

REPORT TO PORT RENFREW LOCAL COMMUNITY SERVICES COMMITTEE  
MEETING OF THURSDAY, 12 JANUARY 2006

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**SUBJECT** PORT RENFREW SOLID WASTE – RENEWAL OF SOLID WASTE AGREEMENT  
WITH PACHEEDAHT FIRST NATION

**PURPOSE**

To renew the solid waste agreement with the Pacheedaht First Nation.

**HISTORY/BACKGROUND**

The Capital Regional District (CRD) operates a solid waste transfer station and service in Port Renfrew for residents within the Port Renfrew solid waste local service area. Operating costs for the facility are recovered through property taxes. Residents of the Pacheedaht First Nation have used the facility, for a fee, for some years under agreement with the CRD. The present service agreement with the Pacheedaht First Nation expired 31 December 2005.

**DISCUSSION**

The Pacheedaht First Nation wish to continue to use the transfer station under the same terms and conditions as in the past and at the same fee of 40% of the annual operating costs of the facility. Staff supports the Band's request and has prepared a draft service agreement for the committee's consideration (copy attached). The term of the new agreement would be for three (3) consecutive years to 31 December 2008.

**FINANCIAL IMPLICATIONS**

Under the new agreement the Band will continue to pay 40% of the total solid waste budget as its share of the costs of operation of the facility.

**RECOMMENDATION(S)**

That the Port Renfrew Local Community Services committee give direction on whether the Capital Regional District continue to provide solid waste services to the Pacheedaht First Nation, and if so:

1. approve the attached agreement between the Capital Regional District and the Pacheedaht First Nation and, for solid waste services for 2006, 2007 and 2008;
2. forward the agreement to the Pacheedaht First Nation for review; and
3. submit the final agreement to the Board for approval and execution.

  
Report Writer/Manager

  
General Manager Concurrence

**COMMENTS**

## SERVICES AGREEMENT

THIS AGREEMENT is dated for reference the \_ day of \_\_\_\_\_ 2006.

BETWEEN:

**CAPITAL REGIONAL DISTRICT**

524 Yates Street  
Victoria, B.C. V8W 2S6

(the "**CRD**")

OF THE FIRST PART

AND:

**PACHEEDAHT FIRST NATION,**

of Pacheedaht Indian Reserve No. 1 and  
Gordon River Indian Reserve No. 2  
350A Kalaid Street  
Port Renfrew, B.C. V0S 1K0

A First Nation within the meaning of the *Indian Act* (Canada)

(the "**First Nation**")

OF THE SECOND PART

### WHEREAS:

- A. The CRD is empowered pursuant to section 176(1)(b)(i) of the *Local Government Act* to make agreements with a public authority respecting activities, works or services within the powers of a party to the agreement, including the undertaking, provision and operation of activities, works and services;
- B. First Nations are defined as a public authority under the "Definition and Rules of Interpretation" section of the *Community Charter* which applies to regional districts pursuant to section 5.1 of the *Local Government Act*;
- C. The CRD operates a solid waste disposal service within the Port Renfrew Solid Waste Removal and Disposal Local Service Area;
- D. The lands outlined in bold in Schedule "A" (the "**Serviced Reserve**") are a part of the Pacheedaht Indian Reserve No. 1 and Gordon River Indian Reserve No. 2;

- E. The CRD, pursuant to Port Renfrew Solid Waste Removal and Disposal Local Services Establishment Bylaw No. 1, 1989, Bylaw No. 1745 (the "**Bylaw**"), is authorized to establish and operate a solid waste removal and disposal system within a local service area that contains the Serviced Reserve;
- F. The CRD has agreed to provide a solid waste disposal service for use of members of the First Nation resident on the Serviced Reserve under the terms and conditions hereinafter set forth;
- G. The Board of the CRD has approved this Agreement and a copy of the Board resolution is attached as Schedule "B" to this Agreement;
- H. The Council of the Pacheedaht First Nation has approved this Agreement by First Nation Council Resolution attached as Schedule "C" to this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained herein contained and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged) the parties hereto covenant and agree with the other as follows:

