



# City of Richmond

## Report to Committee

*To GP-May 6 2013.*

**To:** General Purposes Committee  
**From:** Mike Redpath,  
Senior Manager, Parks

**Date:** April 16, 2013  
**File:** 06-2345-00/Vol 01

John Irving, P.Eng. MPA  
Director, Engineering

**Re:** **Ladner Steveston Local Channel Dredging Contribution Agreement 2013**

### Staff Recommendations

1. That the Ladner Steveston Local Channel Dredging Contribution Agreement as attached to the staff report "Ladner Steveston Local Channel Dredging Contribution Agreement," from the Senior Manager Parks and Director Engineering dated April 16, 2013 be approved.
2. That the Chief Administrative Officer and the General Managers of Community Services and Engineering and Public Works be authorized to sign the Ladner Steveston Local Channel Dredging Contribution Agreement.
3. That staff bring forward the finalized dredging budget and scope for consideration prior to any expenditure commitment.

Mike Redpath  
Senior Manager, Parks  
(604-247-4942)

John Irving  
Director, Engineering  
(604-276-4140)

Att. 2

REPORT CONCURRENCE			
<b>ROUTED TO:</b>		<b>CONCURRENCE</b>	<b>CONCURRENCE OF GENERAL MANAGER</b>
Law		<input checked="" type="checkbox"/>	
<b>REVIEWED BY DIRECTORS</b>	<b>INITIALS:</b> 	<b>REVIEWED BY CAO</b>	<b>INITIALS:</b> 

## Staff Report

### Origin

At the October 22, 2012 regular Council meeting, the following recommendations were approved in response to the report: Steveston Harbour Long Term Development Concept Update 2012:

- (1) That no greater than \$2.0M in funding from utility provisions be approved as the City's proportionate share for the dredging of the Steveston Channel, which will only be expended upon the approval and commitment by senior governments of matching grants;*
- (2) That Council forward a letter to the Richmond MLAs, MPs, Port Metro Vancouver, Small Craft Harbors and the Steveston Harbour Authority seeking financial support for the future dredging of the Local Area channel in Steveston Harbour; and*
- (3) That Richmond's portion of the funding be applied towards supporting the filling of Lot H, including compensation credits for the red zone.*

The purpose of this report is to provide an update on the Steveston channel dredging project and obtain Council approval for the Steveston Ladner Local Channel Dredging Contribution Agreement (the "Agreement" - **Attachment 1**). The Agreement establishes the process and future funding framework and working relationship between the City, Delta, Port Metro Vancouver (PMV) and the Province of British Columbia for future cooperative dredging in Ladner and Steveston.

### Analysis

Since 2009, the City has been working with PMV, the Province, and other stakeholders to develop a strategy and identify funding sources to alleviate the sedimentation problems that are occurring in Steveston Channel.

On December 17, 2012, a joint funding commitment by PMV, the Department of Fisheries and Oceans, the BC Ministry of Transportation and Infrastructure, the Corporation of Delta and the City was announced to undertake local channel dredging around Ladner and Steveston (the "Project").

Following the funding announcement, a steering committee comprising the four funding partners, was established. PMV is the lead agency for the Project and has assigned a Project manager who is responsible for the dredging contractor and securing all regulatory approvals. Dredging has been scheduled to start this summer.

**The Agreement**

The Agreement specifies that the City, Delta, PMV and others as necessary will work collaboratively to identify areas in need of dredging. For the City and Delta, their respective contributions would only be applied to areas under their jurisdiction- e.g. City monies would only be spent in Richmond. The Agreement also includes mutual indemnification by all parties.

PMV has advised that the agreement must be executed by all parties prior to the Provincial election on May 14, to avoid any increased risk of alternate decision making by the Province. PMV has also advised that the Agreement has now been signed by all parties except the City.

The Agreement as prepared by PMV and the Province does identify potential draft volumes of sediment to be removed, and estimated costs, however it is recognized by PMV and the City that the stated volumes and costs do not reflect accurate data and these numbers will need to be revised upwards to ensure adequate dredging in Steveston Channel. PMV confirms this in their memo dated April 23, 2013 (**Attachment 2**). Section 6.3 of the Agreement explicitly states that "...no Party has any payment of other financial obligations..." until such time as the budget and scope are approved by all Parties, excepting planning, design and RFP costs. Once defined, the final budget and scope will be brought forward to Council for approval.

PMV also confirms that they are moving forward with assessing the feasibility of the habitat enhancement project at the east end of Steveston Harbour that aligns with Council's support of the SHA Long Term Development Concept. PMV could potentially use material from Steveston Channel for the habitat enhancement project, yielding significant cost benefits.

**Request for Proposal:**

A Request for Proposal (RFP) has been drafted by PMV and is currently on BC Bid and proposals are being solicited for alternative dredging options for both the Steveston and Ladner Channels. The RFP details volumes of sediment to be dredged, specific locations along the existing navigable channels, and seeks methods for dredging (e.g. suction dredging, clamshell removal) and disposal options (on land, river or deep-sea).

Given the limited funding available for dredging at present, the alternative dredging options and associated costs for disposal proposals will be received and no City commitments for either dredging or commitment of funding will be undertaken without future Council approval.

**Complementary Dredging:**

Specific areas in Steveston outside of the navigable channel which are the responsibility of the City to dredge include Scotch Pond, Imperial Landing Lot H, and Britannia. The city will be able to secure preferred rates and capitalize on the mobilization of dredging equipment and disposal options thus potentially reducing the cost of dredging independently in the future. Subject to confirmation of pricing through the existing RFP process, staff will investigate opportunities for complementary dredging for these specific City owned submerged areas as well.

