

VILLAGE OF GOLD RIVER

Bylaw No. 744, 2023

A bylaw to authorize the Village of Gold River to enter into an Agreement for the provision of a municipal service to the Mowachaht/Muchalaht First Nations.

WHEREAS the Mowachaht Muchalaht First Nation Council has requested that the Village of Gold River provide Fire Protection Services to lands within their reserve; and

WHEREAS the Council of the Village of Gold River has agreed to provide Fire Protection Services to lands within a reserve on the terms and conditions set out in Schedule "A" attached to and forming part of this bylaw, and

WHEREAS pursuant to Section 13 of the *Community Charter* the Village of Gold River may enter into agreements to provide services to lands; and

WHEREAS the Band Council of the Mowachaht Muchalaht First Nation has authorized the execution of this Agreement on behalf of the Band by a Band Council Resolution duly passed at a meeting of the Band Council held on the day of , a copy of which is attached hereto as Schedule "B".

NOW THEREFORE the Municipal Council in open meeting assembled, enacts as follows:

1. This bylaw shall be cited for all purposes as the "Village of Gold River Mowachaht/Muchalaht First Nations Fire Protection Services Agreement Authorization Bylaw No. 744, 2023".
2. The Municipal Council has agreed to provide a municipal service to lands within a reserve on the terms and conditions set out in Schedule "A", attached hereto.
3. Village of Gold River Mowachaht/Muchalaht First Nations Fire Protection Services Agreement Authorization Bylaw No. 708, 2018 is hereby repealed.

READ A FIRST AND SECOND TIME THIS 20TH DAY OF MARCH 2023.

READ A THIRD TIME THIS 20TH DAY OF MARCH 2023.

ADOPTED THIS 3RD DAY OF APRIL 2023.



Michael Lott

Mayor



M. Roy

Corporate Administrator

VILLAGE OF GOLD RIVER

SCHEDULE "A"
ATTACHED TO AND FORMING PART OF
BYLAW NO. 744, 2023

FIRE PROTECTION SERVICES AGREEMENT

THIS AGREEMENT made the 14 day of APRIL, 2023.

BETWEEN:

**THE CORPORATION OF
THE VILLAGE OF GOLD RIVER**
499 Muchalat Drive, P.O. Box 610
Gold River, B.C., V0P 1G0

(the "Municipality")

AND:

MOWACHAHT/MUCHALAT FIRST NATIONS
Tsaxana Indian Reserve 18
P.O. Box 459
Gold River, B.C., V0P 1G0

(the "Band")

WHEREAS:

- A. The Municipality may, by bylaw, pursuant to Section 13 of the *Community Charter* enter into an agreement with a First Nation as defined in that Act to provide a municipal service within a Reserve as defined in the Indian Act (Canada);
- B. The Band has requested the Municipality to provide fire protection services under the terms and conditions hereinafter provided;
- C. The Municipality operates a Fire Department and is prepared to offer the services, but only under the terms and conditions hereinafter provided;

NOW THEREFORE, in consideration of their mutual promises herein contained and for other valuable consideration the receipt and sufficiency of which is hereby acknowledged, **THE PARTIES AGREE AS FOLLOWS:**

DEFINITIONS:

1. In this Agreement:

'Band'	means the Mowachaht/Muchalaht First Nations Band located at Tsaxana, Indian Reserve No. 18.
'Band Council'	means the Council of the Mowachaht/Muchalaht First Nations.
'Band Land'	means the lands located and occupied by the Mowachaht/Muchalaht First Nations at Tsaxana Indian Reserve 18.
'Community Buildings'	means the Administration Building, House of Unity and the Gymnasium or any building utilized for a public community purpose on the Reserve.
'Commercial Buildings'	means buildings used for the purpose of commercial business activities, such as retail and/or professional office space, excluding industrial, manufacturing, or processing activities, fuel supply or any uses related to hazardous or dangerous goods.
'Council'	means the Municipal Council of the Village of Gold River.
'Fire Chief'	means the First Chief of the Fire Department appointed by the Council of the Municipality.
'Fire Department'	means the Fire Department of the Municipality.
'Municipality'	means the Village of Gold River.
'Reserve'	means Tsaxana Indian Reserve No. 18.
'Term'	means the Term of this Agreement as set out in section 24.

