

**TSAWWASSEN FIRST NATION
("TFN")**

AND

**VANCOUVER PORT AUTHORITY
("VPA")**

(COLLECTIVELY THE "PARTIES")

ROBERTS BANK DEVELOPMENT

MEMORANDUM OF AGREEMENT

WHEREAS:

- A. TFN has Aboriginal Interests within its Traditional Territory including Roberts Bank.
- B. The Parties wish to enter into an agreement to establish and maintain a mutually beneficial relationship in relation to development on Roberts Bank and related economic benefits arising from this development.
- C. VPA intends to fulfill any responsibility it has to consult and accommodate the TFN on development activities within the Tsawwassen Territory including Roberts Bank that may lead to the infringement of the TFN's Aboriginal Interests.
- D. The Parties wish to resolve issues related to development on Roberts Bank where possible through negotiation rather than litigation.

Therefore, in consideration of the payment of the sum of \$10.00 by each Party to the other Party, the covenants and agreements herein and other good and valuable

consideration (the receipt and sufficiency of all of which consideration are hereby expressly acknowledged by the Parties and will not be denied), the Parties agree as follows:

DEFINITIONS AND SCHEDULES

1. In this Agreement:

- a) “**Aboriginal Interests**” means asserted, potentially existing or proven aboriginal rights or aboriginal title of the TFN;
- b) “**Agreement**” means this Agreement and its attached Schedules “A” and “B”;
- c) “**BCEAO**” means the BC Environmental Assessment Office;
- d) “**Business Day**” means any day other than a Saturday, Sunday or any statutory holiday in the Province of British Columbia;
- e) “**CEAA**” means the Canadian Environmental Assessment Agency;
- f) “**Compensation**” means the sum of \$2,500,000.00 to be paid to TFN pursuant to the Settlement Agreement;
- g) “**Defendants**” means collectively the defendants named in the Litigation, namely the VPA, Her Majesty the Queen in Right of Canada, British Columbia Ferry Services Inc. (successor to British Columbia Ferry Corporation), Her Majesty the Queen in Right of British Columbia, B.C. Transportation and Financing Authority and B.C. Rail Ltd.;
- h) “**Environment**” includes the air (including all layers of the atmosphere), land (including soil, sediment deposited on land, fill, lands submerged under water, buildings and improvements), water (including oceans, lakes, rivers, streams, groundwater and surface water), and all other external conditions and influences under which humans, animals, and plants live or are developed;
- i) “**Environmental Assessment**” means all environmental assessments, reviews, investigations and other proceedings being conducted or to be conducted under or pursuant to Environmental Laws with respect to the environmental assessments, reviews, investigations and proceedings being conducted or to be conducted under or pursuant to the *Canada Environmental Assessment Act*, S.B.C. 2202, c. 42, and including the environmental assessment and review initiated by the VPA with respect to the environmental impacts of the Roberts Bank Port Facility Expansion being conducted in accordance with the requirements of the BCEAO;
- j) “**Environmental Laws**” means any and all statutes, laws, regulations, orders, bylaws, standards, guidelines, protocols, permits, and other lawful requirements of any federal, provincial, regional, municipal, or other governmental authority having

jurisdiction over the Roberts Bank Port Facility, the Roberts Bank Port Facility Expansion and surrounding areas now or hereafter in force with respect in any way to the Environment, Environmental Assessment, health, occupational health and safety, protection of any form of plant or animal life, or transportation of dangerous goods, including the principles of common law and equity;

- k) “**Execution Date**” means the date that this Agreement has been executed by both Parties;
- l) “**Final Agreement**” means the agreement among Canada, BC and TFN which is being negotiated under the BC Treaty Process based on the Agreement-in-Principle signed by the parties thereto March 15, 2004;
- m) “**Framework for Consultation**” means *The Framework For Consultation to Meet the Requirements Under Environmental Assessment Legislation* as agreed to between the Parties;
- n) “**Litigation**” means Supreme Court of British Columbia, Vancouver Registry, Action No. S021209 commenced by the TFN on February 28, 2002 and wherein the TFN is named as Plaintiff and the Defendants are named as defendants;
- o) “**Payments**” means the amounts payable to TFN under this Agreement and the Settlement Agreement;
- p) “**Person Years**” means a person year calculated by dividing the total hours of employment paid by the number of hours a full time person would normally work in the course of one calendar year;
- q) “**Protocol Agreement**” means the agreement among VPA, Canada and TFN dated for reference the 20th day of March 2003;
- r) “**Ratification Date**” means the date this Agreement has been ratified by the Parties as described in Chapter 1 herein;
- s) “**Roberts Bank**” means the area identified on the Schedule “A” hereto;
- t) “**Roberts Bank Port Facility**” means the existing marine port facility generally known as the “Roberts Bank Port” located near Delta, B.C. and occupying an area of approximately 113 hectares, including those lands legally described as Lot A, Bed of Strait of Georgia, Group 2, New Westminster District, Plan LMP25402 and including the areas generally known as Pods 1 to 4 inclusive all owned by Her Majesty the Queen in Right of Canada and managed and controlled by the VPA, and also including various lands owned by Her Majesty the Queen in Right of British Columbia and B.C. Rail Ltd. and/or British Columbia Railway Company, including the causeway connecting Pods 1 to 4 to the mainland all of which is more particularly shown on Schedule “A”;

- u) **“Roberts Bank Port Facility Expansion”** means the proposed expansion of the existing Roberts Bank Port Facility container handling facilities by:
- i) the expansion of the existing container handling facility known as “Deltaport” to add a third berth to that facility, which proposed expansion may, among other things:
 - (a) create approximately 20 hectares of new land for an additional berth and terminal infrastructure development;
 - (b) occupy submerged land currently owned by the VPA or by BC as well as other land currently within the jurisdiction of BC for the facility, the expanded ship channel and turning basin and Environmental habitat compensation areas;
 - (c) require some dredging to accommodate the new berth and to expand the existing ship-turning basin;
 - (d) require improvements to existing rail infrastructure on the rail mainline adjacent to Deltaport Way on lands currently owned by British Columbia Railway Company, on the Roberts Bank Port Facility causeway or within the existing intermodal yard; and
 - (e) require certain lands currently owned by B.C. Rail Ltd. and/or British Columbia Railway Company, B.C. Transportation and Financing Authority and/or Her Majesty the Queen in Right of British Columbia; and
 - ii) the creation of a new three-berth container terminal called “Terminal 2”, which new terminal may, among other things:
 - (a) create approximately 80 hectares of new land for three new berths and terminal infrastructure development;
 - (b) occupy submerged land within the jurisdiction of BC for the terminal, road and rail infrastructure, ship-turning basin and Environmental compensation areas;
 - (c) require improvements to existing rail infrastructure on the rail mainline adjacent to Deltaport Way on lands currently owned by British Columbia Railway Company, on the west side of the Roberts Bank Port Facility causeway or within the existing intermodal yard;
 - (d) require some dredging to accommodate the new berths and to create a ship-turning basin; and
 - (e) require certain lands currently owned by B.C. Rail Ltd. and/or British Columbia Railway Company, B.C. Transportation and Financing Authority and/or Her Majesty the Queen in Right of British Columbia.

