

This Contribution Agreement dated for reference the 13th day of March, 2013.

BETWEEN

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE
OF BRITISH COLUMBIA, represented by the Minister of
Community, Sport and Cultural Development (the "Province")

AND

Capital Regional District, a regional district incorporated under the
Local Government Act [R.S.B.C. 1996, Chapter 323], (the "CRD")

WHEREAS:

- A. The CRD has adopted a Core Area Wastewater Management Plan that has been approved by the Province's Minister of Environment and that includes the construction of a Wastewater Treatment Plant (WWTP) and an Energy Centre for Sludge Treatment (ECST).
- B. The Province has approved funding to be paid by the Province to the CRD for the Project described in this Agreement, on the terms and conditions of this Agreement and when the CRD has met the eligibility criteria set out in this Agreement.

NOW THEREFORE, in consideration of the sum of One Dollar and other valuable consideration, the receipt and sufficiency of which is acknowledged by each party, the parties agree as follows:

DEFINITIONS

- 1. In this Agreement and its recitals the following definitions apply:

"Agreement" means this Contribution Agreement and any schedules attached hereto;

"Agreement on Internal Trade" – means the agreement entered into between the Governments of Canada, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, New Brunswick, Quebec, Ontario, Manitoba, Saskatchewan, Alberta, British Columbia and the Yukon which came into force in 1995, as amended from time to time;

"Commencement Date" means the date identified in Schedule A on which the Provincial Cabinet ratified the Provincial Treasury Board approval of funding for the Project;

“Commissioned/Commissioning” occurs when:

- (a) the facilities, systems, and assemblies of the Project are fully operational and have been tested to verify the Project is designed, installed, maintained, operated, and functions according to the design objectives and specifications;
- (b) the requirements of Schedule A have been met; and
- (c) the Province has evaluated the Commissioning Report described in section C.6 of Schedule C and the Province acknowledges, in writing, that the report is acceptable and that the eligibility criteria have been met;

“Completion Date” means the date specified in Schedule A upon which the CRD must meet all the requirements of this Agreement;

"Contract" means a contract between the CRD and a Third Party whereby the latter agrees to provide a product or service to the Project in return for financial consideration;

“Core Area” means the following seven (7) core municipalities within the CRD – City of Colwood, Township of Esquimalt, City of Langford, District of Oak Bay, District of Saanich, City of Victoria, and Town of View Royal;

"Fiscal Year" means the period beginning April 1 of a year and ending March 31 of the following year;

“Project” means the project described in Schedule A;

"Provincial Minister" means the Minister of Community, Sport and Cultural Development and includes anyone authorized to act on his/her behalf;

"Provincial Staff" means employees of the Ministry of Community, Sport and Cultural Development who are directly involved in the administration of this Agreement, and includes anyone authorized to act on their behalf;

“Substantial Completion of the ECST” is achieved when the ECST is ready for the intended use, for which it was designed and constructed, and when the Province has evaluated the Substantial Completion report described in section C.5 of Schedule C and the Province acknowledges, in writing, that the report is acceptable;

“Substantial Completion of the WWTP” is achieved when the WWTP is ready for the intended use for which it was designed and constructed, and when the Province has evaluated the Substantial Completion report described in section C.4 of Schedule C and the Province acknowledges, in writing, that the report is acceptable;

"Third Party" means any person, employee or agent, other than a party to this Agreement that is involved in the implementation of the Project.

SCHEDULES

2. The Schedules to this Agreement are:

| | |
|------------|--|
| Schedule A | Project Information |
| Schedule B | Payment Terms and Eligibility Criteria |
| Schedule C | Reporting Requirements |
| Schedule D | Commission |

TERM

3. Notwithstanding the actual date of execution of this agreement, the term of this agreement begins on the Commencement Date and expires on March 31, 2020.

