

## LOAN AGREEMENT

**THIS AGREEMENT** dated for reference this \_\_\_ day of \_\_\_\_\_, 20\_\_.

BETWEEN:

### REGIONAL DISTRICT OF FRASER-FORT GEORGE

155 George Street  
Prince George, BC V2L 1P8

(the "**Regional District**")

OF THE FIRST PART

AND:

### HIXON VOLUNTEER FIRE DEPARTMENT SOCIETY

No. S-0020081  
P.O. Box 156  
Hixon, BC V0K 1S0

(the "**Society**")

OF THE SECOND PART

### WHEREAS:

- A. The Regional District is a regional district incorporated by Letters Patent under the *Local Government Act*, and has the power to provide assistance for the purpose of benefiting the community or any aspect of the community;
- B. The Society has entered into a Shared Cost Agreement with the Province under the Integrated Bilateral Agreement for the Investing in Canada Infrastructure Program to fund upgrades to the Hixon Fire Hall, a copy of which is attached to this Agreement as Schedule "A" (the "**Shared Cost Agreement**");
- C. The Shared Cost Agreement requires the Society to pay for the upgrade costs to the Hixon Fire Hall, and seek reimbursement from the Province; and
- D. The Regional District has agreed to loan to the Society the upgrade costs for the fire hall, provided that the Society repays to the Regional District those costs upon receipt from the Province of same;

**NOW THIS AGREEMENT WITNESSES** that in consideration of the premises, the terms and conditions hereinafter contained, the sufficiency and receipt of which is hereby acknowledged, the parties covenant and agree each with the other as follows:

## 1.0 DEFINED TERMS

1.1 In this Agreement, the following terms have the following defined meanings:

- (a) “Business Day” means a day, other than a Saturday or Sunday, on which Provincial government offices are open for normal business in British Columbia;
- (b) “Contractors” means any contractors engaged by the Society for the design and construction of the Project;
- (c) “Eligible Expenditures” means eligible expenditures as that term is defined in the Shared Cost Agreement;
- (d) “Event of Default” means an event of default as defined in Article 5 of this Agreement;
- (e) “Interest” means interest from time to time payable by the Society to the Regional District pursuant to section 5.2 of the Agreement;
- (f) “Interest Rate” means the prime rate of interest of the Canadian Imperial Bank of Commerce plus 2%;
- (g) “Lands” means PID: 029-967-058, Lot A District Lot 3171 Cariboo District Plan EPP64808;
- (h) “Outstanding Loan” means any Project Costs that have been paid by the Regional District to the Society but have not been reimbursed by the Society to the Regional District;
- (i) “Project” means the project described in the Shared Cost Agreement, namely upgrades to the Hixon Fire Hall;
- (j) “Project Agreement” means any agreement entered into by the Society for the design or construction of the Project;
- (k) “Project Costs” means any costs incurred by the Society for the design or construction of the Project that fall within the definition of Eligible Expenditures under the Shared Cost Agreement;
- (l) “Project Manager” means the project manager required to be engaged by the Society under section 2.1(b) of this Agreement;
- (m) “Shared Cost Agreement” has the meaning specified in Recital B to this Agreement; and

- (n) “Shared Cost Funds” means any funds obtained from the Province under the Shared Cost Agreement;

## 2.0 SOCIETY’S OBLIGATIONS

### 2.1 The Society must do the following:

- (a) comply strictly with all obligations placed upon it in the Shared Cost Agreement;
- (b) employ a project manager to assist with Project design review, manage the procurement of Project Agreements, manage and support dealings with Contractors, provide construction oversight, and project close-out, and assist and support the Society in fulfilling its obligations to the Province under the Shared Cost Agreement;
- (c) obtain the Regional District’s written approval of the Project Manager and the terms of its contract with the Project Manager, such consent not to be unreasonably withheld;
- (d) not enter into any Project Agreements with any Contractors unless the Society has first obtained from the Regional District written approval of:
  - (i) the terms of the Project Agreement; and
  - (ii) the identity of the Contractor;not to be unreasonably withheld;
- (e) comply strictly with all obligations (including payment obligations) and enforce all of its rights under any all Project Agreements;
- (f) not make any significant change to the Project or agree to any amendment to a Project Agreement without first obtaining the written consent of the Regional District, such consent not to be unreasonably withheld;
- (g) forward to the Regional District any request for payment under a Project Agreement for its review;
- (h) only use any funds provided by the Regional District pursuant to this Agreement on Eligible Expenditures;
- (i) make all claims for reimbursement of Project Costs from the Province under the Shared Cost Agreement in a timely manner and within the time constraints contained in the Shared Cost Agreement, and in any event no later than **45 days** after incurring the Project Costs;

