



BCWWA CONSULTANT SERVICES AGREEMENT

This Agreement made as of the _____ day of _____, 2005

BETWEEN:

British Columbia Water & Waste Association
Suite 221, 8678 Greenall Avenue
Burnaby, British Columbia
V5J 3M4

(hereinafter called the "BCWWA")

OF THE FIRST PART

AND:

(hereinafter called the "Consultant")

OF THE SECOND PART

WHEREAS:

- A. The BCWWA requires the professional services (Services) described in Appendix A and desires to engage the Consultant to perform the said Services.
- B. The Consultant has agreed to perform the Services in accordance with the terms and conditions of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the terms, covenants and conditions herein contained, the parties hereto hereby covenant and agree as follows:

1. CONSULTANT'S SERVICES TO THE BCWWA

- 1.1 The Consultant shall provide and be fully responsible for Services as outlined in Appendix A which forms part of this Agreement.
- 1.2 The Consultant shall perform the Services:
 - (a) with that degree of care, skill and diligence normally applied in the performance of services of a similar nature and magnitude to those contemplated by this Agreement at the time and place the Services are rendered; and
 - (b) in accordance with sound current professional practices.
- 1.3 The Consultant shall commence the Services promptly and shall use every reasonable endeavour to carry out the Services within the completion dates agreed to between the two parties, or specified from time to time by the BCWWA.
- 1.4 The Consultant must pay for all labour, materials, and approvals necessary or advisable to provide the Services. The Consultant is responsible for all costs associated with its employees, agents, or sub-contractors, including, but not limited to salaries and wages, WCB premiums, benefits, EI, CPP and all applicable taxes, fees, fines and levies.



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- 1.5 The Consultant must not provide any services to any person in circumstances which, in the reasonable opinion of the BCWWA, could give rise to a conflict of interest between the Consultant's duties to that person and the Consultant's duties to the BCWWA under this Agreement.

2. BASIS OF PAYMENT TO THE CONSULTANT

- 2.1 In consideration of the Services performed by the Consultant to the satisfaction of the BCWWA and in strict conformity with the terms hereof, the BCWWA will pay the Consultant the amount at the rates as shown in the Consultant's proposal plus the Goods and Services Tax as applicable.
- 2.2 Notwithstanding anything to the contrary contained in this Agreement save for Clause 4, the maximum liability of the BCWWA hereunder shall be _____ dollars, including all reimbursable disbursements and excluding Goods and Services Tax.
- 2.3 Subject to the maximum liability of the BCWWA under sub-clause 2.2, disbursements for which the BCWWA will reimburse the Consultant shall be limited to the following:
- Photocopying, printing and plotting charges
 - Long distance telephone charges
 - Courier charges
 - Travel expenses including mileage at a rate of 45¢ per km.

Reimbursement of these expenses by the BCWWA will be at actual cost without any addition for overhead or profit. All other expenses not listed above are considered to be included in the Consultant's fees.

The Consultant shall submit invoices to the BCWWA representative as identified in sub-clause 3.1 after the end of each calendar month. The invoice shall show separately the amount of the Goods and Services Tax applicable.

The consultant shall retain all supporting documentation for all disbursements claimed for review if requested by BCWWA. The consultant shall provide a statement setting out Services performed by the Consultant during the preceding month.

Notwithstanding anything to the contrary in the Agreement contained, the BCWWA shall never be obligated to pay the Consultant a greater percentage of total fees and disbursements than the degree of percentage completion of the total of the Services.

- 2.5 If the BCWWA does not approve of or wishes to further review, audit or otherwise seek clarification concerning the Consultant's invoices, for whatever reason, the BCWWA shall not be liable for interest charges in respect of that invoice for the period from the date the invoice is submitted until the date that the invoice is paid. The BCWWA shall, if it approves the amount of such invoices, cause such invoices to be paid on or before net 30 days after receipt of invoices.
- 2.6 The Consultant shall keep proper accounts and records of all costs and expenditures forming the basis of any billing to the BCWWA, including but not limited to hours worked, details of all disbursements and percentage amounts of work completed. The BCWWA shall be entitled to verify the accuracy and validity of all billings and payments made by auditing and taking extracts from the



books and records of the Consultant and by such other means as shall be reasonably necessary or advisable.

