

APPENDIX C

CONSULTING SERVICES AGREEMENT

THIS AGREEMENT dated for reference _____, 20__ is BETWEEN:

SALT SPRING FIRE PROTECTION DISTRICT, an improvement district duly incorporated under the laws of British Columbia and having an address at 105 Lower Ganges Road, Salt Spring Island BC V8K 1T1 ("District")

AND:

Consultant's full name, having an address at **Consultant's address** ("Consultant")

GIVEN THAT the District wishes to engage the Consultant to provide consulting services as detailed in the 2014 Request for Proposals (Schedule "B") and consultant submission (Schedule "C") and the Consultant wishes to provide such services to the District in accordance with the terms and conditions of this agreement;

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

Definitions

1. In this agreement, in addition to the words defined above,
 - (a) "Terms of Reference" means the terms of reference for performance of the Services attached as Schedule "A";
 - (b) "Services" means the acts, services and work described in the Terms of Reference and all acts, services and work necessary to achieve the objectives set out in the Terms of Reference.

Services to Be Performed By the Consultant

2. The Consultant agrees to perform the Services during the Term, in accordance with the Terms of Reference, on the terms and conditions of this agreement.

Term

3. The term of this agreement is approximately 16 weeks commencing on _____ and expiring on the earlier of the completion of the Services or _____ (the "Term"), unless terminated sooner in accordance with this agreement.

Warranty As To Quality of Services

4. The Consultant represents and warrants to the District that:
 - (a) the Consultant has the education, training, skill, experience and resources necessary to perform the Services; and
 - (b) the Services will be performed in accordance with all applicable enactments and laws, and with all relevant codes, rules, regulations and standards of any professional or industry organization or association,

and the Consultant acknowledges and agrees that the District has entered into this agreement relying on the representations and warranties in this section.

Remuneration and Reimbursement

5. The District must pay the Consultant for the Services in the amount provided in the Terms of Reference in accordance with this agreement.

Invoices

6. Upon completion of the Term of the Agreement, the Consultant may deliver an invoice to the District, setting out fees and disbursements for Services performed in accordance with the fees described in the Request for Proposals.

Payment by the District

7. The District must, to the extent the District is satisfied the fees and disbursements are for Services reasonably and necessarily performed by the Consultant, pay the Consultant the fees and disbursements claimed in the invoice delivered in accordance with section 6, within 30 days after delivery of an invoice to the District.

Termination or Suspension at the District's Discretion

8. Despite the rest of this agreement, the District may, in its sole discretion, by giving notice to the Consultant, terminate or suspend all or any part, of the Services. If the District terminates or suspends all or part of the Services under this section, the Consultant may deliver an invoice to the District for the period between the end of the month for which the last invoice was delivered by the Consultant and the date of termination or suspension, and sections 6 and 7 apply. The Consultant is not entitled to, and irrevocably waives and releases, damages or compensation for costs incurred, loss of profit, or loss of opportunity, directly or indirectly arising out of termination or suspension of all, or any part, of the Services.

Termination for Default

9. Despite the rest of this agreement, the District may terminate all, or any part of, the Services, by giving notice of termination to the Consultant, which is effective upon delivery of the notice, if:
 - (a) the Consultant breaches this agreement and the Consultant has not cured the breach, or is not diligently pursuing a cure for the breach to the satisfaction of the District, in the District's sole discretion, within five days after notice of the breach is given to the Consultant by the District; or
 - (b) the Consultant becomes bankrupt or insolvent, a receiving order is made against the Consultant, an assignment is made for the benefit of its creditors, an order is made or resolution passed for the winding up or dissolution of the Consultant or the Consultant takes the benefit of any enactment relating to bankrupt or insolvent debtors.

Without limiting any other right or remedy available to the District, if the District terminates part or all of the Services under this section, the District may arrange, upon such terms and conditions and in such manner as the District considers appropriate, for performance of any part of the Services remaining to be completed, and the Consultant is liable to the District for any expenses reasonably and necessarily incurred by the District in engaging the services of another person to perform those Services. The District may set off against, and withhold from amounts due to the Consultant such amounts as the District determines, acting reasonably, are necessary to compensate and reimburse the District for the expenses described in this section.

Confidential Information

10. Except as required by law, the Consultant must not, during or after the Term, divulge or disclose any secret or confidential information, or any information that the Consultant receives in connection with this agreement which in good faith or good conscience ought not be disclosed.

