

REAL PROPERTY TAX CO-ORDINATION AGREEMENT

THIS AGREEMENT made the 3RD day of APRIL, 2009.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE
PROVINCE OF BRITISH COLUMBIA, as represented
by the Minister of Aboriginal Relations and Reconciliation

("British Columbia")

AND

TSAWWASSEN FIRST NATION,
as represented by Tsawwassen Government

("Tsawwassen")

(collectively the "Parties")

WHEREAS:

1. The Parties and Canada have entered into the Tsawwassen Final Agreement;
2. The Taxation Chapter of the Tsawwassen Final Agreement provides that the Tsawwassen Government may make laws in respect of direct taxation of Tsawwassen Members within Tsawwassen Lands in order to raise revenue for Tsawwassen First Nation purposes; and
3. The Taxation Chapter of the Tsawwassen Final Agreement provides that:
 - (a) the Parties may enter into agreements in relation to tax co-ordination and the imposition of tax on persons other than Tsawwassen Members on Tsawwassen Lands; and
 - (b) Tsawwassen Government may make laws in respect of the implementation of such an agreement.

NOW THEREFORE in consideration of the premises and the covenants and agreements set out below, the Parties agree as follows:

1.0 DEFINITIONS

1.1 Words and expressions not defined in this Agreement but defined in the Tsawwassen Final Agreement have the meanings ascribed to them in the Tsawwassen Final Agreement.

1.2 In this Agreement:

"Agreement" means this Real Property Tax Coordination Agreement;

"Delta" means the Corporation of Delta:

"Delta Tax Rate" means the rate of tax levied by Delta under section 197(1)(a) of the *Community Charter* and used by Delta to determine the charge payable by the holder of a Stahaken Leasehold Interest for municipal services provided by Delta under the comprehensive servicing agreement for the Stahaken subdivision referred to in the Memorandum of Agreement dated October 1, 2008, between Delta and Tsawwassen.

"Non-Member" means an individual who has reached the age of majority, is not a Tsawwassen Member and is either;

- (a) a Registered owner of real property on Tsawwassen Lands and not ordinarily resident on Tsawwassen Lands, or
- (b) ordinarily resident on Tsawwassen Lands;

"Provincial Taxing Authority" means any local or provincial public authority that is authorized under an enactment of British Columbia either to impose real property taxes or to receive revenue from real property taxes imposed or collected for it by the Surveyor of Taxes, on Tsawwassen Lands;

"Registered owner of real property" means whichever of the following is applicable:

- (a) the owner of a registered estate in fee simple of the property, unless another person holds an interest in the property referred to in subparagraphs (b) to (d);
- (b) the holder of the last registered agreement for sale, unless another person holds an interest in the property referred to in subparagraphs (c) or (d);
- (c) the tenant for life under a registered life interest in the property, unless another person holds an interest in the property referred to in subparagraph (d); or
- (d) the holder of a registered lease of the property for a term of at least 99 years;

"Stahaken Leasehold Interest" means the leasehold interests identified in Appendix D-5 of the Tsawwassen Final Agreement.

"Tsawwassen Real Property Taxation Law" means a law made by Tsawwassen Government imposing real property taxation on owners or occupiers of Tsawwassen Lands pursuant to Tsawwassen Government's authority under the Tsawwassen Final Agreement or this Agreement;

- 1.3 Where this Agreement requires the application of any provision of any provincial statute or regulation, that provision shall be applied with such modifications as are reasonably necessary in the circumstances.

2.0 COVENANTS BY BRITISH COLUMBIA AND TSAWWASSEN

- 2.1 If a Tsawwassen Member is liable to real property taxation under Tsawwassen Real Property Taxation Laws, that Tsawwassen Member will not be liable to real property taxation under the *School Act* or the *Taxation (Rural Area) Act* in respect of Tsawwassen Lands if Tsawwassen Real Property Taxation Laws:

