

**Prince Rupert Gas Transmission Project
Natural Gas Pipeline Benefits Agreement**

BETWEEN:

Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Aboriginal Relations and Reconciliation (the "Province")

AND:

Tl'azt'en Nation on behalf of itself and its Members, as represented by the Chief and Council

(collectively referred to as the "Parties" and individually referred to as a "Party")

WHEREAS:

- A. New natural gas pipelines are proposed in British Columbia.
- B. The Province is consulting Tl'azt'en Nation on the potential impacts of proposed natural gas pipelines in accordance with provincial legal obligations.
- C. The Parties wish to develop an effective long-term working relationship that includes Tl'azt'en Nation sharing benefits associated with the Natural Gas Pipeline Project and supporting the development of the Natural Gas Pipeline Project in accordance with this Agreement.

NOW THEREFORE the Parties agree as follows:

1. INTERPRETATION

1.1. Definitions. In this Agreement:

"Additional Payment" means the payment provided in accordance with section 3.3 (Additional Payment);

"Agreement" means this Prince Rupert Gas Transmission Project Natural Gas Pipeline Benefits Agreement;

"Effective Date" means the date on which the Province receives written notice from Tl'azt'en Nation that it has taken all necessary actions and has obtained all necessary approvals to make this Agreement effective;

"Eligible First Nation" means a First Nation that the Province at its sole discretion determines is eligible to receive Ongoing Benefits under section 3.4 (Ongoing Benefits) and for the

purposes of this Agreement includes Tl'azt'en Nation;

"Final Payment" means the payment provided in accordance with section 3.2(b) (Payment Schedule);

"Government Actions" means all processes, decisions, authorizations, permits, licences, approvals, Crown land dispositions, agreements and other actions whatsoever, issued, granted, entered into or otherwise taken by the Province, any minister, public official, employee or agent of the Province, any government corporation, and any person acting as a decision maker under any enactment of the Province;

"In-Service Date" means the first day that the Natural Gas Pipeline Project is placed in-service for transmission of natural gas and is able to make natural gas deliveries to the LNG facility at the terminus of the Natural Gas Pipeline Project;

"Initial Payment" means the payment provided in accordance with section 3.2(a) (Payment Schedule);

"Material Commencement of Construction" means all of the following events having occurred:

- a) the Province receives written confirmation from the proponent that orders have been placed for substantially all of the pipe required for the Natural Gas Pipeline Project;
- b) a contract has been entered into with at least one large diameter pipeline general contractor for completion of the work associated with installation of the pipe for one spread having a linear length of more than 25 kilometres of the Natural Gas Pipeline Project; and
- c) the completion of production welding along a portion of at least 10 kilometres of a spread of the Natural Gas Pipeline Project;

"Member" means any person who is a "member of the band", as that phrase is defined in the *Indian Act*, R.S.C. 1985, c. I-5, of Tl'azt'en Nation;

"Natural Gas Pipeline Project" means the proposed Prince Rupert Gas Transmission Project described in the Environmental Assessment Office Project Approval Certificate issued on November 25, 2014 under the *Environmental Assessment Act*, [SBC 2002] c. 43, as varied from time to time, which includes components such as a natural gas pipeline, and associated compressor stations, equipment and other physical facilities, valves and meters, power supply sources, equipment staging sites, access roads and rights of ways, construction camps and investigative activities;

"Ongoing Benefits" means financial benefits available from the Province to Eligible First Nations provided in accordance with sections 3.4 (Ongoing Benefits) to 3.9 (Inflation Adjustment);

"Project Payments" means the total payment described under section 3.1 (Project Payments) for the Natural Gas Pipeline Project, but does not include any additional payments under section

3.3 (Additional Payment), section 3.4 (Ongoing Benefits), or section 3.10 (Additional Opportunities); and

“**Tl’azt’en Nation**” means the “band”, as that term is defined in the *Indian Act*, R.S.C. 1985, c. I-5, named “Tl’azt’en Nation”.

1.2. Interpretation. For purposes of this Agreement:

- a) “including” means “including, but not limited to” and “includes” means “includes, but not limited to”;
- b) the recitals and headings are for convenience only, do not form a part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- c) a reference to a statute includes every amendment to it, every regulation made under it, every amendment made to a regulation made under it and any law enacted in substitution for, or in replacement of, it;
- d) words in the singular include the plural, and words in the plural include the singular unless the context or any specific definition requires otherwise;
- e) any reference to a corporate entity includes any predecessor or successor to such entity; and
- f) there will be no presumption that doubtful expressions, terms or provisions in this Agreement are to be resolved in favour of any Party.