### Financial Impact

Finalized budget and scope for dredging would be presented to Council for consideration prior to expenditure commitment, excepting that planning, design and RFP costs would be committed to immediately under the Agreement. The expected costs to the City are anticipated to be less than \$100k.


Council approved \$2M in funding for dredging cost sharing that remains unspent.

### Conclusion

The proposed agreement provided in **Attachment 1** represents the best opportunity for the City to advance dredging in the Steveston Channel in 2013. Should the agreement be endorsed, staff will work with the other parties to define the final budget and scope and return this to Council for approval.



Mike Redpath  
Senior Manager, Parks  
(604-247-4942)



John Irving, P.Eng. MPA  
Director, Engineering  
(604-276-4140)

**LADNER STEVESTON LOCAL CHANNEL DREDGING CONTRIBUTION  
AGREEMENT**

THIS AGREEMENT made as of the 12<sup>th</sup> day of April, 2013 (the "Effective Date").

**BETWEEN:**

**VANCOUVER FRASER PORT AUTHORITY**, a corporation established pursuant to the *Canada Marine Act*, having an office at 100 the Pointe, 999 Canada Place, Vancouver, B.C. V6C 3T4 ("VFPA")

**AND:**

**HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**, represented by the Minister of Transportation and Infrastructure, having an office at 940 Blanshard Street, P0 Box 9850 Stn Prov Govt, Victoria, B.C. V8W 9T5 (the "Province")

**AND:**

**THE CORPORATION OF DELTA**, a municipal corporation having an office at 4500 Clarence Taylor Crescent, Delta, B.C. V4K 3E2 ("Delta")

**AND:**

**THE CITY OF RICHMOND**, a municipal corporation having an office at 6911 No. 3 Road, Richmond, B.C. V6Y 2C1 ("Richmond")

**WHEREAS:**

- A. VFPA, the Province, Delta and Richmond (collectively, the "Parties", and individually, a "Party") wish to support port communities and tenants, help to protect existing business activity, and create an opportunity for new investment in Steveston and Ladner;
- B. The Project is the result of an agreement by the Parties publically announced on December 17th, 2012 with the stated objectives of facilitating and improving the movement of commercial and recreational vessels in five designated local channels (Deas Slough, Ladner Reach, Ladner Harbour, Canoe Pass and Sea Reach) within the Corporation of Delta and the designated local channel (Cannery Channel) at Steveston Harbour in the City of Richmond;

- C. The Parties wish to meet the objectives of the Project through the cost-effective planning, design, dredging and funding of the Project;
- D. The Parties agree that VFPA will be responsible for delivery and implementation of the Project in accordance with the terms and conditions of this Agreement;
- E. The Parties have formed a Steering Committee for the purposes of reviewing and approving scope, schedule and budget impacts and ensuring compliance with Project objectives; and
- F. The Parties will each provide a fixed funding contribution for the Project on the terms and conditions of this Agreement.

NOW THEREFORE, in consideration of these premises and other good and valuable consideration (the receipt and sufficiency of which is acknowledged by each of the Parties), the Parties agree as follows:

## **1.0 DEFINITIONS**

- 1.1 In this Agreement (including the recitals) the following terms will have the meanings as defined below:
  - (a) “Agreement” means this contribution agreement and all schedules, as may be amended from time to time;
  - (b) “Delta Maximum Project Contribution” means \$2.0 Million;
  - (c) “Delta Representative” means the person designated by Delta as its representative for the purposes of this Agreement;
  - (d) “Event of Default” means any of the events described in Section 12.1;
  - (e) “Ladner Local Channel Dredging Project” means the dredging of Deas Slough, Ladner Reach, Ladner Harbour, Canoe Pass and Sea Reach as shown in Schedule “A”;
  - (f) “Maximum Project Contribution” means, as the context requires, one or more of the Province Maximum Project Contribution, Delta Maximum Project Contribution, Richmond Maximum Project Contribution or VFPA Maximum Project Contribution;
  - (g) “Project” means the development, design, dredging and associated works associated with the Ladner Local Channel Dredging Project and the Steveston Local Channel Dredging Project, the scope of which are generally described in Schedule “A”;

- (h) "Project Completion" means the condition obtained when the Project, except for those items which are or may be the subject of a warranty claim, has been completed to the satisfaction of VFPA and each Party has paid all monies owing by it under this Agreement;
- (i) "Project Costs" means the Eligible Project Costs of completing the Project as defined in Schedule "B";
- (j) "Project Manager" means the consultant retained by VFPA to coordinate delivery of the Project;
- (k) "Project Scope" means the scope of the Project described in Schedule "A" or as changed by the Parties in accordance with this Agreement;
- (l) "Province Maximum Project Contribution" means \$3.0 Million;
- (m) "Province Representative" means the person designated by the Province as its representative for the purposes of this Agreement;
- (n) "Representative" and "Representatives" mean, as the context requires, one or more of the Province Representative, Delta Representative, Richmond Representative or VFPA Representative;
- (o) "Richmond Maximum Project Contribution" means \$2.0 Million;
- (p) "Richmond Representative" means the person designated by Richmond as its representative for the purposes of this Agreement;
- (q) "Steering Committee" means the committee established to oversee the implementation of the Project consisting of the Parties' Representatives;
- (r) "Steveston Local Channel Dredging Project" means the dredging of Cannery Channel at Steveston Harbour as shown in Schedule "A";
- (s) "VFPA Maximum Project Contribution" means \$2.75 Million;
- (t) "VFPA Representative" means the person designated by VFPA as its representative for the purposes of this Agreement.

