



## REGIONAL DISTRICT OF EAST KOOTENAY

Agreement No.: \_\_\_\_\_

File No.: Shh 051 004

Term: April 2, 2007 to March 31, 2012

**THIS AGREEMENT** dated for reference the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

**BETWEEN:**

**REGIONAL DISTRICT OF EAST KOOTENAY**, a Regional District pursuant to the *Local Government Act*, RSBC 1996, Chapter 323 and incorporated pursuant to the laws of the Province of British Columbia with a place of business at 19 - 24th Avenue South, Cranbrook BC V1C 3H8.

(the "RDEK")

OF THE FIRST PART

**AND:**

**?AKISQ'NUK FIRST NATION**, as represented by the ?Akisq'nuk First Nation Chief and Council, and having its office at 3050 Highway 93/95, Box 130, Windermere BC V0B 2L0

(the "First Nation")

OF THE SECOND PART

**WHEREAS**

- A. The RDEK is empowered to undertake any work or service for a First Nation Government within the boundaries of the Regional District of East Kootenay;
- B. The First Nation is desirous of having the RDEK provide building and plumbing inspection services to Columbia Lake No. 3 Indian Reserve, I.R. #7427 ("the Reserve");
- C. The First Nation Council, pursuant to Council Resolution dated the \_\_\_\_\_ day of \_\_\_\_\_ 2007, a copy of which is to be submitted to the RDEK, has approved and consented to the terms and conditions hereinafter set out.

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

**1. SERVICES PROVIDED**

- 1.1 The RDEK agrees to provide building and plumbing inspection services on the Reserve by a qualified building inspector, pursuant to the terms of the relevant bylaws of the First Nation, when requested to do so.

**2. PAYMENT FOR SERVICES**

- 2.1 Before January 31 of each year, the RDEK shall provide the First Nation with an invoice for the preceding calendar year, for all expenses incurred by the RDEK on behalf of the First Nation in providing building and plumbing inspection services, such expenses to include actual wages of the building inspector plus 38.5% for benefits, administration and vehicle costs.
- 2.2 The First Nation shall pay the invoice issued pursuant to Section 2.1 of this Agreement, within 30 days of receipt.
- 2.3 If the First Nation defaults in any payment required to be made to the RDEK under this Agreement for a period in excess of 30 days from the date that the First Nation receives the invoice, the amount owing shall bear interest at a rate of 10% per annum, all calculated monthly on the balance from time to time owing.

### **3. INSURANCE AND INDEMNITY**

- 3.1 The First Nation covenants to obtain and keep in force during the term of this agreement, at its sole expense, insurance satisfactory to the RDEK protecting the RDEK and the First Nation (without any rights of cross-claim or subrogation against the RDEK) against claims for personal injury, death, property damage or third party or public liability claims arising out of, in connection with, or in any way related to the inspection services provided by the building inspector for the First Nation pursuant to this Agreement and in an amount not less than \$5,000,000.
- 3.2 The First Nation shall indemnify and save harmless the RDEK from and against all claims, demands, losses, costs, damages, actions, suits or proceedings by whomever made, brought or prosecuted and in any manner based upon, arising out of, related to, occasioned by or attributed to the breach of any provision of this Agreement to be performed by the First Nation and the officials, servants, employees, members, agents and contractors of the First Nation.
- 3.3 The RDEK shall indemnify and save harmless the First Nation from and against all claims, demands, losses, damages, actions, suits or proceedings by whomever made, brought or prosecuted against the First Nation and in any manner based upon, arising out of, related to, occasioned by or attributed to any negligence of any employee or agent of the RDEK while in the Reserve in accordance with the provisions of this Agreement.

### **4. TERMINATION**

- 4.1 Should the First Nation fail to perform any covenant or condition required under this Agreement, the RDEK may, at its option, terminate this Agreement and all services provided. The termination of this Agreement by the RDEK shall not preclude the RDEK from bringing action against the First Nation for money owed by the First Nation during the terms of this Agreement and up to the date of such termination.
- 4.2 Should the RDEK fail to perform any covenant or condition required under this Agreement, the First Nation may, at its option, terminate this Agreement and all services provided. The termination of this Agreement by the First Nation shall not preclude the First Nation from bringing action against the RDEK for money owed for services not being delivered by RDEK during the terms of this Agreement and up to the date of such termination.

### **5. COMMENCEMENT AND TERM OF AGREEMENT**

- 5.1 This Agreement shall commence on April 2, 2007 and shall continue until March 31, 2012 or until it is terminated by either party giving the other party 60 days written notice of its intention to so terminate. Notice of Termination may be served by either party by letter, sent by registered mail, to the address indicated on the face page of this Agreement.

### **6. INTERPRETATION**

- 6.1 Nothing contained or implied herein shall prejudice or affect the rights and powers of the RDEK or the First Nation in the exercise of their functions under any public or private statutes, bylaws, orders or regulations, all of which may be fully and effectively exercised in relation to each other and their assets as if this agreement had not been executed and delivered by all of the parties to this Agreement.
- 6.2 This Agreement shall not be construed so as to create any greater standard of care of liability on the part of the RDEK in respect of the supplying of building and plumbing inspection services hereunder to occupants within the Reserve, or to land or facilities within the Reserve, than that which applies to the supply of such services to other occupants, lands or facilities within the RDEK.
- 6.3 Headings are inserted in this Agreement for convenience only and shall not be construed as affecting the meaning of this Agreement.
- 6.4 No waiver of any term or condition of this Agreement or waiver of a breach of any term or condition of this Agreement by any party hereto shall be effective unless it is in writing and no waiver or breach even if in writing shall be construed as a waiver of any future breach.

- 6.5 This Agreement constitutes the entire Agreement amongst the parties and there are no terms, conditions, representations, or warranties, expressed or implied, statutory or otherwise, except for those expressly set forth herein.
- 6.6 Whenever the singular or masculine is used herein, the same shall be construed as meaning the plural or feminine or body politic or corporate where the context of the parties hereto so require.
- 6.7 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their permitted successors and assigns.

The Corporate Seal of **REGIONAL DISTRICT OF EAST KOOTENAY** was hereunto affixed in the presence of:

\_\_\_\_\_  
Gregory Deck, Chair

\_\_\_\_\_  
Lee-Ann Crane, Chief Administrative Officer

CS

SIGNED AND DELIVERED  
in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

) **?AKISQ'NUK FIRST NATION**

) \_\_\_\_\_  
Chief Wilfred Teneese

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

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