OBLIGATIONS OF THE CRD

4. The CRD agrees to:
- (a) carry out the Project in a diligent and professional manner;
 - (b) commence carrying out the Project within 6 months of the date of reference of this Agreement;
 - (c) complete the Project no later than the Completion Date; and
 - (d) provide evidence satisfactory to the Province that the CRD has commenced the Project in accordance with section 4(b) of this Agreement.
5. For the purposes of section 4 (d), the following shall constitute sufficient evidence that the CRD has commenced carrying out the Project:
- (a) verification that contracts for work related to the Project have been awarded;
 - (b) site preparation or construction of any aspect of the Project has started; or
 - (c) other evidence deemed appropriate by the Province, acting reasonably.
6. If, in the opinion of the Province, the CRD has failed to provide evidence satisfactory to the Province in accordance with section 4(d) and section 5 of this Agreement to demonstrate the Project has commenced, this Agreement may be terminated by the Province at any time of its choosing and without notice. The Province shall advise the CRD, in writing, within forty-five days of being provided the evidence required under section 4(d) if it does not intend to accept such evidence. Otherwise, the Province shall be deemed to have accepted the evidence of commencement of the Project.

7. The CRD will comply, and will ensure that any Third Party will comply, with all applicable laws, statutes, regulations, or bylaws of Her Majesty the Queen in Right of Canada ("Canada"), the Province and any local government.
8. The CRD agrees to:
 - (a) establish and maintain accurate accounting and administrative records (including supporting documents) in a form and content satisfactory to the Province following generally accepted accounting principles for local governments;
 - (b) establish and maintain books of account, invoices, receipts and vouchers for all expenses incurred in a form and content satisfactory to the Province;
 - (c) permit the Province, or any staff member of the Province, for contract monitoring and audit purposes, to inspect at all reasonable times, any books of account or records (both printed and electronic, including, but not limited to, electronic storage devices), whether complete or not, and any executed Contracts that are produced, received or otherwise acquired by the CRD as a result of this Agreement;
 - (d) maintain all such accounts and records for a period of seven years after the Completion Date; and
 - (e) ensure that all Contracts entered into by the CRD with any Third Parties contain the provision in section 7 above.
9. The CRD is solely responsible for all aspects of the Project, including without limitation, the planning, design, construction, private finance costs, operation, maintenance, worker and public safety, completion and ownership of the infrastructure, and nothing in this Agreement shall be deemed to give the Province an interest in, or responsibilities for the Project, unless otherwise provided in this Agreement.
10. Upon completion of the Project, the infrastructure resulting from the Project will be used, maintained and operated for its intended purpose for a reasonable period of at least one half of the expected life of the asset after the Completion Date. This section does not prevent the replacement of defective, worn or outdated components of the Project consistent with good engineering practices.
11. The CRD agrees to ensure that the provincial contribution as set out in section B.1 of Schedule B of this Agreement is to be used solely for the purpose of defraying the costs incurred, excluding land acquisition costs, by the CRD in constructing and completing the WWTP and ECST as described in Schedule A.

12. The CRD agrees to promptly notify the Province through Provincial Staff, in writing, if it receives or is entitled to receive funding from any federal or private entity source or provincial funding outside of this Agreement (the "External Funding"). If the External Funding, together with the Province's contribution under this Agreement, exceeds two-thirds of the total actual cost of the Project as calculated before the inclusion of land acquisition costs, the Province reserves the right to adjust its contribution accordingly.
13. The CRD will not knowingly permit any member of the Legislative Assembly of British Columbia, a mayor or any municipal councillor of the Core Area, the Chair or any board member of the CRD, or any member of the commission established under Schedule D, to be admitted, directly or indirectly, to any share or part of any contract, agreement or commission made pursuant to this Agreement or in relation to the Project or to obtain any benefit arising therefrom.
14. The CRD acknowledges the Province will not provide any guarantees against Project default to the CRD or any other party.
15. The CRD acknowledges that it and the commission referred to in Schedule D are not agents of the Province and will do no act which might be construed as authorizing any contract or permitting any other liability or obligation to be incurred on behalf of the Province.
16. The CRD will retain title to and ownership of the infrastructure resulting from the Project for at least ten years after Commissioning.
17. In the event that, at any time within ten (10) years from Commissioning, the CRD:
 - (a) sells, other than to the Province, a local government, or a Crown corporation of the Province;
 - (b) leases (excluding the design, build, finance, and operation of the ECST described in Schedule A) other than to the Province, a local government, or a Crown corporation of the Province; or
 - (c) encumbers