2. PURPOSE AND SCOPE

2.1 Purpose. The purpose of this Agreement is to provide financial benefits to Tl’azt’en Nation and to secure Tl’azt’en Nation’s support in relation to the Natural Gas Pipeline Project.

2.2 Scope. This Agreement applies to the Natural Gas Pipeline Project.

3. FINANCIAL BENEFITS

3.1. Project Payments. The Province will provide Tl’azt’en Nation with a Project Payment of \$2.16 million for the Natural Gas Pipeline Project in accordance with section 3.2 (Payment Schedule), and subject to section 6.1 (Conditions Precedent to Funding).

3.2. Payment Schedule. The Province will provide the Project Payment for the Natural Gas Pipeline Project in two instalments as follows:

- a) an Initial Payment of one half of the total Project Payment will be provided within 90 days of the Material Commencement of Construction;

- b) a Final Payment of one half of the total Project Payment will be provided within 90 days after the In-Service Date of the Natural Gas Pipeline Project; and
- c) the Province will provide Tl'azt'en Nation with notice of the achievement of the Material Commencement of Construction and the In-Service Date as soon as practicable after the occurrence of such events.

3.3. Additional Payment. The Province will provide Tl'azt'en Nation with an Additional Payment of \$324,000 within 90 days after the Effective Date.

3.4. Ongoing Benefits. The Province will provide Ongoing Benefits of \$10,000,000.00 per year for the Natural Gas Pipeline Project to Tl'azt'en Nation and other Eligible First Nations in accordance with sections 3.5 (Entitlement to Ongoing Benefits) to 3.9 (Inflation Adjustment).

3.5. Entitlement to Ongoing Benefits. Subject to sections 3.6 (Allocation of Ongoing Benefits) and 3.8 (Ongoing Benefits Agreement), Tl'azt'en Nation will be entitled to receive a share of Ongoing Benefits commencing on the first anniversary of the In-Service Date for the Natural Gas Pipeline Project and continuing annually on each subsequent anniversary of the In-Service Date for as long as that project is making natural gas deliveries to the terminus facility.

3.6. Allocation of Ongoing Benefits. The Province will not make a determination on the allocation of Ongoing Benefits until after June 30, 2015 to allow Eligible First Nations to negotiate and attempt to reach unanimous agreement on the allocation of Ongoing Benefits.

3.7. Eligible First Nations Discussions. The Province will help to facilitate discussions between Eligible First Nations on the allocation of Ongoing Benefits as follows:

- a) the Province will provide Tl'azt'en Nation with a list of Eligible First Nations as soon as practicable after the date on which the Agreement is fully executed; and
- b) on request, the Province will discuss the potential methodologies for the allocation of Ongoing Benefits with Tl'azt'en Nation (and the other Eligible First Nations should they also submit a request).

3.8. Ongoing Benefits Agreement. If all of the Eligible First Nations are able to reach agreement on the allocation of Ongoing Benefits by June 30, 2015, then the Province will allocate the Ongoing Benefits in accordance with such agreement. Where the Eligible First Nations are unable to reach agreement on the allocation of Ongoing Benefits by June 30, 2015, the Province will:

- a) allocate a portion of the Ongoing Benefits to each Eligible First Nation in accordance with a consistent and objective methodology determined by the

Province, which may take into account factors such as population and the length of pipeline within traditional territory;

- b) provide notice to Tl'azt'en Nation of the provincial approach to the allocation of Ongoing Benefits among Eligible First Nations and the amount and timing of its allocation of Ongoing Benefits as soon as practicable after June 30, 2015; and
- c) negotiate and attempt to reach agreement with Tl'azt'en Nation on any amendments applicable to this Agreement.

3.9. Inflation Adjustment. The Province will adjust the amount of Ongoing Benefits payments annually, commencing on the second anniversary of the In-Service Date for the Natural Gas Pipeline Project, and the adjustment will be equivalent to changes in annual BC Final Domestic Demand Implicit Price Index published by Statistics Canada.

3.10. Additional Opportunities. Where the Province provides new types of financial benefits to First Nations relating to the Natural Gas Pipeline Project the Province will provide notice to Tl'azt'en Nation and the Parties will discuss those financial benefits, including any eligibility criteria, with the intention of increasing the benefits available to Tl'azt'en Nation.

3.11. Future Amendments. Where the benefits under section 3.10 (Additional Opportunities) are provided to First Nations under an agreement, the Parties will negotiate and attempt to reach agreement on amendments applicable to this Agreement.

