



Public Council Meeting - Tuesday, February 28, 2017 5:00 pm

Location: Council Chambers

1. Call of Meeting to order

- Appointment of Deputy Town Clerk as Acting Town Clerk

2. Adoption of Agenda for **February 28, 2017**

3. DELEGATIONS/PRESENTATIONS (if any) -

- a) Lori Gosse – Winner of the 50/50 Draw to be presented her cheque
- b) Susanne Kearley – Winner of the photo contest
- c) Cole Priddle – Primary Coloring Contest Winner
- d) Olivia Hackett – Elementary Coloring Contest Winner

4. Adoption of Minutes of **February 16, 2016**

5. Business Arising from Minutes: Town Manager's report to follow

6. Committee Meeting Reports

a) Planning & Development Committee – Agenda:

Applications:

- 1) Civic # 4 Brentwood Avenue – Finish Basement
- 2) Civic # 8-10 Knights Rest – Business (General Industry)
- 3) Civic # 1622 Portugal Cove Road – Business (Light Industry)

Correspondence:

- 4) Benson Buffett – Quieting of Titles for Civic # 137B Tuckers Hill Road

Discussion:

- 5) Civic # 1757 Portugal Cove Road – Second Driveway Access

Permits Issued:

- 6) Permits issued from February 3rd to February 16th, 2017

b) Recreation/Community Services –Agenda:

- 1) Winter Carnival Festival
- 2) PCSP Library
- 3) Congratulations

c) Public Works –Agenda:

- 1) Portugal Cove Road Sidewalk Project
- 2) Sidewalk Maintenance Regulations
- 3) Emergency Access Road – Memorandum of Understanding
- 4) Transportation and Works` Road Conditions – Portugal Cove-St. Philip`s
- 5) Fire Hydrants – Snow Removal

d) Economic Development, Marketing & Communications - Agenda:

- 1) Maggies Place Development Plan
- 2) Community Garden Funding
- 3) Green Team

e) Protective Services – Agenda:

- 1) EAP Services for First Responders
- 2) 1757 Portugal Cove Road
- 3) Civic Numbering Regulation

f) Administration and Finance -- Agenda:

- 1) Accounts for payment
- 2) Salary of Director of Recreation and Community Services
- 3) Prime Consultant Agreement
- 4) Discussion items

g) Other reports/items (if any)

7. Correspondence

- None for this meeting

8. New / General/Unfinished Business

9. Agenda items/Notice of Motions etc.

- Protective Services Committee – notice re: Civic Numbering regulation

10. Adjournment



DELEGATIONS / PRESENTATIONS

Presentations

– to be presented by Dawn Sharpe, Director of Recreation and Community Services

Lori Gosse – Winner of the 50/50 Draw to be presented her cheque

Susanne Kearley – Winner of the photo contest

Cole Priddle – Primary Coloring Contest Winner

Olivia Hackett – Elementary Coloring Contest Winner



**Portugal Cove
St. Philip's**

MINUTES



TOWN OF PORTUGAL COVE-ST. PHILIP'S

February 16, 2017

Regular Public Council Meeting 5:00 p.m.

IN ATTENDANCE:

Mayor
Deputy Mayor
Councillors:

Moses Tucker
Gavin Will
Dave Bartlett
Joe Butler
Norm Collins
Johnny Hanlon
Chris Milley
Tony Pollard
Jeff Lawlor
Les Spurrell
Claudine Murray

Town Manager
Director of Financial Operations
Director of E.D., Mark. & Comm.
Planning & Development Coordinator
Deputy Town Clerk

Mayor Tucker called the meeting to order and welcomed the gallery of 5 persons in attendance for the meeting, noting regrets from Councillor Facey.

CALL MEETING TO ORDER

Motion: Will/Butler

2017-036 Resolved that the Deputy Town Clerk, Claudine Murray, is appointed Town Clerk for this meeting.

Carried Unanimously

ADOPTION OF AGENDA

Motion: Hanlon/Collins

2017-037 Resolved that the agenda dated **February 16, 2017**, be adopted as circulated.

Carried Unanimously

ADOPTION OF MINUTES

Motion: Bartlett/Hanlon

2017-038 Resolved that the minutes of **January 31, 2017** be adopted as circulated.

Carried Unanimously

BUSINESS ARISING

There is no Town Manager report for this meeting.

COMMITTEE REPORTS

Planning & Development Report of February 7, 2017 – presented by Councillor Collins

Applications:

1. Civic # 965-967 Thorburn Road – Dwelling Extensions & Accessory Buildings

Motion: Collins/Bartlett
2017-039 Resolved that the application for an existing dwelling extension and accessory building, the construction of a dwelling extension, and the removal/demolition of two accessory buildings at Civic # 965-967 Thorburn Road be granted approval in principle as per Appendix A: Tabled Report.

Carried Unanimously

2. Department of Municipal Affairs – Notice of Ministerial Decision

The Planning Department is in receipt of correspondence regarding a Purchase Notice served to the Minister of Municipal Affairs for Civics # 15-19, 21-25, 27-33 & 15A-33A Longmarsh Road. The Minister of Municipal Affairs advised that his decision to reject the Purchase Notice is confirmed.

3. Inspiration Enterprises Inc. – Request for Reimbursement

Motion: Collins/Will
2017-040 Resolved that the request for reimbursement for costs incurred to refine the Town's Environmental Protection Overlay Map at Civics # 49-53 & 55-63 Jera Street be refused as per Appendix A: Tabled Report.

Carried For: Tucker/Will/Bartlett/Collins/Hanlon
Against: Butler

4. Town of Paradise – Municipal Plan & Development Regulations Review

The Planning Department is in receipt of correspondence from the Town of Paradise advising that based on feedback received from previous consultations, they have revised the draft Plan and are seeking input on the changes, including the addition of the Picco Ridge Concept Plan. The Town of Paradise is requesting any comments be forwarded by Friday, February 24th, 2017.

Motion: Collins/Will
2017-041 Resolved that Council forward correspondence to the Town of Paradise stating that PCSP has no concerns regarding their proposed Municipal Plan and Development Regulations review.

Carried Unanimously

5. Civic # 837-839 Thorburn Road – Stop Work Order

Motion: Collins/Bartlett
2017-042 Resolved that Council 'lift' the 'Stop Work Order' (Motion # 2016-262) that was placed on land development activity without a permit at Civic # 837-839 Thorburn Road, on August 11th, 2016.
Carried Unanimously

6. Civic # 841 Thorburn Road – Stop Work Order

Motion: Collins/Butler
2017-043 Resolved that Council 'lift' the 'Stop Work Order' (Motion # 2016-262) that was placed on land development activity without a permit at Civic # 841 Thorburn Road, on August 11th, 2016.
Carried Unanimously

Discussion:

7. Civic # 1-3 Olivia Place – Development without a Permit

Motion: Collins/Will
2017-044 Resolved that Council place a 'Removal Order' on a secondary driveway access at Civic # 1-3 Olivia Place constructed without a permit from the Town.
Carried Unanimously

Permits Issued:

8. Permits issued from January 20th to February 2nd, 2017

There were four (4) permits issued from January 20th to February 2nd, 2017 as per Appendix A: Tabled Report.

Recreation /Community Services Committee

No report for this meeting

Public Works Committee Report of February 8, 2017 - presented by Councillor Bartlett

1. Connectivity Plan Phase 1 – Thorburn Road & Dogberry Hill Road: Update

Information regarding required water connections for Thorburn Road in the area of the proposed project construction has been forwarded to Vigilant Management and EXP for integration/updating of engineering design. A revised schedule will be forthcoming from Vigilant Management and will be provided to Committee at that time.

2. Zone Metering & Water Loss Program – Project Charter

The project charter for the zone metering and water loss program was discussed with a focus on the outcomes expected for this project. Phase 1 includes the engagement of a consultant to review the Town's water distribution system to identify areas of major water loss, recommend type and location of zone meters, recommend future upgrades to system, and prepare guidelines for the installation of zone meters in future developments. Phase 2 involves the development of a tender for the selection of a contractor to supply and install zone meters and Phase 3 includes analyzing data from the zone and residential metering to inform the Town's leak detection program. A Request for Proposals has been drafted and is under review by staff.

Motion: Bartlett/Hanlon
2017-045 Resolved that the project charter for the zone metering and water loss program be approved.
Carried Unanimously

3. AVL Fleet Monitoring Solution – Request for Proposals (RFP)

Two bids were received in response to the Town's RFP for an AVL solution. Skyhawk Telematics Inc. was the only qualified bidder and as a result scored the highest on the RFP evaluation. The AVL fleet monitoring solution will provide analytics on the Town's fleet (heavy equipment and light duty vehicles) and assist in identifying efficiencies in fleet usage and operational routing. Costs related to the implementation of this solution include the one-time purchase of hardware and monthly software licence fees and data. The monthly data fees have the potential to be adjusted lower depending on amount of data used/required. However, the fee also reflects the current volume of fleet owned by the Town. As new fleet is added, additional data will be required.

Motion: Bartlett/Collins
2017-046 Resolved that Skyhawk Telematics Inc. be awarded the contract for the AVL Fleet Monitoring Solution at a cost of \$33,243.88 +HST for hardware purchase and monthly fees of \$969.00 +HST.
Carried Unanimously

4. Other Items Discussed:

Town Hall Upper Level Mini-Split Heat Pump Tender: Committee was advised the tender for the Town Hall Upper Level Mini-Split Heat Pump will be advertised in the Telegram on February 11, 2017. The closing date is February 24, 2017 and the tender is being handled by RAN Engineering, mechanical consultants, on behalf of the Town.

Economic Development, Marketing & Communications – February 8, 2017, presented by Councillor Butler

1. Business Application Process

The Economic Development Department has been working with the Planning and Development Department to improve communications and processes with prospective businesses in PCSP. A new collaborative approach will be taken on all inquiries and we are currently reviewing brochures, forms and applications to make them more user friendly and informative.

2. Murray's Horticultural Services Letter

A response will be drafted on the correspondence received by Murray's Horticultural Services.

3. Census Data

The Committee reviewed a "Census Made Simple" proposal by MDB Insight. The plan proposed how to utilize and share statistics on census information that will be released throughout the year. They propose to analyze and visualize the census information based on the release of 9 census datasets customized for PCSP. As each dataset is released by the Federal government, we would have a fact sheet produced based on their analysis.

Motion: Butler/Bartlett

2017-047 Resolved that the Town purchase a customized "Census Made Simple" plan by MDB Insight for \$5,500 plus HST.

Carried Unanimously

4. Best of PCSP Community Awards

The event will take place on Tuesday, April 24th at the Legion. Nominations open on March 1st.

5. Maggie's Place Development Plan

After two launch meetings were completed in January the Town will now look for more comprehensive input from stakeholders and residents in a series of engagement meetings. A special mail out will be sent to residents and landowners in the area prior to the meetings.

Meetings will be held:

Thursday, March 9

Public Workshop

7:00 pm – 9:00 pm at Murrays Country and Fishing Club

Thursday, March 16

Landowners and Stakeholders Meetings

Various times to be scheduled

Thursday, March 23

Public Presentation of Proposed Plan

7:00 pm – 9:00 pm at Murrays Country and Fishing Club

6. Community Garden Funding

We have received confirmation that our application for funding through TD Friends of the Environment Foundation was approved and we will be receiving a grant of \$15,000 for the expansion of the Community Gardens. Details and plans will follow.

7. New Website

The new site is up and running. We have received great feedback from residents, staff and Council and will continue to improve the site going forward.

Protective Services Committee – August 18, 2015 presented by Councillor Hanlon

1. FES Updates

- The Chiefs sent the response letter to the building owner of 1082 Thorburn Road as a means of follow up to the repeated alarm calls on January 21 / 22, 2017.
- An agreement was reached with regards to the damage sustained by a Volunteer Firefighter's private vehicle at the station in response to a call. The matter has been closed.
- The Northeast Avalon Fire Chiefs are meeting in February to review the proposed resolution on recreational fireworks in the province. An update will be brought back to the Committee.
- The Town of Torbay is organizing an official signing event for the Fire Protection mutual aid agreement involving all three municipalities involved.

