(s):

Council Direction:

Clerk's Division Action Taken:

THIS AGREEMENT made in triplicate this *15* day of *September* 2014.

BETWEEN:

**The Corporation of Haldimand County**

hereinafter referred to as the "County"

- and -

**The Council of the Mississaugas of The New Credit First Nation**

**Indian Reserve No. 40 A**

hereinafter referred to as the "New Credit"

WHEREAS the County and the New Credit are desirous of entering into an agreement for the provision of fire protection and emergency services;

AND WHEREAS the County and the New Credit have negotiated an arrangement whereby the County would provide fire protection and emergency services on a fee for service basis;

AND WHEREAS it is deemed necessary to clearly describe the fire protection and emergency services being supplied by the County to the New Credit;

NOW THEREFORE the County and the New Credit hereby covenant and agree as follows:

1. The County shall supply fire protection to the lands and buildings of the New Credit Indian Reserve #40A, more particularly described as follows:

Lands and roads located in Lots One (1) to Twelve (12) inclusive in Concessions One (1) and Two (2) of the Township of Tuscarora of the County of Brant and the lands and roads located in Lots One (1) to Six (6) inclusive in Concession One (1) in the Second Range West of the Plank Road in the former geographic Township of Oneida now in Haldimand County plus the lands in Lot 26 bounded by the lands in Lot 27, the Canadian National Railway, the 1<sup>st</sup> Line and Highway #6 (Plank Road);

Plus lands in Part Lot 27 and 28, Range west of Highway #6 (Plank Road).

More specifically, the lands and buildings being protected are listed within the following civic addressing:

Anishnabek Street	#1-#10
Cayuga Road	#417-#535 (ODD NUMBERS ONLY)
Community Trail	No numbers currently assigned as there are no buildings
Eagle Lane	No numbers currently assigned as there are no buildings
First Line	#6 - #78 (EVEN NUMBERS ONLY)
Indian Line	#8304 - #9241 (ODD NUMBERS ONLY)
Mississauga Road	#2278 - #9241 #3262-#3724 (EVEN NUMBERS ONLY)
New Credit Road	#2-#816
Ojibway Road	#2-#408
Second Line	#2286-#3258 (EVEN NUMBERS ONLY)
Tuscarora Road	#2-#412 (EVEN NUMBERS ONLY)

The geographical area is also outlined in map format as Schedule A to this agreement.

It is agreed upon that when additional development of land, buildings, roads or properties occurs within the outlined area it shall be included within this agreement.

As development occurs and changes to the civic addressing outline and map are required (new streets, newly assigned civic addressing etc.) the Mississaugas of the New Credit are responsible for providing such information to Haldimand County for inclusion within the fire dispatch system.

2. The New Credit hereby agrees to provide Haldimand County updated maps, new street names and civic addressing and updated fire hydrant locations as they become available.
3. For the purposes of this agreement, fire protection service means:
  - fire prevention and public education programs as requested\*;
  - fire suppression and life rescue from structural fires;
  - response to and investigation of fire alarm activations;
  - fire suppression of non-structural fires (vehicles, grass/brush etc.);
  - motor vehicle accident life rescue (extrication);
  - life rescue from incidents or accidents in addition to fire (ice/water rescue at shore-based level);
  - medical assistance calls in accordance with the Haldimand County Fire Department tiered response policy as may be amended from time to time
  - basic response for the suppression or containment of hazardous materials at the "awareness level"
  - response to and investigation of carbon monoxide detector activations;

\*As the Ontario Fire Code is not applicable legislation the enforcement of the Ontario Fire Code through fire safety inspections is not included in this agreement. For the purposes of this agreement fire prevention shall be limited to public education and fire safety consultations.

4. The County shall supply fire protection to New Credit at the same service level and on the same basis as is supplied to taxpayers and visitors in the County. Any changes to the level of service shall be mutually agreed upon by the County and New Credit. In the event that said levels are amended, the emergency response fees set out below shall be renegotiated.



