

CORPORATION OF THE COUNTY OF DUFFERIN

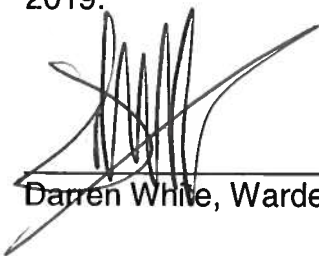
BY-LAW NUMBER 2019-07

A BY-LAW TO AUTHORIZE THE EXECUTION OF AN AGREEMENT BETWEEN THE CORPORATION OF THE COUNTY OF DUFFERIN AND THE CORPORATION OF THE COUNTY OF BRUCE. (Mutual Assistance Agreement)

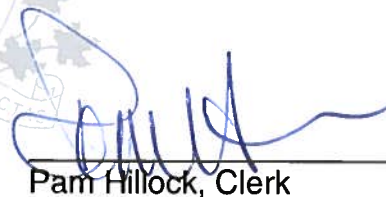
BE IT ENACTED BY THE MUNICIPAL COUNCIL OF THE CORPORATION OF THE COUNTY OF DUFFERIN AS FOLLOWS:

1. That the Agreement between the Corporation of the County of Dufferin and the Corporation of the County of Bruce, in a form substantially the same as attached hereto as Schedule "A" be approved.
2. That the Warden and Clerk be hereby authorized to execute the agreement and affix the corporate seal thereto.
3. That the staff of the County of Dufferin is hereby authorized to take such actions as are appropriate, and the Warden and Clerk are hereby authorized to execute such documents as are appropriate to implement the agreement referred to herein.

READ a first, second and third time and finally passed this 14th day of February, 2019.



Darren White, Warden



Pam Hillock, Clerk

Mutual Assistance Agreement

THIS MUTUAL ASSISTANCE AGREEMENT

Made this 3rd day of January, 2019.

BETWEEN:

The Corporation of the County of Dufferin

OF THE FIRST PART

- and -

The Corporation of the County of Bruce

OF THE SECOND PART

WHEREAS the Emergency Management & Civil Protection Act, R.S.O. 1990, c. E.9, Section 13(3), provides that the Council of a municipality or a county may make an agreement with another municipality or county for the provision of any personnel, service, equipment or material during an Emergency;

AND WHEREAS the parties hereto (“Parties”) wish to provide for mutual assistance to each other through the provision of personnel, services, equipment or material to one or the other within the meaning of the Emergency Management & Civil Protection Act;

AND WHEREAS the parties have Emergency Response Plans pursuant to the Emergency Management & Civil Protection Act;

NOW THEREFORE in consideration of the mutual covenants herein contained, the parties agree as follows:

1. Definitions

1.1 In this Agreement,

1.1.1 “Assisted Municipality” means the municipality or county receiving aid or assistance pursuant to this Agreement;

1.1.2 “Assisting Municipality” means the municipality or county providing aid or assistance pursuant to this Agreement;

- 1.1.3 “Emergency”, and “Emergency Response Plan” shall have the same meanings as in the Emergency Management and Civil Protection Act;
- 1.1.4 “Mutual Assistance Agreement” means this Agreement and the attached Schedule(s) which embody the entire Agreement between the parties;
- 1.1.5 “Requesting Party” means the municipality or county asking for aid, assistance or both pursuant to this Agreement;
- 1.1.6 “Emergency Control Group” means the organizational entity responsible for directing and controlling the Assisted Municipality’s response to an Emergency.

2. Role of the Ministry of Community Safety and Correctional Services

- 2.1 The Parties acknowledge that pursuant to the *Emergency Management & Civil Protection Act* (the “Act”), the Ministry of Community Safety & Correctional Services for the Province of Ontario, through Emergency Management Ontario (EMO) is responsible for the administration of the Act and is the principal contact for all Emergencies.
- 2.2 The Parties further agree that the Ministry of Community Safety & Correctional Services should be notified in writing of any request made under this Agreement. The Requesting Party agrees to notify as soon as reasonably practicable, Emergency Management Ontario (EMO), Ministry of Community Safety & Correctional Services on the matter of any request for assistance made under this Agreement.

