

**THIS AGREEMENT** dated for reference the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**BETWEEN:**

**REGIONAL DISTRICT OF EAST KOOTENAY**, a Regional District pursuant to the *Local Government Act*, R.S.B.C. 2015, Chapter 1 and incorporated pursuant to the laws of the Province of British Columbia with a place of business at 19 - 24th Avenue South, Cranbrook BC V1C 3H8.

(the "RDEK")

OF THE FIRST PART

**AND:**

**VILLAGE OF RADIUM HOT SPRINGS**, a Municipality incorporated pursuant to the laws of the Province of British Columbia, and having a place of business at 4836 Radium Blvd., P.O. Box 340, Radium Hot Springs BC V0A 1M0.

("Radium")

OF THE SECOND PART

**WHEREAS:**

- A. RDEK Bylaw No. 963, as amended, established the Radium Golf Resort and Dry Gulch Fire Protection Local Service Area and RDEK Bylaw No. 1184 established the Brownsville Fire Protection Local Service Area within Electoral Area G to provide fire protection service on a contract basis within the Service Area;
- B. The RDEK is authorized to make agreements respecting the undertaking, provision and operation of local government services;
- C. Radium is authorized to enter into agreements for the furnishing of fire protection service, and Radium has adopted Bylaw No. 127 which authorizes entering into a fire protection service agreement with the RDEK;
- D. Radium has adopted Bylaw No. 127 which authorizes the supply of fire fighting services, as defined in Bylaw No. 127 outside the municipal boundaries with the express authorization of a written contract or agreement;

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of the money hereinafter agreed to be paid by the RDEK to Radium, the parties hereto agree as follows:

**1. DEFINITIONS**

In this Agreement the following expressions will have the meanings herein assigned to them.

- 1.1 **Fire Department** means the Radium Hot Springs Volunteer Fire Brigade.
- 1.2 **Service Area** means the Radium Golf Resort and Dry Gulch Fire Protection Local Service Area and Brownsville Fire Protection Local Service Area as outlined on Schedules A and B.
- 1.3 **Services** mean fire protection and associated services provided by Radium to the Service Area.

**2. SERVICES AND TERM**

- 2.1 Radium agrees that, within the Service Area it will provide the Services for the term of this Agreement being January 1, 2021 to December 31, 2030.

- 2.2 The Services will be provided within the Service Area on a 24-hour basis from the Radium Fire Hall, utilizing apparatus and equipment contained therein and provided by regular and volunteer staff.
- 2.3 The number of staff and type of apparatus and equipment deemed necessary to provide adequate Services are to be dispatched at the sole discretion of the Radium Fire Chief or Officer-In-Charge and such personnel, equipment and apparatus may vary depending on the circumstances of each emergency.
- 2.4 If the Fire Department is attending a fire within the Service Area and another emergency arises which requires the resources of the Fire Department, it will be at the sole discretion of the Radium Fire Chief or Officer-In-Charge to remain at the fire or to abandon fighting the fire and attend another emergency. Radium will not be held liable in any manner whatsoever for the decision of the Fire Chief or Officer-In-Charge concerning this article.

### **3. ACCESSIBILITY**

- 3.1 The Fire Department may not respond to areas where access routes do not provide:
  - (a) clear widths of 6 meters;
  - (b) overhead clearances of not less than 6 meters;
  - (c) a road gradient of less than 1 in 12.5, over a minimum distance of 15 metres;
  - (d) sufficient load bearing capacity to support fire fighting equipment, including bridges, culverts and other structures; or
  - (e) turn-around facilities for any dead-end portion of the access route more than 90 meters in length.

### **4. LIABILITY**

- 4.1 The Fire Department will not incur any liability for damage to property or buildings arising from its action to suppress or reduce the spread of fire.
- 4.2 The RDEK will be responsible for any cost incurred by Radium for the use of additional resources beyond Radium's capability.