directly or indirectly, the Project or any part thereof, paid for with funds contributed by the Province under this Agreement, the CRD hereby undertakes to repay the Province, on demand, a proportionate amount of the funds contributed by the Province, as follows:

| Where Project asset is sold, leased, or encumbered: | Repayment of contribution (in current dollars) |
|--|---|
| Within 2 years after Commissioning | 100% |
| Between 2 and 5 years after Commissioning | 55% |
| Between 5 and 10 years after Commissioning | 10% |
| 10 years after Commissioning | 0% |

18. At any time during the ten (10) years following the Commissioning, each party agrees to notify the other party in writing as soon as practicable, of any transaction triggering the above-mentioned repayment of which the party becomes aware.
19. The CRD agrees to ensure that any contracts it awards to any Third Party will be awarded in a way that is transparent, competitive, and consistent with this Agreement and the Agreement on Internal Trade and is also in accordance with regular purchasing provisions used by the CRD for contracted services.
20. The CRD agrees to ensure that all Contracts awarded in relation to the construction of the Project will include a provision ensuring that Substantial Completion of either or both of the WWTP and the ECST will not occur prior to April 1, 2017.

OBLIGATIONS OF THE PROVINCE

21. Provided the CRD is in compliance with its obligations under this Agreement, the Province will pay the CRD the amounts and in the manner set out in Schedule B of this Agreement.
22. The Province will not have any obligation to make a contribution under section 21 unless the CRD has complied with Schedule A and the eligibility criteria and payment provisions set out in Schedule B.

COMMUNICATIONS

23. The CRD agrees that all public information material pertaining to the Project will clearly indicate that the Project is funded in part by the Province. The CRD acknowledges that the Province shall be given at least 15 working days notice of any scheduled communications material or public events relating to the Project.
24. The CRD agrees to install, at their expense, temporary signage if provided by the Province at a prominent location where there is visible activity related to the Project indicating that the Project is funded in part by the Province.

25. The CRD agrees that temporary signage will be removed within 90 days of Project completion.
26. Upon completion of the Project, the CRD will install, at their expense, a plaque or permanent sign at the WWTP and the ECST with an appropriate inscription approved by the Province acknowledging that the Project was funded in part by the Province.

INDEMNIFICATION

27. The CRD will be solely responsible for and shall indemnify and save harmless the Province, and their ministers, officers, servants, employees or agents from and against all losses, claims, liabilities, suits, damages, actions, causes of action, costs and expenses, and demands of any kind ("losses"), or other proceedings by whomsoever brought or prosecuted in any manner based upon, or occasioned by any injury to persons, damage to or loss or destruction of property, economic loss or infringement of rights, caused by or arising directly or indirectly, from:
 - (a) the CRD's performance under this Agreement or the breach of any term or condition of this Agreement by the CRD, its officers, servants, employees, agents, and appointees to any commissions established pursuant to this Agreement or by any Third Party's performance of its Contract with the CRD and any officers, employees, servants or agents of the Third Party;
 - (b) the on-going operation, maintenance and repair of the infrastructure resulting from the Project; and
 - (c) any act or omission of the CRD, a Third Party, their respective employees, officers, servants, or agents.

INSURANCE

28. The CRD will, without limiting its obligations or liabilities herein, provide and maintain, or cause to be maintained, at their own expense, insurances with insurers licensed in Canada with coverage of a type, and in amounts, that any similar business, acting reasonably, would procure for a project of the scope, size and exposure of the Project, during the term of this Agreement and for any subsequent ongoing operations and maintenance of the resulting infrastructure.
29. All policies covering the construction or operation of the Project shall name the Province as an additional named insured and the Province retains the right to request proof of insurance on an annual basis.