2. Civic Numbering Regulations

A notice of motion for the new Civic Numbering regulation should be coming forward at the next public Council meeting.

3. Municipal Enforcement Service Providers

A final draft of the agreement for municipal enforcement services between PCSP and the Town of Torbay is currently being reviewed by the Royal Newfoundland Constabulary (RNC).

Note: Councillor Hanlon added the agreement was reviewed by Commissionaires NL as well.

Admin. and Finance Committee Report of February 7, 2017 presented by Deputy Mayor Will

1. Accounts for Payment

Motion: Will/Hanlon
2017-048 Resolved that Council pay regular accounts in the amount of \$124,394.00
Carried Unanimously

2. Town Clerk Succession plan

Committee agreed to accept the Succession Plan for the position of Town Clerk, a report prepared by LW Consulting, through a motion of Council.

As Judy Squires has retired effective February 10th, 2017 and in accordance with s.59.(1) of the Municipalities Act, Council needs to appoint a Town Clerk who will have the legislative authority afforded by the Act.

Committee decided to appoint the Director of Financial Operations as Town Clerk for legislative purposes with the Deputy Town Clerk assuming responsibility for the day to day administrative functions for Council meetings.

As well, with Judy's departure, the Town needs to appoint a new ATIPP Coordinator. It is recommended that Claudine Murray take on that role as part of her new position with the Town Manager remaining as Head of ATIPP.

Also, as Judy Squires was a signing officer for the town, and where the Director of Financial Operations will be the Treasurer and also the Town Clerk, there is a need for an alternate countersigner (reference s.76.(2) of the Municipalities Act).

The following recommendations are being put forward to cover the above requirements:

- Motion: Will/Bartlett
2017-049 Resolved that Council accept the succession plan for the position of Town Clerk as tabled.
Carried Unanimously
- Motion: Will/Hanlon
2017-050 Resolved that Council appoint Tony Pollard Director of Financial Operations as Town Clerk in accordance with s.59.(1) of the Municipalities Act.
Carried Unanimously
- Motion: Will/Collins
2017-051 Resolved that Council appoint Claudine Murray, Deputy Town Clerk, as ATIPP Coordinator in accordance with s.110 of the ATIPP Act.
Carried Unanimously
- Motion: Will/Hanlon
2017-052 Resolved that Council approve Chris Milley, Town Manager/engineer as a signing officer of the town.
Carried Unanimously

3. Levels of Service

The Town Manager updated committee on the charter for the Level of Service review. The Charter is attached now for adoption and it is expected that the review and recommendations will be complete early September.

- Motion: Will/Bartlett
2017-053 Resolved that Council adopt the charter for the Level of Service Review as tabled.
Carried Unanimously

4. Project Updates

The Town Manager updated committee with status of projects. Some projects seem to be taking longer than necessary to bring to completion and some may require some political intervention to ensure projects obtain the approvals necessary to proceed.

The following project updates were provided by the Town Manager/Engineer, Chris Milley:

Nearys Pond Road project

Department of Municipal Affairs is reviewing additional funding information provided at their request.

Clean Water projects

The Town is working with the Department of Municipal Affairs on Cabinet paper submissions before a RFP can go before Cabinet for approval. A meeting regarding the approval process was postponed due to weather until early in the week of February 20, 2017. RFQ and RFI are other options being considered to expedite future RFP approval process.

CORRESPONDENCE

None for this meeting

NEW/GENERAL/ UNFINISHED

1. Committee of the Whole Report of February 7, 2017 presented by Deputy Mayor Will:

Committee reviewed the updated Compensation and Philosophy Policy during the meeting and agreed to bring the policy forward for adoption at this council meeting as tabled.

Motion: Will/Butler
2017-054 Resolved that Council adopt the Compensation Philosophy Policy as tabled.
Carried For: Tucker/Bartlett/Butler/Collins/Hanlon
Against: Will

2. Support letter regarding Regional Firefighting/Water Supply Tanker from the Town of Holyrood was received February 13, 2017 (tabled).

ADJOURNMENT

Motion: Hanlon/Collins
2017-055 Resolved that this meeting be adjourned. Time is 6:12 p.m.
Carried Unanimously

Moses Tucker, Mayor

Claudine Murray, Deputy Town Clerk

**Appendix A: Tabled Report
February 7th, 2017**

Applications:

Item # 1:

**Civic # 965-967 Thorburn Road
Dwelling Extensions & Accessory Buildings
Zoning: Protected Watershed (PW) - Unserved**

The Committee recommends that the application for Civic # 965-967 Thorburn Road be granted approval in principle, permitting an existing dwelling extension and accessory building, the construction of a dwelling extension, and the demolition/removal of two accessory buildings. Approval in principle is subject to the conditions listed in correspondence from the City of St. John's dated January 17, 2017.

The Administrator recommended that this application be rejected as it does not comply with the Town's Municipal Plan & Development Regulations, specifically Plan Policy PW-6 (Protected Watershed Policies) which does not promote urban land development within the Watershed Protection Areas.

Correspondence:

Item # 3:

Inspiration Enterprises Inc. – Request for Reimbursement

The Committee recommends that the request for reimbursement for refinement of the Town's Environmental Protection Overlay Map at Civics # 49-53 & 55-63 Jera Street be refused as the request is contrary to the Town's Municipal Plan & Development Regulations, specifically Schedule E: Environmental Protection Overlay.

The Administrator recommended that this request be refused.

Permits Issued:

Item # 8:

#	Permit	Issued Date	Civic #	Street Name	Permit Type
1	17-011	01/25/2017	103-107	Round Pond Road	Occupancy
2	17-012	02/01/2017	1483-1485	Thorburn Road	Business
3	17-013	02/02/2017	92-94	Witch Hazel Road	Site Preparation
4	17-014	02/02/2017	1563	Thorburn Road	Accessory Building



**Portugal Cove
St. Philip's**

BUSINESS ARISING



**Portugal Cove
St. Philip's**

PLANNING & DEVELOPMENT

Planning and Development Committee Report Agenda

February 21st, 2017

In Attendance: Councillor Norm Collins (Chairperson)
Deputy Mayor Gavin Will
Les Spurrell, Planning & Development Coordinator
David Beckett, Development Control Officer

Also in Attendance: Mayor Moses Tucker
Chris Milley, Town Manager/Engineer

Applications:

- 1) Civic # 4 Brentwood Avenue - Finish Basement
- 2) Civic # 8-10 Knights Rest - Business (General Industry)
- 3) Civic # 1622 Portugal Cove Road - Business (Light Industry)

Correspondence:

- 4) Benson Buffett - Quieting of Titles for Civic # 137B Tuckers Hill Road

Discussion:

- 5) Civic # 1757 Portugal Cove Road - Second Driveway Access

Permits Issued:

- 6) Permits issued from February 3rd to February 16th, 2017

Planning and Development Committee Report

February 21st, 2017

In Attendance: Councillor Norm Collins (Chairperson)
Deputy Mayor Gavin Will
Les Spurrell, Planning & Development Coordinator
David Beckett, Development Control Officer

Also in Attendance: Mayor Moses Tucker
Chris Milley, Town Manager/Engineer

Item # 1

Motion: The Committee recommends that the application to finish the basement within an existing single dwelling at Civic # 4 Brentwood Avenue be granted approval in principle as per Appendix A: Tabled Report.

Item # 2

Motion: The Committee recommends that the application to establish a standalone general industry business (tire & oil change service) at Civic # 8-10 Knights Rest be granted approval in principle as per Appendix A: Tabled Report.

Councillor Collins left the meeting prior to discussion of Item # 3.

Item # 3

Motion: The Committee recommends that the application to establish a light industry business (woodworking workshop) as a home occupation at Civic # 1622 Portugal Cove Road be granted approval in principle as per Appendix A: Tabled Report.

Councillor Collins returned to the meeting after discussion of Item # 3.

Item # 4

Motion: The Committee recommends that Council forward correspondence to Benson Buffett stating that the Town has no adverse claims regarding the Quieting of Titles for Civic # 137B Tuckers Hill Road.

Item # 5

Motion: The Committee recommends that Council place a Removal Order on a second driveway access at Civic # 1757 Portugal Cove Road for which development commenced without a permit from the Town.

The Committee requests that a copy of the Order be forwarded to the Minister of Transportation and Works.

Item # 6

There were twelve (12) permits issued from February 3rd to February 16th, 2017 as per Appendix A: Tabled Report.

**Appendix A: Tabled Report
February 21st, 2017**

Applications:

Item # 1:

**Civic # 4 Brentwood Avenue
Finish Basement
Zoning: Residential Medium Density (RMD) – Serviced**

The Committee recommends that the application for Civic # 4 Brentwood Avenue be granted approval in principle, permitting the finishing of the basement within an existing dwelling. Approval in principle shall be in full compliance with the Town's Municipal Plan & Development Regulations and all other regulatory bodies of government, specifically Development Regulation 49 (Non-Conforming Use) and Schedule C: Residential Medium Density.

The Administrator recommended that Council use their discretion to grant approval in principle to this application.

Item # 2:

**Civic # 8-10 Knights Rest
Business (General Industry)
Zoning: Mixed Use (MIX) – Serviced**

The Committee recommends that the application for Civic # 8-10 Knights Rest be granted approval in principle, permitting the establishment of a standalone general industry business (tire & oil change services). Approval in principle shall be in full compliance with the Town's Municipal Plan & Development Regulations and all other regulatory bodies of government, specifically Plan Policy MIX-2 (Land Uses), Development Regulation 33 (Notice of Application), Development Regulation 102 (Discretionary Uses), Schedule C: Mixed Use, and Schedule D: Off-Street Parking Requirements.

The Administrator recommended that Council use their discretion to grant approval in principle to this application.

Councillor Collins left the meeting prior to discussion of Item # 3.

Item # 3:

Civic # 1622 Portugal Cove Road
Business (Light Industry)
Zoning: Mixed Use (MIX) - Serviced

The Committee recommends that the application for Civic # 1622 Portugal Cove Road be granted approval in principle, permitting the establishment of a light industry business (woodworking woodshop) in the basement, as a home occupation. Approval in principle shall be in full compliance with the Town's Municipal Plan & Development Regulations and all other regulatory bodies of government, specifically Plan Policy MIX-2 (Land Uses), Development Regulation 33 (Notice of Application), Development Regulation 102 (Discretionary Uses), Schedule C: Mixed Use, and Schedule D: Off-Street Parking Requirements.

The Administrator recommended that Council use their discretion to grant approval in principle to this application.

Councillor Collins returned to the meeting after discussion of Item # 3.

Permits Issued:

Item # 6:

#	Permit	Issued Date	Civic #	Street Name	Permit Type
1	17-015	02/03/2017	14-18	Princes Mountain Drive	Demolition
2	17-016	02/03/2017	14-18	Princes Mountain Drive	Accessory Building
3	17-017	02/06/2017	27-35	Dogberry Hill Road Ext	Dwelling Repairs
4	17-018	02/07/2017	9	Blue Sky Drive	Occupancy
5	17-019	02/07/2017	940-944	Indian Meal Line	Replace Septic Tank
6	17-020	02/08/2017	49-51	Tolt Road	Accessory Building
7	17-021	02/08/2017	28-36	Dogberry Hill Road Ext.	Business
8	17-022	02/08/2017	1404-1434	Portugal Cove Road	Ditch Reinstatement
9	17-023	02/08/2017	1388-1394	Portugal Cove Road	Ditch Reinstatement
10	17-024	02/08/2017	1382-1386	Portugal Cove Road	Ditch Reinstatement
11	17-025	02/09/2017	55-63	Jera Street	Occupancy
12	17-026	02/16/2017	305-307	Dogberry Hill Road Ext.	Accessory Building



**Portugal Cove
St. Philip's**

RECREATION

REPORT

1. Winter Carnival Festival

Winter Carnival Festival has concluded. There were a couple events cancelled or rescheduled due to the weather. However the Festival was an overall success. A survey was sent to participants asking for feedback and suggestion as well as a thank you was sent out to all volunteers, groups, and sponsors. Below are the individuals that won the Carnival Contest:

Lori Gosse – Winner of the 50/50 Draw

Susanne Kearley – Winner of the Photo Contest

Cole Priddle – Primary Age Category Coloring Contest Winner

Olivia Hackett – Elementary Age Category Coloring Contest Winner

2. PCSP Library

The posting for the new Librarian closed on Friday, February 24th. There was a great response to the position and the Director of Recreation and Community Services will review the applications and set up interviews over the next couple weeks. The facilities division of the Public Works Department is working on the new storage spaces and furniture for the library and we hope to have the library open again by the end of April.