The Roberts Bank Port Facility Expansion is conceptually shown on Schedule "A" hereto;

- v) "**Settlement Agreement**" means the agreement entitled "*Settlement Agreement*" dated the ___ day of _____, 2004 made between the TFN, the VPA and other Defendants named in the Litigation with respect to settlement of the Litigation;
- w) "**Settlement Date**" means the "Ratification Date";
- x) "**TFN**" means the Tsawwassen First Nation and the Tsawwassen Indian Band and their respective members, all of which are intended to refer to the same group of traditional peoples;
- y) "**TFN Entity**" means any entity controlled by TFN or TFN Members;
- z) "**TFN Members**" means the individual members of TFN (also known as the Tsawwassen Indian Band) past, present, and future and whether born or unborn;
- aa) "**TFN Reserve**" means the reserve designated as Tsawwassen Indian Reserve #0;
- bb) "**TFN Settlement Lands**" means the Tsawwassen Lands identified as Tsawwassen Lands in Appendix C of the Tsawwassen First Nation Agreement-in-Principle, signed by the parties to that agreement on the 15th day of March 2004, in the vicinity of Deltaport Way, of which the VPA and the TFN have identified a portion as being possible locations for a container handling facility; and
- cc) "**Tsawwassen Territory**" means the area identified as Tsawwassen Territory in Appendix A of the Tsawwassen First Nation Agreement-in-Principle, signed by the parties to that agreement on the 15th day of March 2004, and also submitted for the purposes of describing the Statement of Intent Area to the British Columbia Treaty Commission.

2. The following schedules are attached to this Agreement and are hereby incorporated into and shall form an integral part of this Agreement:

- a) Schedule "A" Sketch Plan No. S2004-198 dated August 5, 2004 – Roberts Bank Development Ownership and Property Rights over Parcel A (K25780E) bed of the Strait of Georgia, Group 2, New Westminster District including all those parcels created from said Parcel A (K25780E) and District Lot 851, Group 2, New Westminster District Corporation of Delta; and
- b) Schedule "B" – Letter dated October 28, 2004 from Nancy Wilkin to Chief Kim Baird and letter dated November 1, 2004 from Chief Kim Baird to Nancy Wilkin, which collectively comprise Schedule "B".

CHAPTER 1 – GENERAL MATTERS AND RATIFICATION

1. The purpose of this Agreement is to set out the basis for TFN to benefit from the Roberts Bank Port Facility and from the Roberts Bank Port Facility Expansion on Roberts Bank within the Tsawwassen Territory and adjacent to the TFN Reserve and to provide a basis for a mutually beneficial relationship between the Parties.
2. The VPA will support the objective that TFN and TFN Members seek the full range of economic and employment objectives associated with the Roberts Bank Port Facility and Roberts Bank Port Facility Expansion.
3. Except for Section 8 herein and the Environmental Assessment matters described in Sections 4 and 5 of Chapter 8 herein, this Agreement and the respective covenants and obligations of the Parties herein are expressly conditional upon and subject to ratification by the Parties as described in Sections 4 and 5.
4. Notwithstanding the execution of this Agreement on the Execution Date and except as described in Section 3 herein, this Agreement will not be legally binding on the Parties until it has been ratified by the Parties on or by the Ratification Date.
5. After the Execution Date, each of the Parties hereto will diligently proceed to obtain all necessary consents and approvals to ratify the Agreement. The TFN acknowledges and agrees this Agreement is subject to and expressly conditional upon VPA obtaining the approval of its board of directors on or before September 14, 2004 to ratify this Agreement. The VPA further acknowledges and agrees this Agreement is subject to and expressly conditional upon the TFN obtaining the approval of TFN Members in accordance with the approval requirements of the Chief and Council, within 60 days of the Execution Date, to ratify this Agreement. The VPA further acknowledges and agrees the TFN requires written notice of VPA board approval of this Agreement in advance of its submission of this Agreement to the TFN Members for approval and ratification. The Ratification Date shall be the date the TFN has provided the VPA with written notice that it has ratified the Agreement, provided that the VPA shall have first obtained the approval of its board of directors to ratify the Agreement. If the day the TFN provides written notice of ratification is not a Business Day, then the Ratification Date shall mean the next Business Day after the day that TFN has provided the VPA with written notice.
6. The Chief and Council of TFN on behalf of TFN hereby authorize and direct VPA to deposit the Payments as they become due in accordance with this Agreement and the Settlement Agreement into an account of the TFN to be specified.
7. This Agreement and all related agreements are not treaty or land claims agreements.
8. The Parties agree that the Protocol Agreement, including equivalent funding, is extended up to and including the Ratification Date; provided that if this Agreement is not ratified as described in Section 5 then the parties to the Protocol Agreement will meet as

soon as reasonably possible thereafter to determine the date on which the Protocol Agreement will terminate.

9. As of the Execution Date the parties to the Protocol Agreement will reconvene under the Protocol Agreement to finalize any outstanding matters in relation to this Agreement and to develop an implementation plan to implement this Agreement.

CHAPTER 2 – CERTAINTY AND DISPUTE RESOLUTION

1. As of the Execution Date the TFN and the VPA as one of the Defendants named in the Litigation will enter into the Settlement Agreement. This Agreement and the respective covenants and obligations of the Parties are expressly conditional upon and subject to the TFN and the Defendants entering into the Settlement Agreement concurrently with the making of this Agreement.

2. As of the Ratification Date and in return for the promises, terms and conditions set out herein, and subject to Section 10 of Chapter 9, TFN hereby:

- a) Accepts the consultations made and the accommodation proposed herein as adequate for the potential infringement of its Aboriginal Interests on Roberts Bank that result from the Roberts Bank Port Facility and the Roberts Bank Port Facility Expansion;
- b) Commits not to challenge or impede, directly or otherwise, VPA's rights to procure, construct, operate and regulate the Roberts Bank Port Facility and the Roberts Bank Port Facility Expansion on Roberts Bank for port activities and activities necessary to support port operations;
- c) Commits to provide written confirmation that VPA and Canada have satisfactorily addressed the obligations of consultation and accommodation in respect of the Aboriginal Interests of the TFN regarding the Roberts Bank Port Facility Expansion. However, the TFN will continue to be at liberty to participate in Environmental Assessment process as provided in this Agreement, including on the terms set out in the Framework for Consultation, and to express its views regarding both Environmental issues and the Environmental Assessment process itself;
- d) Releases and covenants not to sue VPA related to any past, present or future claims of infringements of Aboriginal Interests in respect of the Roberts Bank Port Facility and the Roberts Bank Port Facility Expansion. For greater certainty, this clause and this Agreement is not intended to and does not release or indemnify any claims of infringement of Aboriginal Interests arising directly or

indirectly, except for the operation of port activities and activities necessary to support port operations at the Roberts Bank Port Facility and the construction of and operation of port activities and activities necessary to support port operations at the Roberts Bank Port Facility Expansion; and

- e) Commits to provide written confirmation and consent to the transfers of lands and water lots described in Chapter 9.