3. Authorization to Request/Offer Assistance

- 3.1 Each Party hereby authorizes its Chief Administrative Officer (hereinafter “CAO”), (or such other senior officer of the Party as the Party has designated by by-law and so notified the other Party) to request assistance and support, accept offers to provide, or to offer to provide assistance, pursuant to this Agreement on behalf of that Party.

4. Requests for Assistance

- 4.1 The parties agree that in the event of an Emergency, the Requesting Party may request assistance or support from the other Party in the form of qualified personnel, services, equipment, or material.

- 4.2 The request for assistance shall be made by the CAO of the Requesting Party to the CAO of the Assisting Municipality. The CAO may make the initial request for assistance orally. However, any request for assistance made orally shall be confirmed in writing by the Requesting Party within three (3) days of the initial oral request, acknowledging that the aid and assistance sought is governed by the terms of this Agreement. The Assisting Municipality may provide assistance to the other Party immediately upon receipt of the oral request.
- 4.3 The request for assistance shall be confirmed in writing as soon as reasonably practicable, but in any event not later than three (3) days following receipt of the initial request, by the Requesting Party in the form set out in Schedule "A" attached hereto. The written request shall set out in detail the specific personnel, services, equipment or material that has been requested as assistance, and shall specify the location where the personnel and equipment are needed. The Assisting Municipality may request such reasonable additional information as it considers necessary to confirm the existence of the Emergency and to assess the type, scope, nature and amount of assistance to be provided.
- 4.4 The Assisting Municipality shall respond to the request within one (1) day, and may in its sole discretion determine the type and scope, nature and amount of assistance it will provide. The final decision of the amount and type of equipment to be sent shall be solely that of the Assisting Municipality, and the Assisting Municipality shall be immune from any liability in connection with any decision taken in that regard. The Assisting Municipality shall confirm in writing the assistance it is prepared to provide in response to the Emergency. The Assisting Municipality shall thereafter modify the scope of assistance it is able or willing to provide to the Requesting Municipality only upon forty-eight (48) hours' prior notice.
- 4.5 Neither Party shall make any claim whatsoever against the other Party for its refusal to send the requested personnel or equipment where such refusal is based on the judgment of the Assisting Municipality that such personnel and equipment are either not available or are needed to provide service in the Assisting Municipality's response area.
- 4.6 The parties may by mutual agreement, in writing, amend or modify this Agreement.

5. Limitations on Assistance Provided

- 5.1 Each Party acknowledges that this Agreement and the requirements herein are entirely voluntary and that nothing in this Agreement shall require or obligate or be construed to require or obligate a Party to provide aid and assistance where and if called upon do so. Each Party shall retain the right to refuse the request to provide assistance, and the right to offer alternative resources to the Requesting Party than those which have been requested. In the event that the requested equipment or personnel are not available, then the Assisting Municipality shall immediately advise the Requesting Party of such fact.
- 5.2 It is recognized that the level of resources the Assisting Municipality is able to provide will be governed by the resources available to it. To this extent, the mutual aid provided will inevitably be time-limited and will be subject to discussion between the Parties at the time of a request for assistance.
- 5.3 No liability shall arise against the Assisting Municipality if it fails, for any reason whatsoever, to respond to a request for assistance or to provide the aid and assistance requested under this Agreement.
- 5.4 Subject to Section 5.5, when assistance has been offered or provided by the Assisting Municipality, the terms of this Agreement shall prevail, provided however the Assisting Municipality shall not be obligated to provide any further assistance or to do anything or take any action beyond that which it initially agreed to provide in response to the Emergency
- 5.5 Nothing in this Agreement shall prevent the Assisting Municipality, in its sole discretion, from withdrawing any or all assistance provided to the Assisted Municipality. Any withdrawal of assistance by the Assisting Municipality shall be made only upon at least forty-eight (48) hours' notice to the Assisted Municipality and to the Assisted Municipality's Incident Commander, unless the Assisting Municipality is responding to an actual or pending Emergency within its own geographical boundaries, in which case it may withdraw assistance from the Assisted Municipality without notice. It is understood that the purpose of this section is to maintain order at the emergency scene and shall not be construed to establish an employer/employee relationship.
- 5.6 The Assisted Municipality may determine in its sole discretion that its requirement for assistance has ceased and shall notify the Assisting Municipality of this in writing. Upon such notice of termination, the Requesting Municipality and the Assisting Municipality shall consult together with a view to concluding any operations in progress at the time of such termination and facilitating withdrawal of the assistance.

