

## INTERIM RECONCILIATION AGREEMENT

dated for reference March 23, 2017 (the "Effective Date")

### BETWEEN,

Her Majesty in Right of the Province of British Columbia,

as represented by the Minister of Aboriginal Relations and Reconciliation,  
(the "Province")

### AND

The Tsartlip First Nation

as represented by the Tsartlip First Nation Chief and Council (the "TFN")

(Collectively "the Parties")

### WHEREAS:

- A. The traditional name of the TFN is WJOIEIP ("People of the Maples"), and the TFN is a member of the larger WSANEC First Nation;
- B. The TFN identifies its traditional territory as the lands and waters identified in Schedule A (the "Traditional Territory") and presently has reserve lands at Goldstream (with other First Nations), Brentwood Bay and Mayne Island;
- C. The TFN holds rights under the 1852 North Saanich Douglas Treaty (the "Douglas Treaty") which are constitutionally recognized and affirmed by section 35(1) of the *Constitution Act, 1982*;
- D. The TFN hold longstanding and ongoing concerns regarding asserted breaches of the Douglas Treaty and diminishment of opportunities to exercise Douglas Treaty rights;
- E. TFN has expressed strong interest in acquiring additional land for community use and economic development;
- F. On April 24, 2016, the TFN and the Province entered into a Framework Agreement with a view toward developing this Reconciliation Agreement (the "Agreement");

- G. The TFN and the Province wish to foster a long term relationship based on the principles of open communication, mutual respect and a constructive approach to resolving disputes, by entering into an agreement that is legally binding but is not a treaty or land claims agreement within the meaning of section 35 of the *Constitution Act, 1982*;
- H. The Parties are entering into this Interim Reconciliation Agreement as a step toward a long term relationship, and as a means to formalize progress made under the Framework Agreement so far;
- I. The Parties recognize the importance of place names to cultural respect and reconciliation, as described in the following quotation shared by the provincial toponymist during the negotiation of this agreement:
- "A place name is a reminder of history, indelibly stamped on the land. To enquire about a name is to reawaken memories of the history that produced it, and to write about it is to retell some of that history. (Wilson Duff)";* and
- J. The Parties wish to embrace the opportunities and commitments described in this Agreement to develop a phased and on-going path towards reconciliation.

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

*TFN History and Culture*

1. The Province will give meaningful consideration to adding ~~SIDel~~ to the name of Gowlland Tod Park in accordance with Provincial law, policy and procedures.
2. The Province and the TFN will negotiate and attempt to reach agreement on a joint application to the provincial toponymist to change and/or add official place names in the Names Register.
3. The Province will provide the TFN with \$20,000 to enable the TFN to:
  - (a) interview elders and community members to identify further places that the TFN may wish to apply for inclusion as recorded names in the Names Register; and
  - (b) develop and implement a local community cultural recognition strategy, which may include exploring mutually beneficial partnerships and coordination with local tourism businesses.

*Environmental Cooperation and Wildlife*

4. The Province, TFN and other interested parties, will review and discuss the standard foreshore lease and permit conditions applicable within the Saanich Inlet with a view to identifying proposed standard terms and conditions that may be considered by statutory decision-makers to promote appropriate boat waste management practices.

5. The Parties will invite the appropriate representatives of the Federal Government and other interested parties to discuss the recently announced *Oceans Protection Plan* and a strategy to address derelict boats in the Saanich Inlet.
6. The Parties will negotiate and attempt to reach agreement on a communication protocol with respect to wildlife between the Conservation Officer Service and TFN.
7. For greater certainty, the protocol referred to in section 6 may:
  - (a) serve as a basis for effective, cooperative and mutually respectful engagements between the Conservation Officer Service, the TFN and its members; and
  - (b) include a potential role for Tsartlip leadership or elders in any relevant restorative justice programs.

#### *Referrals*

8. The Province and the TFN will within 90 days of the Effective Date negotiate and attempt to reach agreement on a referral protocol to ensure timely and efficient administration of referral processes.
9. In developing the protocol referred to in section 8, the Parties will consider opportunities to enhance coordination and cooperation between TFN and other WSANEC Nations.
10. During the Term of this Agreement, in order to support the initiatives referred to in sections 8 and 9 the Province will provide the TFN with \$50,000 annually.
11. Nothing in sections 8, 9 and 10:
  - (a) limits negotiations regarding specific referral issues respecting heritage protection as discussed in section 12; and/or
  - (b) prevents the TFN from seeking additional capacity funding in respect of any projects that require an assessment under the BC Environmental Assessment Act and for which consultation with the TFN is required.