3. **COMMUNICATION BETWEEN THE CONSULTANT AND THE BCWWA**

- 3.1 The Executive Director, Del Haylock, or his delegate is the BCWWA representative for the purposes of communication and performance of services outlined in this Agreement.
- 3.2 The Consultant shall not enter into any contracts, incur any liability or make Agreements, representations or commitments on behalf of BCWWA in connection and with respect to this Agreement unless expressly requested to do so in writing by the BCWWA representative.

4. **CHANGES TO SCOPE OF SERVICES**

- 4.1 The BCWWA representative may at any time vary the scope of Services to be provided by the Consultant. In that case, the limit or limits in sub-clause 2.2 as to the maximum fees and disbursements to be paid to the Consultant for all or any part of the Services and the limit or limits in sub-clause 7.1 as to the schedule to complete the Services shall be adjusted as agreed to by both parties in writing and, failing agreement, as reasonably determined by a mutually agreed to third party.
- 4.2 Should the Consultant consider that any request or instruction from the BCWWA constitutes a change in the scope of the Services, the Consultant shall so advise the BCWWA immediately in writing. Without said written advice within five (5) working days, or otherwise mutually agreed time frame the BCWWA shall not be obligated to make any payments of additional fees or disbursements to the Consultant. The determination of any additional fees or disbursements shall be in accordance with sub-clause 4.1.

5. **RELEASE AND INDEMNIFICATION**

- 5.1 BCWWA shall not be liable for any injury, including death of a person, or loss or damages to the property of the Consultant or anyone else, occasioned by or in any way attributable to the Consultant under this Agreement, unless such injury, loss, or damage is caused by negligence of an officer or agent of BCWWA.
- 5.2 Notwithstanding the provision of insurance coverage by the BCWWA, the Consultant hereby agrees to indemnify and save harmless the BCWWA, its officers, directors, employees, agents, successors, assigns and authorized representatives from and against losses, claims, damages, actions, causes, actions, suits or other proceedings by whomsoever (collectively referred to as "Claims") that the Consultant or the BCWWA may sustain, incur, suffer or be put to at any time either before or after the expiration or termination of this Agreement, that arise out of errors, omissions or negligent acts of the Consultant or their sub-consultants, servants, agents or employees under this Agreement excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions or negligent acts of the BCWWA, its other consultants, officers, directors, employees, agents assigns and authorized representatives or any other persons.
- 5.3 This indemnity shall not affect or prejudice the BCWWA from exercising any other rights that may be available to it at law.
- 5.4 This release and covenant of indemnification above set forth shall survive termination of the term of this Agreement.



6. **INSURANCE COVERAGE**

6.1 The Consultant shall obtain and maintain liability insurance coverage to cover any potential liability in performing services within this Agreement.

7. **BCWWA APPROVALS**

7.1 No reviews, approvals or inspections carried out or information supplied by the BCWWA or its employees or sub-consultants shall derogate from the duties and obligations of the Consultant, and all responsibility related to the Services shall remain with the Consultant.

8. **TERM AND TERMINATION**

8.1 The Consultant is to begin providing the Services on _____ and to complete the Services by _____

8.2 Notwithstanding 8.1 above:

8.2.1 The Consultant or the BCWWA may terminate this Agreement by giving ten (10) days prior written notice. The Consultant shall be paid at the rate prescribed for all services properly performed to the date of the delivery of the said notice and for necessary hours in closing out the Services during the notice period.

8.2.2 Notwithstanding sub-clause 8.2.1, the BCWWA may terminate this Agreement immediately without notice or compensation to the Consultant in the event that the Consultant fails to comply with the terms and conditions of this Agreement.