3. The Parties will negotiate and conclude any further agreements, grant such further assurances and undertake any further actions required to finalize, record and implement the terms of this Agreement, using best efforts and good faith.

4. In the event that issues arise under this Agreement between the Parties, the Parties shall meet at their earliest convenience to find a mutually acceptable solution to the issue. If the Parties do not reach a mutually acceptable solution to the issue within a reasonable period of time, the Parties shall refer the issue in writing to one of the following persons:

- a) Michael Harcourt;
- b) Glen Sigurdson; or
- c) Marguerite Jackson;

who will make recommendations to the Parties in writing. If the Parties do not accept the recommendations as a mutually acceptable solution to the issue within a reasonable period of time, this Agreement will not be invalid but the unresolved issues will be submitted to and finally resolved by arbitration pursuant to the *Commercial Arbitration Act of Canada* and the *Rules for International Commercial Arbitration Proceedings* of the British Columbia International Commercial Arbitration Centre; provided that there shall be a single arbitrator who shall have significant experience respecting First Nations and commercial matters. Such arbitrator shall be appointed by the Parties by mutual agreement, and if the Parties fail to agree on the arbitrator within thirty (30) days, such arbitrator shall be appointed pursuant to the provisions of the *Commercial Arbitration Act of Canada*. The award and decision of the arbitrator shall be final and binding upon the Parties hereto. Unless otherwise required by law, the Parties agree that, for the purposes of any arbitration arising under this Agreement, any appeal from a decision of the arbitrator or of any other matters arising out of such arbitration, shall be referred to the Supreme Court of British Columbia. The costs of arbitration shall be shared equally by the Parties.

CHAPTER 3 – COMPENSATION FOR INFRINGEMENT

1. VPA will pay \$4,500,000.00 to TFN, with such Payment to be paid on and for the following:

- a) \$2,000,000.00 to be paid to TFN on the Ratification Date in respect of its claim of past infringements of TFN Aboriginal Interests by VPA; and
- b) A further \$2,500,000.00 to be paid to TFN in respect of any claim of future infringements of TFN Aboriginal Interests caused by or connected with the Roberts Bank Port Facility Expansion, with \$1,000,000.00 to be paid on Environmental approval being granted in respect of the expansion of the third berth at Deltaport and \$1,500,000.00 to be paid on Environmental approval being granted in respect of Terminal 2.

CHAPTER 4 – MITIGATION MEASURES AND AMENITIES

1. Pursuant to the Settlement Agreement, which provides for the payment of the sum of \$2,500,000.00, the TFN may elect to have the VPA provide one or both of the following amenities:

- a) To build and deliver to the TFN on a “turn key” basis a boat launch and boat moorage facility (such moorage facility to be up to a maximum of 100 feet in length) intended for commercial, recreational and/or aboriginal fishing uses and otherwise acceptable to the TFN; and
- b) To construct or otherwise provide for better means of access to the TFN’s shellfish and crab harvesting areas adjacent to the Roberts Bank Port Facility or the Roberts Bank Port Facility Expansion as the case may be.

2. If requested by the TFN the VPA will, at its cost and expense, prepare a reasonably detailed estimate of the costs to prepare a proposal for the amenity in question. If the TFN is satisfied with the cost estimate to prepare the proposal, then the TFN may request the VPA to undertake the proposal for the design and construction of the amenity, including detailed costing for the amenity. Other than expenses associated with the preparation of the initial cost estimate, which shall be borne by the VPA, the TFN will be responsible for all subsequent out-of-pocket costs and expenses incurred by the VPA in preparing the proposal.

3. Within 90 days after the TFN's receipt of the design and construction cost estimate prepared by the VPA pursuant to Section 2 the TFN will make a final election and will notify the VPA in writing as to whether it wishes to contract with the VPA to construct or otherwise deliver the amenity.

4. If the VPA receives written notice as provided in Section 3, the VPA shall do the following:

- a) retain such professional designers and other consultants as the VPA may deem necessary to prepare plans and specification for the amenity, such designers and other consultants to be acceptable to the TFN, acting reasonably;
- b) instruct such designers and other consultants to meet with representatives of the TFN, to seek input from the TFN with respect to the design and configuration of the amenity and to defer to the reasonable requests of the TFN so that the amenity reflects the reasonable preferences of the TFN;
- c) submit the plans and specification for the amenity to the TFN for approval, such approval not to be unreasonably withheld or delayed;
- d) consider any requests from the TFN for changes to the initial plan and specifications, and instruct the designers and other consultants to implement such changes as are reasonably feasible;
- e) use reasonable commercial efforts to obtain all necessary permits, interests in land and approvals; and
- f) construct the amenity in accordance with such approved plans and specifications all within a reasonable period of time following receipt of the necessary permits, interests in and approvals described in paragraph 4(e).

5. All costs and expenses for the amenities shall be borne by the TFN.

6. Should the necessary permits, interests in land or approvals not be granted in respect of the amenity and if any work is contracted and undertaken prior to the necessary permits or approvals being obtained, TFN will make payments to VPA for:

- a) the cost incurred by the VPA to that point in time in attempting to secure any necessary permit or approval; and

- b) the costs incurred, by the VPA, acting reasonably.

7. If the access described in paragraph 1(b) has not been constructed before the Roberts Bank Port Facility Expansion, the VPA will inform all parties involved in the design and construction of the Roberts Bank Port Facility Expansion as to the TFN's preferences for such means of access and ask each party to reasonably consider whether the TFN's preferred access can be reasonably accommodated in the design of the Roberts Bank Port Facility Expansion, which accommodation may include a combination of vehicular and pedestrian access. The VPA will grant or acquire for the benefit of TFN an easement or right of way or other right to construct, maintain and use such means of access in perpetuity.

8. For greater certainty, the Parties agree the amenities will be constructed within the Tsawwassen Territory within a reasonable period of time after the Ratification Date.

9. In addition to constructing the amenity described in paragraph 1(b) the VPA agrees to grant the TFN, in common with others, the non-exclusive licence right and privilege to pass and re-pass for the purpose of harvesting shellfish and crabs generally in the water lot area labeled '*Rem. Parcel A*' and shown on Schedule "A" hereto. The TFN agrees the grant of licence shall be subject to the right of VPA to use the area for navigational purposes, to develop the Roberts Bank Port Facility Expansion and subject to any other rights granted in respect of these areas.

CHAPTER 5 – DEVELOPMENT FUND

1. On the Ratification Date the VPA will pay the TFN the sum of \$1,000,000.00, which shall be used to establish a fund for the purpose of, among other things, advancing the economic participation of TFN, TFN Entities and TFN Members in future potential economic activities relating to the Roberts Bank Port Facility Expansion and ongoing operations of the Roberts Bank Port Facility through appropriate programs, services and activities (the "Development Funds").

2. The Development Funds will be managed by TFN and will be used, among other things, to assist small business financing, training, employment of training and business development coordinator, and business opportunities reviews.