- 5.7 The Assisting Municipality's personnel and equipment shall be released by the Requesting Party when the services of the Assisting Municipality are no longer required or when the Assisting Municipality's resources are needed in their primary response area or when the Assisting Municipality has provided notice of withdrawal pursuant to Section 5.6.
- 5.8 No Party shall be liable for any failure of delay in performance of this Agreement which is caused by circumstances beyond the reasonable control of a Party including without limitation any labour dispute between a Party and its employees.
6. Term and Termination
- 6.1 This Agreement shall be in effect from the date on which the second Party signs the Agreement.
- 6.2 Despite any other section of this Agreement, either Party may terminate this Agreement upon at least sixty (60) days' written notice to the other Party.
7. Costs
- 7.1 The Parties agree that any and all direct and indirect costs, including taxes, incurred by either Party in providing the assistance and support contemplated by this Agreement are to be paid by the Assisted Municipality. The Assisted Municipality shall be responsible to pay for and to reimburse the Assisting Municipality for any and all actual costs incurred by the Assisting Municipality in providing the assistance. Such costs shall include: all wages and salaries of personnel, including overtime, shift premium, and similar charges and expenses incurred, together with those wages, salaries, overtime and shift premium charges incurred by the Assisting Municipality to meet its own staffing requirements in its home jurisdiction during the period it is responding to the Assisted Municipality's call for assistance, providing all such costs are reasonable in the circumstances. Provided, however, the Requesting Municipality shall not be liable to reimburse the Assisted Municipality for the cost to the Assisting Municipality of employment benefits for any of the Assisting Municipality personnel, including, for the avoidance of doubt, Canada Pension Plan, Employment Insurance, OMERS contributions, and/or contributions made to life insurance, health, dental, and/or disability plans or policies.

- 7.2 The Assisted Municipality shall also be responsible for and shall reimburse the Assisting Municipality for any and all actual operating costs for all personnel, services, equipment, machinery or material furnished, including, but not limited to, costs of fuel, maintenance, repair (reasonable wear and tear excepted) parts and any and all other items directly attributable to the operation of equipment and machinery, services and material furnished as assistance to the Assisted Municipality under this Agreement.
- 7.3 The Assisting Municipality shall provide to the Assisted Municipality, where practical, an estimate of the cost of providing the personnel, equipment and other resources the Assisted Municipality is prepared to provide in responding to an Emergency. Notwithstanding the foregoing, and any failure on the part of the Assisting Municipality to provide such estimated in a timely manner, or at all, the Assisted Municipality shall reimburse the Assisting Party for any expense incurred pursuant to Section 7.1. Evidence of such expense so incurred shall be supplied by the Assisting Municipality in the form of a detailed account as set out in Section 8.1.

8. Payment

- 8.1 Payment by the Assisted Municipality for costs incurred for the Assistance provided shall be subject to the Assisted Municipality's receipt of an invoice from the Assisting Municipality to be submitted within three (3) months of the aid and assistance having been provided. Such invoice shall set out in sufficient detail the costs actually incurred by the Assisting Municipality in providing assistance, and where practically available, receipts for disbursements shall be forwarded in support of the invoice.
- 8.2 The Assisted Municipality shall remit payment of the amount owing for the assistance provided within thirty (30) days of the receipt of the Assisting Municipality's invoice.
- 8.3 Any amount remaining unpaid and outstanding after the thirty (30) day period referred to in sub-section 8.2 of this Agreement shall bear interest at the rate stipulated in the Assisting Municipality's invoice, which rate shall not exceed the Bank of Canada bank rate at the date of the invoice plus two (2) per cent per annum until paid.
- 8.4 In the event of grant monies being requested from any Provincial or Federal Government or agency, each Party will provide to the other all assistance, evidence and information reasonably necessary to support such an application at, its own expense.