REPRESENTATIONS AND WARRANTIES

30. The CRD represents and warrants to the Province, with the knowledge that the Province will rely upon these warranties and representations in entering into this Agreement and in completing its obligations under this Agreement, that, at the execution date of this Agreement:

- (a) it is a regional district duly incorporated under the *Local Government Act*;
- (b) it has all necessary power and capacity to enter into this Agreement and to carry out the transactions contemplated herein and the execution of this Agreement has been duly and validly authorized by all necessary proceedings under the *Local Government Act*;
- (c) the making and performance of this Agreement by the CRD has been duly authorized by the board of the CRD;
- (d) the execution of this Agreement and its performance will not result in a breach of any statute, bylaw or other enactment or of any agreement affecting it;
- (e) there is no claim or litigation pending or threatened against it which would affect its right to enter into and carry out its obligations under this Agreement; and,
- (f) all information contained in any report related to the Project is true and correct.

DEFAULT

31. Any of the following events will constitute an Event of Default, whether any such event be voluntary, involuntary or result from the operation of law or any judgment or order of any court or administrative or government body:

- (a) the CRD fails to comply with any provision of this Agreement;
- (b) any representation or warranty made by the CRD in connection with this Agreement is untrue or incorrect;
- (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the CRD pursuant to or as a result of this Agreement is untrue or incorrect;
- (d) the CRD ceases, in the opinion of the Province, to carry on business as a going concern;
- (e) a change occurs with respect to one or more of the properties, assets, conditions (financial or otherwise), business or operations of the CRD which, in the opinion of the Province, materially adversely affects the ability of the CRD to fulfill its obligations under this Agreement;
- (f) an order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the CRD;
- (g) the CRD becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency; or
- (h) a bankruptcy petition is filed or presented against, or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made, by the CRD or a receiver or receiver-manager of any property of the CRD is appointed.

TERMINATION

32. Upon the occurrence of any Event of Default and at any time thereafter the Province may, notwithstanding any other provision of this Agreement, at its sole option, elect to do any one or more of the following:
- (a) terminate this Agreement in which case the Province's obligation to make any payment of the money remaining unpaid under this Agreement is also terminated and discharges the Province of all liability to the CRD under this Agreement;
 - (b) require that the Event of Default be remedied within a time period specified by the Province;
 - (c) suspend any payment due to the CRD by the Province while the Event of Default continues;
 - (d) waive the Event of Default; and
 - (e) pursue any other remedy available at law or in equity.
33. If the Province terminates this Agreement under section 32(a), then such termination is effective upon ninety (90) days after written notice to the CRD.

REMEDIES NON-EXCLUSIVE

34. The rights, powers and remedies conferred on the Province under this Agreement or any statute or law are not intended to be exclusive and each remedy shall be cumulative and in addition to and not in substitution for every other remedy existing or available to the Province.
35. The exercise of any one or more remedies available to the Province will not preclude the simultaneous or later exercise by the Province of any other right, power or remedy.

APPROPRIATION

36. Notwithstanding any other provision of this Agreement, the payment of money by the Province to the CRD under this Agreement is subject to:
- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province, in any fiscal year or part thereof, when any payment by the Province to the CRD falls due under this Agreement, to make that payment; and
 - (b) Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited expenditure under any appropriation referred to in subsection (a) of this section.

NO FURTHER OBLIGATIONS

37. The CRD acknowledges that nothing in this Agreement will bind the Province to provide any funding for any addition or improvement to the Project, or any cost overruns of the Project, and that no partnership, joint venture or agency will be created or will be deemed to be created by this Agreement or any action of the parties under this Agreement.

JOINT AND SEVERAL OBLIGATIONS

38. In the event the CRD is comprised of more than one entity, then the covenants and obligations of each of such entities with the others will be both joint as well as several.

