

TE'MEXW TREATY ASSOCIATION TRIPARTITE NEGOTIATIONS
AGREEMENT-IN-PRINCIPLE
CAPITAL TRANSFER AND NEGOTIATION LOAN REPAYMENT
MAY 2010

Without Prejudice, For Discussion Purposes Only. Subject to Internal Review. This document represents the work of the Parties to date. It contains no admissions and is subject to change. It may not be tendered or relied upon in any Court or other proceeding. This Chapter is part of a working Agreement-in-Principle document. Any final Chapter in a Te'mexw First Nation Final Agreement should be read and understood in conjunction with the rest of that Final Agreement.

**CHAPTER 20 – CAPITAL TRANSFER AND NEGOTIATION LOAN
REPAYMENT**

DEFINITIONS

“Capital Transfer” means an amount paid by Canada or British Columbia to a Te'mexw Member First Nation under the Capital Transfer and Negotiation Loan Repayment Chapter.

“First Nation Negotiation Support Agreements” means any agreement respecting loan funding allocated to Te'mexw Member First Nations or the Te'mexw Treaty Association by Canada directly, or through the British Columbia Treaty Commission or by British Columbia Treaty Commissioners.

CAPITAL TRANSFER

1. The Capital Transfer from Canada and British Columbia to Te'mexw Member First Nations will be \$_____ distributed in the following way:
 - a) \$_____ to the Beecher Bay (Scia'New) First Nation;
 - b) \$_____ to the Malahat First Nation;
 - c) \$_____ to the Nanoose (Snaw-Naw-As) First Nation;
 - d) \$_____ to the Songhees First Nation; and
 - e) \$_____ to the T'Sou-ke First Nation,

and will be paid in accordance with the provisions of this Chapter.

2. A provisional schedule of payments will be negotiated prior to the initialing of the Final Agreement such that:
 - a) the timing and amounts of payments in the provisional schedule of payments will provide for a first payment to Te'mexw Member First Nations on the Effective Date and subsequent payments on each anniversary of the Effective Date;
 - b) the net present value of the amounts listed in the provisional

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schedule of payments will equal the amount set out in paragraph 1; and

- c) the net present value of the amounts listed in the provisional schedule of payments will be calculated using as a discount rate the most recent and appropriate Consolidated Revenue Fund Lending Rate available before the initialing of the Final Agreement from the Department of Finance, Canada, less one-eighth of one percent.

- 3. A final schedule of payments will be determined three months before or as soon as the Effective Date is known, whichever date is closest to the Effective Date, in accordance with the following formula:

$$\text{Final Amount} = \text{Provisional Amount} \times \left(\frac{\text{Effective Date FDDIPI}}{\text{XthQ 200X FDDIPI}} \right)$$

Where,

“Final Amount” refers to each amount in the final schedule of payments;

“Provisional Amount” refers to the corresponding amount in the provisional schedule of payments;

“Effective Date FDDIPI” refers to the value of the Canada Final Domestic Demand Implicit Price Index (FDDIPI) for the quarter before the Effective Date;

“Xth Q 200X FDDIPI” refers to the value of the Canada FDDIPI for the X quarter of the year 200X;

the Effective Date FDDIPI and Xth Q 200X FDDIPI values used will be the latest published values available from Statistics Canada three months prior to or as soon as the Effective Date is known, whichever date is closest to the Effective Date.

- 4. British Columbia and, subject to paragraph 10, Canada will make payments to Te'mexw Member First Nations in accordance with the

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final schedule of payments determined under paragraph 3.

NEGOTIATION LOAN REPAYMENT

5. On the date of the initialing of the Final Agreement, Canada will determine the outstanding amount of negotiation loans:
 - a) made by Canada to Te'mexw Member First Nations including any interest that may have accrued to that date, in accordance with First Nation Negotiation Support Agreements; and
 - b) made by Canada to the Te'mexw Treaty Association on behalf of or for the use of the Te'mexw Member First Nations, including any interest that may have accrued to that date.
6. Prior to the initialing of the Final Agreement, the Te'mexw Treaty Association and Canada will determine the percentage allocations of the negotiation loans amongst the Te'mexw Members First Nations.
7. On the date of the initialing of the Final Agreement, Canada will prepare a provisional schedule for each Te'mexw Member First Nation for the repayment of the outstanding negotiation loan based on the amount referred to in paragraph 5 and the percentage allocations referred to in paragraph 6, such that the timing of the repayments will be proportional to the provisional schedule of payments referred to in paragraph 2.
8. This provisional schedule will use an interest rate equal to the discount rate referred to in subparagraph 2.c).
9. A final schedule of loan repayment amounts for each Te'mexw Member First Nation will be determined three months before or as soon as the Effective Date is known, whichever date is closest to the Effective Date, by:
 - a) determining the amount of any additional negotiation loans made by Canada to the Te'mexw Treaty Association or Te'mexw Member First Nations after the initialing of the Final Agreement and before the Effective Date, and any further interest that may have accrued in respect of any negotiation

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loans, in accordance with First Nation Negotiation Support Agreements; and

- b) pro-rating the additional amount in subparagraph 9a) over the provisional repayment schedule.
10. Canada may deduct any amounts due under the final schedule of loan repayments referred to in paragraph 9 from Capital Transfer payments payable to Te'mexw Member First Nations under paragraph 4.
11. Te'mexw Member First Nations may pay to Canada, in advance and on account, without bonus or penalty, amounts that will be credited against the loan repayment amounts set out in paragraph 9.
12. Pursuant to paragraph 11, the amounts that Canada may deduct under paragraph 10 will be reduced to reflect the adjustment in outstanding principal and reduction in any interest that would have accrued in the absence of the advance payment.

REVENUE SHARING

13. Prior to the Final Agreement, the Parties will negotiate and attempt to reach agreement on sharing with the Te'mexw Member First Nations agreed-upon resource revenues originating in British Columbia and flowing to Canada or British Columbia.
14. These negotiations may include:
- a) the identification of types of resource revenues to be shared;
 - b) the basis upon which they will be shared;
 - c) the term, if any, over which the revenues will be shared;
 - d) the placement in the Final Agreement of the resources revenue sharing provisions;
 - e) the tax and Own Source Revenue treatment of the resource revenue shared; and,

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- f) such other matters as may be relevant.