

Tseshaht-BC Incremental Economic Reconciliation Agreement

(“Agreement”)

THIS AGREEMENT made as of March 21, 2024 (the “Effective Date”)

BETWEEN:

TSESHAHT FIRST NATION, on behalf of itself and its members, as represented by Tseshaht Council

(“Tseshaht”)

AND:

THE GOVERNMENT OF BRITISH COLUMBIA, as represented by the Minister of Indigenous Relations and Reconciliation

(the “Province”)

(collectively the “Parties” and individually a “Party”)

WHEREAS:

- A. Tseshaht and the Province are committed to advancing reconciliation based on the recognition and implementation of Tseshaht Aboriginal rights, including title, recognized and affirmed under section 35 of the *Constitution Act, 1982*, and upholding the standards for the survival, dignity, and well-being of Indigenous peoples in accordance with the United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”), the Calls to Action of the Truth and Reconciliation Commission of Canada, and the BC *Declaration on the Rights of Indigenous Peoples Act* (“DRIPA”);
- B. The Province is looking for innovative and creative ways to collaboratively implement Aboriginal title and other Aboriginal rights and has empowered its representatives to work with Indigenous communities like Tseshaht to explore all interests and topics to find potential solutions to the problems that have led to conflict in the past.
- C. Tseshaht and the Province are committed to furthering reconciliation through advancing this work in a respectful, open, principled, pragmatic, and collaborative way;
- D. The Parties acknowledge that this Incremental Reconciliation Agreement represents one step towards the mutual objective of reconciliation and that the Parties will continue to discuss and reach agreement on the topics identified in this Incremental Reconciliation Agreement as well as other subjects as agreed upon by the Parties; and
- E. Tseshaht and the Province are committed to upholding the following Tseshaht principles and values:
 - a. Principles:
 - i. ʔiisaak – Respect for everyone and everything
 - ii. ɥačatakin čawaak – Everything is connected

- iii. mamuukstalin – We are working together
 - iv. hupiiistał mamamuuk – Helping each other work
 - v. ʔuuʔaaʔłuk – Taking care of
- b. Values:
- i. Unity
 - ii. Trust
 - iii. Balance
 - iv. Respect

NOW THEREFORE the Parties agree as follows:

PURPOSE:

- 1.1 The purpose of this Agreement is to provide funds to support Tseshahť's near-term economic development vision and to establish a pathway for future negotiations between the Parties to advance long-term reconciliation ("the Purpose").

INTERPRETATION:

- 2.1 In this Agreement:
- a. "Agreement" means this Incremental Reconciliation Agreement, including the schedules attached to it and forming part of it, all as may be amended, restated, replaced or supplemented from time to time;
 - b. "Effective Date" means the date indicated on the first page of this Agreement;
 - c. "Government of British Columbia" has the same meaning as in section 29 of the Interpretation Act, RSBC 1996, c 238;

FUNDING PROVISIONS:

- 3.1 The Province will provide \$16,450,000 to Tseshahť for economic development interests and negotiations support in four payments, with the first payment to be issued upon execution of this Agreement, payable on or before March 31, 2024 or as soon as practicable after the Effective Date of this Agreement.
- 3.2 The payments will be made as follows:
- a. \$1,000,000 on or before March 31, 2024 ("Payment 1") in accordance with section 3.1 above;
 - b. \$4,150,000 on or before March 31, 2025 ("Payment 2") contingent on the Province's receipt of a report as required in section 4.1(a) of this Agreement;
 - c. \$7,150,000 on or before March 31, 2026 ("Payment 3") contingent on the Province's receipt of a report as required in section 4.1(b) of this Agreement; and
 - d. \$4,150,000 on or before March 31, 2027 ("Payment 4") contingent on the Province's receipt of a report as required in section 4.1(c) of this Agreement.

- 3.3 Of the total amount to be transferred, \$16,000,000 is intended to support Tseshaht's near-term economic development interests. The remaining \$450,000 is intended to support Tseshaht's participation in ongoing reconciliation negotiations which will augment this Agreement in the future.
- 3.4 Tseshaht acknowledges and agrees that \$16,000,000 of the aforementioned economic development funding constitutes a contribution by the Province towards a reconciliation of the Province's and Tseshaht's interest and towards the settlement of Tseshaht's Aboriginal rights and title claims within its territory, including any claims related to the following Timber Sale Licences: A87498, A92640, A92829, A91776 and A93122 (collectively "the Nahmint Valley TSLs"), and will be offset against any amount the Province agrees to pay under a treaty or similarly comprehensive reconciliation agreement.
- 3.5 The Parties acknowledge and agree that all or part of the funds that may be invested or applied to an economic development initiative carries an inherent risk and may be lost, decline in value, or fail to achieve the desired value.
- 3.6 The Parties acknowledge and agree that the Province is not guaranteeing or providing any assurance in connection with, and is not liable for, any investment or use by Tseshaht of any of the funds.
- 3.7 The Parties acknowledge and agree that the Province is not guaranteeing or providing any assurance in connection with, and is not liable for, any investment or use by Tseshaht of any of the funds.
- 3.8 The Parties acknowledge and agree that an amount paid by the Province to Tseshaht or which is treated as such pursuant to the terms of this Agreement, and to which Tseshaht is not entitled according to the terms of this Agreement is repayable to the Province and until repaid constitutes a debt to the Province.

