

**WEI WAI KUM FIRST NATION (Campbell River Indian Band) /
KWIAKAH FIRST NATION (Kwiakah Indian Band)
TRANSITION TO STAGE 5 AND TREATY REVITALIZATION AGREEMENT**

(the “Agreement”)

BETWEEN:

THE WEI WAI KUM AND KWIAKAH FIRST NATIONS,
as represented by the WEI WAI KUM/KWIAKAH TREATY SOCIETY
(hereinafter “WKTS”)

AND:

**HER MAJESTY THE QUEEN
IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,**
as represented by the Minister of Indigenous Relations and Reconciliation
(hereinafter “British Columbia”)

AND:

**HER MAJESTY THE QUEEN
IN RIGHT OF CANADA,**
as represented by the Minister of Crown-Indigenous Relations
(hereinafter “Canada”)

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

PREAMBLE

Whereas:

- a) The Wei Wai Kum and Kwiakah First Nations have existing aboriginal rights and title including the inherent right to self-government (Wei Wai Kum and Kwiakah Section 35 Rights);
- b) The Parties are engaged in negotiations under the British Columbia Treaty Process with a view of achieving predictability with respect to the exercise of Wei Wai Kum and Kwiakah Section 35 Rights;
- c) On July 14, 2017, Canada announced its *Principles respecting the Government of Canada's Relationship with Indigenous Peoples* that are intended to form the foundation for how the federal government will partner with Indigenous Peoples in a new and enduring relationship;
- d) On May 22, 2018 British Columbia announced its *Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples*;
- e) The Parties agree that the United Nations Declaration on the Rights of Indigenous Peoples form part of the foundation for a new and enduring relationship between Indigenous Peoples and the Crown;
- f) The Parties agree the Calls to Action of the Truth and Reconciliation Commission form part of the foundation for a new and enduring relationship between Indigenous Peoples and the Crown;
- g) The Parties have been negotiating a draft WKTS Agreement-in-Principle in Stage 4 and acknowledge that certain important elements may be better resolved in Stage 5 negotiations;
- h) The Parties will develop a treaty land package, as part of a comprehensive treaty package, based on the areas of interest tabled by WKTS (Annex A); and
- i) The Parties intend to take a new and focused approach to conclude treaty negotiations. Canada and British Columbia may be required to seek revised mandates in order to support the conclusion of treaty negotiations on the basis of proposals developed at the table.

NOW THEREFORE the Parties wish to set out their mutual understanding as follows:

1. PURPOSE:

The purpose of this Agreement is to signify the Parties' commitment to establish a new approach to Treaty negotiations between Canada, British Columbia and the WKTS by:

- a) Commencing Stage 5 negotiations without signing the draft Kwiakah/Wei Wai Kum Agreement-in-Principle, which is supported by the British Columbia Treaty Commission (Annex B);
- b) Focusing on those core elements that are required to be included in a Wei Wai Kum and Kwiakah Treaty and/or associated appendix and/or side agreement;

- c) Being informed and guided by the foundation documents set out in section 2; and
- d) Proceeding in a manner consistent with the *Multilateral Engagement Process to Improve and Expedite Treaty Negotiations in British Columbia*, endorsed by the Principals May 24, 2016.

2. Foundation Documents:

The Stage 5 negotiations between Canada, British Columbia and the WKTS will be informed and guided by, but not limited to, the following foundation documents:

- a) *Principles Respecting the Government of Canada's Relationship With Indigenous Peoples*;
- b) *The Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples*;
- c) *The United Nations Declaration on the Rights of Indigenous Peoples*;
- d) *The Principals' Accord on Transforming Treaty Negotiations in British Columbia*, dated December 1, 2018; and
- e) The draft Kwiakah/Wei Wai Kum Agreement-in-Principle.

3. Land and Cash Negotiations

- a) The Parties have an understanding of the combined value of land and cash which could be proposed by Canada and British Columbia for an Agreement in Principle (AIP) and have reached substantive agreement on the core interests of Canada, British Columbia, and Wei Wai Kum and Kwiakah required to conclude an AIP.
- b) The Parties recognize that Canada and British Columbia would be required to seek revised mandates in order to table a formal AIP land and cash proposal, and that no such offer is imminent.
- c) The Parties are of the view that rather than expending time and resources to conclude an AIP, that negotiations can be more efficiently and effectively advanced through the development of a comprehensive final treaty package.
- d) The Parties recognize that through this agreement the applicable scope of Section 5 of the *Kwakiutl Laich-Kwil-Tach Council of Chiefs Framework Agreement, August 19, 1998* will be negotiated in the final stage of negotiation
- e) The Parties agree that once they have reached agreement on the land and cash offer as confirmed by a Chief Negotiators' letter, British Columbia will initiate the application of protection measures for Stage 5 in accordance with British Columbia's policies and mandates.