## **2.0 SCHEDULES**

2.1 The following Schedules are attached to and form part of this Agreement:

- (a) Schedule "A" - Project Scope
- (b) Schedule "B" - Eligible and Ineligible Costs

- (c) Schedule "C" - Draft Budget Spreadsheet

### **3.0 PROJECT DELIVERY**

#### **3.1 VFPA will, subject to available funding:**

- (a) deliver the Project in accordance with the terms of this Agreement;
- (b) fully inform the Steering Committee of the work done and to be done by VFPA in connection with the Project;
- (c) expend funds received under this Agreement in accordance with the terms of this Agreement and only for the purpose of covering Project Costs;
- (d) promptly notify the Steering Committee of any proposed changes that may have a significant impact on the scope, schedule or budget of the Project and obtain the prior written consent of each Party before implementing such changes;
- (e) ensure all procurement processes for the Project comply with public procurement policies of VFPA and that such processes are fair, equitable, open, transparent and competitive and that proponents are afforded a full and fair opportunity to compete;
- (f) comply with all applicable laws, statutes, regulations, by-laws, and directions of all governmental and statutory authorities issued under lawful authority;
- (g) implement the Project in accordance with appropriate standards and specifications; and
- (h) ensure all consents, permits, licences, certificates and approvals necessary to complete the Project are obtained prior to commencement of dredging as part of the Project.

#### **3.2 VFPA will ensure that all communications materials including, but not limited to, media releases, public responses, events and printed materials are provided in advance to the Province, Delta and Richmond for review, input and approval, ensuring reasonable time is provided for such review, input and approval to take place. All public announcements made by VFPA concerning the Project, including publications, news releases, public communications and presentations regarding the Project, will acknowledge contributions of the Province, Delta and Richmond including their significance as a percentage of the Project contributions by all Parties.**

#### **3.3 VFPA will provide reasonable notice to the Province, Delta and Richmond Representatives of any proposed ceremony related to the Project.**

- 3.4 The Parties and the Representatives of the Parties will work cooperatively and make all decisions required of them under this Agreement in an expeditious, efficient and timely manner during the delivery of the Project to ensure that the schedule for the Project is maintained and to avoid claims for delay by Project design consultants and construction contractors.

#### **4.0 PROVINCE, DELTA, RICHMOND AND VFPA REPRESENTATIVES**

- 4.1 The Province Representative, the Delta Representative, the Richmond Representative and the VFPA Representative will each participate on the Steering Committee and will have authority as members of the Steering Committee to participate in Project decisions on behalf of their respective Party, in accordance with the following conditions and processes:
- (a) If any Party wishes to make a change to the Project Scope, it will propose the change to the Steering Committee for consideration;
  - (b) The Representatives of all Parties will participate in decisions related to both the Ladner Local Channel Dredging Project and the Steveston Local Channel Dredging Project;
  - (c) The Province Representative, the Delta Representative and the VFPA Representative will participate in decisions solely related to the Ladner Local Channel Dredging Project;
  - (d) The Province Representative, the Richmond Representative and the VFPA Representative will participate in decisions solely related to the Steveston Local Channel Dredging Project;
  - (e) Decisions of the Steering Committee, or the parts of it referred to in paragraphs (c) and (d) must be made by consensus; and
  - (f) The Steering Committee cannot amend the terms of this Agreement or affect the Maximum Project Contribution of a Party.
- 4.2 Concurrently with the execution of this Agreement, each Party will designate its Representative and delegate authority to that person to administer this Agreement, make decisions and act on its behalf in accordance with the scope of that delegated authority with respect to matters related to the Project. Each Party will notify each of the other Parties as to the name of its Representative.
- 4.3 Each Party's Representative may, at their discretion, consult each other Party's personnel and consultants, as may be required to obtain any approvals, appropriations and authorizations, and the Parties will co-operate to give each other sufficient time to arrange for such consultations and obtain such approvals, appropriations and authorizations.
- 4.4 The Steering Committee shall meet monthly. As determined by the VFPA Representative, the VFPA Representative or the Project Manager shall chair the meeting.

Each Representative shall attend each Steering Committee meeting, in person or by telephone conference, or send a knowledgeable delegate.

- 4.5 A Party may change its Representative by written notice to the other Parties.

## **5.0 REPORTING AND ACCOUNTING**

- 5.1 VFPA will:

- (a) commencing June 30, 2013 and within THIRTY (30) days after the end of every calendar quarter thereafter during the term of this Agreement, provide written quarterly reports (or at such other frequency as agreed to by the Parties) to the Steering Committee, and will immediately advise the Steering Committee of any change that may have a significant impact on the scope, schedule or budget of the Project;
- (b) establish and maintain accurate books of account and records including supporting documentation of all Project expenditures, including Project Costs;
- (c) permit the Province, Delta and Richmond, at any time or times during normal business hours and for up to THREE (3) years after the end of the term of this Agreement, to copy or audit, or both, any or all of the books of account and records (including supporting documentation) referred to in paragraph (b);
- (d) commencing June 30, 2013 and within THIRTY (30) days after the end of every calendar quarter thereafter during the term of this Agreement, provide to each Party a report of all Project activities undertaken and all Project Costs incurred in the previous calendar quarter, together with a written quarterly invoice for payment within THIRTY (30) days after the invoice is delivered to the Party; and
- (e) within NINETY (90) days following Project Completion, provide to the Province, Delta and Richmond a statement of all expenditures made on the Project clearly accounting for all Project Costs and a "Dredging Close-out Report" which generally summarizes all relevant aspects of all Project dredging and channel design, together with any warranty or other outstanding issues related to the Project.