9. Employment Relationship

- 9.1 Each Party hereto shall at all times be responsible to its own employees for the payment of wages and other compensation and for carrying workmen's compensation upon said employees.
- 9.2 Despite that the employees, contractors, servants and agents (collectively "the workers") of the Assisting Municipality may be assigned to perform duties for the Assisted Municipality, and that for the duration of the Emergency, the Assisted Municipality shall reimburse the Assisting Municipality for the costs of the wages, salaries and expenses (in accordance with Section 7.1) of the Assisting Municipality's workers, at all times, the workers of the Assisting Municipality remain employees of the Assisting Municipality and retain their employment or contractual relationship with the Assisting Municipality. The parties acknowledge and agree that the Assisted Municipality is not to be deemed the employer of the Assisting Municipality's employees, agents, or contractors or servants, under any circumstances or for any purpose whatsoever. The Assisting Municipality shall remain responsible for all statutorily required deductions, pension payments, contributions and/or payments, such as E.I. CPP, etc.
- 9.3 Nothing in this Agreement shall be deemed to constitute a partnership between the Parties nor to constitute any Party the agent of the other Party.

10. Indemnity

- 10.1 Except as otherwise provided herein, each Party shall indemnify, save and hold harmless the other Party, the directors, officers, employees and agents of the other Party from all liabilities, damages, losses, claims, suits, judgments, costs, and expenses, including reasonable attorneys' fees and expenses, directly or indirectly, incurred by the other Party as the result of any third party claims that arise out of or in connection with the performance or failure of performance of the indemnifying Party's obligations hereunder, or any personnel, equipment, tools, materials or supplies received from or given, supplied or provided by the indemnifying Party pursuant to this Agreement.
- 10.2 Each Party waives and hereby releases all claims against the other Party for compensation for any loss or damage to persons or property, including personal injury, or death, occurring as a consequence of the performance of this Agreement by the other Party, or the provision of any personnel, equipment, tools, materials or supplies given, supplied or provided by the other Party in response to a request for assistance.

10.3 This Section 10 shall survive the expiration or termination of this Agreement.

11. Insurance

11.1 During the term of this Agreement, each Party shall obtain and maintain in full force and effect, general liability insurance issued by an insurance company authorized by law to carry on business in the Province of Ontario, providing for, without limitation, coverage for personal injury, public liability and property damage. Such policy shall:

11.1.1 Have inclusive limits of not less than Five Million Dollars (\$5,000,000) for injury, loss or damage resulting from any one occurrence;

11.1.2 Contain a cross-liability clause endorsement *and* severability of interests clause endorsement of standard wording;

11.1.3 Name the other Party as an additional insured with respect to any claim arising out of the Assisted Municipality's obligations under this Agreement or the Assisting Municipality's provision of personnel, services, equipment or material pursuant to this Agreement; and

11.1.4 Include a Non-Owned Automobile endorsement.

11.2 During the term of this Agreement, each Party shall obtain and maintain in full force and effect, automobile liability insurance in the amount of Two Million Dollars (\$2,000,000.00) for injury, loss or damage resulting from any one occurrence.

11.3 Upon request of the other Party, provide proof of insurance if so required in a form satisfactory to the other Party's CAO.