CHAPTER 6 – BUSINESS DEVELOPMENT OPPORTUNITIES

Construction Contracts

1. VPA will undertake to ensure that TFN Entities receive a minimum of \$4,000,000.00 in contracts to undertake construction or construction related work, or supply goods and services in support of construction of the Roberts Bank Facility Expansion. TFN will receive such contracts by the following schedule:

- a) \$1,500,000.00 by the completion of the third berth at Deltaport; and
- b) \$2,500,000.00 by the completion of Terminal 2.

2. The Parties agree that in the event the full amounts of the contracts have not been provided in accordance with the foregoing schedule VPA will pay to TFN the amounts of \$187,500.00 and \$312,500.00 as liquidated damages in respect of the third berth at Deltaport and Terminal 2 respectively, to a maximum of \$500,000.00. The liquidated damages to be paid to TFN shall be prorated to reflect the actual amounts of contracts provided. If the VPA fails to provide the full amount of the contracts described in paragraph 1(a), the VPA will not be released from the continued obligation to provide the contracts described in paragraph 1(b). If the VPA provides more than the full amount of the contracts provided in paragraph 1(a), the amount of contracts provided in excess of \$1,500,000.00 shall be credited towards the amount of contracts described in paragraph 1(b).

Investment Fund

3. The Parties agree that on or before the fourth anniversary of the Settlement Date or the date the VPA receives Environmental approval for the third berth at Deltaport, whichever occurs last, the VPA will establish a \$10,000,000.00 investment fund for the purposes of providing capital to joint venture investments by TFN and VPA (the "Joint Venture Investment Fund" or "JVIF"). The JVIF will be equally owned by each of TFN and VPA and jointly controlled by TFN and VPA. Investments from the JVIF will be in port related activities. The JVIF will invest in the debt or equity of port related businesses however the JVIF will not directly engage in carrying on any such port related business. The VPA's involvement in the JVIF may be made on its own behalf or through one or more of its wholly owned affiliates. The JVIF will not create any relationship of agency or partnership between the Parties.

4. The JVIF will be managed by an entity to be established following the Settlement Date, which shall be equally owned and jointly controlled by TFN and VPA. All

decisions to be made by that entity will require the joint approval of TFN and the VPA, or their appointed designates.

5. VPA shall have the sole responsibility of providing all of the \$10,000,000.00 required for the JVIF, both on its own behalf and on behalf of TFN.

6. For greater clarity, VPA shall advance to the JVIF, on behalf of TFN, the aggregate sum of \$5,000,000.00 by way of an interest free loan or loans (the "Loan"). Subject to receiving Environmental approval for the third berth at Deltaport, the Loan must be fully advanced by VPA to the JVIF by the fourth anniversary of the Settlement Date, unless the JVIF has made a request or requests from time to time, to VPA that the same, or a portion thereof, be funded in advance of that date. The Loan shall be evidenced by a simple promissory note, shall not bear any interest, will have repayment terms as set forth in this Agreement and will be on a non recourse basis against TFN.

7. For greater clarity, an additional amount of \$5,000,000.00 will be advanced by VPA on its own behalf for the VPA's own contribution to the JVIF.

8. The JVIF will be jointly managed by the TFN and the VPA. Commitments from the JVIF shall be made with respect to specific investments.

9. All investments from the JVIF will require the approval of both VPA and TFN. With respect to each investment, the Parties also agree to consider the following matters:

- a) the legal structure for the investment;
- b) the terms of the proposed joint participation agreement with respect to the financing, contributions, management, decision making processes, dispute resolution, preferential hiring and procurement, dispositions, transfers, buy-outs, rights of first refusal and other such matters; and
- c) the socio-economic and Environmental impacts from the proposed investment.

10. In addition to the matters set out above, investments from the JVIF will be approved and proceeded upon only after due diligence has established a reasonable expectation of generating profits in accordance with industry standards, with a minimum target rate for the investment to be at least 10% per annum. All of the expenses and costs of the due diligence will be borne by the JVIF.

11. With respect to any specific investment that is made by the JVIF:

- a) The TFN portion will represent 50% of the financing of the investment by the JVIF; and
- b) The VPA portion will represent 50% of the financing of the investment by the JVIF.

12. It is expected that the JVIF will make investments totaling \$10,000,000.00 on behalf of both TFN and VPA by the fourth anniversary of the Settlement Date. However, if JVIF has not been established, or has been established but not yet invested any or all of \$5,000,000.00 on behalf of TFN by the fourth anniversary of the Settlement Date (the "Uninvested Funds"), then VPA shall forthwith on the fourth anniversary of the Settlement Date, calculate interest on the Uninvested Funds. The interest calculated shall accrue at a rate equivalent to the yield earned on 10 year Government of Canada bonds effective on the fourth anniversary of the Settlement Date plus 1.5% and will be distributed annually to TFN, with the first payment due one year after the fourth anniversary of the Settlement Date, for TFN's own use absolutely. Funds are considered invested for the purpose of the foregoing interest calculation as soon as they are disbursed.

13. VPA also agrees that starting on the first anniversary of the date of each investment and on each anniversary following that date, up to 4% of the Loan for an investment will be forgiven by VPA. The amount of the Loan to be forgiven on each anniversary will depend upon the amount of Net Income remaining after the distribution being made to TFN and VPA as more particularly set out below, so that by the 25th anniversary of the date of investment, if not sooner as provided below, the amount owing by TFN to VPA for the Loan shall be nil. For the purposes of this Chapter, "Net Income" means income generated by a JVIF investment net of all expenses including tax, all as calculated in accordance with generally accepted accounting principles, after allocation of overhead.

14. In any year, following the Settlement Date, for each investment where the return made by the JVIF is less than or equal to 8%, then the Net Income from each of those investments shall be shared equally by both Parties and retained for their own purposes. VPA agrees that 1/25th or 4% of the invested portion of the Loan shall be forgiven in such circumstances.

15. In any year for each investment where the return made by the JVIF is greater than 8% but less than or equal to 10%, then 8% shall be shared equally by both Parties and retained for their own purposes, and the balance of Net Income shall be paid to VPA on account of the Loan for an investment. In such instances, VPA shall also forgive a

further amount of the Loan so that the amount paid and forgiven by VPA that year will together equal 1/25th or 4% of the Loan.

16. In any year if the return from each investment made by the JVIF is greater than 10%, then 8% shall be shared equally by both Parties and retained for their own purposes, and the balance of Net Income shall be paid to VPA on account of the Loan for an investment. In such instances the amount of the Loan being paid will exceed 1/25th or 4%, and there will be no forgiveness of the Loan by VPA for that year.

17. In any year for each investment where the return made by the JVIF is greater than 15%, then 8% shall be shared equally by both Parties and retained for their own purposes, and the balance of Net Income shall be paid to VPA on account of the Loan for an investment. In such instances the amount of the Loan being paid will exceed 1/25th or 4%, and there will be no forgiveness of the Loan by VPA for that year. In addition, the VPA shall be entitled to recover the forgiven portion(s) of the Loan in any preceding year(s) from the remaining return over 15%.

