

AGREEMENT

CONCERNING THE FINANCING OF CERTAIN INFRASTRUCTURE AND
EQUIPMENT SET OUT IN THE DRAFT FIRE SAFETY COVER PLAN OF THE
KATIVIK REGIONAL GOVERNMENT

BETWEEN

THE GOUVERNEMENT DU QUÉBEC
represented by the Ministre de la Sécurité publique
and by the Ministre responsable des Affaires autochtones
hereinafter referred to as “Québec”

AND

THE KATIVIK REGIONAL GOVERNMENT
a legal person created in the public interest pursuant to the *Act respecting Northern
villages and the Kativik Regional Government* (R.S.Q., c. V-6.1) and represented by
its duly authorized Chairperson and Secretary, hereinafter referred to as the “KRG”

PREAMBLE

WHEREAS subsection v) of section 2 of the *Act respecting Northern villages and the Kativik Regional Government* (R.S.Q., c. V-6.1) (Kativik Act) defines the Kativik territory as being all the territory of Québec located north of the 55th parallel, excluding the Category IA and IB lands intended for the Cree community of Great Whale River and designated as such under the *Act respecting the land regime in the James Bay and New Québec territories* (R.S.Q., c. R-13.1) or, meantime, under the *Act respecting Cree, Inuit and Naskapi Native persons* (R.S.Q., c. A-33.1);

WHEREAS section 8 of the *Fire Safety Act* (R.S.Q., c. S-3.4) provides that the KRG, in conjunction with the local municipalities that are part thereof and in compliance with the policies determined by the Ministre de la Sécurité publique (hereinafter the “Ministre”), must establish a fire safety cover plan determining fire protection objectives for their entire territory and the actions required to achieve those objectives;

WHEREAS the KRG has developed a draft fire safety cover plan, which it has submitted to the Ministre;

WHEREAS the KRG wishes to implement the actions set out in its draft fire safety cover plan, and requires financial assistance in order to do so;

WHEREAS the last paragraph of section 137 of the *Fire Safety Act* provides that the Ministre may, subject to the conditions determined by the Ministre, grant financial assistance to a regional or local authority for the establishment, amendment or revision of a fire safety cover plan or for the implementation of actions planned therein;

WHEREAS under subsection 9 of section 173 of the Kativik Act, each Northern village may make by-laws within its territory to organize, maintain and regulate a fire department and fire brigade, as well as to appoint all officers necessary for the extinction and suppression of fires and for the protection of persons and property from fire;

WHEREAS section 168 of the Kativik Act provides that any municipality may, by agreement, delegate to another person the power to perform any act that it is required or authorized to perform by law, except the passing of a by-law;

WHEREAS section 353.1 of the Kativik Act provides that where jurisdiction is delegated to the KRG under an agreement entered into under section 168, the KRG has every power required to implement the agreement;

WHEREAS Québec and the KRG undertake to conclude an agreement setting out the conditions and terms of the financial assistance for the implementation of certain actions provided for in the KRG’s draft fire safety cover plan presented in Appendix B;

WHEREAS under section 3.48 of the *Act respecting the Ministère du Conseil exécutif* (R.S.Q., c. M-30), this agreement constitutes an agreement relating to Native affairs which, in order to be valid, must be approved by the Gouvernement du Québec and signed by the Ministre responsable des Affaires autochtones in accordance with section 3.49 of that Act.

ACCORDINGLY, the parties agree as follows:

1. GENERAL PROVISIONS

1.1 Content of the agreement

This agreement, including the Preamble, Appendix “A” (Échéancier des dépenses à engager) and Appendix “B” (the KRG’s draft fire safety cover plan) which form an integral part hereof, constitute all of the parties’ commitments and responsibilities. This agreement shall prevail over all previous documents, negotiations, agreements and commitments. The parties acknowledge that they have received a copy of the appendices, have read them and undertake to comply with the standards and conditions set out therein.

1.2 Applicable legislation

This agreement shall be governed and interpreted in accordance with the laws and regulations in force in Québec.

1.3 Declaration of nullity, invalidity or inapplicability by a court of competent jurisdiction

If any provision of this agreement is declared to be null, invalid or inapplicable by a court of competent jurisdiction, the other provisions of this agreement shall continue to have their full effect, insofar as their effect does not depend on the provision declared to be null, invalid or inapplicable. Moreover, the parties agree to remedy such situation of nullity, invalidity or inapplicability as soon as possible, in such a manner as to achieve the objective of the said provision.