## **6.0 PAYMENT**

- 6.1 The Parties will pay, up to their respective Maximum Project Contribution, incremental quarterly payments to VFPA within THIRTY (30) days after receipt of and based on quarterly reports and invoices referred to in section 5.1. Without limiting section 5.1, such reports and invoices will include:

- (a) progress of Project activities to date and brief description of activities planned for the next quarter;

- (b) an up-to-date summary of actual Project Costs;
  - (c) a description of any significant difficulties encountered, any anticipated claims for extra Project Costs or any other actual or anticipated deviations from the Project budget, schedule or other plans; and
  - (d) an invoice to each Party for payment, signed by the VFPA Representative, in the amount of no more than that Party's proportionate share of all Project Costs incurred in the quarter to which the invoice relates.
- 6.2 Subject to sections 6.3 to 6.5, the Parties agree that it is intended that Project Costs will be shared by the Parties in general conformance with the pro-rata contributions set out in the draft budget spread sheet, attached as Schedule "C". For clarity, Project Costs attributable to or for the benefit of both the Steveston Local Channel Dredging Project and the Ladner Local Channel Dredging Project will be shared by all Parties; Project Costs solely attributable to or for the benefit of the Steveston Local Channel Dredging Project will be shared by Richmond, the Province and VFPA; and Project Costs solely attributable to or for the benefit of the Ladner Local Channel Dredging Project will be shared by Delta, the Province and VFPA.
- 6.3 Subject to section 6.4, the Parties agree that no Party has any payment or other financial obligations under this Agreement until such time as all Parties have approved:
- (a) a final budget for the Project, which includes each Party's contributions to the Project or components of it, to replace that set out in Schedule "C"; and
  - (b) an updated Project Scope to replace that set out in Schedule "A",
- and the Parties further agree that such budget for the Project and updated Project Scope are to be completed prior to VFPA entering into contracts for the implementation of the Project or incurring Project Costs, other than costs for the development, planning and design of the Project.
- 6.4 Despite section 6.3, the Parties will share equally the Project Costs for the development, planning and design of the Project and the request for proposal process.
- 6.5 In no event will any Party's payments or payment obligations under this Agreement exceed its Maximum Project Contribution.
- 7.0 TERM**
- 7.1 Subject to the termination of this Agreement under section 12.2, the term of this Agreement commences on the Effective Date and ends on the date that Project Completion is achieved.

- 7.2 Despite any other provision in this Agreement, sections 5.1(c) and (e), 10.2 and 13.1 survive the expiration or termination of the term of this Agreement.

## **8.0 REPRESENTATIONS AND WARRANTIES**

- 8.1 Each Party represents and warrants to the other Parties with the intent that the other Parties will rely thereon in entering into this Agreement and in completing their obligations under this Agreement that:
- (a) it has the power, capacity and authority, to accept, execute and deliver its obligations under this Agreement;
  - (b) 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;
  - (c) 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; and
  - (d) this Agreement is binding upon and enforceable against it in accordance with its terms.
- 8.2 VFPA represents and warrants to the Province, Delta and Richmond with the intent that the Province, Delta and Richmond will rely thereon in entering into this Agreement that:
- (a) VFPA has, or will retain, the skills and experience necessary to carry out the Project in a professional, competent, timely and diligent manner; and
  - (b) all information statements, documents and reports furnished or submitted by VFPA to the Province, Delta and Richmond Representatives in connection with this Agreement are true and correct to the best of VFPA's knowledge.
- 8.3 All statements contained in any certificate, application or other document delivered by or on behalf of VFPA to the Province, Delta and Richmond Representatives under this will be deemed to be representations and warranties by VFPA under this Agreement.
- 8.4 All representations, warranties, covenants and agreements made in this Agreement and all certificates, applications or other documents delivered by or on behalf of VFPA are material and will conclusively be deemed to have been relied upon by the Province, Delta and Richmond and will continue in full force and effect during the continuation of this Agreement.

## **9.0 RELATIONSHIP**

- 9.1 The Parties agree that nothing in this Agreement constitutes any of them as the agent, joint venturer or partner of any other Party or gives any of them any authority or power to

bind any other Party in any way and that all obligations imposed under this Agreement will be several and not joint.

- 9.2 VFPA will not in any manner whatsoever commit or purport to commit the Province, Delta or Richmond or its Representative for the payment of money to anyone.

#### **10.0 FUTURE OPERATION AND MAINTENANCE**

- 10.1 VFPA will ensure that until Project Completion, all aspects of the Project are conducted in compliance with all applicable laws, statutes, regulations, by-laws and directions of all governmental and statutory authorities issued under lawful authority.
- 10.2 At the request of the Steering Committee, the Project Manager will develop a 10-year dredging maintenance plan for the five designated local channels within the Corporation of Delta and the one designated local channel at Steveston Harbour in the City of Richmond, which will reflect available funding and will include recommendations for implementation. For clarity, responsibility for undertaking any maintenance dredging is outside the scope of this Agreement.

#### **11.0 CONFIDENTIALITY**

- 11.1 Subject to provisions of the *Access to Information Act* or *Freedom of Information and Protection of Privacy Act*, as applicable, each Party will treat as confidential all information supplied to or obtained by it as a result of this Agreement and will not permit the publication, release or disclosure of the same without the prior written consent of the other Parties or their Representatives except if such disclosure is necessary to enable VFPA to fulfill its obligations under this Agreement and to the other Parties in relation to the Project or pursuant to a statutory obligation.

#### **12.0 DEFAULT**

- 12.1 Any of the following events will constitute an Event of Default, namely if:
- (a) a Party fails to comply with any provision of this Agreement such as to materially negatively affect the delivery of the Project;
  - (b) any representation or warranty made by a Party in this Agreement is untrue; or
  - (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of VFPA pursuant to or as a result of this Agreement is untrue.
- 12.2 Upon the occurrence of any Event of Default and at any time thereafter, each of the non-defaulting Parties may, notwithstanding any other provision of this Agreement, at its discretion exercisable by written notice to the other Parties:

- (a) during the continuation of such Event of Default, suspend any payment which would otherwise be payable by it under this Agreement; or
- (b) terminate this Agreement.

