

**AGREEMENT TO PROVIDE THE SERVICE OF ADMINISTRATION AND ENFORCEMENT OF
SECURITY ALARM SYSTEMS**

THIS AGREEMENT dated for reference the ___ day of _____, 20_____

BETWEEN:

CITY OF KELOWNA, 1435 Water St, Kelowna BC, V1Y 1J4

(the "**City**")

AND:

REGIONAL DISTRICT OF CENTRAL OKANAGAN, 1450 K.L.O. Road, Kelowna BC,
V1W 3Z4

(the "**Regional District**")

GIVEN THAT:

- A. The Regional District provides services for the benefit of residents of the Regional District, including the administration and enforcement of security alarm systems as established through Regional District Security Alarm Systems Bylaw No. 1546, 2024, as amended from time to time;
- B. Pursuant to section 334 of the *Local Government Act*, the Regional District is authorized to make an agreement with a public authority to provide services to or for the public authority that are within the powers of the public authority;
- C. Pursuant to Security Alarm Systems Bylaw No. 9147, as amended from time to time (the "City Bylaw"), the City has the power perform services in relation to fire alarm systems and security alarm systems; and
- D. The parties wish to enter into an agreement under which the Regional District provides the administration and enforcement of security alarm systems to the City in accordance with the City Bylaw and on the terms and conditions set out in this Agreement.

This Agreement is evidence that in consideration of payment of \$1.00 by the City to the Regional District (the receipt and sufficiency the Regional District acknowledges) and in consideration of the promises exchanged below, the City and the Regional District agree with each other as follows:

1. Definitions – In this Agreement:

- (a) “Fee Schedule” means **Schedule “B”**, which sets out the compensation the Regional District is entitled to receive from the City for the Services.
- (b) “Force Majeure” means an act of Canada’s enemies, terrorism, sabotage, war, blockades, insurrections, riots, epidemics, lightning, earthquakes, floods, storms, fires, washouts, nuclear and radiation activity or fallout, arrests and distraint of rules and people, civil disturbances, explosion, expropriation, act of God, or any act, omission, or event whether of the kind enumerated in this definition or otherwise not within the control of a party to this Agreement, which by the exercise of reasonable due diligence the party could not have prevented;
- (c) “Governmental Approvals” means any licences, permits, consents, authorizations, certificates, operating certificates, and other approvals of any kind from any Governmental Authority that are required for or in connection with the performance of the Services.
- (d) “Governmental Authority” means any federal, provincial, local, or other government or governmental agency, authority, board, bureau or commission.
- (e) “Services” means the services and work described in **Schedule “A”** and includes all acts, services and work necessary to perform and provide such services and work.
- (f) “Standards” means any and all laws, enactments, bylaws, statutes, regulations, rules, orders, permits, licences, codes, building codes, professional standards, and specifications (including Canadian Standards Association standards) applicable to the provision of the Services, as they are in force from time to time or in the latest current version, as the case may be.

Regional District Services

- 2. The Regional District shall perform the Services and shall do so in accordance with all Standards and the terms of this Agreement.
- 3. In performing the Services, the Regional District shall:
 - (a) supply all labour, machinery, equipment, tools, supplies, material, and other things necessary to perform the Services in accordance with this Agreement;
 - (b) obtain, maintain in good standing, and comply with the terms of all Governmental Approvals; and
 - (c) provide the Services in a competent, careful, and professional manner.

Term

4. The Regional District shall commence performing the Services on January 01, 2024 and cease performing the Services on December 31, 2028 (the “**Term**”).

Regional District Capacity

5. If at any time and from time to time the Regional District determines, acting reasonably, that it does not have the capacity to provide the Services to the City, nothing in this Agreement obligates the Regional District to provide the Services until it determines, acting reasonably, that it has the capacity to provide the Services.

Remuneration, Invoices and Payment

6. The City shall pay the Regional District for the Services in accordance with the Fee Schedule. For clarity, the parties acknowledge and agree that in accordance with section 334 of the *Local Government Act*, the entire cost of providing the Services under this Agreement shall be a debt owed to the Regional District by the City.
7. The Regional District shall invoice the City for Services provided in accordance with the Fee Schedule, setting out the amount of compensation claimed for Services performed.
8. The City shall pay the Regional District all amounts owing under each invoice within 30 days after delivery of such invoice to the City.

Indemnity

9. The City shall release, indemnify and save harmless the Regional District and its officers, employees, elected and appointed officials, employees, volunteers, agents and authorized contractors from and against any and all claims, demands, actions, suits, loss, damage, costs (including legal costs), fines, penalties, charges and expenses arising out of or in connection with this Agreement or the provision of the Services, including but not limited to:
 - (a) loss or other damage to persons, including bodily injury and death, or property as a result of or in connection with, both directly and indirectly, this Agreement;
 - (b) economic losses sustained because of a suspension of the Services; and
 - (c) breaches by the City of any of its covenants, representations, warranties or obligations contained in this Agreement.