18. Once the Loan has been fully paid or forgiven in respect of an investment by the JVIF, all subsequent Net Income shall be shared equally by the Parties.

19. All profits and losses of the JVIF and the Loan shall be calculated in accordance with generally accepted accounting principles and the Parties agree to use an independent auditor.

20. If, after income taxes, any investment made by the JVIF does not generate a positive Net Income then the TFN shall be entitled to either pay or advance its share of the losses from the Uninvested Funds, if available.

21. Should TFN or a TFN Entity be in a position at any time to finance a part of its portion of an investment of the JVIF as described through access to other funds, TFN or the TFN Entity will be encouraged to do so by assuming an equity position in proportion to the funds it contributes, and the 'unused' portion of the VPA Loan will be available to TFN or the TFN Entity on the same terms to be applied to other investments of the JVIF. In the event the TFN or TFN Entity wishes to acquire an equity position in an investment that is greater than a 50% interest in that investment, the Parties will discuss the proposal and the VPA will consider the request. VPA shall not be required to increase its portion of the financing of the joint venture entity.

22. In cases where investments of the JVIF involve projects that will provide or acquire goods and services from either VPA or its subsidiaries or TFN, all transactions shall be on the basis of fair market value negotiated at arms length prices.

23. Should any of the returns of the JVIF earned and accruing to either VPA or TFN be retained in the investment, the retained earnings will be credited as equity belonging to the Party, provided that if there is no agreement between the parties to retain earnings in the investment, then the net earnings will be distributed between the Parties.

24. TFN or the TFN Entity may, upon reasonable notice, dispose of its interest in an investment of the JVIF at any time, either to the VPA, or to a third party acceptable to the VPA, acting reasonably. If it does so, TFN or the TFN Entity will be entitled to retain the proceeds from the sale of its investment, less the amount of outstanding Loan associated with that investment. Notwithstanding the foregoing, while the VPA acknowledges the TFN wishes VPA to remain as a party to investments made by the JVIF, the TFN will reasonably consider any proposal by the VPA to sell its interest in an investment of the JVIF.

25. TFN will establish a TFN Entity to manage its interests in the JVIF with respect to the investments, following principles recommended by First Nations organizations experienced with business development and management.

26. VPA and TFN or the TFN Entity will use best efforts to expedite investments of the JVIF that will provide an early cash flow to TFN.

27. The VPA and TFN agree that development of a container handling facility shall be a priority project for a joint investment of the JVIF. Should such a project proceed, the Parties will work jointly to ensure that the TFN Settlement Lands that are required for the project are expeditiously transferred to the TFN and removed from the application of the Agricultural Land Reserve designation. If the effective date of the Final Agreement is not within two (2) years of the Settlement Date, VPA and TFN will request the Province of British Columbia to transfer the amount of land needed for the container handling facility to the TFN from the proposed TFN Settlement Lands and will request Canada to establish the lands as a TFN reserve. In any case, the land will be leased to the project or the entity managing the project at lease rates based on comparable market equivalent rates for industrial lands associated with port terminal/rail lands.

28. The VPA and TFN agree to establish a committee to manage the business and affairs of the JVIF (the "Management Committee"). Each Party shall appoint two members to the Management Committee, and shall be entitled to appoint more individuals to act as substitutes in place of its members. Meetings of the Management Committee shall take place from time to time at the request of either Party. The presence of at least one member representing each Party shall be required to constitute a quorum. The decisions and resolutions of each meeting of the Management Committee shall be reported in minutes. Members may participate in meetings of the Management Committee through the use of telephone conference.

29. The VPA acknowledges that the mutually beneficial relationship established by this Agreement and the expectations that business investments described herein will generate profits are important to the TFN and the VPA agrees to consult with the TFN and give careful consideration to this relationship and the Parties' expectations prior to carrying on or being engaged in any business that competes with a JVIF investment.

CHAPTER 7 – EMPLOYMENT PROVISIONS

Construction Employment

1. VPA will make available a minimum of 35 Person Years of employment, to qualified and available TFN Members during the construction of the Roberts Bank Port Facility Expansion. VPA will meet these requirements in accordance with the following schedule:

- a) 10 Person Years by the completion of construction of the third berth at Deltaport; and
- b) 25 additional Person Years by the completion of construction of Terminal 2.

2. The Parties agree that in the event the full number of Person Years of employment have not been provided in accordance with the foregoing schedule, the VPA will pay to TFN as liquidated damages the amount of \$35,000.00 per Person Year of shortfall, which shall be put into a training and education fund for the benefit of TFN Members. If the VPA fails to provide the full number of Person Years of employment described in paragraph 1(a), the VPA will not be released from its obligation to provide the Person Years of employment described in paragraph 1(b). If the VPA provides more than the full number of Person Years of employment described in paragraph 1(a), the number of Person Years of employment provided in excess of 10 Person Years shall be credited towards the Person Years employment obligation described in paragraph 1(b).

3. An employment agreement between the Parties will provide for recruitment and placement processes, support services and employment plan, which shall put in place cooperative measures to maximize TFN employment during the construction and operation of the Roberts Bank Port Facility Expansion and other facilities at Roberts Bank.

Operations Employment

4. VPA will make available a minimum of five (5) full time operations jobs to TFN Members. VPA will meet these requirements by the following schedule:

- a) One (1) full time employment position to a TFN Member on or before the first anniversary of the Settlement Date;
- b) Two (2) additional full time employment positions by the completion of the third berth at Deltaport; and
- c) Two (2) additional full time employment positions by the completion of Terminal 2.

5. The Parties agree that in the event the full number of operations jobs is not made available in accordance with the foregoing schedule, VPA will pay to TFN the amount of \$75,000.00 per employment position as liquidated damages, which shall be put into a training and education fund for the benefit of TFN Members. If the VPA fails to make available the full number of positions described in paragraph 4(a), (b) or (c), the VPA will not be released from its obligation to make available the remaining jobs as described. If the VPA makes available more employment positions than the number described in either paragraph 4(a) or (b) above, then the actual number of employment positions made available in excess of the foregoing requirement(s) shall be credited towards the next successive employment obligation described in either paragraph 4(b) or (c) as the case may be.

6. Within one (1) year of the Settlement Date, VPA and TFN will enter into an employment agreement to provide for recruitment and placement processes, support services and an employment plan which will put in place cooperative measures to maximize TFN Members' employment during the construction and operation of the Roberts Bank Port Facility Expansion and other facilities at Roberts Bank.

7. In the event the construction or operations requirements totals are not met in any year, TFN and VPA will meet and determine an appropriate remedial strategy.

CHAPTER 8 – ENVIRONMENTAL ASSESSMENT MATTERS

Environmental Assessment Input from TFN

1. With respect to the Environmental Assessments relating to the Roberts Bank Port Facility Expansion, the VPA and the TFN agree:

- a) that the TFN is and shall always be at liberty to fully participate in the Environmental Assessment process and, in the course of participating in that process, may raise any Environmental concerns, issues and objections and may make any Environmental comments or submissions that could legally be raised or made by any non-aboriginal Person; and
- b) that the TFN shall not raise any Environmental concerns, issues or objections nor make any Environmental comments or submissions that could not legally be raised or made by a non-aboriginal Person.