12.3 Any rights, powers and remedies conferred on a Party under this Agreement or under any statute or law are not intended to be exclusive and each shall be cumulative and in addition to and not in substitution for every other right, power and remedy existing or available under this Agreement, at law or in equity.

12.4 The exercise by a Party of any right, power or remedy will not preclude the simultaneous or later exercise by that Party of any other right, power or remedy.

### **13.0 INDEMNITY**

13.1 Each Party will indemnify and save harmless the other Parties, their agents, servants, employees, officers and directors (collectively, the "Indemnified Parties") from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that the Indemnified Parties may sustain, incur, suffer or be put to at any time, either before or after the expiration or termination of this Agreement, where the same or any of them are based on or arise out of anything done or omitted to be done by a Party or its agents, servants, employees, officers, directors, or subcontractors.

### **14.0 ASSIGNMENT**

14.1 No Party will, without the prior written consent of the other Parties, assign, whether directly or indirectly, this Agreement or any right under this Agreement.

### **15.0 NOTICES**

15.1 Any notice, consent, waiver, statement, other document or payment that any Party may desire or be required to give or deliver to the others will be conclusively deemed validly given or delivered to and received by the addressee, if delivered personally on the date of delivery or, if mailed, on the fifth business day after the mailing of the same in Canada by prepaid post addressed,

if to VFPA:

**Attention:** Tom Corsie  
Vancouver Fraser Port Authority  
100 The Pointe, 999 Canada Place  
Vancouver, B.C. V6C 3T4  
Facsimile: 604-665-9062

if to the Province:

**Attention:** Svein Haugen  
940 Blanshard Street, P0 Box 9850 Stn Prov Govt  
Victoria, B.C. V8W 9T5  
Facsimile: 250-356-6970

if to Delta:

**Attention:** Sean McGill  
The Corporation of Delta  
4500 Clarence Taylor Crescent  
Delta, B.C. V4K 3E2  
Facsimile:

and if to Richmond:

**Attention:** Dave Semple  
The City of Richmond  
6911 No. 3 Road  
Richmond, B.C. V6Y 2C1  
Facsimile:

15.2 Any Party may, from time to time, give written notice to the other Parties of any change of address of the Party giving such notice and after the giving of such notice the address therein specified will be conclusively deemed to be the address of the Party giving such notice.

15.3 Any notice, report, direction or other document transmitted by facsimile transmission from any Party to another Party will be conclusively deemed validly given to and received by the intended recipient when so transmitted to the facsimile numbers the Parties so advise.

## **16.0 DISPUTE RESOLUTION**

16.1 If any dispute arises under this Agreement, the Parties involved in the dispute will attempt to make decisions regarding resolution of the dispute efficiently, quickly and cost effectively.

16.2 The Parties involved in a dispute under this Agreement will disclose, subject to applicable laws, to each other all relevant information and documents regarding the dispute in a timely fashion with the intent that the Parties resolve any dispute between them within fourteen (14) days of the dispute arising (or within such other time period agreed to by those Parties) through amicable negotiations, failing which those Parties will resolve the dispute by referring the matter to the following representatives of the Parties for resolution or such other representatives as may be appointed by the Parties from time to time:

- (a) the Assistant Deputy Minister, Partnerships Department, for the Province;
- (b) the Chief Administrative Officer, Delta;
- (c) the Chief Administration Officer, Richmond; and
- (d) the Vice President, Real Estate, VFPA.

- 16.3 If a dispute under this Agreement is not resolved within fourteen (14) days of the dispute being referred to the persons identified in section 16.2, or within such other time period agreed to in writing by the Parties to the dispute, the dispute must be resolved by arbitration to which any Party to the dispute may refer the matter. Such arbitration must be conducted by a sole arbitrator appointed under the British Columbia *Commercial Arbitration Act*. The Parties to the dispute will agree on the arbitrator or, failing agreement, the arbitrator will be appointed in accordance with the rules of the British Columbia International Commercial Arbitration Centre and the *Commercial Arbitration Act*.
- 16.4 The cost of the arbitration will be shared equally by the Parties to the dispute and the arbitration will be governed by the laws of the Province of British Columbia.
- 16.5 The arbitration will be conducted at a location agreed upon by the Parties to the dispute.

#### **17.0 NON-WAIVER**

- 17.1 No term or condition of this Agreement and no breach by any Party of any such term or condition will be deemed to have been waived unless such waiver is in writing signed by the other Parties.
- 17.2 The written waiver of any breach of any term or condition of the Agreement will not be deemed a waiver of such term or condition or of any subsequent breach of the same or any other term or condition of this Agreement.

#### **18.0 ENTIRE AGREEMENT**

- 18.1 This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement.

#### **19.0 FURTHER ACTS AND ASSURANCES**

- 19.1 Each of the Parties will, upon the reasonable request of any other Party, 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 or more perfect and absolute performance of the terms and conditions of this Agreement.

## **20.0 TIME OF ESSENCE**

20.1 Time will be of the essence of this Agreement.

## **21.0 INTERPRETATION**

21.1 This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.

21.2 The headings appearing in this Agreement have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any provision of this Agreement.

21.3 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 any amendments to that statute.

21.4 In this Agreement wherever the singular or neuter is used it will be construed as if the plural or masculine or feminine, as the case may be, had been used where the context so requires.

21.5 No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the Parties.

21.6 If any provision of this Agreement or the application of it to any person or circumstances 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.