3. Congratulation

Congratulations to PCSP girls Olivia Squires, Brianna Butler and Rebecca Collier for being chosen to be part of the NL U17 girls' basketball team representing the province in the 2017 Canada Games!! The girls started with the PUMA program back in 2010 and have been part of winning school, club and provincial teams since. This year they will travel off island for several tournaments before playing in the 2017 Summer Games in Winnipeg in July. Good luck girls! We know you will make NL proud!!

Congratulations to the Beachy Cove Elementary Grade 5 boys' basketball team that won the East Coast Boys "B" Provincial Championship the weekend of February 10th.

Congratulations to the Leary's Brook girls' basketball team that took Silver at the invitational basketball Tournament the weekend of January 28th.



**Portugal Cove
St. Philip's**

PUBLIC WORKS



Public Works Committee

February 22, 2017

In attendance: Councillor Dave Bartlett, Chair
Councillor Norm Collins
Councilor Johnny Hanlon
Councilor Gavin Will
Councilor Joe Butler
Mayor Moses Tucker
Staff: Linda Newhook, Public Works Coordinator
Regrets: Gail Tucker, Director, Public Works

Committee Report Items

There are no items to report for this meeting.

Discussion Items

1. Portugal Cove Road Sidewalk Project
Committee was asked to review and provide comments on the Prime Consultant Agreement which has been submitted to the Town from EXP Consultants to design and manage the Portugal Cove Road Pedestrian Path (sidewalk). This project will be mainly funded through Gas Tax allocations. Once Committee approves, the agreement will be signed.
2. Sidewalk Maintenance Regulations
The Town recognizes that with the completion of the Connectivity Plan, which will see sidewalks installed from Dogberry Hill Road along Thorburn Road to the new school that it will be responsible for snow removal in this area. This area will be used as a starting point for consideration in the development of future sidewalk maintenance regulations.
3. Emergency Access Road – Memorandum of Understanding
In follow up to Motion 2016-180 to move forward with the development of an emergency access roadway between Dogberry Hill Road Extension and Camrose Drive in Paradise, a draft Memorandum of Understanding has been prepared for the Town of Paradise to outline the purpose of this roadway and the commitments of both Town's. Committee were asked to provide comments.
4. Transportation and Works' Road Conditions – Portugal Cove-St. Philip's
Committee was advised that numerous complaints were received from people with significant tire and wheel damage as a result of potholes on provincial roadways. Complaints are forwarded to the Department of Transportation and Works if received at Public Works. It was noted that some patchwork has taken place this week.
5. Fire Hydrants – Snow Removal
Committee was advised that following heavy snow fall the Public Works staff begin hydrant snow removal as soon as the Town's operators and Transportation and Works operators have completed their snow removal and pushback efforts – usually within two days. Should an emergency situation arise, there are equipment operators on standby at all times to provide assistance to the fire department.



**Portugal Cove
St. Philip's**

**ECONOMIC DEV.,
MARKETING &
COMMUNICATIONS**



Economic Development, Marketing and Communications

Agenda

February 8, 2017

3:30 pm

In attendance:

Councillor Joe Butler, Chair

Councillor Dave Bartlett

Mayor Moses Tucker

Jeff Lawlor, Director of Economic Development

1. Maggies Place Development Plan

An information package is being sent to residents to provide a summary of the introductory meetings, questions and answers on the project. It will also promote the three upcoming public meetings for the plan. The first being the Public Workshop at Murrays Pond Fishing and Country Club on March 9th at 7:00 pm which will be facilitated by Tract Consulting and allow residents to identify their priorities in the area and map them in smaller groups.

2. Community Garden Funding

We have received further confirmation and details on the funding. We will receive the \$15,000 grant or the expansion and creation of community gardens in the next three weeks. Plans are being confirmed on location and objectives.

3. Green Team

We are applying for another Green Team this year building on the great work of last year's group. This year will continue our focus on the environmental health of our ponds and streams by doing base line sampling in strategic locations. The application is to be submitted by February 24th.



**Portugal Cove
St. Philip's**

PROTECTIVE SERVICES



Protective Services Committee

Tuesday, February 21, 2017

4:30pm

IN ATTENDANCE: Councilor Johnny Hanlon
Deputy Mayor Gavin Will
Councilor Norm Collins
Fred Hollett, Co-Chief – Volunteer Fire Department
Heather Coughlan, Employee & Public Relations Administrator
Chris Milley, Town Manager / Engineer

ALSO IN ATTENDANCE: Mayor Moses Tucker

1. EAP Services for First Responders

The Committee discussed the current mental health assistance available to members of the Volunteer Fire Department as well as initiatives that are underway for further training and assistance. There are a number of resources available for this type of assistance and many carry an overlap of services available. The Chiefs and the Committee feel that the members of the Volunteer Fire Department are more than adequately covered for mental health assistance.

2. 1757 Portugal Cove Road

The Committee discussed the driveway issue for 1757 Portugal Cove Road which is being addressed through the Planning & Development Department.

3. Civic Numbering Regulation

A notice of motion for the new Civic Numbering Regulation will be brought forward at the February 28, 2017 public Council meeting under the 'Agenda Items/Notice of Motion' section.

NOTICE OF MOTION – to be presented by Councilor Johnny Hanlon for Protective Services

Notice is hereby given that a motion will be presented at the March 14th, 2017 Public Council meeting for the adoption of the Civic Numbering regulation.

Note: These regulations will be circulated to all of Council with sufficient time for review prior to the meeting.



**Portugal Gove
St. Philip's**

ADMINISTRATION & FINANCE



Administration & Finance Committee Report
February 21, 2017 - 9:00 a.m.

In attendance: Deputy Mayor Will
Councillor Facey
Mayor Tucker
Staff: Chris Milley, Town Manager
Tony Pollard, Director of Financial Operations
Claudine Murray, Deputy Town Clerk
Regrets: Councillor Butler

1. Accounts for payment

MOTION: Committee recommends that Council approve payment of regular accounts in the amount of \$85,208.03 and Capital accounts in the amount of \$15,141.59 for a total of \$100,349.62

2. Salary of Director of Recreation & Community Services

Discussed Director of Recreation and Community Services salary should be increased to 100% of her job rate amount. A retroactive payment from the requested date of November 2015, the date of LW Consulting's Compensation and Performance Management Review document, will be recommended.

MOTION: Committee recommends that Council approve the Director of Recreation & Community Services salary be adjusted to 100% of the salary scale amount and a retroactive payment to November 2015 be made.

3. Prime Consultant Agreement

The Town Manager reviewed the Prime Consultant Agreement (PCA) between EXP Services Inc. and the Town of Portugal Cove-St. Philips for PCSP Sidewalks (tabled). The start date will be upon signature and completion date is July 2017 at a cost of \$37,145.00, HST included.

MOTION: Committee recommends that Council sign the Prime Consultant Agreement in the amount of \$37,145 (HST included) between the Town and exp Services Inc for PCSP Sidewalks.

Discussion Items

1. The Director of Financial Operations acknowledged salt and sand reserve was low and may not remain in budget depending on weather.
2. The Water & Sewer Regulations review, as part of the Water Metering project, has commenced.
3. Mayor Tucker will be meeting with a group regarding Affordable Housing on Wednesday, February 22, 2017.

Accounts for Payment - Feb 21, 2017

REGULAR ACCOUNTS:

S0034299	1/31/2017	A. Harvey & Company 227.81 ton Road Salt	\$	26,957.92
10901	2/1/2017	City of St. John's Landfill use Jan 17	\$	11,375.31
1035322	1/9/2017	Harvey & Company Ltd. Rear end	\$	9,284.80
247817	1/23/2017	Weir's Construction Ltd. 850.16 ton Road Sand	\$	18,087.15
247905	2/2/2017	Weir's Construction Ltd. 556.8 ton Road Sand	\$	11,845.92
3558269600	12/31/2016	Xylem Two discharge connections-pump	\$	7,656.93
TOTAL REGULAR ACCOUNTS			\$	85,208.03

CAPITAL ACCOUNTS:

354227	1/16/2017	EXP Services Spurrell's Road Bridge	\$	10,018.34
799	1/31/2017	Vigilant Management Lifestyle Centre	\$	5,123.25
TOTAL CAPITAL ACCOUNTS			\$	15,141.59
GRAND TOTAL			\$	100,349.62

Town of Portugal Cove-St.Philips

BNK1 - BNS CURRENT ACCT

Cheques from 044417 to 044450 dated between 02/01/2017 and 02/20/2017

CHEQUE REGISTER

Printed: 9:10:21AM 02/20/2017

Page 1 of 2

Number	Issued	Amount	SC	Status	Status Date
044417	02/10/2017 Tucker Properties Ltd.,	1,200.00	A/R	OUT-STD	02/10/2017
044418	02/10/2017 Lee, Jonathan and Jacqueline	400.00	A/R	OUT-STD	02/10/2017
044419	02/10/2017 Evans, Pamela	400.00	A/R	OUT-STD	02/10/2017
044420	02/10/2017 Churchill, Tyson and Wendy Somerton	400.00	A/R	OUT-STD	02/10/2017
044421	02/10/2017 Flynn, Alan	400.00	A/R	OUT-STD	02/10/2017
044422	02/10/2017 Collett, Gregory & Crystal	400.00	A/R	OUT-STD	02/10/2017
044423	02/10/2017 ERCO Homes Inc,	400.00	A/R	OUT-STD	02/10/2017
044425	02/10/2017 AGD Foodservice 2078203 Winter Carnival Breakfast Supplies	622.78 622.78	A/P	OUT-STD	02/10/2017
044426	02/10/2017 Atlantic Cash & Carry 0034701080278352 supplies for winter carnival	233.52 233.52	A/P	OUT-STD	02/10/2017
044427	02/10/2017 Bazel Hibbs travel claim-incident 200 Incident command system 200 course	24.00 24.00	A/P	OUT-STD	02/10/2017
044428	02/10/2017 Bugden Signs 35024- parade plaques	244.95 244.95	A/P	OUT-STD	02/10/2017
044429	02/10/2017 Capital Motors Limited 274111- Windshield unit 44	308.26 308.26	A/P	OUT-STD	02/10/2017
044430	02/10/2017 Corporate Express 43545525 cork board 43599044 office supplies	1,344.65 459.87 884.78	A/P	OUT-STD	02/10/2017
044431	02/10/2017 Executive Coffee 0000176473 Coffee supplies	90.18 90.18	A/P	OUT-STD	02/10/2017
044432	02/10/2017 Flaghouse V015191000013 Potatoe Sacks	99.45 99.45	A/P	OUT-STD	02/10/2017
044433	02/10/2017 Frederick Hollett Jan29-Feb4 Fd consultation Jan29-Feb4	1,150.00 1,150.00	A/P	OUT-STD	02/10/2017
044434	02/10/2017 Gardaworld 07620001780 security - Oct30-Nov5 07620001890 Security-Nov27-Dec3 07620001905 Security-Dec4-10 07620001954 Security - Dec18-24 07620002108 Security Jan29-Feb4	8,452.50 1,690.50 1,690.50 1,690.50 1,690.50 1,690.50	A/P	OUT-STD	02/10/2017
044435	02/10/2017 Heather Coughlan Dec16 Cell cell phone Dec16 Jan17 cell Cell phone Jan17	79.92 39.96 39.96	A/P	OUT-STD	02/10/2017
044436	02/10/2017 Image 4 Printing & Design Inc. 16862 Business cards 17180 parade door knockers	417.45 331.20 86.25	A/P	OUT-STD	02/10/2017
044437	02/10/2017 McInnes Cooper 2017001450 General legal advise	215.80 215.80	A/P	OUT-STD	02/10/2017
044438	02/10/2017 Newfound Disposal Systems Ltd.	106.64	A/P	OUT-STD	02/10/2017

