

**DATE:** April 2, 2019

**FILE:** 5360-20/CR

**TO:** Chair and Directors  
Comox Strathcona Waste Management Board

**FROM:** Russell Dyson  
Chief Administrative Officer

Supported by Russell Dyson  
Chief Administrative Officer

*R. Dyson*

**RE: Campbell River Host Community Agreement – Extension**

### **Purpose**

To extend the host community agreement with the City of Campbell River (City) for the ongoing operations of the Campbell River Waste Management Centre (CRWMC) until anticipated closure in 2023.

### **Recommendation from the Chief Administrative Officer:**

THAT the Comox Strathcona Waste Management Board approve the extension of the host agreement with the City of Campbell River;

AND FURTHER THAT the Chair and Corporate Legislative Officer be authorized to execute the agreement.

### **Executive Summary**

The original agreement began in September 2013 with the anticipation that the landfill would be closed within the time frame of the five year agreement. The agreement included a provision that if the CRWMC was still functioning as an active landfill prior to the expiration of the term, both parties would meet to discuss the terms and conditions of the agreement, and the need to renew or extend the agreement.

Over the past few months staff from both the Comox Valley Regional District (CVRD) and the City have reviewed the past agreement as well as the draft extension agreement. The original agreement included several provisions as follows which are now complete:

- The City transferred the “encroachment area” to the CVRD;
- Corridor repair contributions were made by the Comox Strathcona Waste Management service as required within the agreement:
  - \$175,000 by July 15, 2014
  - \$870,000 by the end of the agreement, August 1, 2018;
- The annual host community payment was provided at \$50,000 per year during the term of the agreement. The host payment covers the cost of annual maintenance and cleanup of Argonaut Road completed by the City as required;
- The property boundaries for Block C (landfill site) were amended to include all areas that contain landfilled waste;
- The agreement was amended in May 2016 to reflect these completed commitments above.

The landfill is anticipated to be active over the next five years and the intent is that the host community payment will continue until the landfill is closed. City staff confirmed that the continuance of the agreement should occur and would consider the termination when the CVRD ceases operations at the CRWMC. This provides the City appropriate funding to continue maintenance and regular clean-up activities along Argonaut Road. The 2019-2023 Financial Plan includes the continuance of the CRWMC host agreement payment, and requires no further amendment to be undertaken.

Prepared by:

***A. McGifford***

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Andrew McGifford, CPA, CGA  
Senior Manager of CSWM Services

Concurrence:

***M. Rutten***

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Marc Rutten, P.Eng.  
General Manager of Engineering Services

Attachments: Appendix A – “Draft – CVRD-City of Campbell River CRWMC Host Community Agreement”

## Appendix A

THIS AGREEMENT is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

BETWEEN:

**COMOX VALLEY REGIONAL DISTRICT**

600 Comox Road  
Courtenay, BC V9N 3P6

(the "CVRD")  
OF THE FIRST PART

AND:

**CITY OF CAMPBELL RIVER**

301 St. Ann's Road  
Campbell River, BC V9W 1V5

(the "City")  
OF THE SECOND PART

WHEREAS:

- A. The CVRD operates the Campbell River Waste Management Centre (the "CRWMC") located within the City of Campbell River, at the property with the civic address of 6700 Argonaut Road, Campbell River, B.C., legally described as Block C of District Lot 85, Sayward District (the "Lands").
- B. In order to balance the impacts the City may experience in hosting the CRWMC against the advantages received by the users of the CRWMC, the City and the CVRD have agreed to the terms and conditions of this host community benefit agreement; and
- C. The concept of a host community benefit agreement is to balance the impacts a local community may experience in hosting a regional waste management facility against the advantages received by the users of the facility from other communities. With respect to the CRWMC, the other users of the facility are primarily the Strathcona Regional District (the "SRD") communities but may also include the Comox Valley Regional District communities.

**NOW THEREFORE THIS AGREEMENT WITNESSES** that in consideration of \$10.00 paid by the parties to each other and the premises and covenants contained in this Agreement and other good and valuable consideration, the CVRD and the City covenant and agree with each other as follows:

### **1.0 Term**

- 1.1 This Agreement shall commence on July 1, 2018 (the "Commencement Date") and, subject to sections 1.2, shall expire on the earlier of the final closure of landfilling operations at the CRWMC or December 31, 2022 (the "Term").
- 1.2 Any subsequent extensions, amendments or modifications to this Agreement must be mutually acceptable to both the CVRD and the City and any extensions, amendments or modifications must be in writing and executed by authorized signatories from both the CVRD and the City.

## **2.0 Host Community Payment**

- 2.1 To compensate the City for social, environmental and economic impact either incurred or perceived by the City related to the presence of the CRWMC within its boundaries, the CVRD agrees to pay to the City an annual host community payment equal to \$50,000.00 per year for the Term of this Agreement. The payments will be made by the CVRD to the City on an annual basis with the first payment being a pro-rated payment for the period July 1, 2018 to December 31, 2018. Future payments of \$50,000.00 per year will occur at the end of each calendar year of the Term unless the final landfill closure occurs during the Term of the agreement, in which case the annual payment will be pro-rated.
- 2.2 The expenditure of the host community payment funds shall be within the sole discretion of the City. Notwithstanding the foregoing, the City shall provide the CVRD with an annual report of the host community payment funds received and expended or held in reserves.