## 1.0 DEFINITIONS

### 1.1 In this Agreement:

**"Board"** means the Board of the Capital Regional District;

**"Port Renfrew Service Area"** means the Port Renfrew solid waste removal and disposal local services area created by the Bylaw;

**"Prohibited Waste"** means a gaseous, liquid or solid material, substance or object, including, but not limited to: aggregate, asphalt, biomedical waste, clean soil, concrete, corrugated cardboard, directories, lead acid batteries, paper fibres, propane tanks, scrap metal, tires, used oil filters, white goods, hazardous waste, ignitable waste, liquids, motor vehicle bodies, farm implements, PCB's, radioactive waste, reactive waste, rubble, sharps, solid waste that is on fire or smouldering and special waste, excluding waste asbestos; where each term in this definition has the meaning ascribed to it in the Hartland Landfill Tipping Fee and Regulation Bylaw No. 5, 2003, if it is defined in that Bylaw.

**"Recycling Area"** means that area of the Transfer Station which has been designated by the Solid Waste Manager for the disposal of recyclable waste;

**"Recyclable Materials"** means a marketable material, substance or object including but not limited to: paper fibres, directories, corrugated cardboard, glass, metal and

plastic containers, white goods, tires, oil filters or containers, scrap metal, dry cell or chargeable or non-chargeable batteries;

**"Solid Waste Disposal"** means the service provided by the CRD for the disposal of certain solid waste materials from the First Nation, and from the Port Renfrew Service Area;

**"Solid Waste Manager"** means the manager of solid waste, or his or her deputy appointed by the general manager;

**"Transfer Station"** means the facility maintained by the CRD for the benefit of the Port Renfrew Service Area located on Lots 8, 9 and 10, Section 36, Township 13, Renfrew District, Plan 5109, and at which solid waste from the Serviced Reserve may be disposed.

## **2.0 SOLID WASTE AND RECYCLABLE MATERIAL DISPOSAL**

- 2.1 The CRD shall provide a Solid Waste Disposal service at the Transfer Station for use by First Nation members.
- 2.2 The CRD shall establish a Recycling Area at the Transfer Station for use by the First Nation members for the deposit of Recyclable Materials.
- 2.3 The Transfer Station is open for use by the First Nation members twenty-four (24) hours per day, seven (7) days per week. However, CRD personnel are present at the Transfer Station Monday to Friday, from 8:30 a.m. to 4:30 p.m. The CRD reserves the right to restrict or limit access to the Transfer Station in the event of an emergency or because of public safety or environmental concerns, or operational requirements.
- 2.4 The Solid Waste Disposal Service provided to the First Nation under the terms of this Agreement are restricted to those persons resident on the Serviced Reserve.
- 2.5 The First Nation members shall not deposit any Prohibited Waste in the transfer bins or at the Recycling Area at the Transfer Station, except when permitted as a recyclable material at the Recycling Area.
- 2.6 The First Nation agrees to comply with all regulations posted at the Transfer Station relating to the administration and operation of the Transfer Station.

### **3.0 PAYMENT**

- 3.1 The First Nation shall pay annually in advance forty (40%) percent of the annual operating budget for the Solid Waste Disposal Service as approved by the Board for the Port Renfrew local service area. The CRD shall invoice the First Nation on or before April 15 of each year and the First Nation shall pay the same on or before June 15 of the same year.
- 3.2 Should the First Nation fail to make any payment required to be made to the CRD by the First Nation under this Agreement, the amount in arrears shall bear interest at the rate of prime as set by the CRD's bankers, plus one (1%) percent per annum.
- 3.3 Should the First Nation fail to make the payments as provided in this Agreement to the CRD on the date that the payment is due, the CRD may, at its option, and upon two (2) months' written notice, discontinue the services provided under this Agreement until payment has been made in full, together with interest on the balance owing as required under section 3.2.
- 3.4 If the CRD fails to provide the Solid Waste Disposal Service as provided for in this Agreement, then the CRD must refund to the First Nation any monies paid in advance by the First Nation, less an amount representing the portion of the yearly payment for which the CRD did provide the Solid Waste Disposal Service.

