

The Corporation of the Municipality of Brockton



By-Law 2020-108

Being a By-Law to Authorize the Signing of an Agreement With Wheildon Investment Inc. O/A Fairmount Security for the Purpose of Providing Security Services to the Municipality of Brockton's Cargill and Walkerton Community Centres.

Whereas The Council for the Corporation of the Municipality of Brockton deems it expedient to enter into an agreement with Wheildon Investment Inc. O/A Fairmount Security with respect to providing security services to the Municipality of Brockton's Cargill and Walkerton Community Centres;

Now Therefore the Council of the Corporation of the Municipality of Brockton enacts as follows;

- 1.0 That The Corporation of the Municipality of Brockton Council hereby enter into an agreement with Wheildon Investment Inc. O/A Fairmount Security which is attached as "Schedule A" and forms part of this By-Law;
- 2.0 The execution by the Mayor and Clerk of said agreement dated September 11, 2020, between the Corporation of the Municipality of Brockton and Wheildon Investment Inc. O/A Fairmount Security is hereby authorized, ratified, and confirmed.
- 3.0 This By-Law shall come into full force and effect upon final passage.
- 4.0 This By-Law may be cited as the "Fairmount Community Centre Security Agreement By-Law".

Read, Enacted, Signed and Sealed this 22nd day of September, 2020.

Mayor – Chris Peabody

Clerk – Fiona Hamilton

GENERAL SERVICE AGREEMENT

THIS GENERAL SERVICE AGREEMENT (the "Agreement") is dated this 11th day of September, 2020.

CLIENT

Municipality of Brockton
209 Durham Street Walkerton Ontario
N0G-2V0
(the "Client")

CONTRACTOR

Wheildon Investment Inc O/A Fairmount
Security
901 1st Avenue West Owen Sound N4K-4K5
(the "Contractor")

BACKGROUND

- A. The Client is of the opinion that the Contractor has the necessary qualifications, experience and abilities to provide services to the Client.
- B. The Contractor is agreeable to providing such services to the Client on the terms and conditions set out in this Agreement.

IN CONSIDERATION OF the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the Client and the Contractor (individually the "Party" and collectively the "Parties" to this Agreement) agree as follows:

ONTARIO CONSUMER PROTECTION ACT, 2002

1. Consumer rights as outlined in the *Ontario Consumer Protection Act, 2002* can be found at the end of this Agreement in Appendix A.

SERVICES PROVIDED

2. The Client hereby agrees to engage the Contractor to provide the Client with the following services (the "Services"):
 - Security Services.
3. The Services will also include any other tasks which the Parties may agree on. The Contractor hereby agrees to provide such Services to the Client.

TERM OF AGREEMENT

4. The term of this Agreement (the "Term") will begin on the date of this Agreement and will remain in full force and effect until August 15, 2023, subject to earlier termination as provided in this Agreement. The Term may be extended with the written consent of the Parties.

5. In the event that either Party wishes to terminate this Agreement prior to August 15, 2023, that Party will be required to provide 15 days' written notice to the other Party.

PERFORMANCE

6. The Parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

CURRENCY

7. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in CAD (Canadian Dollars).

COMPENSATION

8. The Contractor will charge the Client for the Services at the rate of \$28.00 per hour (the "Compensation").
9. The Client will be invoiced every two weeks.
10. Invoices submitted by the Contractor to the Client are due within 15 days of receipt.
11. The Compensation as stated in this Agreement does not include sales tax, or other applicable duties as may be required by law. Any sales tax and duties required by law will be charged to the Client in addition to the Compensation.
12. The Contractor will not be reimbursed for any expenses incurred in connection with providing the Services of this Agreement.

INTEREST ON LATE PAYMENTS

13. Interest payable on any overdue amounts under this Agreement is charged at a rate of 2.00% per annum or at the maximum rate enforceable under applicable legislation, whichever is lower.

CONFIDENTIALITY

14. Confidential information (the "Confidential Information") refers to any data or information relating to the business of the Client which would reasonably be considered to be proprietary to the Client including, but not limited to, accounting records, business processes, and client records and that is not generally known in the industry of the Client and where the release of that Confidential Information could reasonably be expected to cause harm to the Client.
15. The Contractor agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any Confidential Information which the Contractor has obtained, except as authorized by the Client or as required by law. The obligations of confidentiality will apply during the Term and will survive indefinitely upon termination of this Agreement.
16. All written and oral information and material disclosed or provided by the Client to the Contractor under this Agreement is Confidential Information regardless of whether it was provided before or after the date of

this Agreement or how it was provided to the Contractor.

OWNERSHIP OF INTELLECTUAL PROPERTY

17. All intellectual property and related material, including any trade secrets, moral rights, goodwill, relevant registrations or applications for registration, and rights in any patent, copyright, trademark, trade dress, industrial design and trade name (the "Intellectual Property") that is developed or produced under this Agreement, will be the sole property of the Client. The use of the Intellectual Property by the Client will not be restricted in any manner.
18. The Contractor may not use the Intellectual Property for any purpose other than that contracted for in this Agreement except with the written consent of the Client. The Contractor will be responsible for any and all damages resulting from the unauthorized use of the Intellectual Property.

RETURN OF PROPERTY

19. Upon the expiry or termination of this Agreement, the Contractor will return to the Client any property, documentation, records, or Confidential Information which is the property of the Client.

CAPACITY/INDEPENDENT CONTRACTOR

20. In providing the Services under this Agreement it is expressly agreed that the Contractor is acting as an independent contractor and not as an employee. The Contractor and the Client acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service.