## **3.0 CRWMC Operation**

- 3.1 The parties acknowledge that the CRWMC operations, including, without limitation, the expansion of the CRWMC landfill, the conduct of the various diversion or transfer activities, and the construction of buildings or facilities in support of the CRWMC operations (cumulatively, the "CRWMC Operations") are for the general benefit of the CVRD and SRD, including the City. Therefore, subject to section 7.10 *[legislative discretion not fettered]* of this Agreement, the parties will each take all reasonable action to ensure that any and all decisions that they are required to be made under this Agreement in relation to applicable CRWMC Operations are made expeditiously.

## **4.0 Communications**

- 4.1 The parties agree to meet in January of each calendar year to review matters relating to this Agreement.
- 4.2 The parties further agree to meet to discuss the function and impacts of the CRWMC within the City in relation to any future updates of the Comox Strathcona Solid Waste Management Plan.
- 4.3 The key contacts for all communication matters between the parties relating to this Agreement are as follows:  
City: Chief Administrative Officer or designate; and  
CVRD: Chief Administrative Officer or designate

## **5.0 Release and Indemnity**

- 5.1 The City hereby indemnifies, and shall defend and save harmless the CVRD, and its officers, directors and employees, from any and all losses, claims, damages, liabilities and costs incurred or suffered by the CVRD as a result of the breach or negligent performance by the City of the City's obligations under this Agreement, unless such losses, claims, damages and costs relate in any way to negligent or willful acts or omissions on the part of the CVRD, its officers, employees, servants, agents or invitees.
- 5.2 The CVRD hereby indemnifies, and shall defend and save harmless the City, and its officers, directors and employees, from any and all losses, claims, damages, liabilities and costs incurred or suffered by the City as a result of the breach or negligent performance by the CVRD of the

CVRD's obligations under this Agreement unless such losses, claims, damages and costs relate in any way to negligent or willful acts or omissions on the part of the City, its officers, employees, servants, agents or invitees.

- 5.3 Part 5 of this Agreement will survive the expiration or the earlier termination of this Agreement.

## **6.0 General Provisions**

- 6.1 No modification or amendment to this Agreement shall be binding unless executed in writing by both the CVRD and the City.
- 6.2 This Agreement constitutes the entire agreement between the parties and supersedes all previous representations, warranties, dealings, negotiations, discussions, agreements, understandings and expectations of the parties, whether oral or written, regarding the subject matter hereof.
- 6.3 This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, executors, administrators, successors and permitted assigns.
- 6.4 A matter in dispute under this Agreement may, with the concurrence of both the CVRD and the City, be submitted for mediation to a mediator appointed jointly by the parties. If the matter cannot be resolved by mediation, it shall be submitted to a single arbitrator appointed jointly by the parties whose decision shall be final. The parties shall share costs of the mediation or arbitration equally. Should the parties be unable to agree on a mediator or arbitrator, or be unable to agree on the rules for mediation or arbitration, any party may, upon giving written notice to other party, apply to the Ministry of Community, Sport and Cultural Development for dispute resolution services as contemplated under Division 3 of Part 9 of the Community Charter.
- 6.5 This Agreement shall be governed by and construed in accordance with the laws of the province of British Columbia, Canada and the parties hereto irrevocably attorn to the jurisdiction of the courts of British Columbia.
- 6.6 Any notice required or permitted to be given under this Agreement shall be in writing and may be delivered in person or by registered mail given to the parties at the addresses set out on the first page hereof or at such other address or facsimile number as the parties may from time to time be informed.
- 6.7 A waiver of any breach of any provision of this Agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions of this Agreement.
- 6.8 If any one or more provisions of this Agreement is invalid, illegal or found to be unenforceable by a court of competent jurisdiction for any reason whatsoever, the unenforceability shall not affect the validity, legality or enforceability of the remaining provisions of this Agreement, and the unenforceable, illegal or invalid provision or provisions shall be severable from the remainder of this Agreement. Where such severance alters the basic structure of this Agreement, the parties shall renegotiate this agreement in good faith.
- 6.9 No party may assign any of their rights or obligations under this Agreement, either in whole or in part, without the prior written consent of the other party. Any attempt to do so shall be void and of no effect.
- 6.10 Nothing in this Agreement shall fetter the discretion of the CVRD or the City in the exercise of their statutory powers under the Community Charter, the Local Government Act, or any

other statute.

The parties have executed this agreement as of the day, month and year first above written.

**COMOX VALLEY REGIONAL DISTRICT**

**By its authorized signatories:**

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Name, Title

**CITY OF CAMPBELL RIVER**

**By its authorized signatories**

\_\_\_\_\_  
Name, Title

\_\_\_\_\_  
Name, Title