### **4.0 TERMINATION**

- 4.1 The CRD may terminate this Agreement at any time upon ninety (90) days' notice in writing to the First Nation.
- 4.2 If the CRD terminates this Agreement as provided for in section 4.1, the First Nation shall notify its members to cease use of the Transfer Station.
- 4.3 The First Nation may terminate this Agreement at any time upon ninety (90) days' notice in writing to the CRD.
- 4.4 In the event of termination of this Agreement under sections 4.1 or 4.3, the CRD shall refund any portion of the annual payment made by the First Nation to the CRD for the period of time over which those services will not be provided.

### **5.0 TERM OF AGREEMENT**

- 5.1 This Agreement comes into force on the 1st day of January, 2006 and shall continue in force until December 31, 2010.

## **6.0 INTERPRETATION**

- 6.1 Nothing contained or implied herein shall prejudice or affect the rights and powers of the CRD in the exercise of its functions under any public and private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised in relation to providing Solid Waste Disposal Services as if this Agreement had not been executed and delivered by the First Nation.
- 6.2 This Agreement shall not be construed so as to create any greater standard of care or liability on the part of the CRD in respect of supplying of Solid Waste Disposal Services to occupants of the Serviced Reserve than that which applies to the supply of such services to other occupants of the Port Renfrew Service Area.
- 6.3 Nothing in this Agreement shall be interpreted as creating an agency, partnership or joint ventureship between the CRD and the First Nation.
- 6.4 Time shall be of the essence of this Agreement.
- 6.5 The headings in this Agreement are inserted for convenience and reference only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision of it.
- 6.6 No waiver or any term or condition of this Agreement or of a breach of any term or condition of this Agreement by either party hereto shall be effective unless it is in writing and no waiver of breach, even if in writing, shall be construed as a waiver of any future breach.
- 6.7 Whenever the singular, masculine and neutral are used throughout this Agreement, the same shall be construed as meaning the plural or the feminine or the body corporate or politic as the context so requires.
- 6.8 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their successors.
- 6.9 This Agreement is governed by the laws of British Columbia.
- 6.10 This Agreement may be executed in counterpart with the same effect as if both parties had signed the same document. Each counterpart shall be deemed to be an original. All counterparts shall be construed together and shall constitute one and the same Agreement.

**IN WITNESS WHEREOF** the parties hereto have hereunto set their hands and seals the year and date first above written.

**CAPITAL REGIONAL DISTRICT** by its )  
authorized )  
signatories )

\_\_\_\_\_)  
Chair )

\_\_\_\_\_)  
Corporate Secretary )

**SIGNED, SEALED AND DELIVERED** by the )  
**PACHEEDAHT INDIAN BAND COUNCIL** )  
pursuant to the consent of a majority of the )  
Councillors of the First Nation present at a )  
Council meeting duly convened at which )  
authority was given for the Pacheedaht First )  
Nation to enter into this Agreement. )

\_\_\_\_\_)  
Witness Signature )

\_\_\_\_\_)  
Address )

\_\_\_\_\_)  
Occupation )

\_\_\_\_\_)  
Chief )

\_\_\_\_\_)  
Councillor )

\_\_\_\_\_)  
Councillor )

\_\_\_\_\_)  
Councillor )

\_\_\_\_\_)  
Councillor )

\_\_\_\_\_)  
Councillor )



**SCHEDULE "A"**

**"Serviced Reserve" - Outlined In Bold**

**SCHEDULE "B"**

**CRD Board Resolution**

**SCHEDULE "C"**

**PACHEEDAHT BAND COUNCIL RESOLUTION**

The Council of the Pacheedaht Indian First Nation **DOES HEREBY RESOLVE AND AGREE** to approve of and consent to the terms and conditions of the Solid Waste Disposal Service Agreement **BETWEEN** the Capital Regional District and the Pacheedaht Indian First Nation which Agreement is dated for reference the \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

**THAT WE FURTHER RESOLVE AND AGREE** to execute the Agreement on behalf of the Pacheedaht Indian First Nation.

Passed at a duly convened meeting of the Council of the Pacheedaht Indian First Nation held on the \_\_\_ day of \_\_\_\_\_, 200\_.

A quorum for a meeting of the First Nation Council is two Council members.

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