AMENDMENTS

39. Unless otherwise specified in this Agreement, this Agreement may be amended only by further written agreement between the parties. Any requests for amendments to this Agreement will be made in writing and submitted to the other party.

SURVIVAL OF TERMS

40. All of the provisions of this Agreement in favour of the Province and all of the rights and remedies of the Province, either at law or in equity, will survive any expiration or sooner termination of this Agreement.

NOTICE

41. Any written communication from the CRD to the Province must be mailed, personally delivered, faxed, or electronically transmitted to the following address:

Ministry of Community, Sport and Cultural Development
Local Government Infrastructure and Finance Branch
PO Box 9838, STN PROV GOVT
Victoria, BC V8W 9T1

Fax No.: 250 356-1873
Email: INFRA@gov.bc.ca

Attention: Director, Infrastructure and Engineering

42. Any written communication from the Province to the CRD must be mailed, personally delivered, faxed or electronically transmitted to the following address:

Capital Regional District
PO Box 1000
Victoria, BC V8W 2S6

Fax No.: 250 360-3234
Email: cawtp@crd.bc.ca

Attention: Chief Administrative Officer

43. Any written communication from either party will be deemed to have been received by the other party on the tenth business day after mailing in British Columbia; on the date of personal delivery if personally delivered; or on the date of transmission if faxed or electronically transmitted.
44. Either party may, from time to time, notify the other party in writing of a change of address and, following the receipt of such notice, the new address will, for the purposes of sections 41 or 42 of this Agreement, be deemed to be the mailing address of the party giving notice.

LOBBYISTS AND AGENT FEES

45. The CRD warrants:
- (a) that any person or organization it has hired, for payment, to speak to or correspond with any employee or other person representing the Province on the CRD's behalf, concerning any matter relating to the contribution under this Agreement or any benefit hereunder and who is required to be registered pursuant to either the *Lobbying Act*, R.S.C. 1985, c. 44 (4th Supp.) or the *Lobbyists Registration Act* [SBC 2001], c. 42, as amended, is registered pursuant to one or both of those acts;
 - (b) it has not and will not make a payment or other compensation to any legal entity that is contingent upon or is calculated upon the contribution hereunder or negotiating the whole or any part of the terms of this Agreement; and
 - (c) in the event of a breach of subsections (a) or (b) of this section, the Province may either terminate this Agreement or recover from the CRD the full amount of any contribution paid to the CRD by the Province under the terms of this Agreement.

NON-WAIVER

46. No term or condition of this Agreement and no breach by one party of any such term or condition will be deemed to have been waived unless such waiver is in writing signed by the other party.
47. The written waiver by one party of any breach by the other party of any term or condition of this Agreement will not be deemed a waiver of any subsequent breach by the other party of the same or any other term or condition of this Agreement.

ENTIRE AGREEMENT

48. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement.

FURTHER ACTS AND ASSURANCES

49. Each of the parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better and absolute performance of the terms and conditions of this Agreement.

TIME OF ESSENCE

50. Time will be of the essence of this Agreement.

ASSIGNMENT

51. The CRD will not, without the prior written consent of the Province, assign, either directly or indirectly, this Agreement or any of the rights of the CRD.

MISCELLANEOUS

52. This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.
53. The Schedules to this Agreement are an integral part of this Agreement as if set out at length in the body of this Agreement.
54. If any provision of this Agreement or the application to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired thereby and will be enforceable to the extent permitted by law.

55. Nothing in this Agreement operates as a consent, permit, approval or authorization by the Province or any ministry or branch thereof to or for anything related to the Project that by statute, the CRD is required to obtain unless it is expressly stated herein to be such a consent, permit, approval or authorization.
56. Any reference to a statute in this Agreement, whether or not that statute has been defined, includes all regulations at any time made under or pursuant to that statute and amendments to that statute.