Records

11. The Consultant:
 - (a) must keep proper accounts and records of its performance of the Services, including invoices, receipts and vouchers, which must at all reasonable times be open to audit and inspection by the District, which may make copies and take extracts from the accounts and records;
 - (b) must keep reasonably detailed records of performance of the Services by the Consultant, which must at all reasonable times be open to inspection by the District, which may make copies and take extracts from the records;
 - (c) must afford facilities and access to accounts and records for audit and inspection by the District and must furnish the District with such information as the District may from time to time require regarding those documents; and

- (d) must preserve, and keep available for audit and inspection, all records described in section 11(a) through (c) for at least two years after completion of the Services or termination of this agreement, whichever applies.

Delivery of Records

- 12. If the District terminates all or part of the Services under this agreement, the Consultant must immediately deliver to the District, without request, all Service-related documents in the Consultant's possession or under its control.

Ownership of Intellectual Property

- 13. By this section, the Consultant irrevocably grants to the District the unrestricted license for the District to use all technical information and intellectual property, including inventions, conceived or developed, or first actually reduced to practice, in performing the Services. The Consultant agrees that the license granted by this section includes the right for the District, at any time, to adapt, use and modify all such technical information and intellectual property for the District's uses set out above.

Agreement for Services

- 14. This is an agreement for the performance of services and the Consultant is engaged under the agreement as an independent contractor for the sole purpose of providing the Services. Except as is otherwise expressly prescribed in this agreement, neither the Consultant nor any of its employees or contractors is engaged by the District as an employee or agent of the District. The Consultant is solely responsible for any and all remuneration and benefits payable to its employees and contractors, and all payments or deductions required to be made by any enactment, including those required for Canada Pension Plan, employment insurance, workers' compensation and income tax. This agreement does not create a joint venture or partnership, and the Consultant has no authority to represent or bind the District in any way.

Conflict of Interest

- 15. The Consultant must not perform, for gain, any services for any person other than the District, or have an interest in any contract other than this agreement, if the District determines, acting reasonably, that performance of the services, or the Consultant's interest in the contract, creates a conflict of interest between the obligations of the Consultant to the District under this agreement and the obligations of the Consultant to the other person or between the obligations of the Consultant to the District under this agreement and the Consultant's pecuniary interest.

Assignment

- 16. No part of this agreement may be assigned or subcontracted by the Consultant without the prior written consent of the District, and any assignment or subcontract made without that consent constitutes a breach by the Consultant of this agreement. The Consultant agrees that, among other things, the District may refuse its consent if the District, in its sole discretion, determines that the proposed assignee or subcontractor has not got the skill, experience or corporate resources necessary to perform the Services. A permitted subcontract does not relieve the Consultant from any obligation already incurred or accrued under this agreement or impose any liability upon the District.

Time of the Essence

17. Time is of the essence of this agreement.

Severance

18. 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.

Notice

19. 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) The District:
Salt Spring Island Fire Protection District
105 Lower Ganges Road
Salt Spring Island
BC V9K 2T1
Fax: 250-537-2509
Email: corpadmin@saltspringfire.com

- (b) The Consultant

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 next 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.

Interpretation and Governing Law

20. 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.

21. This agreement is governed by, and is to be interpreted according to, the laws of British Columbia.

Binding on Successors

22. This agreement ensures 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.

Entire Agreement

23. 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.

Waiver

24. 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.

Schedule "A"

TERMS OF REFERENCE

Services

Provision of consulting services to develop a Fire Service Review and Master Plan, policies and implementation strategies for the District including:

(Insert details from RFP results/negotiations)

provide other services in connection with the above as requested by the District

Availability

The consultant is available _____ days per week in the District to perform the services indicated in the previous clause.

Remuneration

\$ _____ Hourly Rate

\$ _____ all inclusive cost including fees, expenses and taxes

As evidence of their agreement 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.

**SALT SPRING ISLAND FIRE
PROTECTION DISTRICT** by its
authorized signatories:

Chair Board of Trustee

Trustee

Date executed: _____,

Signed, Sealed and Delivered in the
presence of:)

_____)
Witness:)

_____)
Address:)

_____)
Occupation)

Full name of Consultant

Date executed: _____,