3.12. Future Negotiations. If aboriginal title is established by a court declaration or agreement in relation to any land containing any aspect of the Natural Gas Pipeline Project in Tl'azt'en Nation's traditional territory, then the outcome of any potential benefit or financial negotiations, including in relation to infringement claims, that could benefit the members of Tl'azt'en Nation will be supplemental to, and will not be prejudiced by, the payments under this Agreement.

3.13. Further Assurances. Nothing in this Agreement precludes Tl'azt'en Nation from:

- a) continuing to negotiate and implement revenue and benefits-sharing agreements with proponents and other governments;
- b) accessing economic opportunities and benefits, which may be available to Tl'azt'en Nation, other than those expressly set out in this Agreement; or
- c) participating in government programs for which Tl'azt'en Nation may be eligible.

4. CONSULTATION ON NATURAL GAS PIPELINE PROJECTS

4.1. Consultation. The Parties acknowledge that:

- a) consultation between Tl'azt'en Nation and the Province is occurring and will continue to occur with respect to the Province's assessment, review, any potential permitting processes and other Government Actions related to the Natural Gas Pipeline Project; and
- b) participation in those processes, including identifying potential impacts and seeking to resolve concerns, is expected to occur in a timely manner and in accordance with common law requirements or the process set out in any applicable consultation process agreement between the Parties.

5. CERTAINTY

5.1. Support. Tl'azt'en Nation will provide any letter, certificate or confirmation of the matters set out in section 4.1 (Consultation), section 5.2 (Legal Challenges), section 5.3 (Release) and section 5.6 (Claims Resolved) on written request from the Province.

5.2. Legal Challenges. Provided the Province is not in default of any of its obligations under this Agreement, Tl'azt'en Nation agrees not to bring any court actions or proceedings that directly or indirectly challenge any Government Actions in relation to the Natural Gas Pipeline Project on the basis that the Province has failed to consult or accommodate Tl'azt'en Nation or on the basis that the Province has infringed any of Tl'azt'en Nation's rights recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.

5.3. Release. On receipt of the Initial Payment under section 3.2(a) and provided the Province is not in default of any of its obligations to make payments under this Agreement (default meaning a failure to make payment within the time required after satisfaction of all conditions for payment), Tl'azt'en Nation releases and discharges the Province from the following in relation to the Natural Gas Pipeline Project:

- a) all actions, causes of action, claims, proceedings, arising from any legal obligation to consult and accommodate Tl'azt'en Nation or to avoid infringement of Tl'azt'en Nation's rights recognized and affirmed by section 35(1) of the *Constitution Act, 1982*; and
- b) debts, duties, demands, damages, interest, fines and costs, expenses, and compensation whatsoever amount, nature and kind including economic benefits, capacity funding and revenue sharing or payments of any kind including payments arising from any legal obligation to consult and accommodate or avoid infringement of Tl'azt'en Nation's rights recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.

5.4. Interference. Tl'azt'en Nation agrees not to support or participate in any acts that frustrate, delay, stop or otherwise physically impede the right of the Province or the Natural Gas Pipeline Project proponent or any of their respective employees, contractors, agents, representatives or invitees to gain access to the Natural Gas Pipeline Project and to carry out any activities associated with the development and operations of the Natural Gas Pipeline Project.

5.5. **Assistance.** Tl'azt'en Nation will use reasonable efforts to assist the Province in seeking to resolve any action that may be taken by any Member that is inconsistent with this Agreement.

5.6. **Claims Resolved.** Provided the Province is not in default of any of its obligations under this Agreement, Tl'azt'en Nation agrees that this Agreement resolves all claims arising from any Government Actions in relation to the Natural Gas Pipeline Project with respect to:

- a) issues of economic benefits, capacity funding and revenue sharing or payments of any kind including payments related to any consultation and accommodation obligations; and
- b) compensation for infringement of Tl'azt'en Nation's rights recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.

5.7. **Accidents or Malfunctions.** Sections 5.2 (Legal Challenges), 5.3 (Release) and 5.6 (Claims Resolved) do not prevent or limit whatsoever the ability of Tl'azt'en Nation to initiate an action, claim or proceeding for infringement of Tl'azt'en Nation's rights recognized and affirmed by section 35(1) of the *Constitution Act, 1982* in respect of accidents or malfunctions due to failure in the operation of the Natural Gas Pipeline Project.

