

## BURLINGTON / OAKVILLE DISPATCH AGREEMENT

**THIS AGREEMENT** is made this      day of      , 2016

**BETWEEN:**

**The Corporation of the Town of Oakville**

("Town of Oakville")

- and -

**The Corporation of the City of Burlington**

("City of Burlington")

**WHEREAS** the Fire Department of the Town of Oakville ("Oakville Fire Department") and the Fire Department of the City of Burlington ("Burlington Fire Department") agree that the Burlington Fire Department shall provide fire dispatch services for both departments;

**AND WHEREAS** the Burlington Fire Department agrees to provide such services;

**AND WHEREAS** the costs to staff, operate, maintain, repair, and replace the Centre (as hereinafter defined) will be shared between the Town of Oakville and the City of Burlington as set forth herein;

**NOW THEREFORE** in consideration of the mutual benefits and covenants contained herein, and for other good and valuable consideration, the sufficiency of which is mutually acknowledged, the parties hereto agree as follows:

1. The City of Burlington shall provide fire dispatch services in accordance with this Agreement.
2. The Burlington Fire Department and the Oakville Fire Department shall form a committee to oversee the provision of services, the standard operating guidelines, and the performance targets for the Centre ("Senior Joint Operating Committee"). The Senior Joint Operating Committee will consist of the following members: the Fire Chief of the Burlington Fire Department, the Fire Chief of the Oakville Fire Department, a senior (non-union) member of

the Burlington Fire Department's management team, and a senior (non-union) member of the Oakville Fire Department's management team.

3. The Burlington Fire Department shall provide efficient and effective incident call taking and dispatching of fire services from a facility known as the Burlington Fire Dispatch Centre ("Centre") in the following manner:
  - (a) The hours of operation of the Centre will be twenty-four (24) hours a day, seven (7) days a week, throughout the year;
  - (b) A minimum of two (2) Public Safety Telecommunicators will be present at the Centre at all times;
  - (c) The overall responsibility of the Communication Division of the Burlington Fire Department will be under the direction of a senior (non-union) member of the Burlington Fire Department's management team. The day-to-day supervision of the Centre and its staff and operations will be the responsibility of a Communications Coordinator (Supervisor) who is hired by the City of Burlington;
  - (d) Unless agreed to otherwise, direct supervision of the Centre will be provided by a Communications Coordinator (Supervisor) whose hours of work will be from 08:30 to 16:30 hrs and from Monday to Friday, excluding Ontario statutory holidays, City of Burlington administrative holidays, vacation or absence due to professional development, other assignment, illness or injury;
  - (e) After-hours and holiday supervision will be provided by the on-duty Platoon Chief of the Burlington Fire Department; and
  - (f) On an ongoing basis, the Senior Joint Operating Committee shall review the staffing and service levels at the Centre and shall forward any recommendations to the Commissioner of Community Services of the Town of Oakville and to the City Manager of the City of Burlington.
  
4. The parties acknowledge that the performance target for providing emergency alarm handling will be in accordance with the guidelines outlined in NFPA 1221, Chapter 7, Section 7.4.2. For greater certainty, the parties acknowledge that such performance target is a target only and not an obligation of the City of Burlington. The Senior Joint Operating Committee shall review the performance target from time to time. With the consent of the Fire Chief of the Burlington Fire Department and of the Fire Chief of the Oakville Fire Department, such

performance target may be amended to reflect prevailing industry standards which dictate such fire dispatch services.

5. The parties agree that operating expenses and capital costs to staff, operate, maintain, repair, and replace the Centre ("Centre Costs") will be determined by the City of Burlington. The parties agree that capital costs will include costs for dispatch equipment and any peripheral devices, but will exclude costs for the exterior or interior of the building.
  
6. The Town of Oakville and the City of Burlington shall share the Centre Costs based on the percentage of incident call volume for each municipality from the previous year. For greater certainty, the City of Burlington's share of the Centre Costs will be calculated by multiplying the fraction which has as its numerator the number of incident calls received for the City of Burlington from the previous year and as its denominator the total number of incident calls received by the Centre for the previous year by the Centre Costs and the Town of Oakville's share of the Centre Costs will be calculated by multiplying the fraction which has as its numerator the number of incident calls received for the Town of Oakville from the previous year and as its denominator the total number of incident calls received by the Centre for the previous year by the Centre Costs.