For greater certainty but without limitation, the TFN agrees that, with respect to the Environmental Assessments relating to the Roberts Bank Port Facility Expansion, the TFN will not raise any Environmental concerns, issues or objections nor make any Environmental comments or submissions that are based on, result from or are in any way attributable to aboriginal status, rights or title.

Consultation with TFN

2. With respect to any Environmental Assessment required by the BCEAO or otherwise to be conducted by or for the VPA as part of the Environmental Assessment and review process relating to the Environmental impact of the Roberts Bank Port Facility Expansion, the VPA will provide the TFN with draft work plans that describe the scope of each study, and will seek meaningful consultation with TFN. Meaningful consultation between VPA and TFN in the context of this Environmental Assessment process means that TFN is provided with notice from VPA of a matter or issue to be decided in relation to the Environmental Assessment, that a reasonable period of time and sufficient information is provided to TFN in respect of the issue or matter to permit TFN to prepare its views on the issue or matter, that an opportunity is provided to TFN to present its views to VPA on the matter, that VPA gives full and fair consideration of the views presented by TFN, and that written explanation is provided from VPA to TFN on how VPA will or will not address TFN's views or concerns with reasons.

Minimum Assessment Requirements

3. In addition to any comments and suggestions of the TFN made pursuant to Section 2, which the VPA may choose to adopt or incorporate into its Environmental Assessment process, the VPA will require all Environmental consultants retained by the VPA in connection with the Environmental Assessment process to:

- a) use the TFN's traditional knowledge in undertaking their respective studies; and
- b) attempt to identify opportunities for TFN Members to be employed to assist in conducting such studies.

In addition to directing its consultants to use TFN traditional knowledge as part of their respective studies, the VPA will make a one time, lump sum payment to TFN to offset the cost of providing traditional knowledge . The amount of VPA's contribution will be agreed to by the Parties, acting reasonably. For the purposes of paragraph 3(b), the VPA will have its' respective consultants produce job descriptions, which will include the requirements for education, skills and work experience. Such job descriptions will be provided to the TFN to be posted as part of the TFN's regular employment program. The TFN will provide a list of interested candidates to the VPA for each posting, to be used by the appropriate consultant or consultants in the interview and selection process.

Funding for Participation in BCEAO Process

4. The VPA will fund the TFN's participation in the Environmental Assessment process at the amount agreed to by the Parties in the Framework for Consultation for the TFN, to be used by the TFN to participate in the Environmental Assessment process relating to the Environmental impact of the Roberts Bank Port Facility Expansion.

Mitigation Measures Required by BCEAO

5. Subject to Section 2, the VPA shall implement, at its cost, the Environmental impact mitigation requirements determined by the BCEAO and the CEAA with respect to the Roberts Bank Port Facility Expansion.

CHAPTER 9 – ADDITIONAL LAND AND WATER LOT MATTERS

1. As of the Settlement Date, TFN consents to the transfer of the strips of land along the causeway that are owned by British Columbia Railway Company, labeled '*Lands to*

be Acquired From BC Rail Through Current Agreements' and coloured purple, all as shown on Schedule "A" hereto.

2. As of the Settlement Date, TFN consents to the transfer of the strip of land that is owned by VPA, labeled '*Lands to be Transferred to BC Rail Through Current Agreements'* and coloured blue, all as shown on Schedule "A" hereto.

3. As of the Settlement Date, TFN consent to the transfer of some or all those lands that are owned by British Columbia Railway Company, labeled "*Lands to be Acquired from BC Rail Through Future Agreements'* and coloured tan, all as shown on Schedule "A" hereto.

4. As of the Settlement Date TFN consents to the transfer of the lands located on the causeway that are owned by British Columbia Railway Company, labeled '*Intermodal Yard Lands to be Acquired From BC Rail'* and coloured yellow, all as shown on Schedule "A" hereto.

5. As of the Settlement Date and conditional on the VPA fulfilling the requirements of Section 6, TFN will support VPA acquiring appropriate land and water lot tenures and consent to the transfer of lands and water lots that are required for the Roberts Bank Port Facility Expansion. The water lots, lands and lands covered by water that are required for the Roberts Bank Port Facility Expansion include:

a) the water lots that are owned by the British Columbia Transportation Financing Authority, labeled '*Rem. Pcl. A (K25780E) to be Acquired From B.C.T.F.A.'* and coloured light blue; and

b) the water lot and lands that are owned by the Crown in Right of British Columbia, labeled '*Lands to be Acquired From Crown in Right of British Columbia'* and coloured dark blue,

all as shown on Schedule "A" hereto.

6. Immediately following the receipt of title or tenure to the water lots described in Section 5, the VPA agrees to subsequently transfer, assign or sublease to the TFN, at no cost to the TFN appropriate water lot tenures in relation to those water lot areas that are not required for the Roberts Bank Port Facility Expansion, labeled '*VPA to TFN'* and conceptually shown on Schedule "A" hereto.

7. As of the Settlement Date the VPA will support TFN acquiring appropriate water lot tenures in relation to the water lots adjacent to the water lot described as ‘ “A” Rem. Parcel “A” (C.T K25780E) and fronting the TFN Reserve.

8. Each Party will support the other Party’s efforts in removing or excluding the water lot described in Section 7 from the jurisdiction of the Ministry of Water, Land and Air Protection and/or any designation of these water lots as a ‘*Wildlife Management Reserve*’. In that regard, attached as Schedule “B” is the letter dated October 28, 2004 from Nancy Wilkin to Chief Kim Baird and the letter dated November 1, 2004 from Chief Kim Baird to Nancy Wilkin.

9. The Parties acknowledge that the lands required for future road access to Terminal 2 as shown on Schedule “A” comprise a portion or portions of the TFN Settlement Lands in the Agreement-in-Principle and could be made available to the VPA under, as they case may be, the expropriation provisions of the Final Agreement, or by the Parties establishing a negotiated value based on valuation principles generally consistent with those associated with expropriation of private lands. If the Parties can not agree either on the appropriate mechanism as set out herein or on the appropriate value, then the Parties will address the matter under the dispute resolution provisions in Section 4 of Chapter 2 of this Agreement.

10. The TFN acknowledges that the VPA may establish one or more areas designated as ‘habitat compensation areas’ as a result of directives from or in response to the BCEAO and/or the CEAO or through the Environmental Assessment for the Roberts Bank Port Facility Expansion. These habitat compensation areas will be for the purposes of compensating for loss of habitat caused or occasioned by the Roberts Bank Port Facility Expansion. The VPA agrees to and will consult with the TFN with respect to the location of, use of and terms and conditions associated with such habitat compensation areas. The VPA further agrees that any habitat compensation areas will not interfere with the TFN use, access and enjoyment of the water lots referred to in Section 6 and Section 7, of the TFN Reserve or of the TFN Settlement Lands, unless otherwise agreed to by the TFN.