21.7 All dollar amounts expressed in this Agreement refer to lawful currency of Canada.

## **22.0 SUCCESSORS AND ASSIGNS**

22.1 This Agreement will enure to the benefit of and be binding upon the Parties and their successors and permitted assigns.

## **23.0 GENERAL**

23.1 Each Party is providing a fixed funding contribution only and each Party expressly disclaims any intention of creating a partnership and nothing in this Agreement shall constitute the Parties to be partners or constitute any Party to be the agent of the any other Party.

23.2 VFPA is entering into this Agreement on its own behalf and not as agent of Her Majesty in right of Canada.

- 23.3 The Province, Delta and Richmond each confirm that they have not, nor has any person on its behalf, given, promised or offered to any official or employee of VFPA or Her Majesty in right of Canada for or with a view to obtaining this Agreement any bribe, gift or other inducement and that it has not had any person on its behalf employed to solicit or secure this Agreement for a commission, percentage, brokerage or contingent fee.

IN WITNESS WHEREOF the Parties have executed this Agreement the day and year first above written.

**VANCOUVER FRASER PORT AUTHORITY**

by its authorized signatories:

\_\_\_\_\_  
President and CEO

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

**HER MAJESTY THE QUEEN IN RIGHT OF THE  
PROVINCE OF BRITISH COLUMBIA**, represented  
by the Minister of Transportation and Infrastructure

\_\_\_\_\_  
Minister or authorized representative

**THE COMMON SEAL OF THE CORPORATION  
OF DELTA** was hereunto affixed in the presence of:

\_\_\_\_\_  
(Signature, Title)

\_\_\_\_\_  
(Signature, Title)

**THE COMMON SEAL OF THE CITY of  
RICHMOND** was hereunto affixed in the presence of:

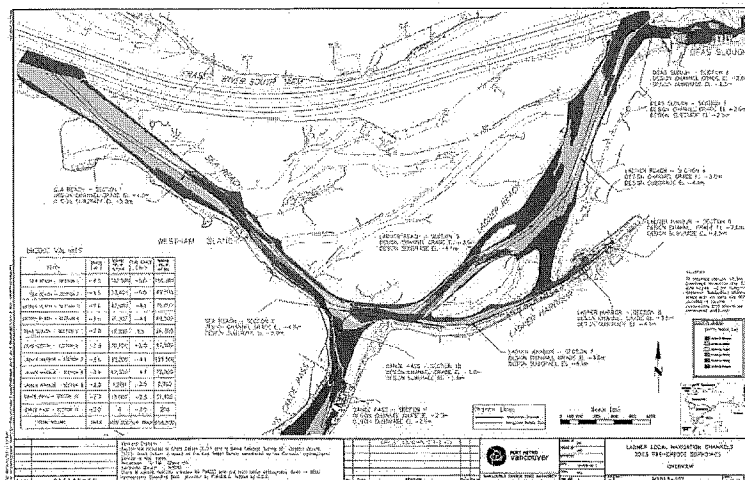
\_\_\_\_\_  
(Signature, Title)

\_\_\_\_\_  
(Signature, Title)

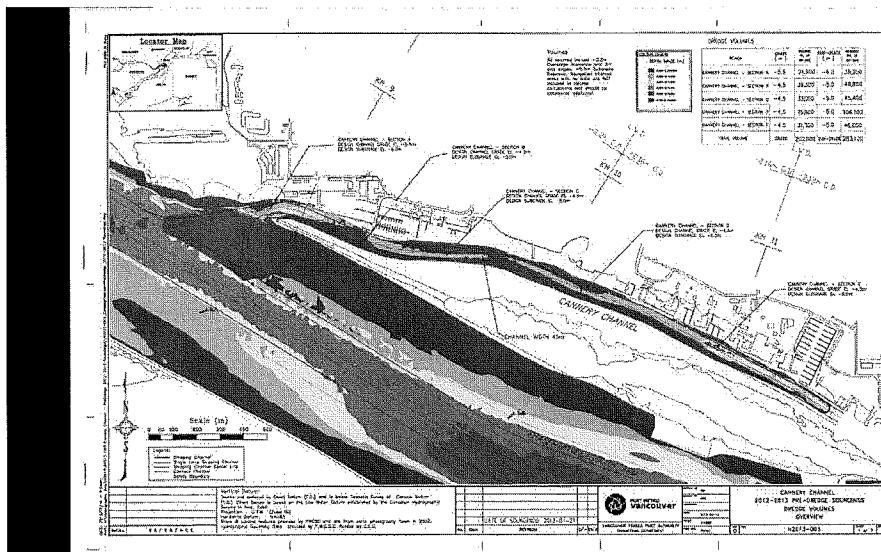
## SCHEDULE "A"

### 1.0 PROJECT SCOPE

- 1.1 The scope of the Project is confined to dredging the local channels described on Figures A.1 and A.2 to sub-grade, subject to the each Party's Maximum Project Contribution.



A.1-Ladner Local Channel Dredging Plan



A.2- Steveston Local Channel Dredging Plan

## **SCHEDULE "B"**

### **1.0 ELIGIBLE AND INELIGIBLE COSTS**

1.1 Eligible Project Costs will mean all direct costs properly and reasonably incurred by VFPA, or approved by the Steering Committee in advance of such costs being incurred, and paid solely and specifically in relation to the Project but does not include any costs referred to in section 2.1 of this Schedule.