- (a) provide that the *Assessment Act* and the *Assessment Authority Act* apply in respect of the assessment of property for purposes of real property taxation under Tsawwassen Real Property Taxation Laws;
- (b) provide for the British Columbia Assessment Authority to assess the Tsawwassen Lands subject to Tsawwassen Real Property Taxation Laws in accordance with the *Assessment Act* and regulations made under it and with the policies of the British Columbia Assessment Authority;
- (c) subject to paragraph 2.12, for each property class within the meaning of the *Assessment Act*, establish a rate or rates of tax on the same basis as the rate or rates a municipality is authorized to establish under Part 7 of the *Community Charter*;
- (d) exempt the same property as is exempt from taxation under Division 6 (Statutory Exemptions) of Part 7 of the *Community Charter*, with the same requirements, restrictions and obligations as are contained in the provisions in that Division;
- (e) establish in each year a tax rate, on assessable and taxable property on Tsawwassen Lands, that is not less than the tax rate set for property in each property class under the *Assessment Act* for property in those classes in that year for tax imposed under the *School Act* applicable to School District No. 37 (Delta); and
- (f) if there is a maximum municipal tax rate established under provincial law for any property class under the *Assessment Act*, establish in each year a tax rate for property on Tsawwassen Lands in that property class that is not greater than the tax rate determined in accordance with the following formula:

$$A = B + C + D$$

Where

- A = the maximum tax rate under a Tsawwassen Real Property Taxation Law permitted in that year on Tsawwassen Lands for that property class,
- B = the rate set for that property class for tax under the *School Act* applicable to School District No. 37 (Delta),
- C = the rate required to collect the amount to meet Tsawwassen Government's obligation under paragraph 2.4 for that property class, and
- D = the maximum municipal tax rate established for that property class.

- 2.2 The Tsawwassen Real Property Taxation Laws may exempt from taxation the property enumerated in Division 7 (Permissive Exemptions) of Part 7 of the *Community Charter* but only with the same requirements, restrictions and obligations as are contained in the provisions in that Division.
- 2.3 Tsawwassen agrees not to exempt any property from taxation except as provided in paragraphs 2.1 and 2.2.
- 2.4 Tsawwassen agrees to pay any requisition, from a Provincial Taxing Authority having taxing powers in respect of land or improvements located on Tsawwassen Lands, under laws of general application and consistent with the provisions of the Intergovernmental Relations and Services chapter of the Tsawwassen Final Agreement.
- 2.5 The Tsawwassen Government may make real property taxation laws in respect of Persons, other than Tsawwassen Members, on Tsawwassen Lands in order to raise revenue for Tsawwassen purposes if those laws:
 - (a) comply with each of the provisions referred to in paragraphs 2.1 and 2.2;
 - (b) do not have the effect of discriminating, on the basis of Tsawwassen membership, between Tsawwassen Members and other Persons, in the imposition, administration and enforcement of Tsawwassen Real Property Taxation Law; and
 - (c) provide Non-Members with representation in accordance with this Agreement.
- 2.6 If the Tsawwassen Government makes a Tsawwassen Real Property Taxation Law under clause 2.5, the Tsawwassen Government, subject to any agreed upon terms and conditions between Tsawwassen and British Columbia, will provide for the representation of Non-Members in any Tsawwassen Institution that makes decisions relating to taxation matters that directly affect Non-Members, including the rate of tax on Non-Members, tax exemptions for Non-Members and the expenditures of tax revenues received from Non-Members.
- 2.7 Subject to any agreed upon terms and conditions between Tsawwassen and British Columbia under clause 2.6, at least one member of the Tsawwassen Institution will be selected by Non-Members and will have the ability to participate in discussions and to vote on taxation matters that directly affect Non-Members.

- 2.8 Nothing in this Agreement precludes Tsawwassen from providing that a majority of the members of the Tsawwassen Institution must be Tsawwassen Members.
- 2.9 If a Person, other than a Tsawwassen Member, is liable to real property taxation under Tsawwassen Real Property Taxation Laws, that Person will not be liable to real property taxation under the *School Act* or the *Taxation (Rural Area) Act* in respect of Tsawwassen Lands.
- 2.10 British Columbia will provide to Tsawwassen the rates set under 119(3) of the *School Act* for School District 37 (Delta) on or before the date British Columbia is required under that Act to send a notice of the rates to the collector in each municipality.
- 2.11 Any authority of Tsawwassen or the Tsawwassen Government under this Agreement, including the authority to make laws, may be delegated by a Tsawwassen Real Property Taxation Law to a Tsawwassen Public Institution if the delegation and the exercise of any delegated authority is in accordance with the Final Agreement and this Agreement.
- 2.12 In each year that Delta charges a holder of a Stahaken Leasehold Interest for municipal services provided by Delta to the Stahaken subdivision in accordance with the comprehensive service agreement, subject to 2.13, Tsawwassen will reduce the rate of tax levied against Stahaken Leasehold Interests by an amount equal to the Delta Tax Rate.
- 2.13 Tsawwassen will not reduce the rate of tax levied against Stahaken Leasehold Interests below the total of:
- (a) the rate set for that property class for tax under the *School Act* applicable to School District 37 (Delta), and
 - (b) the rate required to collect the amount to meet Tsawwassen's obligations under paragraph 2.4 for that property class.
- 2.14 British Columbia and Tsawwassen agree the limitation on fines in clause 134 of Governance Chapter of the Tsawwassen Final Agreement does not apply to a penalty imposed in accordance with the *Treaty First Nation Taxation Act* and this Agreement.
- 2.15 If all or part of the property taxes remain unpaid after the date the property taxes are due to be paid, Tsawwassen will add to the unpaid property taxes for the lands and improvements for the current year a penalty equal to the amount of penalty a municipality must apply under the *Community Charter* on the portion that remains unpaid.