CHAPTER 10 - REPRESENTATION, WARRANTIES AND INDEMNITY

Representation and Warranties of Parties

1. Each Party hereby represents and warrants to the other Party as follows:
 - a) the VPA represents and warrants to the TFN that the execution and delivery of this Agreement and all documents, instruments and agreements required to be executed and delivered by the Defendants pursuant to this Agreement, and the completion and performance of the transactions and obligations contemplated by,

or contained in, this Agreement, have been duly authorized by all necessary corporate and other action on the part of the VPA, and this Agreement has been duly executed and delivered by the VPA and constitutes a legal, valid and binding obligation of the VPA enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, liquidation, reorganization, reconstruction and other similar laws of general application affecting the enforceability of remedies and rights of creditors and except that equitable remedies such as specific performance and injunction are in the discretion of a court; and

- b) the TFN represents and warrants to the VPA that the execution and delivery of this Agreement and all documents, instruments and agreements required to be executed and delivered by the TFN pursuant to this Agreement, and the completion and performance of the transactions and obligations contemplated by, or contained in, this Agreement, have been duly authorized by all necessary corporate and other action on the part of the TFN, and this Agreement has been duly executed and delivered by the TFN and constitutes a legal, valid and binding obligation of the TFN enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, liquidation, reorganization, reconstruction and other similar laws of general application affecting the enforceability of remedies and rights of creditors and except that equitable remedies such as specific performance and injunction are in the discretion of a court.

Representation and Warranties of TFN

2. For greater certainty but without limitation, the TFN represents and warrants to the VPA that this Agreement constitutes a legal, valid and binding obligation of, and is enforceable in accordance with its terms against, each of the following:

- a) the TFN; and
- b) without limiting the generality of paragraph 1(b) all TFN Members,

except as may be limited by bankruptcy, insolvency, liquidation, reorganization, reconstruction, and other similar laws of general application affecting the enforceability of remedies and rights of creditors and except that equitable remedies such as specific performance and injunction are in the discretion of a court.

CHAPTER 11 - GENERAL

Gender, Number and Other Terms

1. In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa, words importing gender include all gender,

“or” is not exclusive, and “including” is not limiting, whether or not non-limiting language (such as “without limitation”) is used with reference thereto.

References to whole Agreement

2. Unless otherwise stated, the words “herein”, “hereof”, “hereby” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular article, section, subsection, paragraph or other subdivision or schedule.

Headings

3. The inclusion of headings in this Agreement is for convenience only and shall not affect the construction or interpretation of this Agreement.

Statutes

4. Unless otherwise stated, any reference to a statute includes and is a reference to such statute and to the regulations made pursuant to it, with all amendments thereto and in force from time to time, and to any statute or regulations that may be passed which supplement or supersede such statute or such regulations.

No Contra Preferentum

5. The language in all parts of this Agreement shall in all cases be construed as a whole and neither strictly for nor strictly against any of the Parties.

Currency

6. All monetary amounts in this Agreement are stated and shall be paid in Canadian currency.

Governing Law and Attornment

7. This Agreement shall be governed by and construed in accordance with the law of British Columbia and the law of Canada applicable therein and all disputes and claims, whether for damages, specific performance, injunction, declaration or otherwise, both at law and equity, arising out of, or in any way connected with, this Agreement shall be referred to the courts of British Columbia and each of the Parties attorns to the exclusive jurisdiction of the courts of British Columbia.

Cross – References

8. Unless otherwise stated, a reference in this Agreement to a designated article, section, subsection, paragraph or other subdivision or to a schedule is to the designated article, section, subsection, paragraph or other subdivision of, or schedule to, this Agreement.

Legal and Other Fees and Expenses

9. Unless otherwise specifically provided herein or unless provided otherwise in the Protocol Agreement, each of the Parties will pay their respective legal, accounting and other professional fees and expenses incurred by each of them in connection with the negotiation and settlement of this Agreement, the completion of the transactions contemplated by this Agreement and other matters pertaining hereto.

Notices

10. Any notice, request, demand or other communication required or permitted to be given under this Agreement shall be in writing and either delivered by prepaid courier or sent by fax to the Party to which it is to be given at the address and fax number set out below:

To the TFN:		With a copy to:
The Tsawwassen First Nation Administration Office Building 131 North Tsawwassen Drive Delta, B.C. V4M 4G2 Fax: 604- 943-9226 Attention: Chief Kim Baird		Donovan and Company Barristers and Solicitors 6 th Floor -- 73 Water Street Vancouver, B.C. V6B 1A1 Fax: 604-688-4282 Attention: Susan J. Alcott

To the VPA:		With a copy to:
Vancouver Port Authority 1900 Granville Square 200 Granville Street Vancouver, B.C. Fax: 604-665-9062 Attention: Jim Cox, VP Infrastructure Development with a copy to: Fiona Smith, Director Legal Services		Owen, Bird Barristers & Solicitors 2900 – 595 Burrard Street Vancouver, B.C. V7X 1J5 Fax: 604-688-2827 Attention: D. Barry Kirkham, Q.C.

or to such other address or fax number as a party may specify by notice given in accordance with this section. Any such notice, request, demand or other communication given as aforesaid will be deemed to have been given, in the case of delivery by prepaid courier, when delivered, and in the case of delivery by fax, when a legible fax is received by the recipient if received before 5:00 p.m. (Vancouver time) on a Business Day, or on

the next Business Day if such fax is received on a day which is not a Business Day or after 5:00 p.m. on a Business Day.

Further Assurances

11. Each of the Parties shall execute and deliver such further documents, instruments and agreements and do such further acts and things as may be reasonably required from time to time to carry out the full intent and meaning of this Agreement and to give effect to the transactions contemplated by this Agreement.

Time of the Essence

12. Time shall be of the essence of this Agreement.

Entire Agreement

13. This Agreement and the Settlement Agreement collectively constitute the entire agreement among the Parties pertaining to the transactions contemplated by this Agreement and by the Settlement Agreement and such agreements supercede all prior agreements, undertakings, negotiations, proposals and discussions, whether oral or written, of the Parties (including the document entitled "*Without Prejudice Proposal to Tsawwassen First Nation Regarding Settlement of Alleged Impacts Relating to the Roberts Bank Development and the Proposed Expansion*") and there are no warranties, representations, covenants, obligations or agreements between the Parties except as set forth in this Agreement and in the Settlement Agreement.

Assignment

14. Except with the prior written consent of the other Parties (which may be arbitrarily withheld in the sole discretion of the Parties being asked to consent to the proposed assignment), none of the Parties may assign any of their respective benefits, obligations or liabilities under or in respect of this Agreement. For greater certainty the Parties agree that neither the transition of the TFN Reserve and certain Provincial Crown land to Tsawwassen Lands as provided in the Final Agreement nor the transition of the TFN under the *Indian Act* to the TFN under the Final Agreement shall constitute an assignment within the meaning of this Agreement.

Invalidity

15. Each of the provisions contained in this Agreement is distinct and severable and a determination of illegality, invalidity or unenforceability of any such provision or part hereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof, unless as a result of such determination this Agreement would fail in its essential purposes.