RIGHT OF SUBSTITUTION

21. Except as otherwise provided in this Agreement, the Contractor may, at the Contractor's absolute discretion, engage a third party sub-contractor to perform some or all of the obligations of the Contractor under this Agreement and the Client will not hire or engage any third parties to assist with the provision of the Services.
22. In the event that the Contractor hires a sub-contractor:
 - the Contractor will pay the sub-contractor for its services and the Compensation will remain payable by the Client to the Contractor.
 - for the purposes of the indemnification clause of this Agreement, the sub-contractor is an agent of the Contractor.

AUTONOMY

23. Except as otherwise provided in this Agreement, the Contractor will have full control over working time, methods, and decision making in relation to provision of the Services in accordance with the Agreement. The Contractor will work autonomously and not at the direction of the Client. However, the Contractor will be responsive to the reasonable needs and concerns of the Client.

EQUIPMENT

24. Except as otherwise provided in this Agreement, the Contractor will provide at the Contractor's own expense, any and all tools, machinery, equipment, raw materials, supplies, workwear and any other items or parts necessary to deliver the Services in accordance with the Agreement.

NO EXCLUSIVITY

25. The Parties acknowledge that this Agreement is non-exclusive and that either Party will be free, during and after the Term, to engage or contract with third parties for the provision of services similar to the Services.

NOTICE

26. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the Parties at the following addresses:

- a. Municipality of Brockton
209 Durham Street Walkerton Ontario N0G-2V0
- b. Wheildon Investment Inc O/A Fairmount Security
901 1st Avenue West Owen Sound N4K-4K5

or to such other address as either Party may from time to time notify the other.

INDEMNIFICATION

27. Except to the extent paid in settlement from any applicable insurance policies, and to the extent permitted by applicable law, each Party agrees to indemnify and hold harmless the other Party, and its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns against any and all claims, losses, damages, liabilities, penalties, punitive damages, expenses, reasonable legal fees and costs of any kind or amount whatsoever, which result from or arise out of any act or omission of the indemnifying party, its respective directors, shareholders, affiliates, officers, agents, employees, and permitted successors and assigns that occurs in connection with this Agreement. This indemnification will survive the termination of this Agreement.

ADDITIONAL CLAUSE

28. 1st Year 2020 \$28.00 per hr
2nd year 2021 \$28.00 per hr
3rd Year 2022 \$30.00 per hr
Stat Rate 2.5 regular rate.

MODIFICATION OF AGREEMENT

29. Any amendment or modification of this Agreement or additional obligation assumed by either Party in connection with this Agreement will only be binding if evidenced in writing signed by each Party or an authorized representative of each Party.

TIME OF THE ESSENCE

30. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

ASSIGNMENT

31. The Contractor will not voluntarily, or by operation of law, assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Client.

ENTIRE AGREEMENT

32. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

ENUREMENT

33. This Agreement will enure to the benefit of and be binding on the Parties and their respective heirs, executors, administrators and permitted successors and assigns.

TITLES/HEADINGS

34. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement.

GENDER

35. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

GOVERNING LAW

36. This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario.

SEVERABILITY

37. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

WAIVER

38. The waiver by either Party of a breach, default, delay or omission of any of the provisions of this Agreement by the other Party will not be construed as a waiver of any subsequent breach of the same or other provisions.
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IN WITNESS WHEREOF the Parties have duly affixed their signatures under hand and seal on this 11th day of September, 2020.

Municipality of Brockton

Per: _____ (Seal)

Officer's Name: _____

Wheildon Investment Inc O/A Fairmount Security

Per: _____ (Seal)

Officer's Name: _____

Appendix A

Your Rights under the Ontario Consumer Protection Act, 2002

You may cancel this agreement at any time during the period that ends ten (10) days after the day you receive a written copy of the agreement. You do not need to give the supplier a reason for cancelling during this 10-day period.

If the supplier does not make delivery within 30 days after the delivery date specified in this agreement or if the supplier does not begin performance of his, her or its obligations within 30 days after the commencement date specified in this agreement, you may cancel this agreement at any time before delivery or commencement of performance. You lose the right to cancel if, after the 30-day period has expired, you agree to accept delivery or authorize commencement of performance.

If the delivery date or commencement date is not specified in this agreement and the supplier does not deliver or commence performance within 30 days after the date this agreement is entered into, you may cancel this agreement at any time before delivery or commencement of performance. You lose the right to cancel if, after the 30-day period has expired, you agree to accept delivery or authorize commencement of performance.

In addition, there are other grounds that allow you to cancel this agreement. You may also have other rights, duties and remedies at law. For more information, you may contact the Ministry of Consumer and Business Services.

To cancel this agreement, you must give notice of cancellation to the supplier, at the address set out in the agreement, by any means that allows you to prove the date on which you gave notice. If no address is set out in the agreement, use any address of the supplier that is on record with the Government of Ontario or the Government of Canada or is known by you.

If you cancel this agreement, the supplier has fifteen (15) days to refund any payment you have made and return to you all goods delivered under a trade-in arrangement (or refund an amount equal to the trade-in allowance).

However, if you cancel this agreement after having solicited the goods or services from the supplier and having requested that delivery be made or performance be commenced within ten (10) days after the date this agreement is entered into, the supplier is entitled to reasonable compensation for the goods and services that you received before the earlier of the 11th day after the date this agreement was entered into and the date on which you gave notice of cancellation to the supplier, except goods that can be repossessed by or returned to the supplier.