- (j) copy the Regional District on all correspondence and reports required under the Shared Cost Agreement, including but not limited to the reporting requirements specified in Schedule "C" of the Shared Cost Agreement;
  - (k) establish and maintain accounting and administrative records which clearly disclose the nature and amounts of the different items of cost pertaining to the Project, including those that are to be used as the basis for the calculation of the claims by the Society for reimbursement of Eligible Expenditures under the Shared Cost Agreement;
  - (l) permit the Regional District, for contract monitoring and audit purposes, to inspect at all reasonable times both before and after the completion of the Project, any books of account or records (both printed and electronic), and any other information reasonably required by the Regional District, whether complete or not, that are produced, received or otherwise acquired by the Society as a result of or in connection with this Agreement or the Shared Cost Agreement;
  - (m) not sell or otherwise dispose of its interest in the Lands or any improvement on the Lands (including the fire hall), or encumber its interest in the Lands, in whole or in part, prior to December 31, 2029, without the written consent of the Regional District;
  - (n) ensure that all Contractors maintain builder's risk insurance during the Project, including risk of fire and other risks and losses with respect to the fire hall;
  - (o) provide to the Regional District during the course of the Project quarterly report on the use of any funds provided pursuant to this Agreement by the Regional District;
- 2.2 The Society shall notify the Regional District within seven Business Days of the receipt of any Shared Cost Funds from the Province.
- 2.3 The Society shall pay to the Regional District any Shared Cost Funds it receives from the Province within seven days of receipt. For certainty, any Shared Cost Funds become due and payable to the Regional District within seven days of receipt from the Province.
- 2.4 Notwithstanding section 2.3 of this Agreement, any Outstanding Loan amount that remains outstanding after March 31, 2025, become due and payable on that date. Regardless of whether the Province has reimbursed the Society for the Outstanding Loan.
- 2.5 The Society acknowledges and agrees that the Regional District is providing funds under this Agreement solely for the purpose of expending those funds on

Eligible Expenditures, as that term is defined in the Shared Cost Agreement, and that it is obliged to provide to the Regional District any funds it received from the Province under the Shared Cost Agreement. If the Province requires any additional information or documents in order to verify whether a particular expenditure was an Eligible Expenditure, the Society will use its best efforts to provide that information or documents.

- 2.6 If the Regional District pays any amount under this Agreement for which the Society was not eligible for reimbursement under the terms of Shared Cost Agreement, including but not limited to payments that do not fall within the definition of Eligible Expenditures, and any overpayments made as the result of clerical or administrative error or miscalculation on the part of the Regional District, the Society, or the Province, then such an amount shall be deemed an overpayment and the Society will immediately, upon becoming aware of the overpayment or upon receipt of a demand from the Regional District, repay the full amount of any such overpayment to the Regional District.
- 2.7 The Society is solely responsible for all aspects of the Project, including without limitation the planning, design, construction, operation, maintenance, worker and public safety, completion and ownership, and nothing in this Agreement shall be deemed to give the Regional District an interest or responsibilities for the Project, unless otherwise expressly provided in this Agreement.

### **3.0 REGIONAL DISTRICT OBLIGATIONS**

- 3.1 Upon the Society providing proof to the satisfaction of the Regional District that the Society has incurred Project Costs under a Project Agreement, the Regional District shall pay the Project Costs directly to the Project Agreement Contractor.
- 3.2 The requirement in section 3.1 of this Agreement is conditional upon the Society being  
compliance with its obligations under this Agreement and the Shared Cost Agreement.