5. New Credit is responsible to ensure that its members, residents and inhabitants are aware of the fire protection service levels.
6. For fire protection supplied by the County, the New Credit shall pay an annual retainer fee of \$60,330 to the County payable in April of each year (the 1<sup>st</sup> month of the fiscal term of the New Credit).
7. For each emergency responded to by the County, the New Credit shall pay Five Hundred and Fifty-eight dollars (\$560) per fire vehicle per hour and Two Hundred and Seventy-nine dollars (\$280) per fire vehicle per half-hour after the first hour to the County. Notwithstanding the foregoing, where the County recovers the cost of the emergency response from the owner or insurance company of a vehicle which is razed by fire or from a motor vehicle accident, the New Credit shall not be required to pay the emergency response fee to the County for such recovery. Haldimand County will report to New Credit semi-annually the number of calls that have been responded to and the status of any attempts to recover costs.
8. The County and New Credit agree that the annual retainer and emergency response fees set out in paragraphs 6 & 7 above shall be adjusted annually on the anniversary date, by the percentage change, year over year, during the preceding year as recorded in the Statistics Canada Quarterly Consumer Price Statistics, All items, not seasonally adjusted in Ontario identified in Catalogue numbers 62-001-X Table 9-6.

In the event that the said index discloses a cost of living increases or decreases greater than 3%, the County and New Credit shall meet to discuss the amount of the adjustment.

9. The County shall invoice the New Credit semi-annually for all emergency responses and shall include copies of the applicable fire reports in support of such invoice and shall further note any recoveries of costs by the County from the owners of vehicles razed by fire or motor vehicle accidents. New Credit will be invoiced for all calls that the Haldimand County Fire Department responds to as being dispatched as being in New Credit based on the information from the caller.

#### 9.1 Calls in Dispute

Any calls that are responded to but found to be outside the New Credit boundaries will be investigated to determine the reasons for the service to be dispatched.

- a) In the event that a call is on a boundary road with Six Nations Reserve lands, Haldimand County will invoice New Credit and New Credit will endeavor to collect the amount invoiced from Six Nations.
- b) In the event that a call is a motor vehicle accident or vehicle fire on a boundary road with Haldimand County, the invoice will be cancelled.
- c) In the event that that a call is on Six Nations reserve property and not on a boundary road, an investigation will be undertaken to determine the reason for the service to be dispatched and if done in error, the invoice will be cancelled. If found to have been done because of information provided by the caller, the invoice will remain payable by New Credit and New Credit will endeavor to collect the amount from Six Nations.

Any effort to recover costs from the jurisdiction where the call ended up being located in would be the responsibility of New Credit.

Failure to pay any above fees may cause Haldimand County to cease its obligations under this contract until such time as all amounts owed to Haldimand County with respect to services provided as indicated above are paid in full.

10. This agreement shall be for a term of five (5) years, commencing {Insert date}, but may be terminated in writing by either party serving one hundred and eighty (180) days written notice on the other party.
11. If the services outlined in this Agreement continue to be provided by the County beyond the expiration date of the Agreement, without a renewal agreement, written extension or termination or any further Agreement, the Agreement shall not be deemed to have been renewed, and New Credit shall be deemed to accept the provision of services from the County on a month to month basis on the same terms as set forth in the Agreement.
12. New Credit acknowledges that the fire protection service being provided by the County pursuant to this agreement is in accordance with the minimum standards set out in the *Fire Protection and Prevention Act, S.O. 1997, Ch. 4* and amendments thereto. New Credit reserves the right to request enhanced fire protection service levels and in that event, it shall provide written notice of such requests to the County, and the parties shall negotiate in good faith the enhanced levels and their costs.
13. The County hereby acknowledges and agrees that in providing the fire protection and emergency services referred to in this agreement it is acting as an independent contractor and that otherwise than as expressly stated herein, all costs in connection with provision of the said fire protection and emergency services shall be born by the County, which shall save harmless and indemnify New Credit from any claims or costs with respect to the provision of the said services. The County further acknowledges and agrees that all employees or

agents engaged in the provision of the said services are employees of the County and shall not be deemed to be employees or agents of New Credit.