* - Partial payment was made on Invoice

** - Name on Check was modified

Town of Portugal Cove-St.Philips
BNK1 - BNS CURRENT ACCT
 Cheques from 044417 to 044450 dated between 02/01/2017 and 02/20/2017

CHEQUE REGISTER

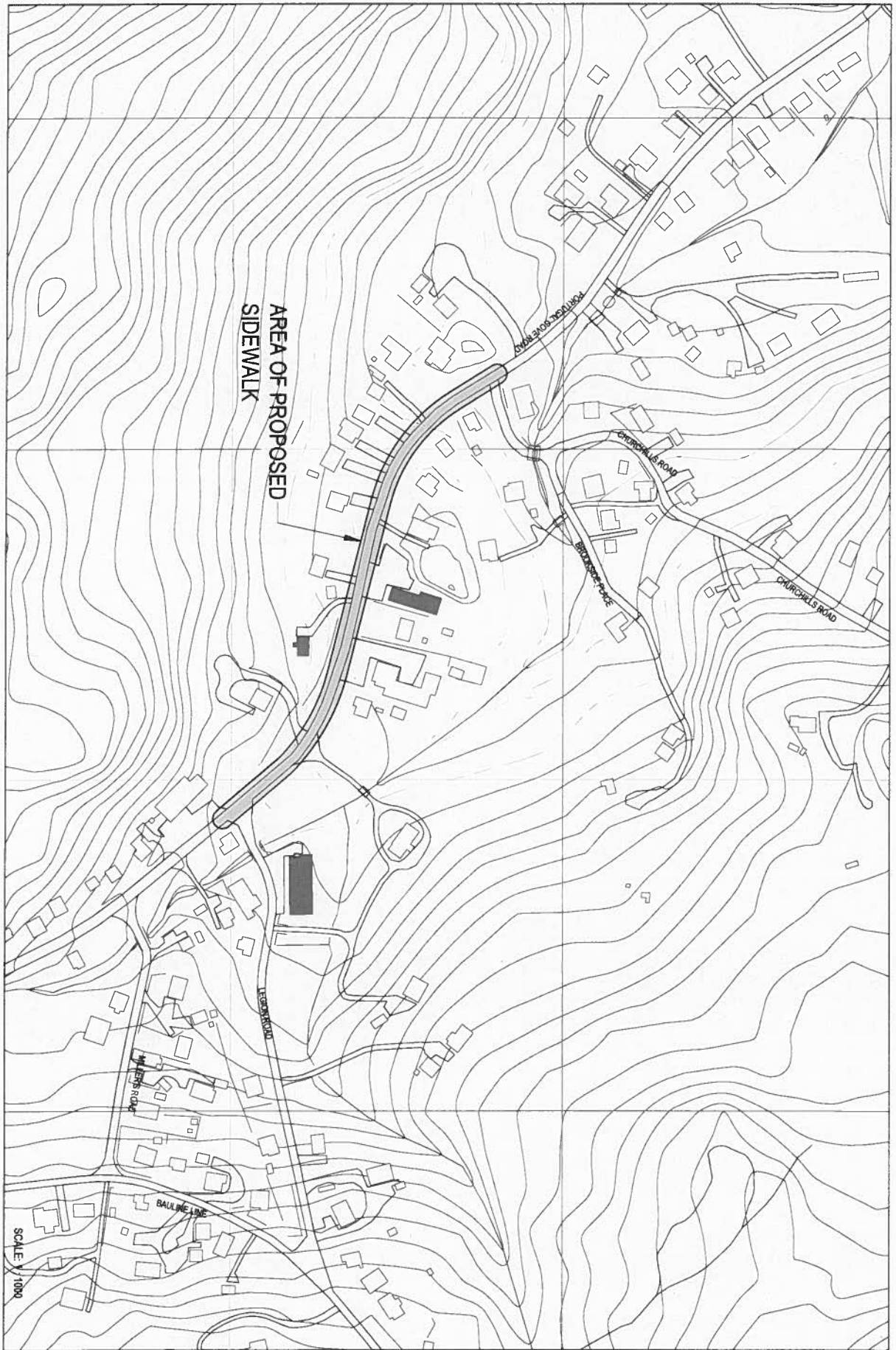
Printed: 9:10:21AM 02/20/2017

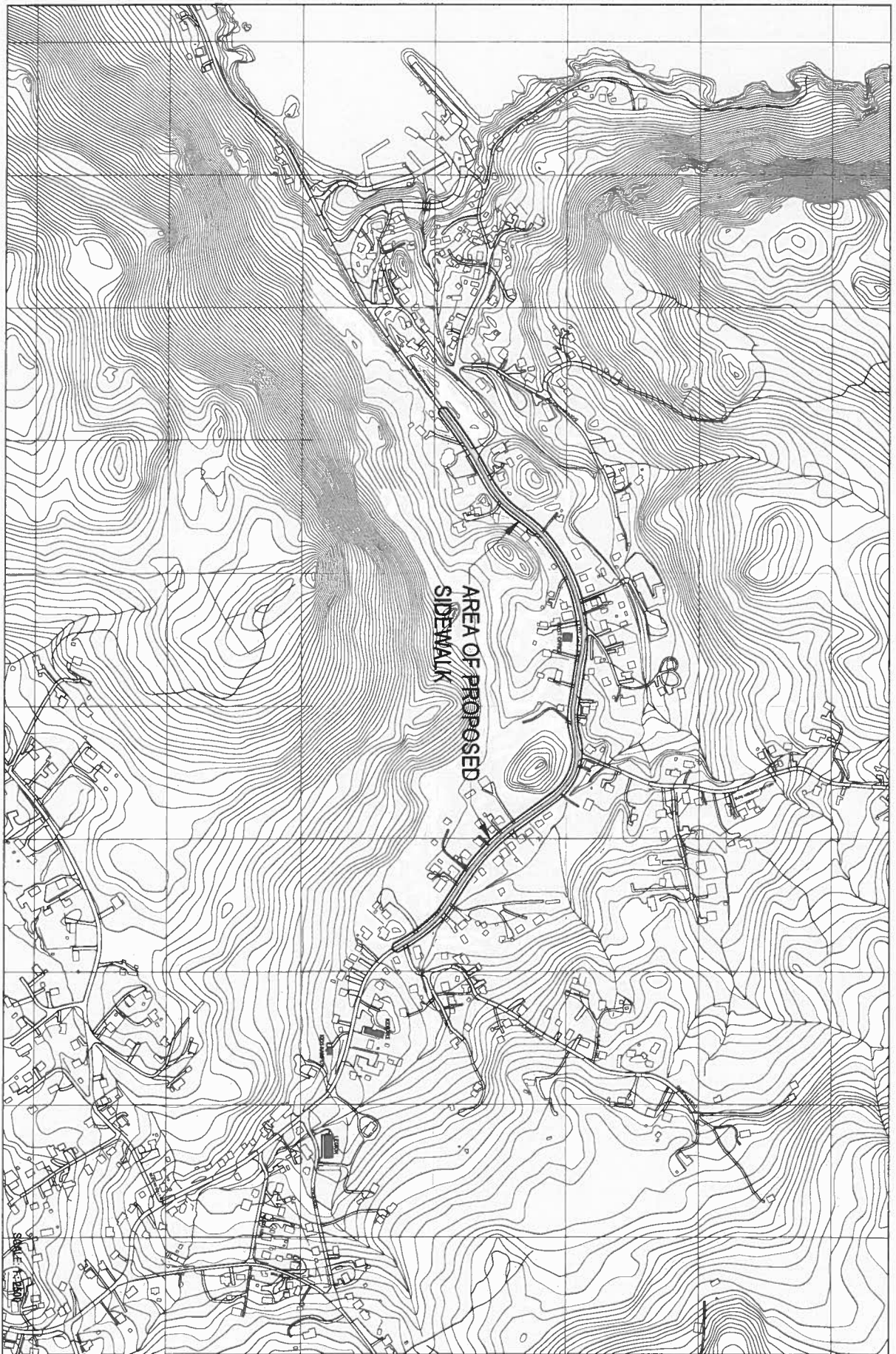
Page 2 of 2

Number	Issued		Amount	SC	Status	Status Date
	0000508526	Paper shredding	106.64			
044439	02/10/2017	Richard Murphy	1,408.75	A/P	OUT-STD	02/10/2017
	Jan30-Feb5	FD Consultation Jan30-Feb5	1,408.75			
044440	02/10/2017	St. John Ambulance	720.00	A/P	OUT-STD	02/10/2017
	I-NL-014278	Babysitting course	720.00			
044441	02/10/2017	Telelink Call Centre	662.39	A/P	OUT-STD	02/10/2017
	C9139-1701	telephone answering service	662.39			
044442	02/10/2017	Vigilant Management Inc.	13,923.63	A/P	OUT-STD	02/10/2017
	791	MYCW	2,059.94			
	792	Sludge dewatering	1,993.81			
	793	MYCW -nearys pond	3,153.88			
	795	Water loss program	242.94			
	797	Water metering project	2,600.44			
	798	Fleet tracking system	3,872.62			
044443	02/10/2017	Xerox Canada Ltd.	975.50	A/P	OUT-STD	02/10/2017
	F50363165	Copier maint	975.50			
044444	02/10/2017	A. Harvey & Company Ltd.	47,034.63	A/P	OUT-STD	02/10/2017
	S0033441	Road Salt	47,034.63			
044445	02/10/2017	ESRI Canada Limited	5,706.44	A/P	OUT-STD	02/10/2017
	90104305	GIS software support annual	5,706.44			
044446	02/10/2017	Jenkins Power Sheet Metal Inc.	17,098.20	A/P	OUT-STD	02/10/2017
	1167	Tender-gas detection system-claim1	17,098.20			
044447	02/10/2017	Municipalities Newfoundland and Labrador	8,582.35	A/P	OUT-STD	02/10/2017
	2017 Membership	Membership fees 2017	8,582.35			
044448	02/10/2017	Weir's Construction Ltd.	45,972.38	A/P	OUT-STD	02/10/2017
	247882	Asphalt repair & patch - claim no.1	45,972.38			
Cheque Totals Issued:			159,074.37			
Void:			0.00			
Total Cheques Generated:			159,074.37			
Total # of Cheques Listed:			31			

* - Partial payment was made on Invoice

** - Name on Check was modified







Tabled items at end of
Council Package for:

Administration

&

Finance



**Portugal Cove
St. Philip's**

**NEW/GENERAL/
UNFINISHED BUSINESS**



**Portugal Cove
St. Philip's**

AGENDA ITEMS/ NOTICE OF MOTIONS

NOTICE OF MOTION – to be presented by Councilor Johnny Hanlon for Protective Services

Notice is hereby given that a motion will be presented at the March 14th, 2017 Public Council meeting for the adoption of the Civic Numbering regulation.

Note: These regulations will be circulated to all of Council with sufficient time for review prior to the meeting.



Tabled items

Administration & Finance



**STANDARD FORM OF AGREEMENT
BETWEEN CLIENT AND PRIME CONSULTANT**

**TOWN OF PORTUGAL COVE-ST. PHILIP'S
SIDEWALKS**

FEBRUARY, 2017

Prepared for:
Town of Portugal Cove-St. Philip's

**STANDARD FORM OF AGREEMENT
BETWEEN CLIENT AND PRIME CONSULTANT**

**TOWN OF PORTUGAL COVE-ST. PHILIP'S
PORTUGAL COVE ROAD SIDEWALKS**

exp Services Inc.