12. Liaison

12.1 The Assisting Municipality shall have the right, to be exercised in its sole discretion, to assign an employee or agent (the "Liaison Officer") of the Assisting Municipality to the Emergency Control Group of the Assisted Municipality. The Liaison Officer shall provide a liaison between the Assisting Municipality and the Emergency Control Group of the Assisted Municipality. The parties acknowledge that the purpose of the Liaison Officer shall be to permit communication between the Assisted and Assisting Municipalities. Subject to the Municipal Freedom of Information and Protection of Privacy Act, the Liaison Officer shall be permitted to

inform the Assisting Municipality on the status of the Emergency and the actions taken by the Assisted Municipality. The Liaison Officer shall have the right to obtain information about the Emergency and the use of the assistance provided in order to report to the Assisting Municipality during and after the duration of the assistance provided and the Emergency. The Assisting Municipality shall keep confidential and not disclose any information concerning the emergency or the assistance provided without the prior consent of the Assisted Municipality. In addition, the parties hereto will at all times keep confidential information acquired in consequence of this Agreement, except for information which they may be entitled or bound to disclose under compulsion of law or where requested by regulatory bodies or to their professional advisers where necessary for the performance of their professional services.

13. Supervision

13.1 The Incident Commander of the Assisted Municipality at the scene of the Emergency, to which the response is made, shall be in command of the operations under which the equipment and personnel sent by the Assisting Municipality shall serve. The Assisting Municipality shall retain control and direct supervision of the Assisting Municipality's human and equipment resources and shall direct them to meet the needs and tasks assigned by the Emergency Control Group of the Assisted Municipality. The Assisting Municipality shall have the right to assign supervisory personnel to operate or supervise the operation of any of the Assisting Municipality's personnel and or equipment furnished as assistance to the Assisted Municipality. Such supervision shall be in accordance with the instructions of the Emergency Control Group. It is understood that the purpose of this section is to maintain order at the emergency scene and shall not be construed to establish an employer/employee relationship.

14. Information Sharing

14.1 Subject to the Municipal Freedom of Information and Protection of Privacy Act (MFIPPA), the parties agree to share with each other, information lists or databases detailing the amount, type, capability, and characteristics of personnel, services, equipment or material in the possession of each Party, which may be available to the Requesting Party under this Agreement. All such information shall be provided without any warranty of any kind as to its accuracy, reliability usefulness or other characteristics. Such sharing of information shall occur upon the execution of this Agreement and the parties, on mutual agreement, shall update these information lists from time to time.

14.2 The Parties hereto agree with each other not to cause or permit anything which may damage or endanger the intellectual property of the other Party, or the other Party's right, title or interest in such intellectual property, nor to assist or allow third parties to do so.

15. Food and Lodging

15.1 Unless specifically instructed otherwise, the Assisted Municipality shall be responsible for providing, at its sole expense, all food, lodging and accommodation required by the personnel of the Assisting Municipality furnished pursuant to this Agreement from the time of their arrival at the designated location to the time of their departure. Lodging and accommodation provided by the Assisted Municipality shall be of suitable quality as determined by the Assisting Municipality. However, Assisting Municipality personnel and equipment should be, to the greatest extent possible, self-sufficient while working in the emergency or disaster area. Where food and lodging cannot be provided in-kind, the Assisted Municipality shall pay a reasonable per diem to personnel for any food and lodging purchased by personnel of the Assisting Municipality. The per diem shall be no less than the Assisted Municipality pays to its own employees as a matter of policy or agreement.

16. Notice

16.1 If not otherwise provided in this Agreement, written notice given pursuant to this Agreement must be addressed,

in the case of notice to The Corporation of the County of Dufferin,
to:

The Chief Administrative Officer
The Corporation of the County of Dufferin
51 Zina Street
Orangeville, ON
L9W 1E5

- and -

in the case of notice to The Corporation of the County of Bruce to:

The Chief Administrative Officer
The Corporation of the County of Bruce
30 Park Street, Box 70
Walkerton, ON
N0G 2V0

- 16.2 If hand delivered, the notice is effective on the date of delivery; if faxed, the notice is effective on the date and time the fax is sent; if sent by electronic mail, the notice is effective on the date sent; and if mailed, the notice is deemed to be effective on the fifth business day following the day of mailing.
- 16.3 Any notice given shall be sufficiently given if signed by the CAO or by a person authorized by or acting under the direction or control of the CAO.

17. Rights and Remedies

- 17.1 Nothing contained in this Agreement shall be construed as restricting or preventing either Party from relying on any right or remedy otherwise available to it under this Agreement, at law or in equity in the event of any breach of this Agreement.