4. Scope of Negotiations:

Good faith negotiations by the applicable Parties will address the matters listed below:

- a) Common treaty objectives as set out in the Recognition and Renewal Proposal;
- b) The recognition of Wei Wai Kum and Kwiakah Section 35 Rights;
- c) Predictable, stable and reliable processes for renewal, amendment and evolution of rights, jurisdictions and intergovernmental relations;
- d) Recognition of the Wei Wai Kum and Kwiakah First Nations role in the stewardship and natural resource decisions in areas where the Wei Wai Kum and Kwiakah First Nations will exercise treaty rights;
- e) Recognition and establishment of the Wei Wai Kum and Kwiakah First Nations government including its composition and structure;
- f) Application of the concurrent law model;
- g) Recognition of areas of Wei Wai Kum and Kwiakah First Nations jurisdiction and authority;
- h) Lands and Co-management and Land protection;
- i) Capital transfer and loans, and Canada's engagement process on how to address past and present negotiation loans, including forgiveness;
- j) New fiscal relationship;
- k) Fisheries – including Food, Social, and Ceremonial, commercial, management, and aquaculture;
- l) Section 87 tax exemption—discussions related to Wei Wai Kum and Kwiakah interest in the continuation of the section 87 tax exemption;
- m) Content and composition of any side agreement related to matters that are not core or essential to the treaty, including amendment provisions;
- n) A long term (replaceable) forest tenure for Wei Wai Kum;
- o) A Wei Wai Kum Incremental Treaty Agreement respecting lands;
- p) A Kwiakah Incremental Treaty Agreement respecting land and/or Forestry Tenure;
- q) Revenue sharing; and
- r) Other matters as agreed to by the Parties.

5. Negotiation Priorities

The Parties agree that upon the signing of this agreement:

British Columbia and Wei Wai Kum and Kwiakah will continue to negotiate in good faith:

- a) A Incremental Treaty Agreement on land for Wei Wai Kum;
- b) A Land and/or Forestry Tenure Incremental Treaty Agreement for Kwiakah.

The Parties will, in good faith:

- c) Negotiate co-management with respect to areas identified (Annex C);
- d) Negotiate a comprehensive land and cash proposal; and
- e) Work collaboratively to develop future mandate requests to conclude a comprehensive treaty.

6. Consultations with Neighbouring Indigenous Groups

- a) The Parties acknowledge Canada and British Columbia will fulfill their consultation obligations with neighbouring Indigenous groups whose rights may be adversely impacted by an eventual treaty with the Wei Wai Kum and Kwiakah First Nations.
- b) The Wei Wai Kum and Kwiakah First Nations acknowledge their commitments with respect to Recommendation 8 of the *Report of the British Columbia Claims Task Force (June 28, 1991)*, and will engage with its neighbours based on that commitment.

7. Other Matters:

The Parties also agree that:

- a) Negotiations under this Agreement will take place within the British Columbia Treaty Process;
- b) 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*;
- c) This Agreement does not affirm, recognize, define, abrogate, or derogate from the Wei Wai Kum and Kwiakah Section 35 Rights;
- d) They will each require revised mandates to realize the objectives of this Agreement, including the negotiation of matters set out in sections 4 and 5;
- e) This Agreement is not legally binding and does not create any contractual or financial obligations for any Party;
- f) The Parties agree that this Agreement can be released to the public but that the Annexes remain confidential to the negotiation table;
- g) All negotiations conducted pursuant to this Agreement, and all related documents, are confidential unless the Parties otherwise agree in writing, and are without prejudice to the positions of the Parties in any proceedings before a court or other forum and shall not be construed as admissions of fact or liability; and
- h) If a Party chooses to withdraw from this Agreement, the remaining parties will discuss whether they wish to continue negotiating under this agreement or terminate this agreement.


EFFECTIVE DATE AND SIGNATURES

This Agreement will come into effect on the date of the last signature.

**SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN
RIGHT OF CANADA:**

By:  Date: June 28, 2019
[The Honourable Carolyn Bennett, Minister of
Crown-Indigenous Relations]

**SIGNED ON BEHALF OF HER MAJESTY THE QUEEN IN
RIGHT OF BRITISH COLUMBIA:**

By:  Date: July 28, 2019
[The Honourable Scott Fraser, Minister of
Indigenous Relations and Reconciliation]

**SIGNED ON BEHALF OF WEI WAI KUM AND KWIAKAH
TREAT SOCIETY:**

By:  Date: June 28, 2019
[Chief Chris Roberts (WEI WAI KUM)]

By:  Date: June 28, 2019
[Chief Steven Dick (KWIAKAH)]

“Annex A” to “Wei Wai Kum First Nation / Kwiakah First Nation Transition to Stage 5 and Treaty Revitalization Agreement”

Land Areas of Interest Map (Confidential):

“Annex B” to “Wei Wai Kum First Nation / Kwiakah First Nation Transition to Stage 5 and Treaty Revitalization Agreement”

BCTC Confirmation Letter:



March 1, 2019

Mark Stevenson, Chief Negotiator
Wei Wai Kum/Kwiakah First Nations
1650 Old Spit Road
Campbell River, BC V9W 3E8

Heinz Dyck, Chief Negotiator
Ministry of Indigenous Relations and Reconciliation
PO Box 9100
STN PROV GOVT
Victoria, BC V8W 981

Megan Reiter, Senior Negotiator
Crown-Indigenous Relations Canada
1138 Melville Street, Suite 600
Vancouver, BC V6E 4S3

Dear Mr. Stevenson, Mr. Dyck, and Ms. Reiter:

RE: Stage 5 Treaty Negotiations Memorandum of Understanding

Please consider this letter as confirmation by the BC Treaty Commission that upon signing of the Stage 5 Treaty Negotiations Memorandum of Understanding between Wei Wai Kum First Nation, Kwiakah First Nation, British Columbia and Canada the Parties will officially be in Stage 5 of the British Columbia treaty negotiations process.

Sincerely,

CELESTE HALDANE
Chief Commissioner

“Annex C” to “Wei Wai Kum First Nation / Kwiakah First Nation Transition to Stage 5 and Treaty Revitalization Agreement”

Joint Management Areas of Interest Map (Confidential):