

THIS AGREEMENT is entered into on this 3rd day of July, 2013

Between:

COMOX VALLEY REGIONAL DISTRICT

600 Comox Road
Courtenay, BC V9N 3P6

(the 'CVRD')

And:

THE CORPORATION OF THE VILLAGE OF CUMBERLAND

Box 340
2673 Dunsmuir Avenue
Cumberland, BC V0R 1S0

(the 'Village')

WHEREAS:

- A. The CVRD owns and operates the Comox Valley waste management centre (CVWMC) located within the Village of Cumberland, at 2400 Pidgeon Lake Road, Cumberland, BC,
- B. The Village of Cumberland has raised concerns, as host community, regarding the impacts on the community with the presence of a landfill within their boundaries,
- C. In order to balance the impacts the Village may experience in hosting the CVWMC against the advantages received by the users of the facility, the parties agree to the terms and conditions of this host community benefit agreement; and,
- D. The concept of a host community benefit agreement is to balance the impacts a local community may experience in hosting a waste management facility against the advantages received by the users of the facility from other communities. With respect to the CVWMC, the other communities are the Comox Valley and Strathcona regional district communities.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises and covenants contained in this agreement and other good and valuable consideration, the CVRD and the Village covenant and agree with each other as follows:

1.0 Term

This agreement shall be for a period of twenty (20) years commencing on January 1, 2013 and expiring on December 31, 2032. There is no right of renewal with respect to this agreement.

2.0 Existing Roadways Rehabilitation and Provisions

- 2.1 Recognizing that the Cumberland/Bevan Road corridor indicated on schedule 1 – drawing 1 to this Agreement (the Corridor) is the primary route to the CVWMC for all commercial and residential hauling vehicles, and that the Village is responsible for road maintenance within its boundaries, the CVRD agrees to fund a one-time upgrade to the Corridor to Ministry of Transportation and Infrastructure standards for design and construction to accommodate vehicles accessing the CVWMC for the

length of this agreement. The amount of the funding for the one-time upgrade to the Corridor to be provided by the CVRD will be not more than \$3,000,000.00.

- 2.2 The Village will provide a schedule of cash flows totaling not more than \$3,000,000 to upgrade the Corridor at least 30 days prior to the start of survey and/or design and then 30 days before the start of construction. The CVRD will remit funds to the Village during the course of design and construction based on the cash flow schedule and project progress reports from the Village's engineering consultant. Other than providing the funds, the CVRD will have no responsibility for the design, construction, maintenance and support of the Corridor upgrade.
- 2.3 The design and construction schedule for the Corridor upgrade, will include and take place as follows:
- 2.3.1 2013 – Geotechnical and Subsurface Surveys
 - 2.3.2 2014 – Design of roadway rehabilitation
 - 2.3.3 2015 and 2016 – Construction

The Village will use its best efforts to meet the design and construction schedule as outlined above, however, reasonable delays shall not jeopardize this Agreement, including its funding commitments

- 2.4 The Village agrees that this one-time upgrade is in full satisfaction of the Village's road concerns relating to the CVWMC and, subject to section 8.10 [*legislative discretion not fettered*] of this Agreement, no future tariffs or charges will be imposed as a result of vehicles travelling the Corridor for CVWMC purposes. The CVRD will have no responsibility for the design, construction, maintenance and support of the Corridor roadways.
- 2.5 The Village agrees to transfer to the CVRD title of the Pidgeon Lake Road, indicated on schedule 1 – drawing 2 to this Agreement, from the right-of-way of Bevan Road to the CVWMC to be included in the contiguous ownership of the CVRD at the CVWMC. Following the transfer of title, CVRD will assume responsibility for all roadway construction and maintenance of the Pidgeon Lake CVWMC access road. The CVRD will be responsible for all legal, survey and advertising costs associated with the transfer of the title from the Village to the CVRD.

3.0 Host Community Rate Fee

- 3.1 To compensate the Village for social, environmental, and economic impact either incurred or perceived by the Village related to the presence of the CVWMC within its boundaries, the CVRD agrees to pay to the Village a host community rate fee equal to \$300,000.00 per year for the Term of the agreement. The payments will be made by the CVRD to the Village on a semi-annual basis effective 2013.
- 3.2 The Village shall provide the CVRD with an annual accounting of the host community rate fee funds received and expensed or held in reserves.

4.0 CVWMC Operation

The parties acknowledge that the CVWMC operations, including, without limitation, the expansion of the CVWMC landfill, the conduct of the various diversion activities, and the construction of buildings or facilities in support of the CVWMC operations (cumulatively, the “CVWMC Operations”) are for the general benefit of the CVRD, including the Village. Therefore, subject to section 8.10 [*legislative discretion not fettered*] of this Agreement, the respective parties will take all reasonable action to ensure that any and all decisions that they are required to make in relation to applicable CVWMC Operations are made expeditiously.