*Example: If the incident call volume percentage for the Town of Oakville is 47.7% and the incident call volume percentage for the City of Burlington is 52.3% based upon incident call volumes for the previous year and the Centre Costs for the current year is \$100,000, then the Town of Oakville's cost portion would be \$47,700 and the City of Burlington's cost portion would be \$52,300.*

7. The City of Burlington shall prepare an estimate of the annual operating expenses and capital costs to staff, operate, maintain, repair, and replace the Centre ("Estimated Centre Costs"), and shall, as reasonably as possible, provide the Estimated Centre Costs to the Senior Joint Operating Committee in time for the local budget processes of each municipality. The Town of Oakville shall pay to the City of Burlington its share of the Estimated Centre Costs on a semi-annual basis, unless otherwise agreed to in writing by the parties. As soon as practicable after the end of each calendar year, the City of Burlington

shall prepare an accounting of the Centre Costs ("Statement") and shall provide such Statement to the Town of Oakville.

8. In the event that the annual amount paid by the Town of Oakville is more than the amount required pursuant to the Statement so that there is a positive net year-end balance, then such positive net year-end balance will be transferred to a capital reserve fund that is maintained by the City of Burlington ("Capital Reserve Fund"). In the event that the annual amount paid by the Town of Oakville is less than the amount required pursuant to the Statement so that there is a negative net year-end balance, then such negative net year-end balance will be offset by any funds in the Capital Reserve Fund. If the funds in the Capital Reserve Fund are insufficient to offset such negative net year-end balance, then the City of Burlington will forward to the Town of Oakville an invoice for such negative net year-end balance and the Town of Oakville will pay such invoice within thirty (30) days of the date of such invoice. The parties agree that any funds in the Capital Reserve Fund will be used to offset future operating expenses or capital costs for the Centre. Any decisions to use any funds in the Capital Reserve Fund will be made by the Senior Joint Operating Committee. On an annual basis, the City of Burlington shall provide to the Town of Oakville a financial statement that identifies when the funds have been transferred to or from the Capital Reserve Fund.
9. The Senior Joint Operating Committee may determine whether an audit of the Centre Costs will be conducted at the year-end. If an audit is to be conducted, then the Senior Joint Operating Committee will appoint an auditor and the cost of such audit will be included as a Centre Cost. The results of such audit will be provided to the parties.
10. This Agreement, unless terminated earlier as hereinafter provided, commences on October 24, 2016 and will remain in force for a period of five (5) years. This Agreement may be renewed for such further term and on such terms and conditions as may be mutually agreed to by the parties.
11. Unless otherwise indicated herein, all right, title, and interest to and in the Centre and any improvements thereto will be and vest solely with the City of Burlington.

12. All computer aided dispatch incident records and data in connection with an incident ("Data") will belong to the party to which that incident relates. Each party will be responsible for the storage, integrity, retention, and destruction of its own Data. The City of Burlington will not be responsible for the Town of Oakville's storage, integrity, retention or destruction of its Data unless the parties agree to change the current computer aided dispatch and records management system. Any and all Data that is created and retained by the City of Burlington will be maintained in accordance with the records retention by-law as established by the City of Burlington from time to time.
13. Either party may terminate this Agreement upon two (2) years written notice to the other party for whatever reason. Such notice will be delivered to the Fire Chief of the applicable party. In the event of the termination or expiration of this Agreement, the City of Burlington will pay to the Town of Oakville an amount equal to one-half of the depreciated value, as determined in accordance with generally accepted accounting principles, of the assets of the Centre, after any encumbrances have been deducted from such assets, as at the time of the termination or expiration of this Agreement.
14. No person may be added as a party to this Agreement without the consent of the Town of Oakville and of the City of Burlington and only on such terms and conditions as are agreed to by both parties.
15. The Town of Oakville acknowledges that the City of Burlington will negotiate and amend its collective agreement with its firefighters without the consent of the Town of Oakville and that any amendments may affect the operation of the Centre.
16. In the event of any dispute or disagreement between the parties hereto as to the meaning or interpretation of anything contained in this Agreement or as to the performance or non-performance hereof or as to the respective rights and obligations of the parties hereunder, such dispute or disagreement may be dealt with as follows:
- (a) the dispute or disagreement will first be referred to the Senior Joint Operating Committee;
  - (b) should the dispute or disagreement not be resolved within fourteen (14) days of its referral to the Senior Joint Operating Committee, the dispute or disagreement will

be escalated to the Commissioner of Community Services of the Town of Oakville and to the City Manager of the City of Burlington; and

- (c) should the dispute or disagreement not be resolved within fourteen (14) days of its referral to the Commissioner of Community Services of the Town of Oakville and to the City Manager of the City of Burlington, either party may exercise its rights available at law.

17. All negotiations and settlement discussions to resolve a dispute or disagreement pursuant to Section 16 will be treated as compromise and settlement negotiations between the parties and will not be subject to disclosure through discovery or any other process and will not be admissible into evidence in any proceeding. Except where clearly prevented by the nature of the dispute or disagreement, the parties agree to continue performing their respective obligations under this Agreement.