1.2 The following are examples of Project Costs that will be eligible for reimbursement under this Agreement, provided that they fall within the definition set out in the immediately preceding paragraph:

(a) Prior to execution of this Agreement

- (i) costs approved by the Parties related to studies, tests, reports, consulting work including the Project Manager, and other actual costs incurred by VFPA after December 17<sup>th</sup>, 2012, other than staff time or other work internal to VFPA, for work directly related to development, planning and design necessary for the Project; and
- (ii) costs for services related to Project delivery by consultants as agreed to by the Parties;

(b) After execution of this Agreement

Costs actually and reasonably incurred by VFPA for planning, development, design, surveying, securing permits, environmental work, and dredging of and under the Project including:

- (i) costs for services related to Project delivery by consultants as agreed to by the Parties;
- (ii) the Project Manager;
- (iii) costs incurred under design and dredging contracts;
- (iv) actual costs of applications, permits/licences and approvals required for design and dredging of the Project;
- (v) surveying;
- (vi) studies, sampling and testing;

- (vii) actual costs of communications and community relations reasonably incurred for the Project (including Project signs, events, survey, and media releases);
- (viii) actual costs incurred by VFPA to resolve disputes, claims, or litigation by designers, contractors, or third parties arising from the Project; and
- (ix) any other costs as specifically agreed to in writing by the Parties.

## **2.0 INELIGIBLE PROJECT COSTS**

2.1 Notwithstanding the above, the following are examples of costs that are not Eligible Project Costs under this Agreement:

- (a) financing costs / interest on any Party's contribution;
- (b) staff and overhead costs of a Party (e.g. charges for computer usage, cell phones, etc.);
- (c) full cost recovery items paid or funded by others who are not Parties;
- (d) any costs substantially caused by or required by a Party benefiting from the expenditure, except if there are changes in Project Scope, schedule or budget authorized under this Agreement to cover such costs;
- (e) GST and HST, as applicable; and
- (f) works undertaken concurrently by any of the Parties that are not part of this Agreement or Project Scope.

# SCHEDULE "C"

Secondary Channels Dredging Funding Allocation Working Document									
	Channel / Area	Dredging Needs measurement	Estimated Cost per measurement	Funding Partners				NOTES	
				PMV	Province of BC	Delta	Richmond		
DELTA	Deas Slough	5,000	\$75,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ -	All measurments to be confirmed	
	Ladner Reach Upstream	47,000	\$705,000	\$ 235,000	\$ 235,000	\$ 235,000	\$ -	All measurments to be confirmed	
	Ladner Reach West Arm	38,000	\$570,000	\$ 190,000	\$ 190,000	\$ 190,000	\$ -	All measurments to be confirmed	
	Ladner Reach East Arm	98,500	Not to be dredged - not a navigable channel					\$ -	All measurments to be confirmed
	East Ladner Harbour	58,600	\$879,000	\$ 293,000	\$ 293,000	\$ 293,000	\$ -	All measurments to be confirmed	
	West Ladner Harbour	58,300	\$874,500	\$ 291,500	\$ 291,500	\$ 291,500	\$ -	All measurments to be confirmed	
	Ladner Reach Downstream	4,400	\$66,000	\$ 22,000	\$ 22,000	\$ 22,000	\$ -	All measurments to be confirmed	
	Sea Reach	183,000	\$2,745,000	\$ 915,000	\$ 915,000	\$ 915,000	\$ -	All measurments to be confirmed	
	Canoe Pass	4,400	\$66,000	\$ 22,000	\$ 22,000	\$ 22,000	\$ -	All measurments to be confirmed	
	Ladner SCH		DFO-SCH	Contribution for dredging by DFO-SCH					
TOTAL DELTA				\$ 1,993,500.00	\$ 1,993,500.00	\$ 1,993,500.00	\$ -		\$ 5,980,500.00
RICHMOND	Cannery Channel Entrance	600	\$25,000	\$ 8,334	\$ 8,334		\$ 8,334	All measurments to be confirmed	
	Cannery Channel	12,000	\$225,000	\$ 75,000	\$ 75,000		\$ 75,000	All measurments to be confirmed	
	Steveston SCH		DFO-SCH	Contribution for dredging by DFO-SCH					
TOTAL RICHMOND				\$ 83,334.00	\$ 83,334.00	\$ -	\$ 83,334.00		\$ 250,002.00
TOTAL SHARED	TOTAL	411,300	\$6,230,500	\$ 2,076,834	\$ 2,076,834	\$ 1,993,500	\$ 83,334		
	Allocated to Project			\$ 2,750,000	\$ 3,000,000	\$ 2,000,000	\$ 2,000,000		
	Differential remaining			\$ 673,166	\$ 923,166	\$ 6,500	\$ 1,916,666		
	Implementation Costs								
	Project Management		\$170,000	\$ 50,000	\$ 100,000	\$ 10,000	\$ 10,000	Estimate only	
	Permit applications		\$50,000	\$ 12,500	\$ 12,500	\$ 12,500	\$ 12,500	Estimate only	
	RFP development, review, award		\$50,000	\$ 12,500	\$ 12,500	\$ 12,500	\$ 12,500	Estimate only	
	Miscellaneous		\$100,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000		
	Contingency		\$ 62,000	\$ 15,500	\$ 15,500	\$ 15,500	\$ 15,500		
				\$ 115,500	\$ 165,500	\$ 75,500	\$ 75,500		\$ 432,000
	Ladner Sediment Group 10 year maintenance contribution		\$ 475,000	\$ 125,000	\$ 350,000	\$ -	\$ -	minus PMV \$125,000 contribution already made to LSG for Hayco study	
	Steveston Harbour 10 year maintenance contribution		\$ 1,200,000	\$ 400,000	\$ 400,000	\$ -	\$ 400,000	minus PMV \$125,000 contribution already made to SHA for dredging Delta diff offset by remaining funds from PMV and Province	
	Differential			\$ (82,834)	\$ (157,834)	\$ (144,500)	\$ 1,365,666		
	Total Implementation			\$ 640,500	\$ 915,500	\$ 75,500	\$ 475,500		
	TOTAL CONTRIBUTION BY PARTNER		\$ 8,337,502	\$ 2,717,334	\$ 2,992,334	\$ 2,069,000	\$ 558,834		\$ 8,337,502

