



# PROTOCOL AGREEMENT

between

## THE CITY OF NANAIMO

a municipality in the Province of British Columbia, as represented by its Mayor and Council,  
having an administrative office at 455 Wallace Street, Nanaimo, British Columbia, V9R 5J6

[the "City"]

and

## SNUNEYMUXW FIRST NATION

as represented by the Snuneymuxw Chief and Council,  
having an administrative office on their territory at 668 Centre Street, Nanaimo, British Columbia, V9R 4Z4

["Snuneymuxw"]

[collectively referred as the "Parties"]

### WHEREAS:

- A. On December 23, 1854, the Crown as represented by Sir James Douglas and the Snuneymuxw people entered in to the Treaty of 1854, which is a treaty within the meaning of section 35 of the *Constitution Act, 1982* [the "Constitution"];
- B. On December 24, 1874, the City was incorporated as a municipality by Letters Patent and continues to be a local government pursuant to both the *Community Charter* [British Columbia] and the *Local Government Act* [British Columbia];
- C. The Parties signed a Memorandum of Understanding on April 20, 2005 to develop a strong, committed and fair working relationship for the benefit of all individuals in the Nanaimo region;
- D. The Parties signed a Protocol Agreement on October 15th, 2005 [the "Protocol"] with the intent to establish a government to government relationship;
- E. The Parties renewed the Protocol on April 30th, 2009;
- F. The Parties wish to renew their commitment to developing a working relationship that is based on mutual respect and recognition;
- G. Canada and British Columbia have endorsed without qualification the United Declaration on the Rights of Indigenous Peoples which set out the minimum standards for the survival, dignity and wellbeing of Indigenous Peoples;
- H. The Province of British Columbia has proposed Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples to help inform the development of relationships based on the recognition and implementation of Indigenous Rights, including Indigenous self-determination and Indigenous self-government as recognized and affirmed under section 35 of the Canadian Constitution, 1982; and
- I. The relationship between the Parties are informed by the final Report of the Truth and Reconciliation Commission, and the Calls to Action issued by the Commission, which promote the approach of advancing reconciliation in Canada through direct work on matters of historic dispute, and setting a foundation for more respectful and meaningful partnerships in the future.



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**NOW THEREFORE**, the Parties wish to renew their commitment to a true, meaningful and transformative government to government relationship and continue a Protocol Agreement that is designed to deepen the understanding for one another based on the implementation of reconciliation and respect for each others area of jurisdiction, and agree as follows:

## 1. Purpose

The purpose of this Protocol is to deepen the government to government relationship between the Parties and establish a collaborative process that will meaningfully advance reconciliation and lead to a resolution of shared opportunities, agreements and mutual benefits.

## 2. Guiding Principles

The City and Snuneymuxw commit to the following guiding principles that will inform a spirit of cooperation to work together:

- a) Act in an open, good faith and transparent manner toward one another;
- b) Nurture trust and collaboration between one another to create confidence in the renewed relationship that will further certainty and reliance of the Nanaimo region on the government to government relationship between the Parties;
- c) Mutual recognition and respect for each other, including Snuneymuxw's connection to Snuneymuxw Territory including the spiritual and cultural importance of Snuneymuxw values and way of life, and the City's legislative authority and responsibility to foster the economic, social and environmental wellbeing of the community within its boundaries; and
- d) Adopt a "solutions oriented" approach in all work together through the creation of a shared vision of greater prosperity and wellbeing for all residents of the Nanaimo region.

## 3. Protocol Agreement Working Group

- a) The Parties will renew their political relationship by committing to continue the Protocol Agreement Working Group (the "PAWG") comprising:

- i. The Chief of Snuneymuxw and the Mayor of the City who will act as the Chair;
  - ii. Two Snuneymuxw Councillors nominated by the Chief of Snuneymuxw and two City Councillors nominated by the Mayor of the City;
  - iii. One executive staff member from each of Snuneymuxw and the City and nominated by the Chief and Mayor respectively;
  - iv. One alternate, who are elected representatives of Snuneymuxw or the City and appointed by the Chief or Mayor, as the case may be, to ensure the work of the working group continues during temporary absences of a member(s); and
  - v. Appoint a representative who will be responsible for record keeping.
- b) The PAWG is the forum mandated by Snuneymuxw and the City to:
- i. Implement reconciliation by outlining a collaborative process that will lead to the development of a shared vision for the future of the relationship between the Parties;
  - ii. Implement reconciliation by outlining a collaborative process to identify interests, priorities and current initiatives that will allow the Parties to achieve their shared vision;
  - iii. Identify opportunities for collaboration between the Parties that promote the shared vision developed under 3(b)(i) and align with the interests, priorities and current initiatives identified under 3(b)(ii) including, but not limited to, opportunities that address land use, economic opportunities, continuing the provision of services, tourism, recreation, joint communications, community plans, and any other matter(s) identified by the Parties;
  - iv. Meet at least six times each calendar year, and more frequently as it may consider necessary to carry out its responsibilities under this Agreement;
  - v. Share information and documents that are otherwise publicly accessible or were produced at the request of PAWG;





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- vi. Review existing agreements between the Parties; and
- vii. At all times operate to achieve resolution by consensus that may lead to negotiations and agreements ultimately to be authorized by the Snuneymuxw Chief and Council and the Nanaimo Mayor and Council.