1.4 Legal scope of the agreement

1.4.1 This agreement shall not have the effect of recognizing, defining, modifying, limiting or creating ancestral or treaty rights, nor of infringing such rights. In addition, it shall not be interpreted as constituting an agreement or a treaty in the sense of section 35 of the *Constitution Act, 1982* (R.S.C. (1985), App. II, No. 44).

1.4.2 This agreement shall be binding upon the successors and assigns of the parties.

1.5 Previous agreement

The parties understand that this agreement replaces sections 4.2.2., 4.3.2, 4.4.2, 4.4.3 and 5.2 regarding the implementation of the fire safety cover plan provided in the appendix entitled “*Programme d’aide financière aux municipalités régionales de comté et autres autorités régionales pour l’établissement et la mise en œuvre de schémas de couverture de risque*” of the memorandum of understanding between the KRG and the Ministre concerning the establishment of the fire safety cover plan provided under the *Fire*

Safety Act, signed in 2002. The other provisions of that appendix shall remain in effect.

The “*Programme d’aide financière aux municipalités régionales de comté et autres autorités régionales pour l’établissement et la mise en œuvre de schémas de couverture de risques*” has been renewed since the signing of the memorandum of understanding between the KRG and the Ministre in 2002. However, that program will not be applicable to the KRG with respect to the provisions dealing with the implementation of the fire safety cover plan because of the conclusion of this agreement between the parties.

1.6 General conditions of eligibility for financial assistance

The payment of financial assistance provided under this agreement is conditional upon:

- a) the adoption, by the KRG Council, of a draft fire safety cover plan including the implementation plans adopted by the Northern villages concerned;
- b) issuance of a certificate of compliance by the Ministre for the fire safety cover plan ;
- c) the adoption of the certified fire safety cover plan by the KRG Council in accordance with section 23 of the *Fire Safety Act*;
- d) the KRG’s obtaining a delegation of power necessary for the implementation of this agreement, in accordance with sections 168 and 353.1 of the *Kativik Act*, from each Northern village.

2. PURPOSE OF THE AGREEMENT

The purpose of this agreement is to finance certain infrastructure, vehicles and certain equipment, as planned in the KRG’s draft fire safety cover plan, attached in Appendix B and, more particularly, to finance:

- the construction of the fire stations as mentioned in Appendix B;
- the renovation of the existing fire stations that will not be replaced, as mentioned in Appendix B;
- the purchase of four (4) emergency vehicles (pumpers);
- the upgrading of ten (10) emergency vehicles to bring them up to the applicable standards;
- the purchase of emergency equipment such as communications systems, breathing apparatus and protection equipment in all the Northern villages.

3. DUTIES OF THE KRG

3.1 Construction and renovation of fire stations

In the context of this agreement, concerning the construction and renovation of the fire stations mentioned in the draft fire safety cover plan attached in Appendix B, the KRG undertakes to:

- a) proceed with the construction and renovation of the fire stations;
- b) manage all the works planned under this agreement;
- c) consult the Northern villages concerned by these works and ensure the optimal use of the resources made available for each construction or renovation project;
- d) obtain all the permits and authorizations required for the implementation of the project before beginning the works;
- e) ensure compliance with the process for the awarding of contracts as set out in the Kativik Act;
- f) proceed with the preparation of both preliminary and final plans and specifications;
- g) submit the plans and specifications for the construction of new fire stations and a description of the renovation work on the existing fire stations to the Ministre before beginning the works, in order to ensure, in particular, that the eligibility of the expenses and of the planned work is verified;
- h) in its capacity as client and, following calls for tenders or by force account, ensure that all the works connected with the construction and renovation of fire stations are carried out in compliance with all applicable standards and with all laws or regulations in force in Québec;
- i) ensure that the design of the new fire stations or the renovation of existing fire stations is done in compliance with the applicable construction standards;
- j) when acting as a client, include provisions in its contracts with suppliers concerning insurance, performance bonds, security, compliance with deadlines and liability in the event of delays in the execution of the works;
- k) ensure the supervision of the works;
- l) at all times, allow the Ministre to exercise a role of oversight and monitoring over the works;
- m) pay suppliers directly within the required time periods, after having ensured that the works for which payment is requested have been executed according to the applicable standards;
- n) inform and obtain prior authorization from the Ministre for any significant modification to the plans and specifications.