5.0 Review

The agreement will undergo a mandatory joint review every five years commencing in 2020. Any amendments to the agreement must be mutually acceptable to both parties and any amendments must be in writing and executed by both parties.

6.0 Communication

- 6.1 The parties agree to meet no less than once per calendar year to review matters relating to this agreement.
- 6.2 The key contacts for all communication matters between the parties relating to this agreement are as follows:

Village Chief Administrative Officer or designate

CVRD Chief Administrative Officer or designate

7.0 Indemnification and Release

- 7.1 The Village hereby indemnifies, defends and saves harmless the CVRD, and its officers, directors and employees, from and against all losses, claims, damages, liabilities and costs incurred or suffered by the CVRD arising from the Village's obligations in this agreement, including, without limitation, arising from the upgrading of the Corridor, and the design, construction, maintenance and support of the Corridor roadways within the jurisdiction of the Village, unless such losses, claims, damages and costs relate in any way to negligent or willful acts or omissions on the part of the CVRD, its officers, employees, servants, agents or invitees.
- 7.2 The Village hereby remises, releases and forever discharges the CVRD and its officers, directors and employees, from any and all actions, causes of action, claims, suits, debts, contracts, complaints, demands, damages, interest, costs, expenses and compensation of whatsoever kind and howsoever arising, and which the Village now has or at any time hereafter may have against the CVRD with respect to the matters relating to the Village's obligations in this agreement, including, without limitation, relating to the upgrading of the Corridor, and the design, construction, maintenance and support of the Corridor roadways within the jurisdiction of the Village, unless such losses, claims, damages and costs relate in any way to negligent or willful acts or omissions on the part of the CVRD, its officers, employees, servants, agents or invitees.

DATED: February 14, 2013

- 7.3 The CVRD hereby indemnifies, defends and saves harmless the Village, and its officers, directors and employees, from and against all losses, claims, damages, liabilities and costs incurred or suffered by the Village arising from the CVRD's obligations in this agreement, including, without limitation the non-payment by the CVRD of the one-time upgrade funding or host community rate fee, unless such losses, claims, damages and costs relate in any way to negligent or willful acts or omissions on the part of the Village, its officers, employees, servants, agents or invitees.
- 7.4 The CVRD hereby remises, releases and forever discharges the Village and its officers, directors and employees, from any and all actions, causes of action, claims, suits, debts, contracts, complaints, demands, damages, interest, costs, expenses and compensation of whatsoever kind and howsoever arising, and which the CVRD now has or at any time hereafter may have against the Village with respect to the matters relating to the CVRD's obligations in this agreement, including, without limitation, the non-payment by the CVRD of the one-time upgrade funding or host community rate fee, unless such losses, claims, damages and costs relate in any way to negligent or willful acts or omissions on the part of the Village, its officers, employees, servants, agents or invitees.

8.0 General Provisions

- 8.1 No modification or amendment to this agreement shall be binding unless executed in writing by both parties.
- 8.2 This agreement constitutes the entire agreement between the parties and supersedes all previous representations, warranties, dealings, negotiations, discussions, agreements, understandings and expectations of the parties, whether oral or written, regarding the subject matter hereof.
- 8.3 This agreement shall be binding upon and shall inure to the benefit of the parties and their respective heirs, executors, administrators, successors and permitted assigns.
- 8.4 A matter in dispute under this agreement may, with the concurrence of both the CVRD and the Village, be submitted for mediation to a mediator appointed jointly by the parties. If the matter cannot be resolved by mediation, it shall be submitted to a single arbitrator appointed jointly by the parties whose decision shall be final. The parties shall share costs of the mediation or arbitration equally. Should the parties be unable to agree on a mediator or arbitrator, or be unable to agree on the rules for mediation or arbitration, any party may, upon giving written notice to other party, apply to the Ministry of Community, Sport and Cultural Development for dispute resolution services as contemplated under Division 3 of Part 9 of the *Community Charter*.
- 8.5 This agreement shall be governed by and construed in accordance with the laws of the province of British Columbia, Canada and the parties hereto irrevocably attorn to the jurisdiction of the courts of British Columbia.
- 8.6 Any notice required or permitted to be given under this agreement shall be in writing and may be delivered in person or by registered mail given to the parties at the

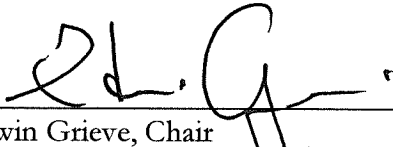
DATED: February 14, 2013

addresses set out on the first page hereof or at such other address or facsimile number as the parties may from time to time be informed.