6. CONDITIONS PRECEDENT

6.1. **Conditions Precedent to Funding.** Notwithstanding any other provision in this Agreement, any payment of funds by the Province to Tl'azt'en Nation under this Agreement is subject to:

- a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, R.S.B.C. 1996, c. 138, to enable the Province in any fiscal year or part thereof when such payment is required, to make such payment;
- b) Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited expenditure under any appropriation necessary in order to make such payment;
- c) the band council resolution provided to the Province not having been varied, amended, repealed or replaced in a manner that alters or terminates its authority to comply with the terms of this Agreement;
- d) Tl'azt'en Nation being in compliance with all of its obligations under this Agreement; and
- e) representations and warranties under this Agreement being true and correct.

6.2. Conditions Precedent to Agreement. The Province's execution of this Agreement is subject to:

- a) the Province having obtained all required approvals, including Cabinet and Treasury Board approval; and
- b) Tl'azt'en Nation's representations and warranties under this Agreement being true and correct on the date this Agreement is signed.

7. REPRESENTATIONS AND WARRANTIES

7.1. Tl'azt'en Nation Representations. Tl'azt'en Nation represents and warrants to the Province, with the intent and understanding that they will be relied on by the Province in entering into this Agreement, that:

- a) it has the legal power, capacity and authority to enter into this Agreement on its own behalf and on behalf of its Members;
- b) its representative(s) has the authority to sign this Agreement for and on behalf of Tl'azt'en Nation and its Members;
- c) it will take all necessary actions, including obtaining a band council resolution, and will make best efforts to obtain all necessary approvals to make this Agreement effective;
- d) it has obtained or had the opportunity to obtain legal advice with respect to this Agreement; and
- e) this Agreement is a valid and binding obligation upon it.

7.2. Provincial Representations. The Province represents and warrants to Tl'azt'en Nation, with the intent and understanding that they will be relied on by Tl'azt'en Nation in entering into this Agreement, that it has the authority to enter into this Agreement and that this Agreement is a valid and binding obligation of the Province.

8. COMMENCEMENT AND EFFECTIVE DATE

8.1 First Nation Approval. Tl'azt'en Nation will provide to the Province:

- a) written notice that it has taken all necessary actions and has obtained all necessary approvals to make this Agreement effective for and on behalf of its members; and
- b) a band council resolution confirming (a).

8.2 Effective Date. This Agreement will commence and become effective on the Effective Date.

9. DISPUTE RESOLUTION

9.1 Dispute Resolution. Where a dispute arises regarding the interpretation of the Agreement, the Parties' duly appointed representatives will meet within 30 days to attempt to resolve the dispute and where the Parties are unable to resolve the dispute within 30 days, the Parties may agree to utilize other dispute resolution mechanisms, including mediation.

10. TERMINATION

10.1. Termination After Ten Years. If by the tenth anniversary of the Effective Date there has been no Material Commencement of Construction, then this Agreement will terminate on that date unless otherwise agreed by the Parties.

10.2. Termination on Notice. If the Province does not make a payment to Tl'azt'en Nation under this Agreement as a result a condition precedent set out in sections 6.1(a) or (b) not being satisfied, then Tl'azt'en Nation may terminate this Agreement upon 30 days written notice to the Province.

11. NOTICE AND DELIVERY

11.1. Notices. Any notice, document, statement or report under this Agreement must be in writing, and will be deemed validly given to and received by the other Party, if served personally, on the date of personal service or, if delivered by mail, e-mail or facsimile copier, when received as follows:

if to the Province:

Chief Negotiator
Ministry of Aboriginal Relations and Reconciliation
P.O Box Stn. Prov. Govt.
Victoria, B.C. V8W 9B1

Fax: (250) 387-6073

and if to Tl'azt'en Nation:

Tl'azt'en Nation
PO Box 670,
Fort St. James, BC V0J 1P0
Attention: Chief

Fax: (250) 648-3250

11.2. Change of Address. Any Party may, from time to time, give written or e-mail notice to another Party of any change of address or facsimile number of that Party giving such notice and after the giving of such notice, the address or facsimile number therein specified will, for purposes of this Agreement be conclusively deemed to be the address or facsimile number of the Party giving such notice.

11.3. Electronic Notice. The Parties agree that they will utilize electronic and other methods of communication for the purposes of engagement whenever practicable and

appropriate.

12. GENERAL PROVISIONS

12.1. Not a Treaty. The Agreement does not:

- a) constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982*; or
- b) affirm, recognize, abrogate or derogate from any of Tl'azt'en Nation's rights recognized and affirmed by section 35(1) of the *Constitution Act, 1982*.