Project No.:

DMA Project No.:

Funding Program:

AGREEMENT

THIS AGREEMENT made at **St. John's, NL**
in the Province of Newfoundland and Labrador, on this day of **Feb 17, 2017**

BETWEEN:

Town of Portugal Cove-St. Philip's
("The Client")

AND:

exp Services Inc.
("The Prime Consultant")

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants expressed, and as amended, the Parties agree as follows:

I. Definitions

In addition to the terms defined in the Special Terms and Conditions attached as Schedule "B", (if any), and the General Terms and Conditions attached as Schedule "C", the following words and phrases shall have the following meanings:

- a. "Contract Documents" shall mean and include:
 - i. This head agreement (the "Head Agreement");
 - ii. The Scope of Work attached as Schedule "A";
 - iii. The Special Terms and Conditions attached as Schedule "B";
 - iv. The General Terms and Conditions attached as Schedule "C"; and
 - v. Protocols for Security of Government Information on Information Technology assets of Contractors attached as Schedule "D".
- b. "Representatives" mean directors, officers, employees, consultants, sub-consultants agents, advisors or partners.

II. The Prime Consultant's Work

The Prime Consultant shall do all things necessary to fulfill and carry out all of the obligations of the Prime Consultant as set out in the Contract Documents (the "Work").

III. Entire Agreement

It is hereby agreed that the Contract Documents constitute the entire agreement between the parties (the "Agreement"). There are no understandings, representations or warranties of any kind except as expressly set forth herein. No changes, alterations or modifications or amendments of this Agreement shall be effective unless made in writing and signed by those persons designated for such purpose. This Agreement may be amended or otherwise modified by e-mail.

IV. Representations and Warranties

The Prime Consultant hereby represents and warrants that every fact stated or represented by the Prime Consultant or its Representatives to the Client in connection with any proposal made by the Prime Consultant in respect of the Work is true and agrees that the Client shall be conclusively deemed to have relied on each such representation or statement in entering into this Agreement.

V. Conflict Between Provisions

In the event of any conflict or inconsistency between provisions in the Contract Documents, the Contract Documents shall have precedence as follows: first the Head Agreement, second the Special Terms and Conditions, third the General Terms and Conditions, fourth the Protocols for Security of Government Information on Information Technology assets of Contractors, fifth the Scope of Work, and last, any documents incorporated by reference in any of the foregoing.

VI. Start and Completion Date

The Prime Consultant shall commence activities in relation to the Work with the start and completion dates mutually agreed upon as follows:

Start Date: **Feb 17, 2017**

Completion Date: **Jul 31, 2017**

VII. Effective Date

The effective date of this Agreement shall be the earlier of the start date referred to in Clause VI or the date on the first page of this Head Agreement.

VIII. Paragraph Numbering

In the event that the General Terms and Conditions are modified by the Special Terms and Conditions, the numbering references in the General Terms and Conditions shall remain unchanged.

IX. Counterparts

This Agreement may be executed in any number of counterparts, each of which will be

considered an original of this Agreement, and which together will constitute one and the same instrument. No Party will be bound to this Agreement unless and until all Parties have executed a counterpart. A facsimile signature or an otherwise electronically reproduced signature of either Party shall be deemed to be an original.

Town of Portugal Cove-St. Philip's

Signing Officer

Witness or Signing Officer

Date

Date

exp Services Inc.

Signing Officer

Witness or Signing Officer

Date

Date

SCHEDULE "A"
SCOPE OF WORK
BETWEEN PRIME CONSULTANT AND CLIENT

INDEX

Part 1	DEFINITIONS	6
Part 2	RESPONSIBILITIES	7
Part 3	GENERAL REQUIREMENTS	9
Part 4	BASIS OF PAYMENT SCHEDULE	11

Schedule I	Project Description
Schedule II	Basic and Other Additional Services Fees
Schedule III	Additional Reimbursement Expenses
Schedule IV	Project Schedule
Schedule V	Other General Requirements

PART 1 **DEFINITIONS**

- 1.1** **Additional Services:** means Consulting Services provided that are additional to the Basic Services as set out in Schedules I and II.
- 1.2** **Authorities Having Jurisdiction (AHJ):** means a person or persons representing these agencies that have authority to provide plan approvals and permits for the purpose of constructing the project.
- 1.3** **Basic Services:** means Consulting Services as outlined in the scope of work defined in Schedules I and II.
- 1.4** **Construction Budget Forecast:** means the Client's estimated Construction Cost including contingencies for cost increases and taxes (HST).
- 1.5** **Construction Cost:** means the contract price(s) of all elements of the project designed or specified by or on behalf of the Prime Consultant including, all applicable taxes. Where there is no contract price for all or part of the project, the Construction Cost shall be the elemental cost analysis using market rates at the estimated time of construction as determined by the Prime Consultant and agreed by the Client. The Construction Cost does not include professional fees, or land acquisition costs.
- 1.6** **Contract:** means an agreement between the Client and the Contractor for the provision of labour, materials and equipment for the construction of the project or part of the project by a Contractor.
- 1.7** **Contractor:** means a person, firm, or corporation contracting with the Client to provide labour, materials and equipment for the construction of the Project or part of the Project.
- 1.8** **Cost Control Services:** means a service to advise and monitor on Project Budget and Construction Budget Forecasts.
- 1.9** **Master Specification:** means Municipal Water, Sewer and Road Specification (a manual developed by the Department of Municipal Affairs) or Master Specification Guide for Publicly Funded Buildings (a specification developed by the Department of Transportation and Works and prepared for the purpose of presenting standards, guidelines, instructions and specifications to use in the delivery of publicly funded projects). Unless otherwise agreed between the parties, the version published on the date of the contract shall be the version applicable to the contract.
- 1.10** **Partial Services:** means Reduced Basic Services as negotiated by the Client with the Prime Consultant.
- 1.11** **Program Advisory Services:** means Consulting Services provided by the Prime Consultant prior to start of Basic Services.

- 1.12 Project Budget Forecast: means the Client's estimated total expenditure for the project. It includes the construction budget forecast and all other costs to the Client for the project such as, but not limited to, professional fees, taxes (HST) and acquisition costs.
- 1.13 Sub-Consultant: means Registered Professional Engineer, Architect or other specialist engaged by the Prime Consultant in connection with the project.

PART 2 **RESPONSIBILITIES**

2.1 PRIME CONSULTANT

- .1 The Prime Consultant's services consist of Basic Services and Additional Services which may be required to perform the Work as outlined in Schedules I, II and III.
- .2 The Prime Consultant's services as provided for under and pursuant to this Agreement at and during all phases of the Work shall encompass coordination of all disciplines, quality assurance and documentation control to integrate all services and Sub-Consultant's work. The Prime Consultant shall prepare and submit contract documents in accordance with the Client's requirements, as outlined in Schedules I and IV.
- .3 During the tendering and contract award phase, the Prime Consultant may advise and assist the Client in obtaining bids and awarding construction contracts. The Department of Municipal Affairs' tendering and contract procedures and administrative practices will be followed in the performance of this phase.
- .4 The Client may require the Prime Consultant to provide construction administration services. When required the Prime Consultant's service shall be based upon the scope of work as outlined in Schedule I of this agreement, as agreed between the Client and the Prime Consultant.
- .5 The project completion phase represents the portion of the Basic Services to be provided at the commencement of substantial completion until expiry of the one year Project warranty period. This service includes the provision of record drawings and advice concerning issues arising during this period.
- .6 The Prime Consultant should be aware of its responsibilities under the Occupational Health and Safety Act & Regulations. Notwithstanding any obligation imposed by the Occupational Health and Safety Act & Regulations, the Prime Consultant shall:
 - a) Verify, prior to issuing approval to proceed with the work, that a contractor(s) has a safe work policy and that a site specific health and safety risk assessment & management plan is in place for the project.
 - b) Ensure that key onsite personnel under the employ of the prime Consultant have a reasonable understanding of industry accepted construction practices, including the Occupational Health and Safety Act & Regulations pertaining to the type of work being undertaken.
 - c) Through regular project progress meetings obtain copies of contractor documented safety plan activities at the site, including but not necessarily limited to reporting of events/incidents, minutes of toolbox meetings, and any required actions to be taken as a result of these activities.

- d) Identify unsafe work conditions to the contractor that on site personnel may become aware of, and if necessary report same to the Occupational Health & Safety regulators.
- .7 Cost Control Services are included under the scope of Basic Services to be provided by the Prime Consultant.
- .8 The following schedules apply:
 - Schedule I - Project Description
 - Schedule II - Basic and Other Additional Services Fees
 - Schedule III - Additional Reimbursable Allowances
 - Schedule IV - Project Schedule
 - Schedule V - Other General Requirements

2.2 CLIENT'S RESPONSIBILITIES

- .1 The Client shall give due consideration to documentation submitted by the Prime Consultant and, whenever action is necessary, the Client shall inform the Prime Consultant of the Client's decisions, in a reasonable and timely manner.
- .2 The Client shall authorize persons to act on behalf of the Client with respect to delivery and administration of the project.
- .3 If the Client observes or otherwise becomes aware of any fault or defect in the project or any nonconformity with the requirements of the Contract, the Prime Consultant shall be so notified in writing.
- .4 The Client may provide information regarding the project including: a program, which shall set forth the Client's spatial and functional requirements and relationships. The Prime Consultant is responsible for requesting or providing information that is required to prepare the design and contract documents.
- .5 The Client will provide the Prime Consultant with a Project Budget Forecast.
- .6 The Client shall reimburse the Prime Consultant for procuring information which the Prime Consultant requires for the provision of services necessary to carry out the preparation of design and/or contract documentation when the information is not available upon request from the Client such as site surveys, and hazardous material surveys.
- .7 When the Client supplies the Prime Consultant with information contained within reports or equipment data sheets, the Prime Consultant will not be required to exhaustively check information supplied by the Client to verify the same unless it is requested to do so by the Client. However, if the Prime Consultant observes, or otherwise becomes aware, of any fault or defect in the information supplied to it by the Client, the Prime Consultant shall cause the Client to be notified in writing of any such fault or defect forthwith.

- .8 Where the Prime Consultant has been authorized by the Client to procure or obtain information, the Prime Consultant shall be responsible in seeing that the information provided meets the needs of the Sub-Consultant(s) performing the work under the direction of the Prime Consultant.
- .9 The Client will reimburse the Prime Consultant for other specialist consultants that may be required to carry out quality control services during the project, subject to prior approval of scope of the work and an agreement on the fee or fees payable for the same by the Client.

PART 3 **GENERAL REQUIREMENTS**

3.1 **STAFF**

- .1 The Prime Consultant will provide the Client with a list of its employees and those of its Sub-Consultants who will be assigned to the project. The list will include the classification of each employee and the hourly rate to be charged for additional services rendered. The Prime Consultant will obtain written prior approval of Client for any replacement of key employees, changes in the numbers of key employees or changes to rates of key employees assigned to the project.

3.2 **SCHEDULE**

- .1 The Prime Consultant has developed and submitted a time schedule for the performance of consultant services on the project (which Schedule has been approved by the Client and is appended as Schedule IV hereto.)
- .2 Unless otherwise agreed to between the parties, the failure by a party to comply with the approved schedule for those aspects of the Work that a party is responsible for may be sufficient cause for the other party to terminate this Agreement, if that failure is not rectified within seven (7) days after the defaulting party is given notice of its default.
- .3 If either party believes that a change in the approved schedule is necessary the party requesting that change shall promptly give notice of that fact to the other party in writing, provide the other party with a revised schedule and the reason(s) why the change is requested for its consideration and request its written approval of the same. Should that approval be forthcoming the revised schedule will become the approved schedule for the project.

3.3 **COST CONTROL**

- .1 The Prime Consultant shall provide Cost Control and Reporting Services to the Client in accordance with the requirements of the Department of Municipal Affairs for project milestones and monthly project status reports.
- .2 If at any time the Prime Consultant considers its estimates indicate costs which exceed the Project or Construction Budget Forecast, the Prime Consultant will immediately advise the Client. If the excess is due to, discretionary design elements under the control of or reasonably foreseeable by the Prime Consultant, or the negligence or default of the Prime Consultant in the performance of this Agreement, the Client may require the Prime Consultant to redesign the project at the Prime Consultant's expense to bring the cost estimate within the approved Project Budget Forecast.

- .3 If the preferred bidder's tender for the project for which the Prime Consultant has prepared and provided the design(s) and provided cost pricing and control services exceeds the Construction Budget Forecast as a result of the negligence or default of the Prime Consultant under this Agreement or is for reasons related to discretionary design elements which are under the Prime Consultant's control or which the Prime Consultant should have reasonably foreseen and could have guarded against, then the Prime Consultant, at no additional cost to the Client, shall redesign to bring the cost within the Construction Budget Forecast and retender.