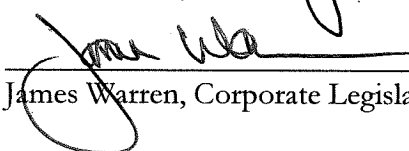
- 8.7 A waiver of any breach of any provision of this agreement shall not be construed as a continuing waiver of other breaches of the same or other provisions of this agreement.
- 8.8 If any one or more provisions of this agreement is invalid, illegal or found to be unenforceable by a court of competent jurisdiction for any reason whatsoever, the unenforceability shall not affect the validity, legality or enforceability of the remaining provisions of this agreement, and the unenforceable, illegal or invalid provision or provisions shall be severable from the remainder of this agreement. Where such severance alters the basic structure of this agreement, the parties shall renegotiate this agreement in good faith.
- 8.9 No party may assign any of their rights or obligations under this agreement, either in whole or in part, without the prior written consent of the other party. Any attempt to do so shall be void and of no effect.
- 8.10 Nothing in the agreement fetters the discretion of CVRD and the Village under the *Community Charter* and the *Local Government Act*.

The parties have executed this agreement as of the day and year first above written.

COMOX VALLEY REGIONAL DISTRICT



Edwin Grieve, Chair

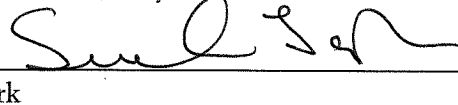


James Warren, Corporate Legislative Officer

VILLAGE OF CUMBERLAND



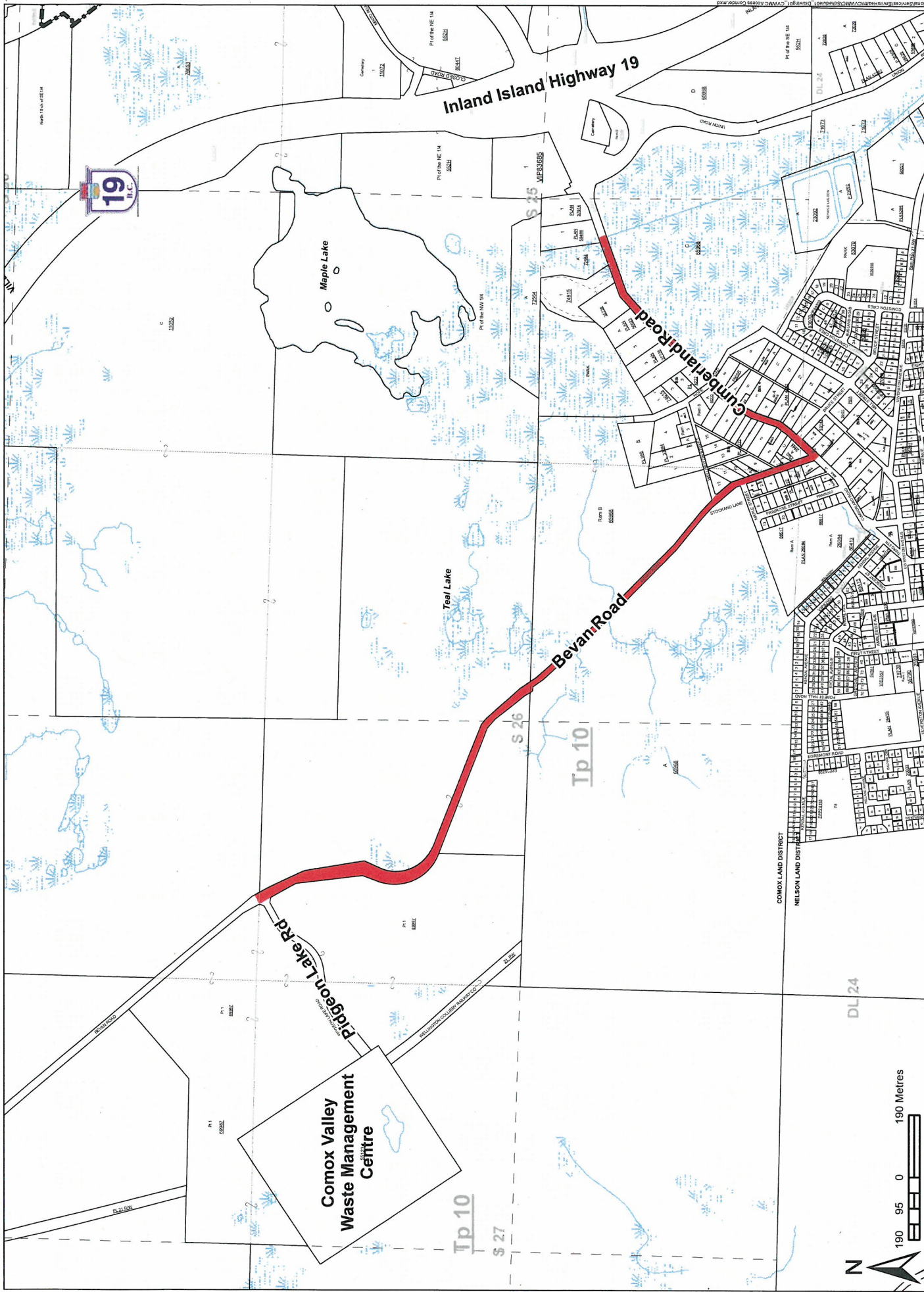
Leslie Baird, Mayor



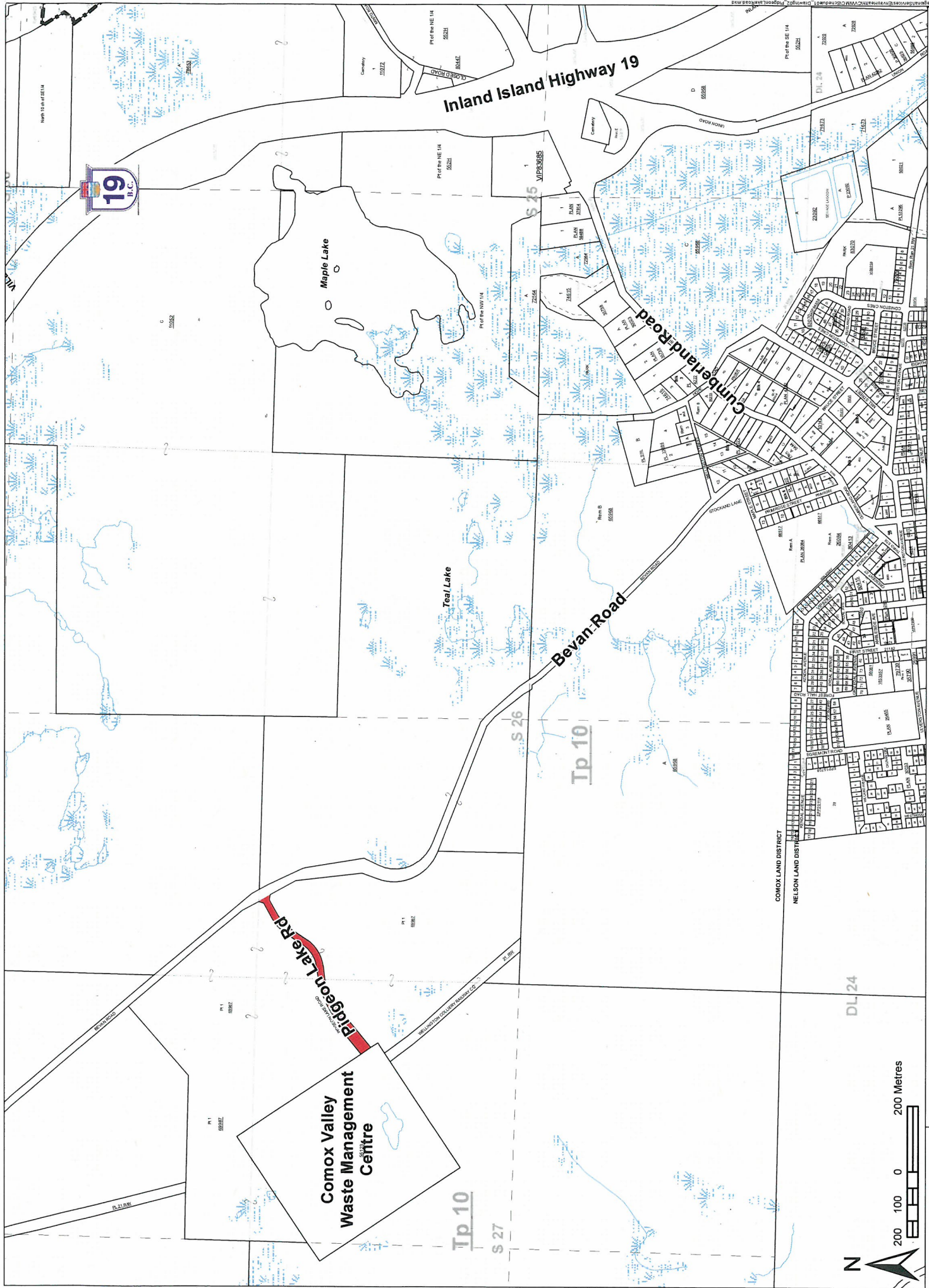
Clerk

Sundance Topham, Chief Administrative Officer

DATED: February 14, 2013



Schedule 1 - Drawing #1
CVMWC Access Corridor



Schedule 1 - Drawing #2

Pidgeon Lake Road