12.2. No Admissions Provisions. Nothing in this Agreement:

- a) is an admission by the Province of the validity of the claims by Tl'azt'en Nation to an aboriginal or treaty right, recognized and affirmed by section 35(1) of the *Constitution Act, 1982*, or that the Natural Gas Pipeline Project and any related Government Actions have or will result in an infringement of any Aboriginal or treaty right(s) recognized and affirmed by section 35(1) of the *Constitution Act, 1982* of Tl'azt'en Nation;
- b) is an admission by the Province that it has an obligation to provide financial or economic accommodation or compensation for any infringement to Tl'azt'en Nation in relation to the Natural Gas Pipeline Project;
- c) is an admission by Tl'azt'en Nation that the Province has fulfilled its obligations to consult, and where appropriate accommodate, Tl'azt'en Nation in respect of the Natural Gas Pipeline Project or any other project, subject to section 5.6 (Claims Resolved);
- d) precludes Tl'azt'en Nation from identifying concerns about impacts of the Natural Gas Pipeline Project or precludes the Province and Tl'azt'en Nation from seeking to resolve those concerns as part of the applicable provincial consultation processes while those processes are underway;
- e) may be construed as Tl'azt'en Nation providing support or a release of any claims, demands, actions or causes of action that Tl'azt'en Nation may have in relation to the conversion or modification of the Natural Gas Pipeline Project for the purpose of transportation of any material other than natural gas;
- f) precludes Tl'azt'en Nation from bringing claims for breach of the Agreement or from defending a claim or raising any right recognized and affirmed by section 35(1) of the *Constitution Act, 1982* as a defence to a regulatory charge; or
- g) precludes the Province from relying on the payments made under the Agreement if challenged in any legal actions or proceedings with respect to

the adequacy of accommodation or compensation for any alleged infringement of Tl'azt'en Nation's rights recognized and affirmed by section 35(1) of the *Constitution Act, 1982* in relation to the Natural Gas Pipeline Project.

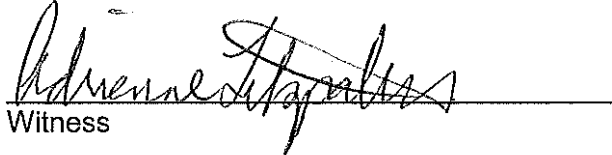
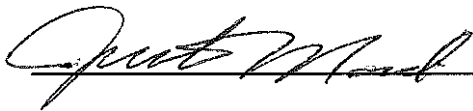
- 12.3. Entire Agreement.** This Agreement and any amendment to it constitute the entire agreement between the Parties with respect to the subject matter of this Agreement, unless otherwise agreed in writing by the Parties.
- 12.4. Amendment.** The Parties may agree to amend this Agreement in writing.
- 12.5. Validity of Agreement.** If any part of this Agreement is void or unenforceable at law:
- a) the invalidity of that part will not affect the validity of the remainder, which will continue in full force and effect and be construed as if this Agreement had been executed without the invalid part; and
 - b) the Parties will negotiate and attempt to reach agreement on a replacement for the part declared or held invalid with a view to achieving the intent of the Parties as expressed in this Agreement.
- 12.6. Further Acts and Assurances.** Each of the Parties will, upon the reasonable request of the other, make, do, execute or cause to be made, done or executed all further and other lawful acts, deeds, things, devices, documents, instruments and assurances whatever for the better and absolute performance of the terms and conditions of this Agreement.
- 12.7. No Implied Waiver.** Any waiver of:
- a) a provision of this Agreement;
 - b) the performance by a Party of an obligation under this Agreement; or
 - c) a default by a Party of an obligation under this Agreement,
- will be in writing and signed by the Party giving the waiver and will not be a waiver of any other provision, obligation or subsequent default.
- 12.8. Assignment.** Tl'azt'en Nation will not assign, either directly or indirectly, this Agreement or any right of Tl'azt'en Nation under this Agreement without the prior written consent of the Province.
- 12.9. Governing Law.** This Agreement will be governed by and construed in accordance with the laws of British Columbia.

(This space intentionally left blank.)

12.10. Execution in Counterpart. This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy or facsimile copy) and delivering it to the other Party by facsimile or e-mail transmission.

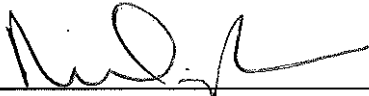
IN WITNESS WHEREOF the Parties have executed this Agreement as set out below:


Signed on behalf of Tl'azt'en Nation by


Witness

March 31, 2015
Date

**Signed on behalf of Her Majesty the Queen
In Right of the Province of British Columbia
by the Minister of Aboriginal Relations and
Reconciliation**

for 
Minister John Rustad


Witness

March 31, 2015
Date