### **5. LEVEL OF SERVICE**

- 5.1 Notwithstanding Sections 3 and 4, the level of service provided to the Service Area will be no different than that provided to Radium.

### **6. EQUIPMENT**

- 6.1 Radium covenants to provide and maintain, at their cost, all equipment and buildings deemed necessary by Radium to provide the Services under this Agreement.

### **7. PAYMENT FOR SERVICES**

- 7.1 For the purpose of this Agreement, "converted value of land and improvements" means provincial class factors applied to current year completed 100% assessments.
- 7.2 The RDEK covenants to pay Radium for the Services, a sum calculated as the RDEK's proportionate share of operating and capital expenses and contributions to the equipment replacement reserve fund according to the following formula, but not to exceed \$1.25 per \$1,000 on 100% assessment in the Service Area:

$$(\$74,363 + c)(a/b) = d$$

where “a” is the hospital converted value of land and improvements for properties in the Service Area;

where “b” is the sum of the hospital converted value of land and improvements for properties in the:

- (i) Service Area;
- (ii) Kootenay National Park shown on Schedule C; and
- (iii) the Village of Radium Hot Springs.

where “c” is Radium’s actual operating and capital expenses and contributions to the equipment replacement reserve fund of the Fire Department for the immediately preceding year with over/under adjustments based on the:

- (i) actual audited costs for fire protection for the second preceding year; and
- (ii) revised assessment roll as at March 31<sup>st</sup> for the immediately preceding year.

For the purpose of this clause, “capital expenses” will mean:

- (i) actual expenditures for the fire hall equipment and upgrades; and
- (ii) actual expenditures for other fire fighting equipment;

where “d” is the calculated proportionate share of expenditures for the Service Area.

where “\$74,363” is the annual contribution to the fire hall which will be included in any renewals, extensions or replacements of this Agreement until 2025.

7.3 If capital expenses in any given year result in an increase of more than 15% over the previous year to the RDEK’s proportionate share of expenditures for the Service Area as calculated in Section 7.2, Radium will allow the RDEK the option to fund those costs over a mutually agreed upon number of years.

7.4 No later than December 15<sup>th</sup> each year, Radium will provide an estimate of the amount to be invoiced in the following year to assist the RDEK with budget preparation.

7.5 No later than February 15<sup>th</sup> of each year, for the term of this Agreement, Radium will invoice the RDEK for the Services. This will be the amount calculated as “d” in Section 7.2. The RDEK will pay said invoice by August 10<sup>th</sup> in each year for the term of this Agreement.

## **8. MAPPING**

8.1 The RDEK will be responsible for mapping that shows locations of homes and roads within the Service Area and receiving fire protection service and it will be the RDEK’s responsibility to ensure accuracy and provide updates as new developments occur.

8.2 The RDEK will be responsible for providing Radium with updates of all new developments, i.e., roads and housing, as soon as possible following each occurrence of development.

8.3 The RDEK is responsible for the numbering of buildings within the Service Area and will maintain and provide the Fire Department with appropriate maps.

## **9. INDEMNITY AND INSURANCE**

9.1 The RDEK hereby indemnifies, saves harmless, releases and forever discharges Radium and its officers, employees, agents and elected officials from and against any and all manner of actions, causes of action, debts, suits, losses, liabilities, costs, demands and expenses whatsoever, whether known or unknown, of any person in any way arising from, in connection or attributable to the negligence or other fault of the RDEK, its servants, agents and employees in connection with or in consequence of this Agreement. This indemnification provision will survive the cancellation, termination or expiry of this Agreement.

9.2 Radium hereby indemnifies, saves harmless, releases and forever discharges the RDEK and its officers, employees, agents and elected officials from and against any and all manner of actions, causes of action, debts, suits, losses, liabilities, costs, demands and expenses whatsoever, whether known or unknown, of any person in any way arising from, in connection or attributable to the negligence or other fault of Radium, its servants, agents and employees in connection with or in consequence of this Agreement. This indemnification provision will survive the cancellation, termination or expiry of this Agreement.