3.0 UNIFORMITY OF TSAWWASSEN REAL PROPERTY TAXATION LAWS

- 3.1 Any reference in this Agreement to the legislation of British Columbia is a reference to that legislation as it is from time to time.
- 3.2 Where, in the opinion of the Minister of Community Development of British Columbia, Tsawwassen Real Property Taxation Laws do not comply with the terms of this Agreement, including that they:

- (a) do not admit of sufficient uniformity as set out in paragraph 2.0;
- (b) have the effect of discriminating; on the basis of Tsawwassen membership, between Tsawwassen Members and other Persons, in the imposition, administration and enforcement of Tsawwassen Real Property Taxation Laws; or
- (c) do not provide Non-Members with representation in accordance with this Agreement

the Minister shall give notice of his or her opinion to Tsawwassen and shall specify the amendments and alterations to Tsawwassen Real Property Taxation Laws that the Minister considers necessary.

- 3.3 If Tsawwassen disagrees with the opinion of the Minister or with the amendments and alterations that the Minister considers necessary, Tsawwassen may use the Dispute Resolution provisions under paragraphs 11.1 to 11.8.
- 3.4 Where the disagreement is not resolved under the Dispute Resolution provisions and Tsawwassen fails to correct the matter specified in the notice to the satisfaction of the Minister, the Minister may give a notice to terminate this Agreement.

4.0 AMENDMENTS TO AGREEMENT

- 4.1 The Parties may amend this Agreement through the exchange of letters between Tsawwassen and the Minister of Community Development of British Columbia, subject to any necessary approvals, authorizations or legislative requirements.

5.0 NOTICE OF AMENDMENTS OR CONTEMPLATED AMENDMENTS

- 5.1 Subject to parliamentary convention, British Columbia will make reasonable efforts to give Tsawwassen notice of any amendments or contemplated amendments to legislation which would affect the obligations of Tsawwassen under this Agreement.
- 5.2 British Columbia is not obligated to consult or advise Tsawwassen of any of those amendments or contemplated amendments.

6.0 RIGHT OF AMENDMENT

6.1 Nothing in this Agreement shall limit or restrict, or be construed as limiting or restricting, British Columbia's right to amend, alter or vary, in such manner as British Columbia may determine, the *Community Charter* or any other legislation.

7.0 PROVISION OF TSAWWASSEN REAL PROPERTY TAXATION LAWS

7.1 Tsawwassen will provide to British Columbia a copy of any Tsawwassen Real Property Taxation Law and any amendments within 60 days after the law or amendment is enacted.

8.0 HOME OWNER GRANT

8.1 No person is entitled to a grant under the *Home Owner Grant Act* in respect of property subject to tax under Tsawwassen Real Property Taxation Laws.

9.0 TRANSITIONAL PROVISIONS

9.1 While the exemption under paragraph 17 of the Taxation Chapter of the Tsawwassen Final Agreement in respect of taxation of real property is in effect for Tsawwassen Members on Tsawwassen Lands:

- (a) paragraph 2.5(b) will not apply;
- (b) for each year, in respect of each property class under the *Assessment Act*, the rate of tax cannot exceed the aggregate of:
 - (i) the rate set for that property class for tax under the *School Act* applicable to School District 37 (Delta),
 - (ii) the rate required to collect the amount to meet Tsawwassen's obligations under paragraph 2.4 for that property class,
 - (iii) the rate established by the Municipality of Delta for that year under section 197(1)(a) of the *Community Charter* for that class; and
- (c) Tsawwassen will provide in each year to each Non-Member, who is subject to tax in respect of a property under Tsawwassen Real Property Taxation Laws, a grant equal to the grant the Non-Member would have been eligible for under the *Home Owner Grant Act* if the Non-Member had been taxable under the *School Act* for that year in respect of that property.