WATER DISTRIBUTION SYSTEM:

2. The Band shall develop a water distribution system (the "Water Distribution System") on that part of the Reserve described in Schedule "A" attached hereto (the "Band Land"), and
 - a) the Water Distribution System shall be of a size sufficient to satisfy the fire flow requirements of the Band Land in accordance with the guidelines provided by the "Fire Underwriters Survey", and

- b) fire hydrants and standpipes shall be of a make approved by the Fire Chief and shall be located at the locations shown on Schedule "A" attached hereto.
- 3. The Band shall be responsible to maintain and operate the Water Distribution System developed pursuant to section 2, and shall ensure that there is at all times a sufficient water flow through the hydrants and standpipes for use by the Fire Department for the purpose of fighting fires.
- 4. The Band shall keep and maintain all hydrants located on the Reserve in good condition at all times, and undertakes to repair all hydrants and water supply lines as necessary.

FIRE PROTECTION SERVICES:

- 5. The Municipality shall, subject to Section 6, provide fire protection services to the residential, commercial and community buildings on the Band Land, on a twenty-four (24) hour basis from a fire hall located within the Municipality, utilizing the staff and equipment then available from that fire hall.
- 6. For greater certainty
 - a) the Municipality shall not provide fire protection services to industrial premises situated on the Band Land or elsewhere pursuant to this Agreement; and
 - b) the Municipality's obligation to provide fire protection services is limited to the Band Land described in Schedule "A" and shall not extend to any land to which any part or all of the Band may be relocated.
 - c) the fire protection services provided by the Municipality shall consist solely of those services necessary to fight fires on the Band Lands and shall not include counselling, maintenance or inspections of any kind or for any services normally provided by the Local Assistant Fire Commissioner.
- 7. The Band shall, at the request of the Fire Department, take all reasonable steps to assist the Fire Department in fighting fires on the Band Land, except that all personnel and equipment of the Fire Department at any time in attendance upon Band Land shall remain under the direct control of the Fire Chief or the Senior Officer of the Fire Department in attendance at that time on the Band Land, and no one shall interfere with the conduct of fire fighting by the Fire Department.
- 8. The Band insofar as it is able, shall grant to the fire personnel of the Municipality attending at a fire on the Band Land the right to demolish any residence, building or other structure on the Band Land that in the opinion of the Municipality's fire fighters must be destroyed in order to prevent the spread of a fire.
- 9. The fire protection services provided by the Municipality shall be dependent upon the water available at the site of the fire through the Water Distribution System, and the Municipality, the Fire Chief, the Fire Department and their respective officers, employees and agents shall not be responsible for any loss occurring as a result of the Fire Department's inability to fight the fire caused by insufficient water.

PAYMENT FOR FIRE PROTECTION SERVICES

10. The Band shall pay the Municipality annually for fire protection services as follows:
- a) For fire protection services in the twelve-month period following the execution of this agreement, the Band shall on the day of the execution of this agreement pay to the Municipality, which amount is calculated on a cost per unit basis using the following formula:
 - (i) for each residential unit \$165.00 per residential unit, per twelve-month period;
 - (ii) for each commercial unit/community building 2,000 square feet or less, \$330.00 per commercial unit/community building, per twelve-month period;
 - (iii) for each commercial unit/community building more than 2,000 square feet but not more than 5,000 square feet, \$440.00 per commercial unit/community building, per twelve-month period;
 - (iv) for each commercial unit/community building, 5,000 square feet \$550.00 per commercial unit/community building, per twelve-month period.
 - b) For fire protection services the Band shall pay to the Municipality, on the 31st day prior to each anniversary of the date of execution of this Agreement, amounts calculated using the formula set out in subsection (a), together with a cumulative price adjustment reflecting any increase in the fire protection costs incurred by the Municipality, provided that the Municipality submits proof of such increase to the Band at the Band's request.
 - c) The Band shall pay to the Municipality the applicable per unit cost established in subsection (a) for each residential and commercial unit/community building added to the Band Land during the Term; and the per unit cost will be prorated over the annual cost according to the date of first occupancy of a specific unit.
11. The Band shall pay the full cost of any additional fire protection manpower and equipment that may be required to be called in from a jurisdiction other than the Municipality to assist in the fighting of a fire on the Band Land.

INSPECTIONS:

12. The Band shall permit representatives of the Fire Department to make fire prevention, fire investigation, fire equipment access, fire hydrants and standpipes and related inspections upon the Band Land on twenty-four (24) hour prior notice, except that inspection of fire damaged premises or areas may be carried out at any time without notice following a fire on the Band Land.
13. The Fire Chief may issue to the Band in writing recommendations based on inspections carried out by the Fire Department and the Band Council shall at a duly convened Band Council meeting consider such recommendations and shall by resolution implement such of those recommendations as it considers will prevent fires, eliminate or reduce the hazards of fires or facilitate fire protection.