18. Binding Effect

- 18.1 This Agreement shall enure to the benefit of, and be binding upon the parties and their respective successors, administrators and assigns.
- 18.2 This Agreement shall not be construed as or deemed to be an Agreement for the benefit of any third parties, and no third party shall have any right of action arising in any way or manner under this Agreement for any cause whatsoever.
- 18.3 This Agreement is not intended to be exclusive as between the Parties hereto. Either of the Parties may, as that Party deems necessary or expedient, enter into a separate Mutual Assistance Agreement(s) with any other party or parties as needed for assistance. Entry into such separate Agreements shall not change any relationship or covenant herein contained unless the Parties hereto mutually agree in writing to such change.
- 18.4 In case one or more of the provisions contained in this Agreement shall be for any reason held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other provision, and this Agreement shall be construed as if the invalid, illegal or unenforceable provision had never been contained in the Agreement.

19. Incorporation of Schedules

19.1 This Agreement and the attached Schedule "A", (together with the lists and information exchanged pursuant to Section 14) embody the entire Agreement and supersede any other understanding or agreement, collateral, oral or otherwise, existing between the parties prior to or at the date of execution.

20. Provisions Surviving Termination

20.1 Sections 2, 5.2, 7, 8, 9, 10, 11, 16, 17, 20, 21 and 22 of this Agreement shall survive termination of this Agreement.

21. Governing law

20.1 The Parties agree, that this Agreement, including the validity of this Agreement and any of its terms or provisions, as well as the rights and duties of the Parties hereunder, shall be governed by the laws of the Province of Ontario and Canada.

22. Arbitration

22.1 The Parties herein agree that in the event of any dispute arising under or pursuant to this Agreement, which dispute cannot be resolved by the mutual agreement of the Parties' CAOs, the CAOs shall refer the dispute to the respective Chairs/Wardens of the Parties for resolution. In the event that the Chairs/Wardens cannot resolve the dispute, either Party may, on providing ninety (90) days' written notice to the other, refer the dispute to a third party arbitrator of their mutual choice for resolution. Such arbitration shall be conducted pursuant to the *Arbitration Act*, 1991, S.O. 1991 c. 17, as amended.

IN WITNESS WHEREOF the parties have executed this Agreement.

The Corporation of the County of Dufferin



Darren White, Warden



Pam Hillock, Clerk

Feb 14, 2019
Dated

Dated
The Corporation of the County of Bruce



Mitch Twolan, Warden



Donna Van Wyck, Clerk

Dated January 3, 2019

SCHEDULE "A"

**Mutual Assistance Agreement-Request for Assistance
from the County of Bruce**

I, _____, Chief Administrative Officer / Designated
Official of The Corporation of the County of Dufferin, duly authorized to do so by the
Council of The County of Dufferin, do hereby request of the County of Bruce, to
provide assistance in the form of

- PERSONNEL
- SERVICES
- EQUIPMENT
- MATERIAL

AS IS MORE PARTICULARLY SET OUT IN DETAIL AS FOLLOWS:

The above confirms the assistance verbally requested on _____, and
which assistance The County of Bruce has agreed to provide.

Dated at _____ this ____ day of _____, 20__,

Chief Administrative Officer
The Corporation of the County of Dufferin

SCHEDULE "A"

**Mutual Assistance Agreement-Request for Assistance from the
County of Dufferin**

I, _____, Chief Administrative Officer / Designated
Official of The Corporation of the County of Bruce, duly authorized to do so by the
Council of The County of Bruce, do hereby request of The County of Dufferin, to
provide assistance in the form of

- _____ PERSONNEL
- _____ SERVICES
- _____ EQUIPMENT
- _____ MATERIAL

AS IS MORE PARTICULARLY SET OUT IN DETAIL AS FOLLOWS:

The above confirms the assistance verbally requested on _____, and
which assistance The County of Dufferin has agreed to provide.

Dated at _____ this ____ day of _____, 20__,

Chief Administrative Officer
The Corporation of the County of Bruce