10.0 LEGISLATION

10.1 British Columbia will recommend to the Legislature that the provisions of this Agreement be given effect under provincial legislation.

11.0 DISPUTE RESOLUTION

- 11.1 The Parties desire and expect that most disagreements will be resolved by informal discussion without the necessity of invoking a dispute resolution mechanism and will act in good faith in attempting to reach a resolution.
- 11.2 In the event of a dispute between the Parties arising under this Agreement is not resolved by informal discussion, they will use the procedures set out in paragraphs 11.3 to 11.6 before pursuing any other remedy.
- 11.3 Within 30 days of a Party receiving notice from the other that it is invoking this dispute resolution process, they will meet and attempt to settle the dispute.
- 11.4 If, within 60 days after the first meeting referred to in paragraph 11.3, the Parties fail to resolve the dispute, they will submit the dispute to mediation and equally bear the cost of mediation.
- 11.5 The Parties will jointly select a mediator but if, after 30 days, they are unable to agree on the choice of mediator, they will submit the matter of choosing a mediator to a judge of the Supreme Court of British Columbia who will be asked to choose a mediator.
- 11.6 The Parties will participate in the mediation process for a period of 60 days.
- 11.7 The Parties may agree to time periods other than those referred to in paragraphs 11.3 to 11.6.
- 11.8 The Parties may agree to use any of the provisions of the Dispute Resolution Chapter of the Tsawwassen Final Agreement.

12.0 TERM OF THIS AGREEMENT

- 12.1 The term of this Agreement:
- (a) begins on the Effective Date or such other date as agreed to by the Parties;
and
 - (b) terminates on a date agreed to by the Parties or, if there is no such agreement, on December 31 of the year following the year in which the notice to terminate is given by either party.
- 12.2 At the request of Tsawwassen, British Columbia and Tsawwassen will negotiate and attempt to reach agreement respecting the ability of Tsawwassen to use revenues raised pursuant to paragraph 2.5 of this Agreement as security for incurring liability by borrowing for any purpose of a capital nature.
- 12.3 Any agreement under paragraph 12.2 may include provisions for:

- (a) the approval of the majority of persons who are subject to Tsawwassen Real Property Taxation Law or an alternate test as agreed by the Parties;
- (b) the purpose of borrowing;
- (c) the term of the liability;
- (d) the level of debt;
- (e) the extent to which the Tsawwassen Real Property Taxation Law pursuant to paragraph 2.5 may continue in effect after the termination of this Agreement in order to service the debt;
- (f) prescribe limits on tax rates for all persons on Tsawwassen Lands for the provincial taxes referred to in paragraph 2.6 during the term of the liability, taking into account the total property taxes paid during and after the end of this Agreement and the level of taxation required to service the debt; and
- (g) the extent to which other matters referred to in this Agreement may need to be considered in order to service the debt, if this Agreement is terminated before the debt is repaid.

12.4 The termination of this Agreement shall not affect the rights, obligations or liabilities that British Columbia, Tsawwassen, Tsawwassen Members or other Persons each had before the termination of the Agreement.

13.0 AMENDMENT AND REVIEW

13.1 Any amendment to this Agreement must be in writing and executed by both Parties.

13.2 The Parties will review this Agreement no later than 11 years after the Effective Date, and may amend this Agreement if each Party agrees.

13.3 In addition to the review under paragraph 13.2, either Party may at any time request the other Party to review this Agreement and to consider amendments to the Agreement and the other Party will not unreasonably withhold consent to the review.

13.4 Nothing in paragraphs 13.2 and 13.3 requires either Party to agree to amend this Agreement.

14.0 NO IMPLIED WAIVER

14.1 No term or condition of this Agreement, or performance by a Party of a covenant under this Agreement, will be deemed to have been waived unless the waiver is in writing and signed by the Party giving the waiver.