3.4 CHANGES AND ADJUSTMENT

- .1 Changes and adjustment to the fees payable under this Agreement will be only considered if there is a material change in the level of services agreed to be provided or in the scope of the Project, or there is a material delay in the performance of the work required under the Contract.
- .2 The amounts due to the Prime Consultant arising from a material change to the Agreement will be determined by a negotiated fixed amount, or failing such negotiation, the actual cost as determined by level of effort incurred times the agreed hourly rate, plus receipted expenses.
- .3 Any increases in the fees payable caused by a material change or other changes shall be communicated by the Prime Consultant in writing to the Client prior to incurring such costs to permit the Client to mitigate the amount of increased costs.

3.5 ERRORS AND OMISSIONS

- .1 Any costs resulting from design errors on the part of the Prime Consultant, Sub-Consultants chosen by the Prime Consultant, or agents, or employees of the Prime Consultant or of any Sub-Consultant chosen by the Prime Consultant will be the responsibility of the Prime Consultant to remedy. However, where the Client and not the Prime Consultant chooses a Sub-Consultant to do hazardous materials studies, environmental reports, geotechnical reports, topographical or legal surveys, construction testing services or other work, the Prime Consultant shall not be held responsible for design errors attributed to incomplete or incorrect hazardous materials studies, environmental reports, geotechnical reports, topographical or legal surveys, or construction testing services, done by Sub-Consultants chosen by the Client, unless those design errors are directly caused by the Prime Consultant. In the case of Sub-Consultants chosen by the Client, the Client and not the Prime Consultant shall be responsible to take such steps as the Client deems to be appropriate, to ensure that any Sub-Consultant chosen by the Client has appropriate and adequate policies of insurance that are acceptable to the Client in place to cover design errors attributable to incomplete or incorrect hazardous materials studies, environmental reports, geotechnical reports, topographical or legal surveys, construction testing services or other work done by any such Sub-Consultant.
- .2 Any costs resulting from errors in design or omissions may be paid by the Client providing the cost of such design omissions does not entail removing material or equipment that has already been constructed in accordance with the plans and specifications. The cost of the original material and equipment, as indicated on the plans and specifications, and the labour to remove such will be the responsibility of the Prime Consultant.

3.6 PRIME CONSULTANT ACTIONS AND DECISIONS

- .1 The Prime Consultant acknowledges that adequate discussion has taken place regarding the Work with the Client and that the Prime Consultant has access to sufficient information to undertake the services contracted for within the Project Budget.
- .2 The Prime Consultant and the Client agrees to act promptly and diligently on all matters within their respective direction and control requiring an action or decision affecting the design, construction or administration of the project.
- .3 Only express approval by the Client shall be deemed to relieve the Prime Consultant of professional or technical responsibility for the quality of the project documentation prepared or assembled by the Prime Consultant. No acceptance or approval by the Client that is implied shall be deemed to relieve the Prime Consultant of professional or technical responsibility for the quality of the project documentation prepared or assembled by the Prime Consultant.
- .4 If the Prime Consultant does not promptly and diligently comply with or fails to meet the requirements of the Client, the Client may without prejudice to any other right or remedy the Client may have by giving the Prime Consultant written notice, and without prejudice to the Client's rights at law or elsewhere in this Agreement, take all such action deemed necessary for the prompt and economical completion of the project, and/or terminate the contract.

3.7 INSURANCE COVERAGE

- .1 The Prime Consultant shall supply written proof of:
 - .1 Professional liability insurance coverage equal or greater than \$250,000 per claim, \$500,000 in aggregate for projects under \$2 million construction value or \$500,000 per claim, \$1,000,000 aggregate for projects over \$2 million. The Prime Consultant shall be fully responsible for all amounts deducted from this value by the Prime Consultant's Insurer. This Insurance shall remain in effect until the expiry of the general contractor's one year warranty on the project.
 - .2 Commercial liability insurance acceptable to the Client with a minimum limit of \$1,000,000.
- .2 The Insurer shall be an insurance company licensed to do business in the Province of Newfoundland & Labrador.

PART 4 BASIS OF PAYMENT SCHEDULE

- 4.1 The Client will pay for Program Advisory Services on the basis of an agreed fixed fee or at agreed per diem rates on the basis of approved level of effort.
- 4.2 The Client will pay for all other services at an agreed fixed fee on the basis of approved level of effort. The Client's Project Budget Forecast will be made available to the Prime Consultant to assist in the evaluation of the level of effort required.
- 4.3 The fee for Basic Services and Additional Services will be apportioned to the phases of service as outlined in Schedule II - "Basic Services and Other Additional Services' Fees".

- 4.4** The fee for Basic Services will also include the management and co-ordination by the Prime Consultant and specialist consulting services as may be requested by the Client. Compensation for specialist or other consulting services will be on the basis of an agreed fixed fee for the level of effort required.
- 4.5** The Client will pay for resident services during construction, when requested, based on an agreed fixed fee amount. The fee amount is to include all payroll costs.
- 4.6** The Client will pay for construction management services, when requested, on the basis of the level of effort required during project implementation based on an agreed fixed fee.
- 4.7** The Client will pay for commissioning services on the basis of an agreed fixed fee. The fee amount shall include level of effort; associated with the preparation of documents and site visits to carry out commissioning activities, as outlined in Schedule I and detailed in the project specification and contract documents.
- 4.8** The Client will pay for the reimbursement of the Prime Consultant's expenses associated with the project at cost as per Schedule "C". Meals, private vehicle usage, private lodgings and other incidental expenses are to be paid on the basis of Government Basic Rates. These rates are HST inclusive and are determined as of the date the expenses are incurred.
- 4.9** The Client will pay for Additional Reimbursable Allowances as provided for in Schedule III - "Additional Reimbursable Allowances". These allowances require supporting documents to be provided for payment.

SCHEDULE I
PROJECT DESCRIPTION

Provide description of project including:

- Summary:** To install sidewalks and associated drainage on Portugal Cove Road over a distance of approximately 500m between Churchills Road and Legion Road and then again from Loop Drive toward Churchills Road as far as the budget will allow.
- Goal:** Completion of the work scope noted on this page within an overall project budget of approximately \$300,000 in a cost effective, efficient and timely manner. To bring value to the Town by improving infrastructure.
- Scope of Work:** To provide a cost effective design and tender for the above noted work scope as well as provide contract administration and inspection services as required for quality & quantity control. Conduct detailed design during the creation of the drawing set to provincial standards. Prepare Schedule of Quantities, pre-tender estimate, tender docs for Town approval. Apply to DTW for approval to construct. If applicable, develop tender ad and call tender including any and all guidance, clarification and/or addenda. Provide site inspection to ensure the contractor's work complies with the Municipal Master Specifications and verify any and all quantities installed. Engage and supervise material testing personnel to conduct the appropriate testing as per Schedule III. Contract Administration and Project Management will be provided to final completion.
- Deliverables:** Signed PCA
Pre-tender estimate
Contract documents and drawings (issued for approval, tender and construction)
Applicable applications to regulatory bodies
Letter of recommendation for contract award
Monthly status reports and contract payment certificates
Change orders and/or force accounts, if applicable
Certificates of performance

SCHEDULE II
(Water, Sewer, and Municipal Roads)
BASIC AND OTHER ADDITIONAL SERVICES FEES

• Basic Services		
• Preliminary Engineering	\$	3,800
• Design and Contract Documents	\$	8,000
• Tendering and Contracts Award	\$	2,600
• Contract Administration	\$	3,000
• Project Completion Phase and Project Record Drawings	\$	1,200
• Other Additional Services:		
• Resident Services during Construction	\$	10,000
◦ Enter Description	\$	
◦ Enter Description	\$	
• Prime Consultant Project Expenses for Above Services	\$	1,200
TOTAL BASIC AND OTHER SERVICE FEES	\$	29,800
TOTAL ADDITIONAL REIMBURSABLE ALLOWANCE (From Schedule III)	\$	2,500
TOTAL SERVICE FEE (Less HST) (Total Schedules II + III)	\$	32,300
HST	\$	4,845
TOTAL SERVICE FEE (Including HST)	\$	37,145

SCHEDULE III
(Water, Sewer, and Municipal Roads)
ADDITIONAL REIMBURSABLE ALLOWANCES

List below allowances for specific project expenses not included in Schedule II.

• Site Surveys	\$	
• Geotechnical Investigations	\$	
• Materials Testing	\$	2,500
o Asphalt Extractions	\$	
o Concrete Testing	\$	
o Compaction Testing	\$	
o Granular Testing	\$	
o Enter Description	\$	
• Water Main Leakage Detection	\$	
• Sewer Main Infiltration Detection	\$	
• Enter Description	\$	
• Enter Description	\$	
		<hr/>
TOTAL ADDITIONAL REIMBURSABLE ALLOWANCES	\$	2,500

SCHEDULE II
(Buildings & Treatment Facilities)

BASIC AND OTHER ADDITIONAL SERVICES FEES

• Programming Advisory Services	\$
• Basic Services	
• Concept Design	\$
• Design Development	\$
• Contract Documents	\$
• Proposal/Tendering & Contract Award	\$
• Contract Administration	\$
• Project Completion Phase and Project Record Drawings	\$
• Other Additional Services:	
• Commissioning	\$
◦ Enter Description	\$
◦ Enter Description	\$
• Resident Services during Construction	\$
◦ Enter Description	\$
◦ Enter Description	\$
• Design Services - Segregated Construction Contracts	\$
• Construction Management - Multiple Contracts	\$
• Prime Consultant Project Expenses for Above Services	\$
<hr/>	
TOTAL BASIC AND OTHER SERVICE FEES	\$
TOTAL ADDITIONAL REIMBURSABLE ALLOWANCE	
(From Schedule III)	\$
<hr/>	
TOTAL SERVICE FEE (Less HST)	\$
(Total Schedules II + III)	
HST	\$
<hr/>	
TOTAL SERVICE FEE (Including HST)	\$

SCHEDULE III
(Buildings & Treatment Facilities)
ADDITIONAL REIMBURSABLE ALLOWANCES

List below allowances for specific project expenses not included in Schedule II.

• Site Surveys	\$
• Geotechnical Investigations	\$
• Materials Testing	\$
• Water Main Leakage Detection	\$
• Sewer Main Infiltration Detection	\$
• Treatment Process Piloting	\$
• Enter Description	\$
• Enter Description	\$
	<hr/>
TOTAL ADDITIONAL REIMBURSABLE ALLOWANCES	\$

SCHEDULE IV
PROJECT SCHEDULE

Pre-Design - March 31/17
Design - April 30/17
Tender Approval - April 30/17
Tender Call - May 15/17
Construction - completed June 30/17

SCHEDULE V
OTHER GENERAL REQUIREMENTS

Attach the following:

- List of proposed Sub-Consultants
- Organization Chart
- List of Key Staff and per diem rates
- List of assigned staff and per diem rates
- Identification of number of person site visits and costs per site visit.
- Table 1 - Engineering Fee Schedule
- Table 2 - Engineering Expense Schedule

SCHEDULE "B"

SPECIAL TERMS AND CONDITIONS (as necessary)

All Special Terms and Conditions must be reviewed by both the Department of Municipal Affairs and Department of Justice, Government of Newfoundland and Labrador.

Enter Special Terms and Conditions

OR

1. No Special Terms and Conditions

SCHEDULE "C"
GENERAL TERMS AND CONDITIONS

Article - 1. PAYMENT

1.1 Consideration

It is agreed and understood that payments made for the satisfactory performance of the Work pursuant to this Agreement shall be made in accordance with either Option 1, 2 or 3 below.

Payment Option #1 ☒ Selected Option

Subject to Article 1.3, upon presentation of itemized and substantiated invoices satisfactory to the Client, the Client shall pay to the Prime Consultant, for the satisfactory performance of the Work, Thirty-Two Thousand Three Hundred Dollars.