The Regional District shall be under no obligation to pay any Project Costs under section 3.1 of this Agreement until the Society has fulfilled its obligations under sections 2.1(b) through (d) of this Agreement.

- 3.3 Provided that the Regional District is satisfied with the proof provided by the Society under section 3.1, the Regional District shall pay Project Costs within thirty (30) days of written notification from the Society.
- 3.4 The Parties agree that the Regional District has no obligation to provide any Project Costs in excess of the lesser of one hundred percent (100%) of the total Eligible Expenditures of the Project, or One Million Thirty-Nine Thousand Nine Hundred Eight (\$1,039,908.00) Dollars.

- 3.5 If after the Society has provided to the Regional District any Shared Cost Funds, the Province requires the return of the funds pursuant to the terms of the Shared Cost Agreement, the Regional District shall have no obligation to repay the Shared Cost Funds to the Society or the Province. The Society shall be solely responsible for any required reimbursement under the Shared Cost Agreement.

#### **4.0 REPRESENTATIONS AND WARRANTIES**

4.1 The Society represents and warrants to the Regional District that:

- (a) the Society is incorporated as a society under the provisions of the *Society Act* (British Columbia);
- (b) the Society has the power and capacity to accept, execute and deliver, and to perform its obligations under this Agreement and the Shared Cost Agreement;
- (c) all information, financial statements, documents and reports furnished or submitted by the Society to the Province, whether prior to the date of this Agreement or after the date of this Agreement, were, or shall be, true and correct when submitted;
- (d) no insolvency event has occurred or is expected to occur with respect to the Society or any real or personal property involved in the Project. For the purposes of this provision, an insolvency event shall mean any events listed in subsections 5.1(e) to (j);
- (e) there are no liens, encumbrances, charges or other rights or interests affecting or otherwise impacting any real or personal property related to the Project that have not been otherwise disclosed to the Regional District and permitted by the Regional District and if a lien is registered pursuant to the Builders Lien Act the Society shall take the steps necessary to ensure that it is promptly discharged.

#### **5.0 DEFAULT**

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

- (a) the Society fails to comply with any provision of this Agreement, including a repayment obligation under section 2.3 or 2.4;
- (b) the Society fails to comply with any provision of the Shared Cost Agreement;
- (c) any representation or warranty made by the Society in connection with this

Agreement or the Shared Cost Agreement is untrue or incorrect;

- (d) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the Society pursuant to or as a result of this Agreement or the Shared Cost Agreement is untrue or incorrect;
- (e) the Society ceases, in the opinion of the Regional District, to carry on a business as a going concern;
- (f) a change occurs with respect to one or more of the properties, assets, conditions (financial or otherwise), business or operations of the Society which, in the opinion of the Regional District, materially adversely affects the ability of the Society to fulfil its obligations under this Agreement;
- (g) the Society sells or agrees to sell all or any part of its interest in the Lands;
- (h) an order is made, or a resolution is passed, or a petition is filed for the liquidation or winding up of the Society;
- (i) the Society becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency; or
- (j) a bankruptcy petition is filed or presented against the Society, or a proposal under the Bankruptcy and Insolvency Act (Canada) is made, or a receiver or receiver-manager of any property of the Society is appointed.

5.2 If an Event of Default occurs, interest will begin to accrue on the Outstanding Loan. Interest will accrue at the Interest Rate from the date of default and continues to accrue until the date that the Event of Default is cured.