14.2 No written waiver of a term or condition of this Agreement, of performance by a Party of a covenant under this Agreement, or of default by a Party of a covenant

under this Agreement, will be deemed to be a waiver of any other covenant, term or condition, or of any subsequent default.

15.0 NOT A TREATY OR LAND CLAIMS AGREEMENT

15.1 This Agreement is not a treaty or a lands claims agreement, and does not recognize or affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*.

16.0 FURTHER ASSURANCES

16.1 The Parties will execute any other documents and do any other things that may be necessary to carry out the intent of this Agreement.

17.0 INTERPRETATION

17.1 In this Agreement:

- (a) headings are for convenience only, do not form part of this Agreement and in no way define, limit, alter or enlarge the scope or meaning of any provision of this Agreement;
- (b) a reference to a statute includes every amendment to it, every regulation made under it, and any law enacted in substitution for it or in replacement of it; and
- (c) unless it is otherwise clear from the context, the use of the singular includes the plural, and the use of the plural includes the singular.

18.0 GOVERNING LAW

18.1 This Agreement will be governed by and construed and interpreted in accordance with the laws of the Province of British Columbia.

19.0 TIME OF THE ESSENCE

19.1 Time is of the essence in this Agreement.

20.0 ENUREMENT

20.1 This Agreement will enure to the benefit of and be binding upon the Parties and their respective successors.

21.0 NO ASSIGNMENT

21.1 This Agreement may not be assigned, either in whole or in part, by any Party.

22.0 NOTICES

22.1 A notice, document, request, approval, authorization, consent or other communication (each a "communication") required or permitted to be given or made under this Agreement must be in writing and may be given or made in the following ways:

- (a) delivered personally or by courier;
- (b) transmitted by facsimile transmission; or
- (c) mailed by post in Canada in any form which requires a receipt.

22.2 A communication will be considered to have been given or made, and received:

- (a) if delivered personally or by courier, at 9:00 a.m. on the business day after the day on which it was received by the addressee or a responsible representative of the addressee;
- (b) if sent by facsimile transmission and if the sender receives confirmation of the transmission, at 9:00 a.m. on the next business day after the day on which it was transmitted; or
- (c) if mailed in Canada in any form which requires a receipt, when the postal receipt records that it was received.

22.3 A communication must be delivered, transmitted to the facsimile number or mailed to the address of the intended recipient set out below:

For: British Columbia

Attention:	Minister of Community Development
Personal or courier delivery:	Parliament Buildings
	Victoria, British Columbia
Facsimile transmission:	(250) 387-4312
Postal deliver:	PO Box 9056
	STN PROV GOVT
	Victoria, British Columbia
	V8W 9E2

For: Tsawwassen

Attention:	Chief
Personal courier or postal delivery:	#131 North Tsawwassen Drive
	Delta, British Columbia
	V4M 4G2
Facsimile transmission:	(604) 943-9226

22.4 A Party may change its address or facsimile number by giving notice of the change to the other Party in the manner set out above.

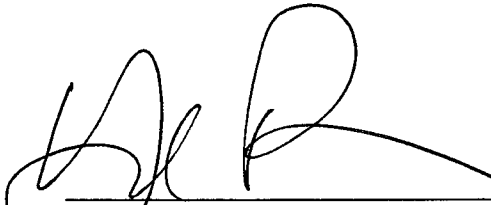
23.0 EXECUTION IN COUNTERPARTS

23.1 This Agreement may be executed in counterparts and by facsimile. Each signature shall be deemed to be an original signature and all executed documents together shall constitute one and the same document.

THIS AGREEMENT HAS BEEN EXECUTED AND DELIVERED as of the day and year first above written

EXECUTED in the presence of

) HER MAJESTY THE QUEEN
) IN RIGHT OF THE PROVINCE
) OF BRITISH COLUMBIA
) as represented by the Minister of
) Aboriginal Relations and
) Reconciliation

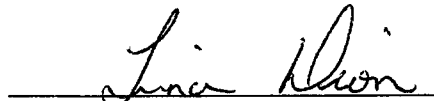


As to the signature of the
Minister of Aboriginal Relations
And Reconciliation


Minister of Aboriginal Relations
and Reconciliation

EXECUTED in the presence of

) TSAWWASSEN FIRST NATION
) as represented by the Chief of
) Tsawwassen Government or duly
) authorized signatory



As to the authorized signatory
for Tsawwassen First Nation