Waiver and Amendment

16. Except as expressly provided in this Agreement, no amendment or waiver of it will be binding unless made in writing by the Party to be bound by such amendment or waiver. No waiver of any provision, or any portion of any provision, of this Agreement will constitute a waiver of any other part of the provision or any other provision of this Agreement nor a continuing waiver unless otherwise expressly provided.

Counterparts

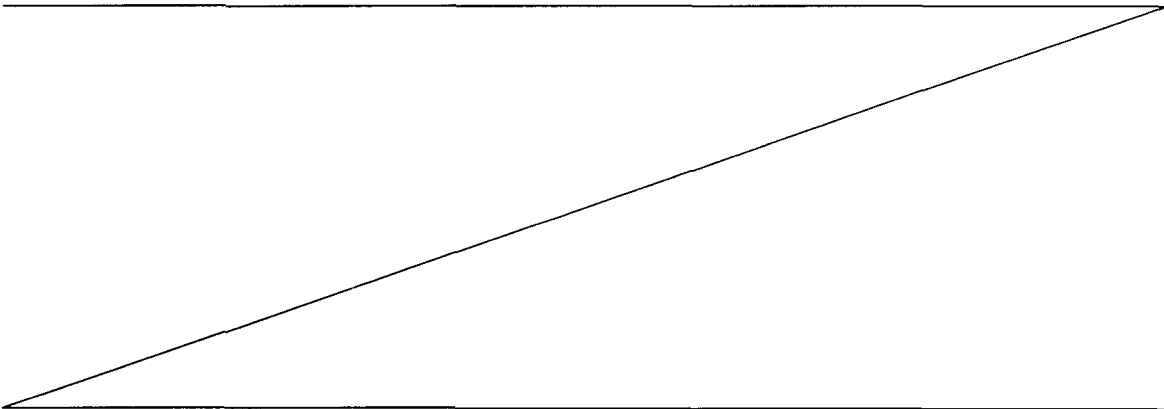
17. This Agreement may be executed in counterparts and each such counterpart will be deemed to constitute an original document and such counterparts, taken together, will constitute one and the same instrument. A counterpart signed by a Party hereto and transmitted by telecopier shall have the same effect as a counterpart originally signed by such Party, provided such Party shall forthwith deliver to the other Party a counterpart originally signed by such Party.

Enurement

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


Announcements

19. Except as required by law or regulatory authority and in respect of the ratification of this Agreement by TFN and TFN Members, no announcements or disclosures concerning the transactions contemplated by this Agreement will be knowingly made by any Party, its employees, agents or representatives to the public or otherwise unless previously approved by all of the Parties. The Parties shall consult with each other regarding any disclosure required by law or any governmental authority and shall use their best efforts to prevent their respective employees, agents, representatives, and in the case of the TFN, its Members, from disclosing this Agreement to any third party without the other Party's consent. The Parties shall also consult with each other regarding any public announcements regarding this Agreement and shall develop a communications plan that deals with all such announcements.

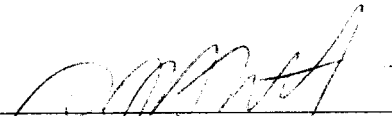


IN WITNESS WHEREOF the Parties have executed this Agreement as of this
____ day of November 2004.

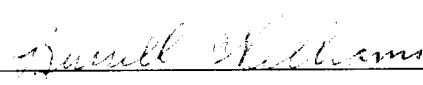
FOR THE TSAWWASSEN FIRST NATION



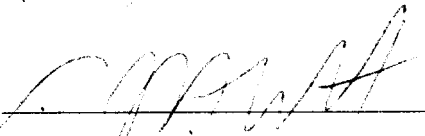
Kwuntiltunaat
Chief Kim Baird




Witnessed by:



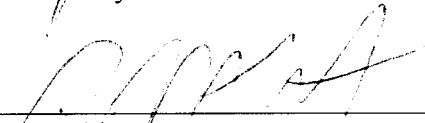
Teawheelam
Councillor Russell Williams



Witnessed by:



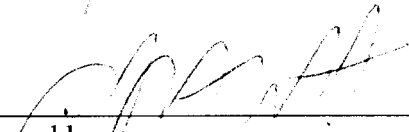
Qwiyaqwiye
Councillor Andrea Jacobs



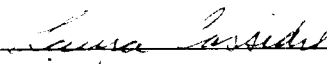
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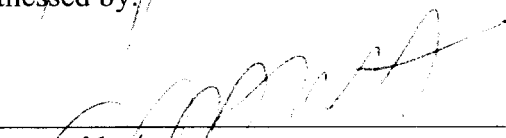
Councillor Stuart Morgan



Witnessed by:




Sxwamisat
Councillor Laura Cassidy




Witnessed by:

FOR THE VANCOUVER PORT AUTHORITY by its authorized signatories



Per: Authorized Signatory



Per: Authorized Signatory



October 28, 2004

By facsimile: (604) 943-9226

Chief Kim Baird
 Tsawwassen First Nation
 131 North Tsawwassen Dr
 Delta BC V4M 4G2

Dear Chief Baird:

Tsawwassen First Nation has identified its interests regarding application of a Wildlife Management Area (WMA) designation over the water area fronting the existing Tsawwassen community. A fundamental importance to the Tsawwassen community is that any future water lot receive the same treatment with respect to a WMA as the adjoining water lot held by the British Columbia Transportation Financing Authority.

The Ministry of Water, Land and Air Protection will not seek the application of the WMA over either waterlot. The Ministry also reiterates our desire to develop a collaborative relationship between our governments regarding management of the aquatic bird habitat in the broader Roberts Bank region.

The Tsawwassen treaty negotiation process will continue to be the venue for further negotiation of the future waterlot fronting the Tsawwassen community.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Wilkin".

Nancy Wilkin
 Assistant Deputy Minister
 Environmental Stewardship Division

cc: Bronwen Beedle, Chief Negotiator, Treaty Negotiation Office
 Frank Blesetti, British Columbia Transportation Financing Authority
 ✓ Jim Cox, Vice President, Vancouver Port Authority.



TSAWWASSEN FIRST NATION



November 1, 2004

By Fax 250.387.5669

Ministry of Water, Land & Air Protection
PO Box 9339 Stn Prov Govt
Victoria, BC
V8W 9M1

Attention: Nancy Wilkin, ADM, Environmental Stewardship Division

Dear Nancy Wilkin:

I confirm receipt of your letter dated October 28, 2004.

As has been indicated in the discussions about this matter, it is important to TFN that the inter-causeway area be a TFN water lot and that there be no Wildlife Management Area imposed on it, or any other TFN water lots, without TFN consent. I appreciate your assurances on these matters. Further, thank you for confirming that the Province will consult with TFN in relation to the broader Roberts Bank Region considered for protection.

Yours truly,
TSAWWASSEN FIRST NATION


Chief Kim Baird

Cc: Jim Cox, Vice President, Vancouver Port Authority (By Fax: 604 665 9020)