## **6.0 TERMINATION**

6.1 Upon the occurrence of any Event of Default and at any time thereafter the Regional District 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 and require repayment of all or a portion of the Outstanding Loan in which case the Regional District's obligation to make any further payment of Project Costs under this Agreement is terminated;
- (b) require that the Event of Default be remedied within a time period specified by the Regional District;
- (c) suspend any payment due to the Society by the Regional District while the Event of Default continues;

- (d) waive the Event of Default; or
  - (e) pursue any other remedy available at law or in equity.
- 6.2 If the Regional District requires repayment of all or a portion of the Outstanding Loan under section 6.1(a) of this Agreement, the Society shall repay the requested amount to the Regional District within thirty days written notice and the Regional District is discharged of all liability to the Society under this Agreement.
- 6.3 If the Society fails to make a repayment as required under section 6.2 of this Agreement, the Society shall, upon written notice by the Regional District, transfer to the Regional District its interest in the Lands and all improvements on the Lands, in accordance with Schedule B of this Agreement.
- 6.4 If the Regional District terminates this Agreement under section 6.1 (a), such termination may take place on thirty days written notice.
- 6.5 The Regional District may, at its sole option, terminate this Agreement at any time without cause upon one hundred and twenty (120) days written notice to the Society.
- 6.6 Sections 2.1(l) and (m) and Article 9 survive the termination or early expiration of this Agreement.

## **7.0 RELATIONSHIP BETWEEN THE PARTIES**

- 7.1 The purpose of this Agreement is to establish terms and conditions under which the Regional District will pay for Project Costs, which is provided to the Society as a form of assistance under the authority of section 263(1)(c) of the *Local Government Act*.
- 7.2 No provision of this Agreement shall be construed as creating a partnership or joint venture relationship, or a principal-agent relationship between the Regional District and the Society in relation to the Project, or otherwise. The Project is not a service of the Regional District, and the Society does not undertake the Project as a contractor on behalf of the Regional District. Nothing in this Agreement, and no actions taken by the Regional District in implementing or enforcing this Agreement, shall:
- (a) make the Regional District responsible in any way for the management, supervision, operation or delivery of the Project;
  - (b) give rise to any liability on the part of the Regional District, whether to the Society or to any other person, for any losses, damages, costs, or liabilities arising from or related to the Project;
  - (c) be interpreted as giving rise to a duty of care on the part of the Regional



District to the Society, or to any other person, to investigate or to verify whether the Project is being undertaken in accordance with the requirements of this Agreement, or in accordance with any statutory or legal requirements that may apply.

## **8.0 PUBLIC RELATIONS**

8.1 At the request of the Regional District, any public announcements made by the Society relating to this Agreement and any promotions or publications regarding the Project will:

- (a) include clear recognition of the assistance given by the Regional District;
- (b) be in a form approved in writing by the Regional District; and
- (c) not represent or hold out that the Society acts as an agent or contractor for the Regional District in relation to the delivery of the Project.

## **9.0 LIMITATION OF LIABILITY AND INDEMNITY**

9.1 In no event will the Regional District, its elected officials, officers, servants, employees or agents be held liable for any damages in contract, tort (including negligence) or otherwise, for:

- (a) any injury to any person, including, but not limited to, death, economic loss or infringement of rights;
- (b) any damage to or loss or destruction of property of any person; or
- (c) any obligation of any person, including, but not limited to, any obligation arising from a loan, capital lease or other long term obligation

in relation to this Agreement, the Shared Cost Agreement or the Project.

9.2 The Society will, at all times either before or after the expiration or termination of this Agreement, indemnify and save harmless the Regional District and its elected officials, officers, servants, employees and agents, from and against all actions, claims, demands, losses, costs, damages, suits or other proceedings, whether in contract, tort (including negligence) or otherwise, by whomsoever brought or prosecuted in any manner based upon or occasioned by:

- (a) any injury to any person, including, but not limited to, death, economic loss or any infringement of rights;
- (b) any damage to or loss or destruction of property of any person; or
- (c) any obligation of any Person, including, but not limited to, any obligation arising from a loan, capital lease or other long-term obligation

- (d) in relation to this Agreement, the Shared Cost Agreement or the Project, except to the extent to which such actions, claims, demands, losses, costs, damages, suits or other proceedings are caused by the negligence or breach of the Agreement by an officer, servant, employee or agent of the Regional District in the performance of their duties. This indemnity shall survive the duration of this Agreement.