REPORTING:

- 4.1 Tseshaht will provide to the Province:
- a. Not less than 60 days before March 1, 2025, a report that summarizes how Payment 1 was or will be used for the Purpose;
 - b. Not less than 60 days before March 1, 2026, a report that summarizes how Payment 2 was or will be used for the Purpose;
 - c. Not less than 60 days before March 1, 2027, a report that summarizes how Payment 3 was or will be used for the Purpose; and
 - d. Within three months of the full expenditure of Payment 4, a report that summarizes how Payment 4 was used for the Purpose. (collectively "the Reports").
- 4.2 Tseshaht will not include any information in the Reports which constitutes "personal information" within the meaning of the *Freedom of Information Act* (British Columbia).

TERM:

- 5.1 This Agreement will take effect on the Effective Date and continue unless terminated by either Party in accordance with section 5.2.
- 5.2 Either Party may terminate this Agreement by providing 60 days' advance written notice to the other Party, setting out the reasons for the termination and the date on which the termination takes effect.

Upon termination of this Agreement, all unpaid funding obligations under this Agreement from the date on which the termination takes effect will be terminated.

- 5.3 This Agreement will be reviewed by both Parties annually to ensure mutually agreeable progress is being made.

DISPUTE RESOLUTION:

- 6.1 If a Party serves written notice of a dispute regarding the interpretation or implementation of this Agreement or written notice to terminate this Agreement, the Parties will meet to discuss and attempt to resolve the dispute with direction from their duly appointed representatives and will utilize any dispute resolution mechanism agreed to by the Parties.

GENERAL:

- 7.1 The Parties acknowledge that amendments to this Agreement or other future agreements in respect of topics of interest in reconciliation between the Parties are subject to each Party making the required policy decisions and obtaining the required mandates and approvals from, in the case of Tseshaht, the community they represent, and in the case of the Province, required Treasury Board and Cabinet approvals, and in some instances tripartite agreements with Canada.
- 7.2 The Parties acknowledge their interest in engaging in collaborative discussions in respect of topics of interest outside of the scope of this Agreement, and that such discussions would include seeking new mandates or approvals where necessary.
- 7.3 Notwithstanding any other provision of this Agreement, payment of funds by the Province to Tseshaht pursuant to this Agreement is subject to:
- a. There being sufficient monies available in an appropriation, as defined in the *Financial Administration Act*, to enable the Province to make a payment pursuant to this Agreement; and
 - b. Treasury Board, as defined in the *Financial Administration Act*, not having controlled or limited, pursuant to the *Financial Administration Act*, expenditure under any appropriation referred to in the preceding subparagraph.
- 7.4 This Agreement does not preclude Tseshaht from participating in any government funding, program, or initiative for which Tseshaht or its members may be eligible.
- 7.5 Each Party to this Agreement represents and warrants that:
- a. It has the legal power, capacity and authority to enter into this Agreement; and
 - b. This Agreement forms a valid and binding obligation on them.
- 7.6 This Agreement does not constitute a treaty or a land claims agreement within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.
- 7.7 Nothing in this Agreement will be construed as:
- a. Establishing, defining, limiting, denying, abrogating or derogating any Aboriginal or treaty right of Tseshaht recognized and affirmed under section 35 of the *Constitution Act, 1982*;

- b. An acknowledgement or admission that the Province has an obligation to provide financial or economic accommodation or compensation to Tseshaht, including with regards to the Nahmint Valley TSLs or future forestry development in Tseshaht's territory;
 - c. An acknowledgement or admission that Tseshaht is receiving financial or economic accommodation or compensation in relation to any other process or proceeding; or
 - d. In any way limiting the position any Party may take in any process or proceeding except as expressly set out herein.
- 7.8 Nothing in this Agreement will be interpreted in a way that would affect or unlawfully interfere with any legislative authority of the Province or fetter the discretion given to any decision-making authority.
- 7.9 The Parties agree that discussions and negotiations conducted pursuant to this Agreement and all related documents, other than this Agreement when executed, are confidential unless the communications were previously in the public domain, or the Parties agree otherwise in writing.
- 7.10 Each Party's obligations under section 7.5 will survive the termination of this Agreement.
- 7.11 Any waiver of a provision of this Agreement must be made in writing by the Party who benefits from the obligation waived and will not be a waiver of any other provision, obligation, or subsequent default of that provision.
- 7.12 The Agreement may be amended by written agreement signed by authorized representatives of the Parties.
- 7.13 Any notice, document or communication required or permitted to be given under this Agreement must be in writing and delivered by hand or electronically as follows, or such other addresses as the Party may advise in writing:

To Tseshaht:

Chief Councillor Wameesh Ken Watts
5091 Tsuma-as Drive
Port Alberni, BC V9Y 8X9
Email: kenwatts@tseshaht.com
Attention: Chief Councillor

To the Province:

Caroyn Kamper, Assistant Deputy Minister
Ministry of Indigenous Relations and Reconciliation
2957 Jutland Rd
Victoria, British Columbia V8T 5J9
Email: carolyn.kamper@gov.bc.ca
Attention: Carolyn Kamper

- 7.14 There will be no presumption that any ambiguity in any of the terms of this Agreement should be interpreted in favour of any Party.

7.15 This Agreement may be entered into by each Party signing a separate copy and delivering the signed copy to the other Party by electronic means. All extended counterparts taken together will constitute one agreement.

IN WITNESS WHEREOF the Parties hereby execute this Agreement

SIGNED on behalf of Tseshaht by a duly authorized representative this March 27, 2024:



Chief Councillor Wameesh Ken Watts
For Tseshaht

SIGNED on behalf of the Government of British Columbia by a duly authorized representative of the Minister of Indigenous Relations and Reconciliation this March 27, 2024:



The Honourable Murray Rankin
For the Ministry of Indigenous Relations and Reconciliation