3.2 Emergency equipment

In the framework of this agreement, concerning the purchase of four (4) emergency vehicles (pumpers), the upgrading of ten (10) emergency vehicles in accordance with the applicable standards and the purchase of emergency equipment, the KRG undertakes to:

- a) acquire four (4) emergency vehicles for the Northern villages of Kuujjuarapik, Inukjuak, Puvirnituk and Kangisualujjuaq that fulfill or exceed the standard CAN/ULC-S515 – current edition of the *Underwriters Laboratories of Canada* (ULC);
- b) upgrade the emergency vehicles of the other Northern villages so that they fulfill the requirements currently in force concerning pumping capacity;
- c) following their upgrading, carry out performance certification tests on those emergency vehicles with fifteen (15) or more years of service and on those that did not obtain ULC certification upon purchase, in accordance with the ULC standard and the *Guide d'application des exigences relatives aux véhicules et accessoires d'intervention du ministère de la Sécurité publique (MSP)*. Subsequently, these tests must be repeated every five (5) years. These performance certification tests must be conducted by a ULC technician;
- d) proceed with the training, by the ULC, of two (2) regional mechanics during the first year of the implementation of the KRG's fire safety cover plan in order that they obtain the necessary qualifications to conduct the annual tests and maintenance according to the *Guide d'application des exigences relatives aux véhicules et accessoires d'intervention du MSP* and the ULC standards;
- e) develop and assist in setting up an inspection and maintenance program for emergency vehicles in compliance with the *Guide d'application des exigences relatives aux véhicules et accessoires d'intervention du MSP*;
- f) in collaboration with the fire departments of the Northern villages, proceed with the development of a program for the replacement, maintenance and testing of firefighter fire safety and protection equipment in accordance with the applicable standards and manufacturers' directions for use. Subsequently, this program should be implemented by all the Northern villages;
- g) for each of the fourteen (14) Northern villages, purchase four (4) new self-contained breathing apparatus equipped with distress alarms, eight (8) replacement air tanks and ten (10) fire suits. All of these items of equipment must be compliant with the applicable standards;
- h) acquire communications equipment compliant with the applicable standards for each of the fourteen (14) Northern villages;
- i) ensure that the vehicles, equipment and fire stations are used only for civil security and fire protection services;

3.3 All the works, purchases and reconditioning of equipment provided for under this agreement must be carried out within five (5) years of the adoption of the certified fire safety cover plan by the KRG Council in accordance with subsection 1.6 c) of this agreement and according to the schedule set out in the fire safety cover plan certified by the Ministre, unless the KRG obtains authorization from the Ministre under section 30.1 of the *Fire Safety Act* allowing it to extend the established deadlines.

The parties agree that this schedule may, however, be moved forward such that the actions set out therein may be implemented in advance.

3.4 Expenditures shall be made according to the schedule and the financing allocations set out in Appendix A, unless the KRG obtains authorization from the Ministre under section 30.1 of the *Fire Safety Act* or unless this aspect of its fire safety cover plan is amended to that effect in compliance with that Act.

In the event that the schedule is moved forward and the actions set out therein are carried out in advance, the expenditures necessary for the implementation of these actions may be made.

3.5 The KRG undertakes, in carrying out this agreement, to comply with the laws and regulations in force in Québec applicable to the execution of this agreement, and more specifically, with the *Fire Safety Act*.

4. FINANCING

4.1 The KRG must obtain from the Ministre des Affaires municipales, des Régions et de l'Occupation du territoire prior approval of all its loan resolutions and undertakes, in the framework of this agreement, to comply with the rules concerning loans applicable to it under the Kativik Act.

4.2 The loans shall subsequently be made through the municipal loans tendering process of the Ministère des Finances. However, the Ministre des Finances may authorize the KRG to arrange each loan by private agreement. In such a case, prior approval of the loan conditions must be obtained from the Ministre des Finances.

4.3 Concerning expenses for the acquisition of emergency vehicles or for the construction of real estate assets, the KRG undertakes to obtain, within six (6) months following the completion of the purchasing and works carried out in executing this agreement, a long-term loan for a term of fifteen (15) years, for an amount of at most \$3,440,000, to which shall be added the interest incurred on the temporary financing and, if applicable, the costs of issuance and management of the loan to be contracted, but no other fees, costs or expenditures whatsoever.