8.2.3 This Agreement may be renewed or extended for such period as may be mutually agreed upon in writing between the Consultant and the BCWWA, including agreement on any revisions to the then-existing terms and conditions.

8.3 Nothing in this Agreement shall obligate the BCWWA to continue this contract for Services beyond the Expiry Date, to grant exclusive consideration to the Consultant for future contractual relationships, or to continue with the then-existing terms and conditions if a renewal or extension is agreed upon.

9. **OWNERSHIP OF DOCUMENTS AND COPYRIGHT**

9.1 All drawings, audiovisual materials, information, intellectual property, plans, models, designs, specifications, reports and other documents or products produced, received or acquired by the Consultant as a result of the provision of the Services (the "Material") shall be the sole property of the BCWWA, and the BCWWA shall have the right to utilize all of the Material for its benefit in any way it sees fit without limitation.

9.2 The Material shall be delivered by the Consultant to the BCWWA forthwith prior to the expiration or following sooner termination of this Agreement, provided that the BCWWA may, at any time or times prior to the expiration or sooner termination of this Agreement, give written notice to the Consultant requesting delivery by the Consultant to the BCWWA of all or any part of the Material in which event the Consultant shall forthwith comply with such request.



9.3 The Consultant hereby transfers to the BCWWA title of the Material and assigns to the BCWWA sole copyright in the Material. The Consultant agrees that title to the Material is to be considered to have been transferred, and any copyright in the Material is to be considered to have been assigned by the Consultant to the BCWWA upon creation of the Material. The Consultant hereby irrevocably waives, in favour of the BCWWA, the Consultant's moral rights in respect of the Material. The Consultant shall obtain in writing, from its personnel, its permitted sub-consultants or from any other source used, all required assignments, waivers, including waivers of moral rights, releases of interest and acknowledgements necessary to transfer title to and copyright in the Material to the BCWWA.

9.4 The Consultant hereby represents and warrants that the portion of the Material produced by the Consultant will not infringe any patent or copyright or any other industrial or intellectual property rights including trade secrets.

10. RESOLUTION OF DISPUTES

10.1 This Agreement shall be governed by the laws of the Province of British Columbia and the parties agree to submit all disputes to the courts of British Columbia for resolution.

11. INDEPENDENT CONSULTANT

11.1 This Agreement is a contract for services and the Consultant, his permitted sub-consultants, the officers, directors, shareholders, partners, personnel, affiliates and agents of the Consultant and their permitted sub-consultants are not, nor are they to be deemed to be partners, appointees, employees or agents of the BCWWA. The Consultant is not an employee, and will not be paid on the account of vacations, statutory holidays or overtime hours.

12. GENERAL

12.1 The Consultant acknowledges that in performing the Services required under this Agreement, it will acquire information about certain matters which are confidential to the BCWWA, and such information is the exclusive property of the BCWWA. The Consultant undertakes to treat as confidential all information received by reason of its position as Consultant, and agrees not to disclose same to any third party either during performance of the Services or after the Services have been rendered under this Agreement.

12.2 If you are a corporation, you represent and warrant to us that you have authorized your signatory to enter into and execute this agreement on your behalf without affixing your common seal.

12.3 Sections 1.5, 5, and 9 continue in force indefinitely, even after this agreement ends.

12.4 If there is a conflict between a provision in an Appendix to this agreement and any other provision of this agreement, the provision in the Appendix is inoperative to the extent of the conflict unless it states that it operates despite a conflicting provision of this agreement.

12.5 The Consultant shall not, without prior written consent of the BCWWA assign, either directly or indirectly, this Agreement or any right of the Consultant under this Agreement.

12.6 This Agreement shall be binding upon the parties hereto and their successors.



IN WITNESS WHEREOF the parties hereto have duly executed this Agreement as of the day and year first above written.

SIGNED AND DELIVERED on behalf of BCWWA by an authorized representative thereof.

SIGNED AND DELIVERED by or on behalf of the Consultant or (or by an authorized signatory of the Consultant if a corporation).

Executive Director