#### *Heritage Protection*

12. The Parties will negotiate and attempt to reach an agreement on a heritage protection protocol, memorandum of understanding or other agreement to ensure effective and efficient engagements.
13. Topics for discussion under section 12 may include:
  - (a) recommendations for policies and procedures to guide provincial officials in the exercise of existing permitting authority and related referrals, in a manner that is effective, efficient and

minimizes possible potential conflict with the TFN;

- (b) to what extent information identified by TFN, pursuant to 14.b, may be made publicly available; and
- (c) an agreement under Section 4 of the *Heritage Conservation Act*, should the Province mandate that in the future.

14. The Province will provide the TFN with \$25,000 to:

- (a) support the negotiations referred to in section 12; and
- (b) assist the TFN to complete an inventory of areas of heritage sites and objects that are of spiritual, ceremonial or cultural value.

*Park Management Plans*

15. The Province and the TFN, in accordance with Provincial laws, policies and procedures agree to:

- (a) identify any outstanding actions respecting TFN interests, culture and history under the existing park management plans for Gowlland Tod Provincial Park and Goldstream Provincial Park; and
- (b) discuss developing an implementation plan for any actions identified under section 16.

16. The actions to be considered under section 15 may include but are not necessarily limited to publicly describing the TFN and extending an invitation to connect with the TFN website for more information.

*TFN Economic Interests*

17. The Parties will discuss TFN's interests in:

- (a) acquiring lands;
- (b) acquiring water lot leases in the Saanich Inlet; and
- (c) acquiring a park use permit for a portion of Gowlland Tod Provincial Park.

18. Nothing in this Agreement obligates or prevents the TFN from making applications to the federal government for addition to reserve of any lands acquired by TFN, and nothing in this Agreement obligates or prevents the Province from supporting any such applications.

*Asserted Breaches of Douglas Treaty*

19. The Parties will discuss TFN's concerns regarding asserted breaches of the Douglas Treaty and a longer term reconciliation.

*Certainty Provisions*

20. During the Term of this Agreement, the TFN agrees not to pursue any civil claims in respect of the matters addressed in this Agreement
21. Nothing in this Agreement prevents the TFN from relying upon and claiming any treaty right, aboriginal right or aboriginal title in any proceedings against the TFN or any of its members in respect of the enforcement of provincial laws.
22. This Agreement does not constitute a treaty or land claims agreement within the meaning of section 25 or 35 of the *Constitution Act, 1982*.

*Term and Termination*

23. The Term of this Agreement is 2 years from the Effective Date.
24. This Agreement may be terminated by either Party in writing.

*Notice*

25. The Parties agree that if either Party has an issue of concern it wants brought to the attention of the other, it will do so by contacting the following representatives:
  - {a) for the Province:  
Trish Balcaen, Chief Negotiator, Ministry of Aboriginal Relations and Reconciliation
  - {b) for the TFN:  
Karen Harry, Administrator

*Entire Agreement*

26. This Agreement and any amendment to it is the entire agreement between the Parties in respect of the subject matter of this Agreement and, except as set out in this Agreement, there is no representation, warranty, collateral agreement, condition, right or obligation affecting this Agreement.

*Further Acts and Assurances*

27. 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.

*Successors*

28. This Agreement will enure to the benefit of and be binding on the TFN and its successors and the Province.

**No Fettering**

29. This Agreement is not intended to be interpreted in a manner that would affect or unlawfully interfere with any legislative authority of British Columbia or fetter the discretion of any decision-making authority.

**Counterparts**

30. This Agreement may be entered into by each Party signing a separate copy of this Agreement (including a photocopy, facsimile or copy generated by electronic means) each of which will constitute an original and all of which taken together will constitute one and the same instrument.

31. Delivery of the counterparts may be effected by means of facsimile or electronic transmission.

**Amendment**

32. This Agreement may be amended from time to time by the Parties in writing.

**Governing Law**

33. This Agreement is governed by the laws of Canada and the laws of the Province of British Columbia.

IN WITNESS WHEREOF the

On behalf of the Tsartlip

\_\_\_\_\_  
Chief Don Tom

\_\_\_\_\_  
Jeanne Cayou

On behalf of Her Majesty the Queen in Right of the Province of British Columbia:

\_\_\_\_\_  
The Honourable John Rustad, Minister of  
Aboriginal Affairs

\_\_\_\_\_  
Witness

SCHEDULE A



# SENCOfENTraditional Land Use and Occupancy

## Map 9: Place Names and Reef Net Sites



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Monitor Treaty 1911 Search North Ocean Salish Classified Area List  
 Canadian Ethnology Service Paper No 119 Memoirs Series Canadian Museum  
 of Civilization 1944 Quebec p. 177



CONFIDENTIAL



UNIVERSAL TRANSVERSE MERCATOR  
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 Canadian Zone 18N  
 Units: Metres

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