For the other expenses, the KRG undertakes to obtain, within six (6) months of the completion of the purchasing and works, a long-term loan for a term of five (5) years, for an amount of at most \$2,000,000, to which shall be added the interest incurred on the

temporary financing and, if applicable, the costs of issuance and management of the loan to be contracted, but no other fees, costs or expenditures whatsoever.

- 4.4** The Ministre undertakes to pay the KRG financial assistance corresponding to the amounts required to ensure the principal repayment of the loans, in an amount not to exceed \$5,440,000, to which shall be added the interest incurred on the temporary financing and the interest applicable to the long-term financing, as well as, if applicable, the costs of issuance and management of those loans. The payment of the financial assistance shall be made according to the repayment schedule of each loan.

For each loan referred to in section 4.2, the first payment shall be conditional on the submission by the KRG of proof, in a form to be agreed upon by the parties, confirming that the rules mentioned in section 4.1 have been respected and that the loans concerned have been obtained.

The Ministre may require proof that the loans made are still in effect and that the KRG is not in default, at any time during the term of this agreement. If the KRG should prove to be in default or if the loans should prove no longer to be in effect, the Ministre may, in particular, invoke section 6.2.

- 4.5** The parties to this agreement understand that, if the costs connected with the actions set out in sections 2 and 3 and Appendix A should prove to be higher than the costs projected at the time of the signing of this agreement, the KRG shall assume the additional costs.

- 4.6** The financing of this agreement may be revised to a lower amount by the Ministre if the actions described in the draft fire safety cover plan attached in Appendix B are amended prior to the issuance of a certificate of compliance. The same shall apply if, following certification of its fire safety cover plan by the Ministre, the KRG requests that the Ministre amend the components thereof that are connected with this agreement in such a manner that this modification leads to a reduction in the expenses that must be made to carry out the actions described in the fire safety cover plan.

5. REGISTERS, REPORTS AND AUDITS

- 5.1** The KRG undertakes to keep separate accounting so as to properly identify the expenditures connected with this agreement.
- 5.2** The KRG undertakes to provide to the Ministre all true and complete documents, copies of documents and information that the Ministre may require for the administration of this agreement.
- 5.3** The KRG also undertakes to submit an annual report to the Ministre, including in particular the state of progress of the works under way, a list of the works completed and the property

purchased, and its audited financial statements as of June 1 of each year of this agreement.

- 5.4** The Ministre reserves the right to audit the expenses incurred by the KRG for the implementation of the actions as set out in sections 2 and 3. For this purpose, the KRG undertakes to make available to the auditors all books of account and registers relating to the actions described in sections 2 and 3, and to keep all the supporting documents relating to these for a period of ten (10) years.

6. USE OF THE FINANCIAL ASSISTANCE AND COMPLIANCE WITH CONDITIONS

- 6.1** The KRG undertakes to use the financial assistance received only for the purposes for which it was granted, namely for the purposes described in sections 2 and 3.
- 6.2** The KRG understands and agrees that in the event of its failure to comply with the provisions of this agreement, the Ministre may, at his discretion, reclaim all or part of the financial assistance paid, or suspend the payments provided for in section 4.4, if he deems it appropriate.

7. OVERPAYMENT

The KRG must repay to Québec any amounts that it may have unduly received, for example, through an administrative error. Such amounts must be repaid to Québec within thirty (30) days of becoming aware that the overpayments were made. Interest may be charged by Québec at the rate of interest set under the first sub-paragraph of section 28 of the *Act respecting the Ministère du Revenu* (R.S.Q., c. M-31), if the above time period is not respected.

Any excess amount may also be recovered by means of an offset deducted from any payment to be made by Québec.

8. LIABILITY

- 8.1** Except in the event of an intentional fault or a gross fault on the part of Québec, the latter shall assume no liability for any present or future material damage sustained by the KRG, its employees, agents, representatives or sub-contractors in the context of the execution of the works set out in this agreement.
- 8.2** The KRG shall be liable for any damages caused by it, by its employees, agents, representatives, sub-contractors or mandataries in the course of or during the execution of this agreement, including any damage resulting from failure to fulfill any commitment undertaken under this agreement.
- 8.3** The KRG undertakes to take up the defence of Québec in any recourse, claims, demands, lawsuits and other procedures

instigated by any person by reason of damages suffered in the course of or during the execution of this agreement.