DISPUTE RESOLUTION

57. Any disputes that arise under this Agreement will be referred to and finally resolved in accordance with the following procedures:
- (a) upon written notice from either party to the other outlining a dispute, the following representative of each party will meet within 21 days of receipt of such notice and attempt to resolve the dispute described in the notice:
 - i. the Director of Infrastructure and Engineering, Ministry of Community, Sport and Cultural Development on behalf of the Province;
 - ii. the Chair of the Core Area Wastewater Treatment Program Commission on behalf of the CRD;

- (b) if the dispute is not resolved in accordance with subsection (a) of this section, the parties will attempt in good faith to resolve the dispute through mediation under the rules of the Mediate BC Society;
- (c) unless the parties otherwise agree, if the dispute is not resolved pursuant to subsection (b) of this section, the dispute will be referred to and finally resolved by arbitration, in Victoria, pursuant to the *Commercial Arbitration Act*.


IN WITNESS WHEREOF each of the parties has executed this Agreement on the dates set out below.

SIGNED by the Minister of Community,
Sport and Cultural Development or his or her
duly authorized representative on behalf
of HER MAJESTY THE QUEEN IN
RIGHT OF THE PROVINCE OF
BRITISH COLUMBIA;


Minister or his/her Delegate

) Date: March 26/13


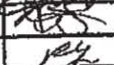

CAPITAL REGIONAL DISTRICT:

Per: 
Authorized Signatory

ALASTAIR BRYSON BOARD CHAIR
Name/Title

MARCH 18, 2013
Date

AGREEMENT AUTHORIZATION

| | Initial | Date |
|------------|---|---------------|
| Content |  | March 15/13 |
| Legal Form |  | 15 March 2013 |
| Authority |  | 18 March 2013 |

Schedule A: PROJECT INFORMATION

- A.1 Project Title: CRD Core Area Wastewater Treatment Project.
- A.2 Project Description: The CRD Core Area Wastewater Treatment Project will consist of a Wastewater Treatment Plant (WWTP), an Energy Centre for Sludge Treatment (ECST), and conveyance systems upgrades, all serving the Core Area.
- A.3 The WWTP shall:
- (a) deliver the following outcomes:
 - i. an average carbonaceous biochemical oxygen demand in the effluent not exceeding 25 mg/L;
 - ii. an average concentration of suspended solids in the effluent not exceeding 25 mg/L;
 - iii. recovery and reuse of resources, including heat reuse within the WWTP, and readiness for heat reuse in the communities of the Township of Esquimalt and the City of Victoria; and
 - (b) be procured using a Design-Build-Finance approach.
- A.4 The ECST shall:
- (a) recover and reuse resources, including energy and/or fuel from the solids treatment and handling processes; and
 - (b) be procured using a Design-Build-Finance-Operate approach.
- A.5 The Project will be managed in accordance with Schedule D.
- A.6 The Commencement Date of the Project is March 7, 2012 which is the date the Project funding received ratification of the Provincial Cabinet.
- A.7 The Completion Date of the Project shall be no later than March 31, 2019.

Schedule B: PAYMENT TERMS AND ELIGIBILITY CRITERIA

B.1 Financial Contribution and Payment by the Province:

- (a) Upon meeting the eligibility criteria identified in section B.2 of this Schedule B and subject to section 12 of this Agreement, the Province will pay to the CRD an amount that will not exceed the lesser of 1/3 of the total actual cost of the Project (not including land acquisition costs) or Two Hundred and Forty Eight Million Dollars and Zero Cents (\$248,000,000);
- (b) Notwithstanding any other provisions of this Agreement, in no event will the Province be or become obligated to pay to the CRD an amount exceeding Two Hundred and Forty Eight Million Dollars and Zero Cents (\$248,000,000) in relation to the Project;
- (c) Notwithstanding any other provisions in this Agreement, no payments will be made by the Province prior to April 1, 2017; and
- (d) Notwithstanding any other provisions in this Agreement, no payments will be made by the Province after March 31, 2020.