#### 4. Communications and Confidentiality

- a) All communications at PAWG meetings, including any written materials which are produced for the purposes of a meeting or are otherwise created at the request of PAWG are to remain confidential, with the exception that any communications subject to the *Freedom of Information and Protection of Privacy Act* must be disclosed by the City in response to a request for information made under that act.
- b) The Parties agree that any information which is otherwise confidential pursuant to 4(a) will only be released to the public upon written agreement by the Parties and will only be released jointly in a manner which is agreed to by both Parties.
- c) Snuneymuxw will notify the City in writing, as soon as reasonably possible, of any issue or matter, including any actions undertaken by third parties, that, in the reasonable opinion of Snuneymuxw, may impact the operation or intent of this Agreement. Any such issues shall be discussed at the next scheduled PAWG meeting.
- d) The City will notify Snuneymuxw in writing, as soon as reasonably possible, of any issue or matter, including any actions undertaken by third parties, that, in the reasonable opinion of the City, may impact the operation or intent of this Agreement. Any such issues shall be discussed at the next scheduled PAWG meeting.

#### 5. Review, Amendment and Termination

- a) The Parties agree that this Agreement:
  - i. Will take effect upon adoption by resolution of both Snuneymuxw Chief and Council and Nanaimo City Council;

- ii. Is subject to an annual review provided that such annual review is requested, in writing, by either Snuneymuxw or the City at least 30 days before the PAWG meeting at which the annual review will take place. An annual review shall occur no more than once every 12 months; and
- iii. Is a living document and may be subject to amendment from time to time by agreement in writing and authorized by both Snuneymuxw Chief and Council and Nanaimo City Council by resolution.

- b) Snuneymuxw or the City may terminate this Agreement upon 30 days notice, in writing, and delivered to the other party via email or letter.

#### 6. Collaboration and Dispute Resolution

- a) The Parties are committed to open and respectful communication with each other in order to effectively achieve shared goals and avoid disputes.
- b) In the spirit of cooperation and collaboration, the Parties will actively listen to each other's concerns, seek clarification of issues and statements, appreciate each others cultural and spiritual way of life and adopt any other guiding standards that will deepen the understanding between each other.
- c) In the event of a dispute between the Parties, Snuneymuxw and the City will review the issue at a PAWG meeting and seek a consensus resolution or a unity-seeking solution, including discuss and explore collaborative options to resolve the issue.
- d) In the event PAWG cannot resolve a dispute, the Chief of Snuneymuxw and the Mayor of the City will meet to discuss solutions to resolve the issue.
- e) The Parties may agree in writing to adopt a formal dispute resolution process with respect to a particular issue, identify a mediator or individual who has the support of both parties to assist in resolving the dispute, and share the costs.



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## 7. General

- a) The Parties will make all reasonable efforts to identify resources to support the capacity, development and implementation of this Agreement for the benefit of all residents in the Nanaimo region.
- b) The Parties confirm that each have had the full opportunity to review the terms of this Agreement and each have sought legal advice.
- c) Nothing in this Agreement is construed as limiting, defining or abrogating Snuneymuxw Section 35 rights.
- d) Nothing in this Agreement is construed as limiting the City's ability to exercise its rights, powers, duties or obligations in the exercise of its functions pursuant to the *Community Charter* or the *Local Government Act*, as amended or replaced, or as limiting or fettering the City's ability to exercise its discretion pursuant to any bylaw, agreement, or legislation.

- e) Any notice, document or communication required to advance this Agreement will be in writing and delivered by hand or facsimile to other party as follows:

### To Snuneymuxw:

Chief Councillor  
 668 Centre Street  
 Nanaimo B.C., V9R 4Z4  
 Fax No. (250) 753-3492

### To the City:

City of Nanaimo Mayor and Council  
 455 Wallace Street  
 Nanaimo B.C., V9R 5J6  
 Fax No. (250) 755-4436

Executed at Nanaimo, B.C., on the 27 day of MAY, 2019.

### SNUNEYMUXW FIRST NATION

  
 \_\_\_\_\_  
 Chief Michael Wyse

  
 \_\_\_\_\_  
 Witness

### CITY OF NANAIMO

  
 \_\_\_\_\_  
 Mayor Leonard Krog

  
 \_\_\_\_\_  
 Witness