9. COMMUNICATION

The parties agree that any public announcement of this agreement must respect the guidelines of a public communications strategy agreeable to both parties.

10. INSURANCE

The KRG undertakes to obtain a comprehensive liability insurance policy and to keep it in force throughout the entire duration of the works set out in this agreement or until the completion thereof, for which it must provide a certificate of insurance to Québec, before beginning the works.

The liability insurance policy must have a single limit coverage of at least five million dollars (\$5,000,000). It must cover all risks inherent in the works or actions to be carried out in the framework of this agreement, on a per event basis, and must cover the following risks:

- insurance of sites and activities;
- insurance relating to the transportation of property;
- insurance relating to bodily injury;
- indirect automobile liability insurance;
- the rider extending the term “insured” to include employees and any other persons among the designated insured.

The KRG must take out a fire insurance policy, and keep it in force throughout the duration of the works to be carried out in the framework of this agreement, or until the latter is completed, covering all property involved in the actions mentioned in sections 2 and 3, for which it must provide a certificate of insurance to Québec, before beginning the works.

The KRG must submit to Québec, within thirty (30) days following the signing of this agreement, a copy of the insurance certificates for each of the insurance policies that it takes out under this article.

11. CONFLICT OF INTEREST

Both parties must avoid any situation creating a conflict between their personal interest (or in the case of a legal person, the personal interest of its directors) and that of the Ministres signatories to this agreement, or creating the appearance of such a conflict, excluding however any conflict arising out of the interpretation or application of this agreement.

12. NO PARTNERSHIP

12.1 Neither the KRG nor any of its members must make any representation, through an agreement with any third party or otherwise, that could create the impression of being a partner, a mandatary or a party to a joint enterprise or an employee of Québec. Québec shall not be liable for any of the commitments undertaken by the KRG relating to this agreement, including, without limiting the generality of the preceding, loans, capital loans, or any other long-term obligation.

12.2 It is agreed that the persons hired following the conclusion of this agreement are and shall remain persons providing services to the KRG, and that no provision of this agreement shall have the effect of conferring upon the KRG, its members, its executives, its employees, its mandataries or its contractual agents, the status of executive, employee, worker or mandatary of Québec, or the status of a person acting in the framework of a partnership or joint enterprise with Québec.

13. TRANSFER

The rights and duties contained in this agreement may not be transferred, in whole or in part, without the written authorization of Québec, on pain of nullity.

14. DISPUTE SETTLEMENT

The parties undertake to foster the settlement of any dispute arising out of the interpretation or application of this agreement, in a spirit of conciliation, cooperation and harmony.

In the event of a dispute in the course of the execution of this agreement or regarding its interpretation, the parties undertake to seek an amiable solution to such dispute before exercising any recourse, and if need be, to call upon a third party, according to guidelines to be agreed upon, to assist them in reaching a settlement.

15. AMENDMENTS

This agreement may be subject to amendments, other than those set out in section 4.6, with the mutual written consent of both parties. In order to be valid, any amendment to this agreement must be made in writing and be signed by the parties or by their duly authorized representatives.

16. TERMINATION

The parties reserve the right to terminate this agreement if the other party fails to fulfill any of the terms, conditions or duties assumed by that party under this agreement.

In order to do so, a written notice of termination, stating any such reason for termination, must be sent by registered or certified mail to the other party, and the latter shall have a period of sixty (60) business days in which to rectify the fault stated in the notice, failing which the agreement shall be automatically terminated, with such termination taking full effect at the end of that period of sixty (60) days.

The KRG shall then be entitled to any fees, expenses and amounts representing the real value of services rendered, work executed and expenditures incurred, up to the date of termination of this agreement, but no other compensation or indemnity.

17. CONTINUATION OF CERTAIN DUTIES

The duties and provisions set out in clauses 1.2, 1.4, 3.5, 5, 6, 7, 8, 12 and 16 shall continue to apply, notwithstanding the termination or expiry of the agreement.

18. TERM OF THE AGREEMENT

This agreement shall take effect on the date of its signature by both parties.

This agreement shall end upon remittance of the final payment by the Ministre under section 4.4.

19. FISCAL YEAR

The year referred to in section 5.3 of this agreement shall be the fiscal year of the KRG, namely from January 1 to December 31 of a given year.