This indemnity survives the expiration or earlier termination of this Agreement.

Force Majeure

14. No party shall be liable for its failure to perform any of its obligations under this Agreement due to Force Majeure.

Workers Compensation

15. The Regional District shall, at all times, in providing the Services and otherwise performing its obligations under this Agreement, comply with the *Workers Compensation Act* (British Columbia) and all regulations and orders from time to time in force thereunder, including the Occupational Health and Safety Regulation, and, upon request from the City, provide evidence of any required registration under that Act and evidence of compliance with any requirement under that Act to make any payments or pay assessments.

Termination

16. Either party may, in its sole discretion and without reason, terminate this Agreement upon _____ days' notice to the other party. If either party terminates this Agreement under this section, the City shall pay the Regional District for all Services performed by the Regional District up to the date of such termination in accordance with this Agreement. The City is not entitled to, and irrevocably waives and releases the Regional District from, any and all claims for any damages or compensation for costs incurred, loss of profit or loss of opportunity, directly or indirectly arising out of termination of this Agreement.
17. Without prejudice to any other right or remedy, the Regional District may, at its sole discretion, and without terminating this Agreement, suspend its provision of the Services to the City if:
 - (a) the City fails to pay any of the amounts payable under this Agreement within _____ days of receiving an invoice from the District; or
 - (b) the City breaches this Agreement and fails to remedy the breach within _____ days of the receipt of written notice of such failure.

Where the Regional District has suspended the Services, the Regional District may reinstate the Services as soon as reasonably possible after the situation that led to the suspension is resolved to the satisfaction of the Regional District.

Records

18. The Regional District shall:
 - (a) keep proper and detailed accounts and records of its performance of the Services, including invoices, receipts, and vouchers, which shall at all reasonable times be open to audit and inspection by the City, which may make copies and take extracts from the accounts and records; and

- (b) afford facilities and access to accounts and records for audit and inspection by the City and must furnish the City with such information as the City may from time to time require regarding those documents.

Freedom of Information and Protection of Privacy Act

19. The City acknowledges that the Regional District is subject to the *Freedom of Information and Protection of Privacy Act (FOIPPA)*, that the Regional District may be legally obligated to disclose to a person parts, or all, of this Agreement and any documents legally connected to this Agreement, and that the authority of the Regional District to refuse to disclose a record containing third party confidential information is limited as set out in section 21 of *FOIPPA*. If the City considers that information supplied by it to the Regional District in connection with the performance of the Services is confidential information that should not be disclosed to a person making a request under *FOIPPA*, the City shall identify this information to the Regional District, indicate that the information is supplied in confidence, and refer to *FOIPPA* and section 21 of *FOIPPA* in this regard. The City acknowledges and agrees that the Regional District may be required to disclose City information even where the City stipulates that such information is supplied in confidence. The City acknowledges and agrees that any information included in this Agreement (including in the schedules to this Agreement) is not supplied in confidence.

General

- 20. Neither party may assign all or any part of this Agreement without the prior written consent of the other party, which consent may be withheld in that party's sole discretion.
- 21. Nothing in this Agreement affects the Regional District's or the City's rights and powers in the exercise of their statutory functions under statutes, bylaws, resolutions, orders or regulations, all of which may be fully exercised as if this Agreement had not been executed and delivered by the Regional District and the City.
- 22. Neither the Regional District nor any of its employees is engaged by the City as an agent of the City or has the authority to bind the City in any way whatsoever. This Agreement does not create a joint venture or partnership.
- 23. No amendment of any portion of this Agreement shall be valid unless in writing and executed by the parties to this Agreement.
- 24. Time is of the essence of this Agreement.
- 25. Exercise by a party to this Agreement of any right or remedy of that party, whether granted in or under this Agreement or at law or equity, does not limit or affect any other right or remedy of any kind, whatever its source, that the party may have against the other party and does not affect the right of the party exercising the right or remedy to exercise other rights or remedies against the other party.

26. If any portion of this Agreement is held to be illegal or invalid by a court of competent jurisdiction, the illegal or invalid portion must be severed and the decision that it is illegal or invalid does not affect the validity of the remainder of this Agreement.