9.3 Radium will maintain all risk insurance on its major fire equipment and will ensure that its liability coverage extends to its activities in the Service Area and includes the RDEK as additional insured. All costs for such insurance including any deductible amounts payable, will form part of the Fire Department operating costs.

## **10. TERMINATION**

10.1 The parties hereto agree that either party may terminate this Agreement by giving the other party notice of its intention to do so in the manner outlined in Section 11.1. However, the notice of termination of this Agreement will be provided prior to June 30<sup>th</sup> to take effect December 31<sup>st</sup> of that same year.

## **11. NOTICES**

11.1 All notices under this Agreement will be given in writing, and will be delivered by pre-paid courier or hand-delivered to the address indicated on the face page of this Agreement, or otherwise transmitted by fax or other means of electronic communication to the usual numbers or addresses of the respective party. Such addresses may be changed from time to time by either party giving notice to the other party.

If any questions arise as to whether any notice was or was not communicated by one party to the other, it will be deemed to have been effectively communicated or given on the day received or on the fifth day after it was mailed or sent, whichever is earlier.

## **12. ENTIRE AGREEMENT**

12.1 This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and there are no terms, conditions, representations, or warranties, expressed or implied, statutory or otherwise, except for those expressly set forth herein.

## **13. SEVERENCE**

13.1 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.

## **14. AGREEMENT AMENDMENT**

14.1 This Agreement may be amended from time to time upon terms and conditions mutually acceptable to the parties.

## **15. EXECUTION OF AGREEMENT**

15.1 The parties acknowledge and agree that this Agreement may be executed by electronic signature, which will be considered as an original signature for all purposes and will have the same force and effect as an original signature. Without limitation, "electronic signature" will include faxed versions of an original signature or electronically scanned and transmitted versions of an original signature.

15.2 This Agreement may be executed in any number of counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

**6. INTERPRETATION**

- 16.1 Headings are inserted in this Agreement for convenience only and will not be construed as affecting the meaning of this Agreement.
- 16.2 All references to section numbers in this Agreement refer to sections in this Agreement, and all references to Schedules in this Agreement refer to Schedules attached to this Agreement.
- 16.3 The Schedules to this Agreement are an integral part of this Agreement as if set out at length in the body of this Agreement.
- 16.4 Whenever the singular or masculine is used herein, the same will be construed as meaning the plural or feminine or body politic or corporate where the context of the parties hereto so require.
- 16.5 This Agreement will enure to the benefit of and be binding upon the parties hereto and their permitted successors and assigns.
- 16.6 This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.

The Corporate Seal of **REGIONAL DISTRICT OF EAST KOOTENAY** was hereunto affixed in the presence of:  
  
\_\_\_\_\_  
Rob C. Gay, Chair  
  
\_\_\_\_\_  
Shawn Tomlin, Chief Administrative Officer

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C/S

The Corporate Seal of **VILLAGE OF RADIUM HOT SPRINGS** was hereunto affixed in the presence of:  
  
\_\_\_\_\_  
Clara Reinhardt, Mayor  
  
\_\_\_\_\_  
Mark Read, Chief Administrative Officer

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## SCHEDULE C

### PROPERTIES IN KOOTENAY NATIONAL PARK

<b>BC Assessment Authority Folio Number</b>	<b>Description</b>
2204-704-10002.010	Administration Building
2204-704-10002.030	Staff Housing
2204-704-10002.040	West Entrance Buildings
2204-704-10002.050	Aquacourt
2204-704-10002.060	Sinclair Canyon Buildings and Structures
2204-704-10002.070	McKay Creek Compound
2204-704-06677.000	529050 Alberta Ltd. (Radium Hot Springs Lodge)
2204-704-10002.020	Redstreak Campground