20. REPRESENTATIVES OF THE PARTIES

For the purposes of the application of this agreement, including any approval that it requires, the Ministre designates Mr. Michel C. Doré, Associate Deputy Minister of the Direction générale de la Sécurité civile et de la sécurité incendie to represent him.

In the event that a replacement should prove necessary, Québec shall advise the KRG thereof as soon as possible.

Similarly, the KRG designates Mr. Jobie Tukkiapik, Director General, to represent it. In the event that a replacement should prove necessary, the KRG shall advise Québec thereof as soon as possible.

In the event that there are several representatives, each of the latter may act separately, and an authorization from any one of them shall constitute a valid authorization.

21. COMMUNICATION BETWEEN THE PARTIES

With the exception of a notice of termination as set out in section 16, any notice, request, information or other document required under this agreement shall be deemed to have been served if it is sent by facsimile or by mail. Any notice sent by facsimile shall be deemed to have been received one business day after it is sent; any notice that is mailed shall be deemed to have been received eight (8) business days after being mailed.

All notices must be mailed to the following addresses:

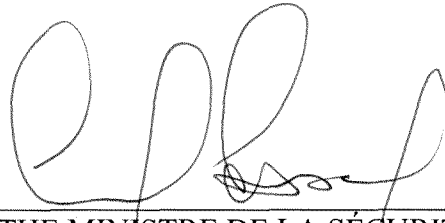
Direction générale de la sécurité civile et de la sécurité incendie
Ministère de la Sécurité publique
2525, boul. Laurier, 5^e étage
Tour des Laurentides
Québec (Québec) G1S 1E5
Telephone: (418) 646-6777 poste 11006
Fax: (418) 643-0275

Kativik Regional Government
Director General
P. O. Box 9
Kuujuaq (Québec) J0M 1C0
Telephone: (819) 964-2961
Fax: (819) 964-2267

22. FINAL CLAUSE

Any financial commitment made by Québec shall be valid only if there is a sufficient balance available out of an appropriation against which the expenditure arising from that commitment may be charged in accordance with the provisions of section 21 of the *Financial Administration Act* (R.S.Q., c. A-6.001).

FOR THE GOUVERNEMENT DU QUÉBEC,

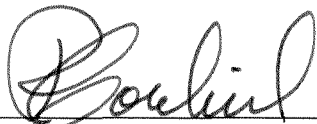


THE MINISTRE DE LA SÉCURITÉ PUBLIQUE



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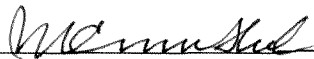


THE MINISTRE RESPONSABLE
DES AFFAIRES AUTOCHTONES

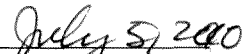


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FOR THE KATIVIK REGIONAL GOVERNMENT,



THE CHAIRPERSON



date of signature



THE SECRETARY



date of signature

Administration régionale Kativik
Schémas de couverture de risques en incendie
Prévisions des coûts

Dépenses d'acquisition de véhicules et de construction d'actifs immobiliers par l'ARK sur une période de 5 ans financées par un emprunt de 15 ans						
Catégorie d'achat	2010	2011	2012	2013	2014	Total
Véhicules d'intervention (4)	520,000 \$	520,000 \$	- \$	- \$	- \$	1,040,000 \$
Casernes de pompiers (4)	- \$	1,200,000 \$	1,200,000 \$	- \$	- \$	2,400,000 \$
Total	520,000 \$	1,720,000 \$	1,200,000 \$	- \$	- \$	3,440,000 \$

Dépenses de rénovation et d'achat d'équipements par l'ARK sur une période de 5 ans financées par un emprunt de 5 ans						
Catégorie d'achat	2010	2011	2012	2013	2014	Total
Équipements d'intervention contre les incendies	700,000 \$	- \$	- \$	- \$	- \$	700,000 \$
Réparation des véhicules d'intervention (10)	- \$	- \$	400,000 \$	400,000 \$	- \$	800,000 \$
Rénovation des casernes de pompiers (10)	- \$	- \$	- \$	250,000 \$	250,000 \$	500,000 \$
Total	700,000 \$	- \$	400,000 \$	650,000 \$	250,000 \$	2,000,000 \$

Année financière	2010	2011	2012	2013	2014	Total
Coûts par année financière	1,220,000 \$	1,720,000 \$	1,600,000 \$	650,000 \$	250,000 \$	5,440,000 \$