TERMINATION:

14. Either party may terminate this Agreement at any time for any reason upon one (1) year notice in writing, in accordance with section 18.
15. If the Band fails to make any of the annual payments pursuant to section 10 on the required dates, the Municipality may suspend services to be provided under this Agreement, on thirty (30) days notice in writing in accordance with section 18, until the Band makes the required payment together with interest thereon at the prime rate as set by the Municipality's bankers plus 1% per annum, calculated from the 30th day following the payment due date to the date of actual payment.
16. The services provided for in this Agreement may be suspended and service discontinued by the Municipality in the event that the Band fails to maintain the Water Distribution System as required under sections 2, 3 or 4, on thirty (30) days notice given in writing in accordance with section 18, until such time as in the opinion of the Fire Chief the Water Distribution System meets the standards appropriate for fire protection.
17. Should either party terminate this Agreement after the prepayment by the Band as provided for in section 10, the Municipality shall rebate the Band the pro-rated portion of the prepayment received by the Municipality for the balance of the twelve-month period following the effective date of such termination.

NOTICE:

18. Notice given under this Agreement shall be deemed to be delivered when:
 - a) served personally, on the date of service; or
 - b) mailed by prepaid registered mail to the address listed for that party on the first page of this Agreement or other address of which that party has in writing notified the other, on the earlier of the date received or the fifth business day following date of mailing at any Canada Post Office, but in the event of interruption of mail service notice shall be deemed notice to be delivered only when actually received by the party to whom it is addressed.
19. The Administrator of each party shall be considered an agent by both parties to this Agreement for the purpose of service of notices.

TIME OF THE ESSENCE:

20. Time shall be of the essence of the Agreement.

LIABILITY:

21. The Band shall indemnify and save harmless the Municipality from any and all actions, causes of action, suits or other liability whatsoever which may arise as a consequence of the Municipality entering into this Agreement, except those arising as a consequence of negligent acts or omissions by the Municipality, the Fire Department, the Fire Chief or their respective agents, officers or employers.

22. The Municipality shall not be liable to the Band or any occupant of the Band Land for any damages, expenses or losses of any kind whatsoever occurring by reason of suspension or discontinuance of the Fire Protection Services where such unavailability, suspension or discontinuance is caused by circumstances beyond the control of the Fire Department or the Municipality.
23. This Agreement shall not be construed to create any greater or lesser standard of care or liability on the part of the Municipality, the Fire Department, the Fire Chief or their respective agents, officers or employees in respect of the supply of fire protection services to the Band Land than that which applies to the supply of such services to any inhabitants of the Municipality.

TERM OF AGREEMENT

24. This Agreement shall be for the term of 5 years from the 1st day of January, 2023 and, subject to section 25, is renewable automatically for successive five-year terms unless terminated sooner.

NOTICE OF RENEWAL

25. Before any renewal under section 24 may take effect, written notice of intention to renew or to renegotiate any one or more of the terms and conditions of this Agreement must be given by either party to the other no later than 1 year prior to the expiration of the initial Term or any renewal of the Term.
26. The Village shall be under no obligation to renew this Agreement upon its termination by effluxion of time or for any other reason, nor shall it be obliged to enter into a new agreement to provide the Service or any other services to the Lands or the First Nations.

MISCELLANEOUS:

27. Nothing contained or implied herein shall prejudice or affect the rights and powers of the Municipality in the exercise of its functions under any applicable statutes, bylaws, orders or regulations in force.
28. This Agreement may be amended from time to time in writing upon terms and conditions mutually acceptable to the parties.
29. This Agreement may not be assigned without the prior written consent of the Municipality and the Band and this Agreement shall enure to the benefit of and be binding upon the Municipality and the Band and their respective permitted assigns and legal representatives.

IN WITNESS WHEREOF the Municipality and the Band have on this day set their hands and seals.

SIGNED SEALED AND DELIVERED by
the **Mowachaht/Muchalaht First Nations
Band Council** pursuant to the consent of the
majority of the Councillors of the Band
present at a Council Meeting duly convened
at which authority was given for the
Mowachaht/Muchalaht First Nations to
enter into this Agreement.

Names
Witness

Natasha Amos

P.O. Box 459 Gold River, B.C.
Address

Chiefs Assistant
Occupation

The Corporate Seal of **Village of Gold River**
was hereto affixed in the presence of:

Michael Zota
Mayor

[Signature]
Corporate Administrator

[Signature] Chief
[Signature] Councillor
[Signature] Councillor
 Councillor
 Councillor
 Councillor
 Councillor

(seal)