14. The County acknowledges and agrees that it will not contract or attempt to contract on behalf of New Credit with respect to the provision of the said fire protection and emergency services and will not without the prior written consent of New Credit enter into any obligation which could potentially be binding upon New Credit, and shall not hold itself out as acting in partnership with New Credit in connection with the provision of the said fire protection and emergency services.
15. New Credit will maintain commercial general liability insurance, including cross liability coverage, in an amount not less than \$5,000,000 per occurrence/general annual aggregate, for bodily injury and/or property damage. This policy shall include contractual liability, cross liability, and completed operations coverage in addition to all standard coverage found in a CGL industry form. Furthermore, the policy shall be endorsed to include the County as an additional insured. New Credit will provide a Certificate of Insurance that provides limits as required above from an insurer licensed to do business in the Province of Ontario.
16. New Credit will maintain environmental impairment liability insurance in a form acceptable to the County in an amount not less than \$5,000,000 per occurrence /general annual aggregate. This policy shall include a cross liability clause and shall include the County as an additional insured. New Credit will provide a Certificate of Insurance that provides limits as required above from an insurer licensed to do business in the Province of Ontario.
17. The County will maintain commercial general liability insurance, including cross liability coverage, in an amount not less than \$5,000,000 per occurrence/general annual aggregate, for bodily injury and/or property damage. This policy shall include contractual liability, cross liability, and completed operations coverage in

addition to all standard coverage found in a CGL industry form. Furthermore, the policy shall be endorsed to include New Credit as an additional insured. The County will provide a Certificate of Insurance that provides limits as required above from an insurer licensed to do business in the Province of Ontario.

18. The County will maintain environmental impairment liability insurance in a form acceptable to New Credit in an amount not less than \$5,000,000 per occurrence /general annual aggregate. This policy shall include a cross liability clause and shall include New Credit as an additional insured. The County will provide a Certificate of Insurance that provides limits as required above from an insurer licensed to do business in the Province of Ontario.
19. All policies shall contain an endorsement providing at least thirty (30) days prior written notice of cancellation or non-renewal to the other Party.
20. The County agrees to save harmless and indemnify New Credit from any loss, costs or damages suffered or incurred by New Credit as a result of any deliberate or negligent act or omission of the County, or its servants or agents, in connection with the provision of the said fire protection or emergency services.
21. New Credit agrees to save harmless and indemnify the County from any loss, costs or damages suffered or incurred by the County as a result of any deliberate or negligent act or omission of New Credit, or its servants or agents, in connection with the provision of the said fire protection or emergency services.
22. The County hereby agrees to indemnify and hold New Credit harmless from any third party liability or damages for bodily injury, including death, which may be caused by the County's negligence or wilful misconduct under this Agreement; provided, the County shall be liable only for that percentage of total damages that corresponds to its percentage of total negligence or fault.

23. New Credit hereby agrees to indemnify and hold the County harmless from any third party liability or damages for bodily injury, including death, which may be caused by New Credit's negligence or wilful misconduct under this Agreement; provided, New Credit shall be liable only for that percentage of total damages that corresponds to its percentage of total negligence or fault.
24. The indemnities provided for in this Agreement shall survive the termination of the Agreement.
25. Neither party shall be liable for its failure to perform its obligations under this Agreement if such failure is due to force majeure.
26. This Agreement shall be binding upon the successors and assigns of each of the County and New Credit, but neither party shall assign this Agreement without the prior written consent of the other party, which said consent shall not be unreasonably withheld.
27. Where any notice, direction or other communication is required to be or may be given or made by one of the parties hereto to the other, it shall be deemed sufficiently given or made if delivered in writing to such party at the following addresses:

THE COUNTY:

The Corporation of Haldimand County  
Emergency Services Division  
117 Forest Street East  
Dunnville, Ontario  
N1A 1B9

NEW CREDIT:

Mississaugas of the New Credit First Nation  
R.R. # 6 (2789 Mississauga Rd.)  
Hagersville, Ontario  
N0A 1H0

28.If any term, provision, covenant or condition of this Agreement is held to be invalid, void or unenforceable by a court of competent jurisdiction, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

29.If there is any inconsistency between this Agreement, any Schedule to this Agreement or the Fire Protection and Emergency Services RFP document that resulted in this Agreement, this Agreement shall govern.

IN WITNESS WHEREOF, THIS AGREEMENT has been executed by the authorized representatives of the parties, who hereby agree that the above correctly sets forth the terms of their Agreement and who each undertake to carry out the provisions thereof.

) THE CORPORATION OF HALDIMAND  
) COUNTY

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Ken Hewitt, Mayor

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Evelyn Eichenbaum, Clerk

) THE MISSISSAUGAS OF THE NEW  
) CREDIT FIRST NATION

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Chief Councillor, Mississaugas of the  
) New Credit Band Council