(\$ 32,300) (plus HST) in accordance with the following payment schedule:

(i) Schedule II

Payment Option #2 ☐ Selected Option

Subject to Article 1.3, upon presentation of itemized and substantiated invoices satisfactory to the Client, the Client shall pay to the Prime Consultant, for the satisfactory performance of the Work, the following time rate schedule for activities actually expended in performance of the Work (plus HST):

(i) Person / Professional Designation - Hourly Rate

Payment Option #3 ☐ Selected Option

Subject to Article 1.3, upon the satisfactory completion of the Work and the presentation of itemized and substantiated invoices satisfactory to the Client, the Client shall pay to the Prime Consultant, \$, the absolute limit on Cost of Services (plus HST).

1.2 Reimbursement of Expenses

It is agreed and understood that reimbursements for the Prime Consultant's expenses pursuant to this Agreement shall be made in accordance with either Option A and/or B or C below.

Reimbursement Option A ☐ Selected Option

The Client shall only be responsible for the following mutually agreed expenses to be incurred by the Prime Consultant; such as travel, meals, accommodations, printing and duplicating, courier, long distance telephone, cell phones, facsimile charges, etc.

at the agreed fixed fee in the amount of \$. This amount must be included in Schedule II on the line entitled "Prime Consultant Project Expenses for Above Services".

(i) Enter Specific Reimbursible Items

Reimbursement Option B ☒ Selected Option

The Client shall only be responsible for the following reimbursable expenses, payable at cost, provided the Prime Consultant can demonstrate to the Client that such expenses were incurred in relation to the Work, and that documentation, satisfactory to the Client, is provided in support of the reimbursable expense claimed and is attached to the applicable invoice, including for example, originals of supporting receipts, invoices or statements issued by non-parties to this Agreement. This amount is estimated at \$ 1,200 and must be included in Schedule II on the line entitled "Prime Consultant Project Expenses for Above Services".

(i) Enter Specific Reimbursible Items

Reimbursement Option C ☐ Selected Option

The Client shall not be responsible for any expenses incurred by the Prime Consultant, including, without limitation, out of pocket expenses such as travel, meals, accommodations, legal advice, support staff, printing and duplicating, courier, long distance telephone and/or facsimile charges, without the prior written approval of the Client.

All claims submitted for reimbursable expenses in accordance with this Article 1.2 shall be reimbursed at rates not to exceed those established by Treasury Board pursuant to the guidelines and policies of the Client even if such rates are lower than the actual costs incurred by the Prime Consultant.

1.3 Payment General

- (a) Regardless of the payment option selected in Article 1.1 and/or 1.2, the Parties agree and confirm that total amounts payable for the Work shall not exceed a monetary ceiling of Thirty Seven One Hundred Forty-Five Dollars.

(\$ 37,145).
- (b) The Prime Consultant shall remain obligated to complete the Work notwithstanding that the actual costs of the Prime Consultant, whether in respect of professional services or in respect of costs or expenses incurred, may exceed the total aggregate sum set out in Article 1.3(a).
- (c) The Parties agree and confirm that as set out in section 25(6) of the *Financial Administration Act*, RSNL 1990 cF-8, as amended, all fees payable in accordance with this Agreement are subject to there being an appropriation for the work for the fiscal year in which payment under this Agreement is due.
- (d) Payment will be made within 60 calendar days of receipt of a properly documented invoice. The Client shall within thirty (30) days of the execution of this Agreement should the Prime Consultant request the same provide direction to the Prime Consultant as to what constitutes a properly documented invoice.
- (e) All invoices shall clearly show the amount of HST billed by the Prime Consultant as a separate item.

- (f) The Prime Consultant shall conform to any request that may be made by the Client to alter the form of invoice customarily used by the Prime Consultant as may be reasonably required for the purposes of the Client's internal accounting systems. The Prime Consultant agrees that each invoice shall clearly show and identify the work or service which is being charged under that invoice to the Client. The invoice shall have appended thereto any documentation required by the Client.
- (g) The Client shall not be responsible to pay any amounts invoiced by the Prime Consultant which may arise from work, services or expenses incurred to remedy errors or omissions in the Work for which the Prime Consultant is responsible.
- (h) The Prime Consultant shall submit invoices to the Client:
Town of Portugal Cove-St. Philip's
1119 Thorburn Road
Portugal Cove-St. Philip's, NL
A1M 1T6

Article - 2. INFORMATION SUPPLIED BY THE CLIENT

- 2.1 The Client will furnish to the Prime Consultant all available information necessary for the performance of the Work. The Client makes no guarantee either expressed or implied as to the accuracy of the information supplied. The Prime Consultant shall review the information for accuracy and applicability.
- 2.2 Where discrepancies, omissions or obscurities in the information are evident, the Prime Consultant shall bring them to the attention of the Client and secure written instructions from the Client before proceeding with any work.

Article - 3. CONFIDENTIALITY, MATERIALS AND COPYRIGHT

- 3.1 For the purposes of this Article "Confidential Information" means:
 - (a) all communications and instructions from the Client respecting the Services, including the fact of this Agreement;
 - (b) all information acquired by the Prime Consultant, the Prime Consultant's employees, servants and/or agents respecting policy consideration and development, business decisions, internal deliberations, discussions and considerations and any other aspect of the decision-making process of the Client;
 - (c) all oral, written, electronic, and machine readable information and data and any accompanying supporting materials and documentation, including without limitation, materials, documents, reports, databases, information and data of whatever nature and kind concerning the affairs of the Client, disclosed directly or indirectly to the Prime Consultant, the Prime Consultant's employees, servants and/or agents during the performance of the services or in any way related thereto;

- (d) all personal information, as defined from time to time under the *Access to Information and Protection of Privacy Act*, SNL 2002 cA-1.1, to mean recorded information about an identifiable individual, including,
 - (i) the individual's name, address or telephone number,
 - (ii) the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,
 - (iii) the individual's age, sex, sexual orientation, marital status or family status,
 - (iv) an identifying number, symbol or other particular assigned to the individual,
 - (v) the individual's fingerprints, blood type or inheritable characteristics,
 - (vi) information about the individual's health care status or history, including a physical or mental disability,
 - (vii) information about the individual's educational, financial, criminal or employment status or history,
 - (viii) the opinions of a person about the individual, and
 - (ix) the individual's personal views or opinions

for any individual, which is, directly or indirectly, disclosed to or collected by the Prime Consultant, the Prime Consultant's employees, servants and/or agents during the performance of the Services or in any way related thereto;

- (e) all information that is developed based upon Confidential Information including the work product of the Prime Consultant, the Prime Consultant's employees, servants and/or agents; and
- (f) Confidential Information shall not include any information which:
 - (i) at the time such information was provided to the Prime Consultant was or thereafter became part of the public domain through no act or omission of the Prime Consultant or the Prime Consultant's Representatives; or
 - (ii) is information which the Prime Consultant can show possession of prior to the date of this Agreement and which was received or developed by the Prime Consultant free of obligations of confidentiality to the Client.

3.2 The Prime Consultant shall treat all Confidential Information acquired by the Prime Consultant in the performance of the Services as privileged and confidential and shall not divulge the same to any person or persons at any time without the express written approval of the Client, unless required to do so by law, which may include any subpoena or other similar process or in connection with litigation, arbitration or other proceeding or by virtue of an act or regulations. In the event that such disclosure is required, the Prime Consultant shall give the Client prompt notice of the requirement

upon becoming aware that such disclosure is required. Where circumstances do not permit the Prime Consultant to provide such notice prior to disclosure, the Prime Consultant shall provide such notice to the Client immediately after the required disclosure.

- 3.3 The Prime Consultant shall only use the Confidential Information acquired in the performance of the Services for the purposes specified in the Scope of Work and this Agreement, and shall not permit the use of the Confidential Information for any other purposes.
- 3.4 All materials, data, designs, plans, drawings, specifications, research, reports, notes, estimates, summaries, calculations, surveys, papers, completed work, and work in progress and such other information and materials or parts thereof as are compiled, drawn and produced by the Prime Consultant in performing the Services, including without limitation computer printouts and computer models and all copyrights thereto and all patents, trademarks and industrial designs arising therefrom are the sole and exclusive property of the Client and the contents thereof are privileged and confidential. Nothing in this Agreement shall give the Prime Consultant a right, however arising, to assert any lien, claim, demand, property right, remedy or security right of any kind over the information provided to the Prime Consultant pursuant to the terms of this Agreement. The Prime Consultant acknowledges that the Client's right to this information shall at all times be paramount to any rights of the Prime Consultant, at law or in equity, and that the Prime Consultant's remedies against the Client for the Client's breaches under this Agreement do not include the right to deprive the Client of access to the Client's information in the Prime Consultant's possession.
- 3.5 The Prime Consultant shall provide to the Client and solely to the Client upon completion of the Services or upon earlier termination of this Agreement all Confidential Information acquired during the performance of the Services, or shall, at the request of the Client, destroy any and all copies and versions of the Confidential Information in the possession of the Prime Consultant, the Prime Consultant's employees, servants and/or agents, and shall certify the destruction of same to the Client. However, nothing in this Agreement shall preclude the Prime Consultant's privilege to retain copies of documents provided to it or prepared by it in connection with the Work, provided such documents are kept in a secure manner, are used by the Prime Consultant solely for the purposes of defending itself against claims arising from the Work of the Contract, and that the aforesaid documentation is destroyed or returned to the Client at the end of all limitation periods for commencing any action in connection with the Work or upon the conclusion or settlement with finality of any claim or action with respect to the Work.
- 3.6 The Prime Consultant acknowledges that, in addition to the requirements of this Agreement, the Confidential Information acquired by the Prime Consultant, the Prime Consultant's employees, servants and/or agents in the performance of the Services and in particular personal information, is subject to privacy legislation in various jurisdictions, including but not limited to the *Access to Information and Protection of Privacy Act*, the *Management of Information Act*, SNL 2005, cM-1.01, and the *Privacy Act*, RSNL1990 cP-22, as well as other legislation which may apply in the jurisdiction of the Prime Consultant's operation. The Prime Consultant is responsible to ensure the compliance with and satisfaction of the legislative requirements of all such information relating to the treatment of Confidential Information by the Prime Consultant, and the Prime Consultant's employees, servants and/or agents.

3.7 The Prime Consultant shall ensure that it, and the Prime Consultant's employees, servants and/or agents have in place and follow the appropriate systems, processes, protocols and policies to maintain the physical and electronic security of all Confidential Information, including but not restricted to the following:

- (a) at a minimum, using the same level of physical and electronic security as the Prime Consultant employs to avoid disclosure or dissemination of the Prime Consultant's own confidential information, to prevent the disclosure of any of the Confidential Information to any third party, or to any of the Prime Consultant's employees, servants or agents other than those who are required to have access to the same to properly perform the services under this Agreement;
- (b) establish and maintain security policies, standards and safeguards to prevent unauthorized access, collection, use, disclosure or disposal of the Confidential Information;
- (c) ensure all employees, servants and/or agents of the Prime Consultant comply with all policies, standards and safeguards established under this Article;
- (d) advise the Client of any changes in the Prime Consultant's security systems, procedures, standards and practices that may affect the Confidential Information and seek the Client's consent prior to such changes; and
- (e) satisfaction of the foregoing commitments includes, but is not restricted to, compliance with the requirements set out in Schedule "D", unless otherwise advised by the Client, and this includes:
 - (i) complying with all alterations or updates of Schedule "D" as may be provided to the Prime Consultant from time to time; and
 - (ii) adhering to any additional instructions (including oral instructions) from the Client as they relate to the subject matter contained in Schedule "D" and this Article.

3.8 The Prime Consultant shall only disclose Confidential Information to persons other than the Prime Consultant's employees, servants and/or agents with the prior written consent of the Client, and then only to those persons who need to know the information in order to carry out the duties associated with this Agreement and only after confirming that such persons agree to comply with the provisions of this Article including the requirements set out in Schedule "D".