B.2 Eligibility Criteria:

When the CRD has met the following eligibility criteria, the Province will make the payments to the CRD described in section B.3:

- (a) The commission established under the Core Area Wastewater Treatment Commission Bylaw No. 1, 2012 of the CRD, and as described in Schedule D, is to be in place prior to any procurement awards for construction and/or design of either the WWTP or the ECST;
- (b) Substantial Completion of the WWTP on a date no earlier than April 1, 2017;
- (c) Substantial Completion of the ECST on a date no earlier than April 1, 2017;
- (d) The Project being Commissioned.

B.3 Payment Terms:

The Province will make payments to the CRD as follows:

- (a) Upon Substantial Completion of the WWTP and upon compliance with section C.4 of Schedule C, the Province will pay to the CRD the sum of Sixty Two Million Dollars and Zero Cents (\$62,000,000);
- (b) Upon Substantial Completion of the ECST and upon compliance with section C.5 of Schedule C, the Province will pay to the CRD the sum of Sixty Two Million Dollars and Zero Cents (\$62,000,000);

- (c) Upon Commissioning and upon compliance with section C.6 of Schedule C and subject to section 12 of this Agreement, the Province will pay to the CRD the lesser of the sum of One Hundred and Twenty-Four Million Dollars and Zero Cents (\$124,000,000), or the remaining portion of 1/3 of the total actual cost of the Project, excluding land acquisition costs, and less the payment of the sums previously paid under sections B.3(a) and B.3(b) of this Schedule B.

B.4 All payments will be made by the Province within 90 days of the date the funds become owing by the Province to the CRD under Section B.3 (a), (b), or (c), respectively.

Schedule C: REPORTING REQUIREMENTS

C.1 Quarterly Progress Reports

The CRD will submit to the Province through Provincial Staff quarterly progress reports, within thirty (30) days of the end of each quarter (March 31, September 30, and December 31) of each year of the term of this Agreement commencing on the first quarter following the date of execution of this Agreement. The quarterly progress reports will be in a form satisfactory to the Province and will include, but not be limited to, the following:

- (a) an introduction with a general description of the Project focusing on major achievements to date;
- (b) detailed summary information on the Project's progress; and
- (c) amounts expended on the Project.

C.2 Annual Progress Reports

The CRD will submit to the Province an annual progress report, delivered by June 30 of each Fiscal Year. The annual progress reports will be in a form satisfactory to the Province, which will include, but not be limited to, the following:

- (a) the information listed in section C.1 of Schedule C;
- (b) an overview about the status of both expected and unanticipated significant environmental issues related to the Project and the proposed mitigation strategies to deal with these concerns;
- (c) an update of qualitative and quantitative performance measurement information linked to the expected results to gauge Project benefit outcomes (e.g. environmental, economic, social, cultural, and safety) outlining results or successes achieved during the Fiscal Year. The CRD will ensure that appropriate data collection processes are in place to enable the capture of benefit outcomes;
- (d) any areas of concern or risks and proposed mitigation strategies affecting the schedule or the budget of the Project;
- (e) highlights of communication activities of the Project during the Fiscal Year; and
- (f) problems encountered, solutions and lessons learned.

C.3 Project Audit Report

The CRD may be required, at its expense, to provide a Project audit report from a person authorized to be an auditor under section 169 of the *Community Charter* confirming that the Project expenditures have been made in compliance with this Agreement. If required by the Province, the audit is to be in accordance with the form and reporting standards recommended by the Canadian Institute of Chartered Accountants.

C.4 Substantial Completion Report for WWTP

Prior to the Province making payment under section B.3(a) of Schedule B for the WWTP component of the Project, the CRD will deliver to the Province through Provincial Staff a Substantial Completion Report for the WWTP in a form satisfactory to the Province acting reasonably. This report will be approved by the Commission Chair and Project Director and will verify that the WWTP has met all the requirements for Substantial Completion in this Agreement.

C.5 Substantial Completion Report for the ECST

Prior to the Province making payment under section B.3(b) of Schedule B for the ECST component of the Project, the CRD will deliver to the Province through Provincial Staff a Substantial Completion Report for the ECST in a form satisfactory to the Province acting reasonably. This report will be approved by the Commission Chair and Project Director and will verify that the ECST has met all the requirements for Substantial Completion in this Agreement.