27. Any notice, direction, demand, approval, certificate, or waiver which may be or is required to be given under this Agreement must be in writing and delivered personally or by courier or sent by fax or e-mail, addressed as follows:

(a) To the City:

City of Kelowna
1435 Water Street, Kelowna BC, V1Y 1J4

Fax Number: (____)

E-mail Address:

Attention:

(b) To the Regional District:

Regional District of Central Okanagan
1450 K.L.O. Road, Kelowna, B.C. V1W 3Z4

Fax Number: (250) _____

E-mail Address: corporate.officer@rdco.com

Attention: Chief Administrative Officer

or to such other address, e-mail address or fax number of which notice has been given as provided in this section.

Any notice, direction, demand, approval, or waiver delivered is to be considered given on the third business day after it is dispatched for delivery. Any notice, direction, demand, approval, or waiver sent by fax or e-mail is to be considered given on the day it is sent, if that day is a business day and if that day is not a business day, it is to be considered given on the next business day after the date it is sent.

28. In this Agreement:

(a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;

(b) reference to a particular numbered section or Schedule is a reference to the correspondingly numbered section or Schedule of this Agreement;

(c) the word "enactment" has the meaning given to it in the *Interpretation Act* (British Columbia) on the reference date of this Agreement;

- (d) reference to any enactment is a reference to that enactment as amended, unless otherwise expressly provided;
 - (e) reference to a month is a reference to a calendar month; and
 - (f) section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement.
29. This Agreement is governed by and is to be interpreted according to the laws of British Columbia.
30. Each party shall execute or cause to be executed such further documents and instruments and do or cause to be done such further things as may be necessary to implement and carry out the intent of this Agreement.
31. This Agreement enures to the benefit of and is binding upon the parties and their respective successors, subcontractors, trustees, administrators, and receivers, despite any rule of law or equity to the contrary.
32. This Agreement is the entire agreement between the parties and it terminates and supersedes all previous communications, representations, warranties, covenants, and agreements, whether verbal or written, between the parties with respect to the subject matter of this Agreement.
33. Waiver of any default by either party must be express and in writing to be effective, and a waiver of a particular default does not waive any other default.
34. This Agreement may be executed in any number of counterparts and delivered by e-mail, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument, provided that any party delivering this Agreement by e-mail shall also deliver to the other party an originally executed copy of this Agreement.

As evidence of the agreement of the parties to be bound by the above terms and conditions of this Agreement, the parties have executed this Agreement below, on the respective dates written below.

**REGIONAL DISTRICT OF CENTRAL
OKANAGAN**

by its authorized signatories:

Chair

Authorized Signatory

CITY OF KELOWNA

by its authorized signatories:

Mayor

City Clerk

Schedule "A" - Services

Without limiting the Regional District's obligations under this Agreement, the Regional District will provide the City with security alarm systems administration and enforcement services as established through the City Bylaw, including but not limited to the Regional District's obligations listed below.

The City (Police Services) shall:

1. Appoint the Regional District to provide administration and enforcement of the City Bylaw by the False Alarms Reduction Program Coordinator, Protective Services Division.
2. Provide a police response to Security Alarm calls for service within the Regional District.
3. **Share police response data** with the False Alarms Reduction Program Coordinator to ensure false security alarm calls are documented and fees applied as per Schedule "A" of the City Bylaw

The Regional District shall:

1. Enforce the City Bylaw in the City of Kelowna to support the False Alarm Reduction Program by:
 - Supplying and retaining the services of False Alarms Reduction Program Coordinator to administer and manage the Security Alarm Systems Bylaw.
 - Ensuring that security alarm system users obtain security alarm system permits for active security alarm systems.
 - Issuing notices of fees in the event of a false security system alarm.
 - Processing biennial security alarm system permit renewals.
 - Educating security alarm system users and security alarm system companies on how to reduce false alarms.

Schedule "B" – Fee Schedule

Revenue attributable to the Services shall be derived from the fees charged pursuant to the the City Bylaw for the City and the Regional District (the "**Service Revenue**").

All costs incurring by the Regional District in the course of providing the Services (the "**Service Costs**") will be tracked by the Regional District. Service Costs shall include, but not be limited to:

- staffing costs;
- supplies; and
- administration overhead according to Regional District policy.

The Service Costs shall be paid by the City to the Regional District from the Service Revenue. To the extent that the Service Revenue exceeds the Service Costs or vice versa, the surplus or deficit shall be allocated between the City and the Regional District. Allocation will be determined using unconverted hospital assessments for land and improvements within the Regional District (the "**District Land**") and the City (the "**City Land**"), and the City and the Regional District shall be allocated a portion of the surplus or deficit proportionate to the City Land and District Land.

The District shall remit to the City by April 30th of the following year a cheque for the City's pro-rata share of any surplus, or an invoice for the City's pro-rata share of any deficit.