## **10.0 NON-DEROGATION**

- 10.1 Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the Regional District in the exercise of its functions under any public or private statutes, bylaws, orders and regulations, all of which may be fully and effectively exercised as if this Agreement had not been executed and delivered by the parties, and the interpretation of this Agreement shall be subject to and consistent with statutory restrictions imposed on the Regional District under the *Local Government Act* and *Community Charter*.

## **11.0 NOTICE**

- 11.1 Any notice required to be given under this Agreement will be deemed to be sufficiently given:

- (a) if delivered at the time of delivery; and
- (b) if mailed from any government post office in the Province of British Columbia by prepaid registered mail addressed as follows:

if to the Regional District: 155 George Street  
Prince George, BC V2L 1P8  
Attention: Chief Administrative Officer

if to Society: Gerald Thompson  
President  
Hixon Volunteer Fire Department  
Society  
PO Box 156  
Hixon, BC V0K 1S0

## **12.0 TIME**

- 12.1 Time is of the essence of this Agreement.

## **13.0 BINDING EFFECT**

- 13.1 This Agreement will enure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors, and permitted assignees.

**14.0 WAIVER**

14.1 The waiver by a party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement is not to be construed as a waiver of any future or continuing failure, whether similar or dissimilar.

**15.0 ENTIRE AGREEMENT**

15.1 This Agreement constitutes the entire agreement between the parties with respect to the matters herein and may not be modified except by subsequent agreement in writing.

**16.0 LAW APPLICABLE**

16.1 This Agreement is to be construed in accordance with and governed by the laws applicable in the Province of British Columbia.

**17.0 AMENDMENT**

17.1 This Agreement may not be modified or amended except by the written agreement of the parties.

**18.0 COUNTERPART**

18.1 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.

*Rest of Page Intentionally Left Blank. Signature Page to Follow*

**IN WITNESS WHEREOF** the parties hereto have set their hands and seals as of the day and year first above written.

**REGIONAL DISTRICT OF FRASER-FORT )  
GEORGE**

by its authorized signatories )

\_\_\_\_\_)  
Print Name: )

\_\_\_\_\_)  
Print Name: )

**HIXON VOLUNTEER FIRE DEPARTMENT )  
SOCIETY**

by its authorized signatories )

\_\_\_\_\_)  
Print Name: )

\_\_\_\_\_)  
Print Name: )

**SCHEDULE "A"**

**Shared Cost Agreement**

**TO BE INSERTED**

## Schedule "B"

### Provisions Related to Transfer of Land

#### 1.0 TRANSFER OF LANDS

1.1 For the purposes of this Schedule "B", the following words have the following meanings:

(a) "Completion Date" means the 60th day following provision of written notice by the Regional District under section 6.3 of this Agreement, or if the Land Title Office is closed on such day, the next day that office is open, or such other date as may be agreed to by the parties;

(b) "Permitted Encumbrances" means Right of Way 3079K, Easement M12716, and Easement M12717;

1.1 A transfer of the Lands pursuant to section 6.3 of this Agreement shall be on the following terms:

(a) The transfer shall occur on the Completion Date;

(b) On or before the Completion Date, the parties shall execute and deliver such documents as are reasonably required to convey title to the Lands and any improvements on the Lands to the Regional District, free and clear of all liens, charges and encumbrances, whether registered or unregistered, except the Permitted Encumbrances;

(c) the Transferee will be entitled to possession of the Land at noon on the Completion Date;

(d) The Society will pay the costs of the Regional District in relation to the transfer of the Land, including Land Title Office registration fees and legal fees;

(e) the Land will be at the risk of the Society until 12:00 noon on the Completion Date;

(f) all documentation required to convey the Land to the Regional District will be prepared by its solicitors and delivered to the solicitors for the Society at least five (5) business days before the Completion Date, and the Society will execute, in registrable form, all documents necessary to transfer title to the Land and Improvements to the Regional District;

(g) the Society will execute and deliver to the Regional District such further documents and give such further assurances as the solicitors for the Regional District may require in order to carry out and give effect to transfer;

(h) on the Completion Date the Regional District will cause its solicitors to register the transfer of the Land and improvements in the Land Title Office;

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