- 18. (a) The Town of Oakville will not be liable to the City of Burlington, to anyone claiming by, through or under the City of Burlington, or to any third party for any loss, cost, damages, injury, liability, claim, penalty, fine, interest or cause of action whatsoever resulting howsoever from any act or omission (including negligence or misconduct) on the part of the City of Burlington in the provision of fire dispatch services from the point of time that the incident call is initiated up to and including the point of time at which the City of Burlington properly notifies the Town of Oakville to respond to the incident call or to dispatch fire services.
- (b) The City of Burlington will not be liable to the Town of Oakville, to anyone claiming by, through or under the Town of Oakville, or to any third party for any loss, cost, damages, injury, liability, claim, penalty, fine, interest or cause of action whatsoever resulting howsoever from any act or omission (including negligence or misconduct) on the part of the Town of Oakville in responding to the incident call or dispatching fire services after the point of time at which the City of Burlington properly notifies the Town of Oakville to respond to the incident call or to dispatch fire services.
- (c) To the extent that a third party initiates a claim against a party and that party is not responsible for the claim pursuant to clause (a) or clause (b), then the party that is

responsible for the claim will indemnify, defend, and hold harmless the party that is not responsible for the claim.

19. The parties will do or cause to be done, from time to time, all such things and will execute and deliver all such documents, agreements, and instruments reasonably requested by the other party as may be necessary or desirable to carry out the provisions and intention of this Agreement.
20. Neither party has authority or power to bind the other or to contract in the name of, or create a liability against, the other in any way or for any purpose.
21. Except as may otherwise be contained herein, this Agreement will enure to the benefit of and be binding upon the parties hereto and their personal or legal representatives, heirs, executors, administrators, successors, and permitted assigns, as the case may be.
22. Neither party will assign or transfer any or all of its rights or its duties or obligations hereunder without the prior written consent of the other party, which consent may be unreasonably withheld. Any attempted assignment or transfer without such prior consent will be void.
23. Any notice provided for under this Agreement will be in writing and will be sufficiently given if delivered personally, or if transmitted by facsimile with an original signed copy sent by prepaid registered mail within forty-eight (48) hours thereafter, or if mailed by prepaid registered mail to the parties, as follows:

if to the City of Burlington, at:           The Corporation of the City of Burlington  
426 Brant Street, P.O. Box 5013  
Burlington, ON L7R 3Z6  
Attention: Fire Chief  
Facsimile: 905-333-8727

if to the Town of Oakville, at:           The Corporation of the Town of Oakville  
1225 Trafalgar Road, P.O. Box 310  
Oakville, ON L6J 5A6  
Attention: Fire Chief  
Facsimile: 905-338-4403

or at such other address or facsimile number as the party to whom such notice is to be given otherwise directs in writing. Any notice delivered aforesaid will be effective on the date of personal delivery, or on the date of facsimile transmission, and any notice mailed as aforesaid will be effective three (3) days after the mailing thereof, provided that where interruption of mail services is likely by reason of any strike or other labour dispute, notice will be given by personal delivery or facsimile transmission.

24. This Agreement is governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each of the parties hereto irrevocably conforms to the non-exclusive jurisdiction of the courts of such Province.

25. No consent or waiver, express or implied, by any party hereto of any breach or default by any other party hereto in the performance of its obligations hereunder will be deemed to or construed to be a consent to or waiver of any other breach or default in the performance by such other party of the same or any other obligations of such party hereunder. Failure on the part of any party to complain of any act or failure to act of any other party or to declare the other party in default, irrespective of how long such failure continues, will not constitute a waiver by the first-mentioned party of its rights hereunder.

26. Time is of the essence of this Agreement and of every part hereof and no extension or variation of this Agreement will operate as a waiver of this provision.

27. All references to a day or days in this Agreement mean a calendar day or calendar days.

28. If any provision of this Agreement is held to be invalid, void or unenforceable, then the remaining provisions will nevertheless continue in full force and effect without being impaired or invalidated in any way.

29. This Agreement, and any documents incorporated by reference herein, constitute the entire agreement between the parties pertaining to the subject matter hereof and supersede all prior agreements, understandings, negotiations, and discussions with respect to the subject matter hereof whether oral or written. No supplement, modification or waiver of this Agreement will be binding upon the parties unless executed in writing by them.



30. The parties hereto understand, agree, and acknowledge that: (a) this Agreement has been freely negotiated by both parties; and (b) in any controversy, dispute or contest over the meaning, interpretation, validity or enforceability of this Agreement or any of its terms or conditions, there will be no inference, presumption or conclusion drawn whatsoever against either party by virtue of that party having drafted this Agreement or any portion thereof.

**IN WITNESS WHEREOF** the parties have duly executed this Agreement as of the date first above written.

**The Corporation of the Town of Oakville**

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**Mayor Rob Burton**

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**Town Clerk Vicki Tytaneck**

**The Corporation of the City of Burlington**

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**Mayor Rick Goldring**

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**City Clerk Angela Morgan**