## DELTA CATCH UP DREDGING

PMV	\$ 1,993,500		
Province of BC	\$ 1,993,500	TOTAL PMV	\$ 2,717,334.00
Delta	\$ 1,993,500	TOTAL PROVINCE	\$ 2,992,334.00
Richmond	\$ -	TOTAL DELTA	\$ 2,069,000.00
TOTAL DELTA Catch up Dredging	\$ 5,980,500.00	TOTAL RICHMOND	\$ 558,834.00
DELTA 10 yr MAINTENANCE			
PMV	\$ 125,000.00	TOTAL	\$ 8,337,502.00
Province of BC	\$ 350,000.00		
Delta	\$ -		
Richmond	\$ -		
TOTAL DELTA 10 yr MAINTENANCE	\$ 475,000.00		

## RICHMOND CATCH UP DREDGING

PMV	\$ 83,334.00
Province of BC	\$ 83,334.00
Delta	\$ -
Richmond	\$ 83,334.00
TOTAL RICHMOND Catch up Dredging	\$ 250,002.00

## RICHMOND 10 YR MAINTENANCE

PMV	\$ 400,000
Province of BC	\$ 400,000
Delta	\$ -
Richmond	\$ 400,000
TOTAL RICHMOND 10 YR MAINTENANCE	\$ 1,200,000

## SHARED COSTS

PMV	\$ 115,500
Province of BC	\$ 165,500
Delta	\$ 75,500
Richmond	\$ 75,500
TOTAL SHARED COSTS	\$ 432,000



## Memorandum

April 23, 2013

To: Robert Gonzalez, P.Eng., General Manager, Engineering, City of Richmond

From: Tom Corsie, VP Real Estate

Re: Local Channel Dredging Contribution Program

Further to our meeting of April 18, 2013, please accept this memo as a description of how Port Metro Vancouver is intending to manage the Steveston Harbour Maintenance Dredging Project on behalf of the funding partners.

Currently, a funding partnership agreement (attached) has been negotiated between PMV and the Province of BC with input from the Corporation of Delta and the City of Richmond. To date, the agreement has been signed by the Province, Delta and PMV and is now with the City of Richmond for approval. The funding agreement contemplates contributions totalling \$2.75 million from PMV, \$3 million from the Province, \$2 million from Delta and up to \$2 million from Richmond. In order to protect all available funding, it is important that the funding agreement be signed no later than May 13, 2013.

PMV's funding allocation for Steveston Channel, as per its Local Channel Dredging Contribution Program implemented in 2009, is \$500,000 less the \$125,000 already advanced to the Steveston Harbour Authority for a new total of \$375,000. Under the funding agreement, this would be matched by the Province and the City for a total available for dredging of \$1,125,000.

Schedule C of the funding agreement is a funding allocation worksheet that indicates anticipated volumes to be removed from the various channels under discussion in both Delta and Richmond. The estimated volume for the Steveston Channel portion is shown as 12,600 m<sup>3</sup>, which we now know was a calculation error determined by a PMV technician. A similar volume discrepancy is apparent within the proposed Delta channels.

The estimated volume to be removed based on recent detailed soundings is 283,100 m<sup>3</sup> as shown in the table below; this may increase with the 2013 freshet.

Channel	Original Funding Allocation Model	2012 – 2013 Soundings to Grade	2012 – 2013 Soundings to Sub-Grade	Volume Difference to Grade	Volume Difference to Sub-Grade
Steveston	12,600 m <sup>3</sup>	201,000 m <sup>3</sup>	283,100 m <sup>3</sup>	188,400 m <sup>3</sup>	270,500 m <sup>3</sup>

Schedule C used a conservative average unit cost of \$15 m<sup>3</sup> to estimate costs; this is based on using a clam shell dredging approach. PMV has issued an RFP to several qualified contractors (to close May 24) to more accurately determine the cost of dredging to sub-grade within Steveston Channel. We anticipate the average unit cost for dredging Cannery Channel will be less than \$15 as much of this channel can be dredged using a cutter suction dredge which is more cost effective than clam shell dredging.

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There are a number of steps required before any maintenance dredging can commence within Steveston Channel, which includes approval from environmental authorities, agreement between funding partners, a signed dredging contract and availability of equipment.

Separately, PMV is working with the Steveston Harbour Authority, the City of Richmond and Small Craft Harbours - Fisheries and Oceans Canada as members of a working group called "the Steering Committee for the Steveston Project". This group is focused on delivering a habitat enhancement project to be located at the eastern end of Steveston Harbour just to the east of the harbour jetty. This project is anticipated to create benefits to the ongoing maintenance of Steveston Harbour by reducing infiltration of sediment while preserving adequate water flow.

The Steering Committee for the Steveston Project are currently waiting for an update from PMV on its independent investigation of project viability. PMV is anticipating updating the Committee at its next meeting currently scheduled for May 10, 2013.

Both the City and PMV wish to extract as much beneficial use from the dredgate as possible. It is likely that a substantial volume of sediment within Steveston Channel could be placed onto the Steveston Project area. Therefore, to minimize costs and maximize potential benefits, it is proposed that in 2013, only sufficient volume is removed from the channel to ensure the channel is kept navigable and continues to facilitate economic activity. The remaining volume would be left in the channel until such time as PMV has environmental, tenure and associated capital approved to construct the habitat enhancement project which is anticipated within one year. The remainder of the channel could then be dredged subject to the available Steveston Project capital funds for fill and residual funds from the Local Channel Dredging Contribution Program under the funding partnership agreement for disposal.