C.6 Commissioning Report

Prior to the Province making the final payment under section B.3(c) of Schedule B, the CRD will deliver to the Province through Provincial Staff a Commissioning Report in a form satisfactory to the Province acting reasonably. This report will be approved by the Commission Chair and Project Director and will verify that the Project has met all the requirements for Commissioning in this Agreement. The Commissioning Report will include, but not be limited to, the following:

- (a) demonstration of how the WWTP component has met the outcomes, the procurement and governance requirements, and all conditions identified in this Agreement;
- (b) demonstration of how the ECST component has met the outcomes, the procurement and governance requirements, and all conditions identified in this Agreement;
- (c) demonstration of how the WWTP and the ECST function together to meet the requirements of this Agreement;

- (d) demonstration of how the eligibility criteria in section B.2 of Schedule B have been met;
- (e) breakdown of Project costs outlining the costs for each of the WWTP, ECST, and conveyance upgrade components of the Project defined in section A.2 of Schedule A;
- (f) an overview of both expected and unanticipated significant environmental issues encountered during the Project and mitigation strategies undertaken to deal with these concerns;
- (g) qualitative and quantitative performance measurement information linked to the expected results to gauge Project benefit outcomes (e.g. environmental, economic, social, cultural, and safety) outlining results or successes achieved. The CRD will ensure that appropriate data collection processes are in place to enable the capture and reporting of benefits;
- (h) any areas of concern or risk and mitigation strategies that affected the schedule or the budget of the Project;
- (i) highlights of communication activities during the Project; and
- (j) problems encountered, solutions and lessons learned.

C.7 Reports:

The Province in no way endorses, approves or verifies the findings, technical data, results, quality statements, representations or recommendations in the reports described above.

C.8 Other Information:

The CRD will provide the Province, upon request, all such other information concerning the progress of the Project, as may be required by the Province.

Schedule D: COMMISSION

D.1 Establishment of the Commission

The CRD will establish, by a bylaw acceptable to the Province, a Commission to be known as the Core Area Wastewater Treatment Program Commission (the "Commission").

D.2 Commission Governance

The Commission must operate in accordance with the following:

- (a) deliver the Project in accordance with the scope, budget, and schedule established under this Agreement;
- (b) establish a Project Team that will report to the Project Director, who in turn reports directly to the Commission. Neither the Project Director nor the Project Team members will report to or receive direction through the CRD's Chief Administrative Officer on Project related matters;
- (c) select a procurement leader and any other legal, financial and procurement advisors with considerable previous experience working on behalf of the public sector and managing public-private partnership procurements of similar size, complexity and commercial structure in British Columbia; and
- (d) the Commission will have the authority to:
 - i. approve Project expenditures;
 - ii. hire and direct the Project team;
 - iii. approve key Project milestones; and
 - iv. enter into legal contracts on behalf of the CRD as required for the Project.

D.3 Commission Structure and Membership:

- (a) Membership
 - i. The Commission will consist of at least 7 members;
 - ii. Membership of the Commission will not include CRD Board members, CRD staff, provincial staff or other municipal staff;
 - iii. The Chief Administrative Officer of the CRD will be appointed as a non-voting member; and
 - iv. Membership on the Commission will be dependent on qualifications and experience ensuring that at a minimum, the following areas of expertise will be represented:
 - 1. large, complex infrastructure construction projects;
 - 2. wastewater engineering;
 - 3. resource recovery;

4. contract law;
5. alternative procurement methods;
6. project management;
7. project finance;
8. municipal waste water plant operations and maintenance; and
9. communications.

(b) Objectives:

- i. administer the procurement, design, construction and Commissioning of the Project;
- ii. conduct the procurement process in a way that promotes industry innovation and beneficial recovery and reuse of resources;
- iii. complete the Project in accordance with the scope, budget and schedule established under this Agreement; and
- iv. ensure Project compliance with all applicable provincial and federal laws.