3.9 The Prime Consultant shall:

- (a) notify the Client promptly of any unauthorized possession, use or knowledge, or attempt thereof, of the Client's information in the possession of the Prime Consultant, including but not limited to data processing files, transmission messages or other confidential information by any person or entity which may become known to the Prime Consultant;

- (b) promptly furnish to the Client full details of the unauthorized possession, use or knowledge, or attempt thereof, and assist the Client in investigating or preventing the recurrence of any unauthorized possession, use or knowledge, or attempt thereof, of Confidential Information;
 - (c) use reasonable efforts to cooperate with the Client in any litigation and investigation against third parties deemed necessary by the Client to protect its proprietary rights;
 - (d) promptly use all reasonable efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of Confidential Information; and
 - (e) refer to and follow the privacy breach protocol of the Government of Newfoundland and Labrador as it exists at the time of the breach and located on the Department of Justice website at: <http://www.justice.gov.nl.ca/just/info/privacybreach.html>

Article - 4. EMPLOYEES OF THE PRIME CONSULTANT

- 4.1 The Prime Consultant shall provide employees who are competent in their field of specialization. The Client will have the right to have the Prime Consultant remove from the Work any person, who by misconduct or by failure to properly perform his/her duties is considered by the Client to be unfit for employment on the Work. If the Prime Consultant fails to remove any unfit person from the Work as requested by the Client, then the Client may void this Agreement or refuse to accept subsequent Work in which the person concerned was involved and may refuse to approve payment for such Work.
- 4.2 The Prime Consultant shall not alter, remove or replace the employees or Representatives indicated in the Scope of Work without prior written approval by the Client.

Article - 5. ACCESS TO FACILITIES

- 5.1 The Client agrees to provide, access to the project site for the Prime Consultant to perform the Work during Client office hours.
- 5.2 When using or accessing the premises of the Client, the Prime Consultant and all officers, employees and agents of the Prime Consultant shall comply with all security regulations and workplace policies and procedures in effect from time to time at the Client's facilities.

Article - 6. RECORDS AND AUDIT

- 6.1 The Prime Consultant shall keep records, books of account and supporting documents in accordance with accepted accounting procedures and practices. The records shall be made available to the Client or its authorized representative for observation or audit at mutually convenient times and up to one year after discharge of this Agreement.
- 6.2 The Prime Consultant shall furnish reports as required by the Client for the purpose of monitoring the progress of the Work.

Article - 7. TERMINATION

- 7.1 This Agreement is deemed to be concluded once the Work has been completed to the satisfaction of the Client and the payment(s), as stipulated in the Agreement, has been issued to the Prime Consultant.
- 7.2 Notwithstanding the provisions of this Agreement, either of the Parties may at any time by way of fourteen (14) days written notice to the other, terminate this Agreement.
- 7.3 Where this Agreement is terminated prior to the mutually agreed upon completion date, the Prime Consultant shall thereupon be entitled to payment in accordance with this Agreement in respect of that part of the Work completed up to the date of termination, provided however, that the Prime Consultant shall not be entitled to any other payment in respect of such termination, including, without prejudice to the generality of the foregoing, any payment for any consequential loss or damage or loss of profits arising from termination of this Agreement or in any other way related thereto.

The Client shall retain the right of set off with respect to any earned but unpaid proceeds then owing pursuant to this Agreement.

Article - 8. NOTICES

- 8.1 All notices, claims, payments, reports and other communications required under this Agreement shall be in writing. The addresses for service are as follows:

For the Client:

Mr. Chris Milley, P.Eng.
Town of Portugal Cove-St. Philip's
1119 Thorburn Road
Portugal Cove-St. Philip's, NL A1M 1T6

Phone: (709) 895 - 8000

Fax: (709) 895 - 3780

Email: chris.milley@pcsp.ca

For the Prime Consultant:

Mr. Rick Appleby, P. Eng.
exp Services Inc.
60 Pippy Place, Suite 200
St. John's, NL A1B 4H7

Phone: (709) 579 - 2886

Fax: (709) 738 - 1596

Email: rick.appleby@exp.com

- 8.1 Notices, requests or documents shall be deemed to have been received by the addressee as follows:
- (a) As of the date on which they are delivered where delivery is by a party or by messenger or special courier service;
 - (b) As of the date on which they are sent where delivery is by telecopier or other means of electronic communication; and
 - (c) Six (6) days after delivery to Canada Post Corporation where the postal service is used.

Article - 9. LIABILITY

- 9.1 The Prime Consultant agrees that in performance of the Work neither the Prime Consultant nor any Prime Consultant's Representative shall be or be deemed to be an officer, servant, agent or partner of the Client.
- 9.2 The Client shall not be liable for, and the Prime Consultant shall indemnify and save harmless the Client and the Client's Representatives against all losses, costs, charges, or expenses incurred by the Client and its agents as a result of actions, claims or awards for compensation at law, equity or under any applicable legislation, made or brought by, against, suffered by or imposed upon the Client, or its Representatives by a third party, as a result of or related to the negligence or default of the Prime Consultant under this Agreement, including the negligence or default of any Sub-Consultant chosen by the Prime Consultant. Except to the extent that such losses, costs, charges or expenses as are referenced in this clause are caused by the negligence or default of the Client under this Agreement, the Prime Consultant shall defend any and all such actions and pay all legal charges, costs and other expenses arising therefrom. Where the Prime Consultant fails to defend such an action, the Client may at its own discretion retain its own solicitors to defend its interests in any such suit or claim, and the legal costs of that defense shall be paid by the Prime Consultant.

Article - 10. COMPLIANCE WITH LAW

- 10.1 In respect of any work within the Province of Newfoundland and Labrador connected with or arising from this Agreement, the Prime Consultant shall provide (where requested by the Client) evidence of compliance with all requirements of the Province of Newfoundland and Labrador with respect to Worker's Compensation and or Occupational Health and Safety, including without limitation, any payments or compliance orders due or issued thereunder.
- 10.2 The Prime Consultant shall ensure that the Prime Consultant and its Representatives comply with all requirements of any governing federal, provincial or municipal legislation, by-laws or regulations applicable to the Prime Consultant or the Prime Consultant's Representatives in the performance of the Work.

Article - 11. ARBITRATION

- 11.1** In the case of a dispute arising between the Client and the Prime Consultant as to their respective rights and obligations under this Agreement, the parties shall first attempt to resolve all matters through friendly negotiation by a meeting between their representatives upon notice per Article 8. A resolution reached in this way must be reached within 10 days of both parties having knowledge and notice of the dispute and be reduced to writing.
- 11.2** In the case of a dispute arising between the Client and the Prime Consultant as to their respective rights and obligations under this Agreement, (that has not been resolved pursuant to Article 11.1), either party may give the other notice of such dispute and request third party mediation thereof.
- 11.3** Should the parties not agree to third party mediation or the matter in dispute between the parties not be resolved by mediation, then in the case of a dispute arising between the Client and the Prime Consultant as to their respective rights and obligations under this Agreement, (that has not been resolved pursuant to Articles 11.1 and 11.2), either party may give the other notice of such dispute and request arbitration thereof. If both parties agree, the parties shall, with respect to the particular matters then in dispute, submit the same to arbitration in accordance with the provisions of the *Arbitration Act*, RSNL 1990 cA-14, including such provisions for the appointment of arbitrators.

Article - 12. LAWS GOVERNING

- 12.1** This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Newfoundland and Labrador and all actions, suits or proceedings arising out of this Agreement shall be determined in a court of competent jurisdiction in Newfoundland and Labrador subject to any right of appeal.

Article - 13. USE OF WORK

- 13.1** The Client shall have the right to use the Work or variations thereof in other operations of the Client.
- 13.2** With respect to 13.1 the Prime Consultant's liability to the Client for and in respect of the Work is solely limited to the project described in this Agreement.

Article - 14. CONFLICT OF INTEREST

- 14.1** No member of the House of Assembly of the Province of Newfoundland and Labrador shall be admitted to any part or share of the payments made pursuant to this Agreement or to any benefits arising therefrom.
- 14.2** The Prime Consultant and the Prime Consultant's Representatives:
 - (a) shall conduct all duties related to this Agreement with impartiality;

- (b) shall not influence, seek to influence, or otherwise take part in a decision of the Client, knowing that the decision might further their private interests;
- (c) shall not accept any commission, discount, allowance, payment, gift, or other benefit that is connected, directly or indirectly, with the performance of any duties related to this Agreement, that causes, or would appear to cause, a conflict of interest; and
- (d) shall have no financial interest in the business of a third party that causes, or would appear to cause, a conflict of interest in connection with the performance of any duties related to this Agreement.

Article - 15. SUB-CONTRACTORS

- 15.1** The Prime Consultant shall not sub-contract all or a portion of the Work without the prior written approval of the Client which consent will not be unreasonably withheld.
- 15.2** The entry into any sub-contract shall not relieve the Prime Consultant of any of its obligations under the terms of this Agreement.

Article - 16. GENERAL

- 16.1** Articles 3 and 9 of this Agreement shall survive the termination or expiration of this Agreement.
- 16.2** Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered, or prevented by force majeure. Force majeure shall be any cause beyond the control of the parties hereto which they could not reasonably have foreseen and guarded against.
- 16.3** Time shall be of the essence of this Agreement.
- 16.4** The failure of the Client to insist upon or enforce in any instance strict performance by the Prime Consultant of any of the terms of this Agreement or to exercise any rights herein conferred shall not be construed as a waiver or a relinquishment to any extent of the Client's right to assert or rely upon any such terms or rights on any future occasion.
- 16.5** If any provision of this Agreement is determined to be invalid or unenforceable, in whole or in part, such invalidity or unenforceability shall attach only to such provision, and all other provisions hereof shall continue in full force and effect.
- 16.6** The division of this Agreement into Articles and Clauses and the insertion of headings are for the convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- 16.7** This Agreement shall enure to the benefit of and be binding upon the Parties hereto, their respective heirs, legal representatives, successors and assigns.
- 16.8** The Prime Consultant shall not assign this Agreement in whole or in part to any third party without the prior written approval of the Client.

SCHEDULE D
Protocols for Security of Government Information on Information Technology Assets of
Contractors

The Prime Consultant should confirm with the Client and Department of Municipal Affairs whether the Prime Consultant will be required to use information technology resources, including computers, of the Client or the Government of Newfoundland and Labrador in the conduct of the work under the Contract. The following requirements apply where the Prime Consultant will not be using such assets, but will instead have access to confidential information (including personal information) ("Confidential Information") received from the Client or Government of Newfoundland and Labrador ("Government") and will be storing, manipulating or accessing that Confidential Information on the Prime Consultant's own information technology resources.

- All portable storage devices or media (e.g., flash drives, memory sticks, portable hard drives, writeable compact discs or digital video discs, etc.) may only be used to transport and/ or store Confidential Information where either the Confidential Information or the device or media is encrypted.
- Unless specifically authorized by the Prime Consultant's Contract or otherwise, the Prime Consultant is not permitted to attach non-government computers or other information technology systems to any Client or Government network.
- The Prime Consultant is expected to implement and maintain up to date versions of all ordinary business software for the reasonable protection of information on computers attached to the Internet which will have access to or store Confidential Information, including security firewall and anti-viral software.
- The Prime Consultant is not permitted to use any Peer to Peer file sharing program (e.g., Limewire, etc) or chat program (e.g., MSN, Skype) on any information technology asset which will contain Confidential Information, or which will be connected via a network to any computer which will contain Confidential Information.
- Email should not be used as a method to transmit Confidential Information across public networks such as the Internet unless the e-mail and/or its attachments are encrypted or zipped in a secure manner.
- Where a Prime Consultant will be granted access to the Client or Government computer network during the course of the work, in addition to the requirements noted above, the Prime Consultant shall not:
 - Share personal computer drives or folders on a computer accessing the network; or
 - Access the network remotely, either through wired or wireless connections, except through the use of secure ID and virtual private network systems.
- These requirements apply to the Prime Consultant and all employees, servants and/or agents or permitted Sub-Consultants of the Prime Consultant, and it is the responsibility of the Prime Consultant to ensure that all such employees, servants and/or agents or permitted Sub-Consultants are aware of these restrictions and are in compliance herewith.
- For the purposes of Schedule D, routine exchanges of design and construction information between the Client, the Prime Consultant and the Prime Consultant's Sub-Consultants that is of a non confidential nature need not be encrypted.