

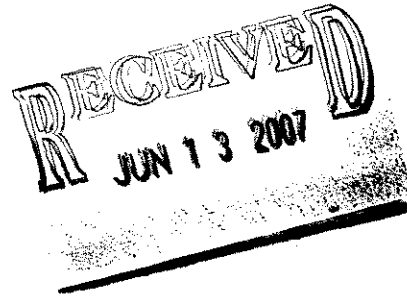


JUN 01 2007

Your file - Votre référence

Our file - Notre référence

Chief Allan Claxton
Tsawout First Nation
P.O. Box 121
Saanichton, BC V8M 2C3



Dear Chief Claxton

Re: Congratulations to the Tsawout First Nation

It is my pleasure to inform you that Minister Jim Prentice, Indian and Northern Affairs Canada, has signed the Individual Agreement on First Nation Land Management between the Tsawout First Nation and Canada on May 29, 2007. Please find the Individual Agreement inclosed.

I would like to take this time to extend my congratulations to the Tsawout First Nation for successfully ratifying their Land Code and Individual Agreement and I wish your community great success in the implementation of its land management regime. I look forward to working with you on the next steps in the process.

If you have any questions, please do not hesitate to contact me at (819) 994-2210.

Sincerely,

Garry Best
Director, First Nations Land Management

cc: Monica Karbovsky, Lands Officer, BC Region

**INDIVIDUAL AGREEMENT
ON
FIRST NATION LAND MANAGEMENT**

BETWEEN

Tsawout FIRST NATION

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

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Agreement made this ___th day of _____, 200__.

**INDIVIDUAL AGREEMENT
ON
FIRST NATION LAND MANAGEMENT**

BETWEEN:

Tsawout FIRST NATION, as represented by their Chief and Council
("the First Nation")

AND

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented
by the Minister of Indian Affairs and Northern Development ("Canada")
("the Parties")

WHEREAS the First Nation and Canada signed an adhesion to the *Framework Agreement on First Nation Land Management* on March 31, 2003;

AND WHEREAS the First Nation and Canada wish to provide for the assumption by the First Nation of responsibility for the administration of Tsawout First Nation Land in accordance with the *Framework Agreement on First Nation Land Management* and the *First Nations Land Management Act*;

AND WHEREAS clause 6.1 of the *Framework Agreement on First Nation Land Management* and section 6(3) of the *First Nations Land Management Act* requires that the Parties enter into an individual agreement for the purpose of providing for the specifics of the transfer of administration and settling the level of operational funding to be provided to the First Nation;

NOW THEREFORE, in consideration of the exchange of promises contained in this Agreement and subject to its terms and conditions, the Parties agree as follows:

1. INTERPRETATION

1.1 In this Agreement:

"Act" means the *First Nations Land Management Act, S.C. 1999, c.24*;

"Agreement" means this Individual Agreement on First Nation Land Management including Annexes A, B, C, D, E, F and G;

"Tsawout First Nation Land" means the land to which the Land Code will apply and more specifically means the Indian Reserves known as East Saanich No. 2(06832), and Fulford Harbour No. 5 (06833) as described in Annex G and includes all the interests in, and resources of, the land that are within the legislative authority of Canada;

"Framework Agreement" means the *Framework Agreement on First Nation Land Management*, signed on February 12, 1996, as amended;

"Land Code" means the Tsawout First Nation Land Code, developed in accordance with clause 5 of the *Framework Agreement*.

1.2 Unless the context otherwise requires, words and expressions used in the *Framework Agreement*, the *First Nations Land Management Act* or the *Indian Act* have the same meaning in this Agreement.

1.3 This Agreement is to be interpreted in a manner that is consistent with the *Framework Agreement* and the *Act*.

2. INFORMATION PROVIDED BY CANADA

2.1 In accordance with clause 6.3 of the *Framework Agreement*, the Minister has provided or will provide the First Nation with the following information:

- (a) a list, attached as Annex "C", and copies or access to copies, of all the interests and licences granted by Her Majesty in or in relation to the

Tsawout First Nation Land, that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register;

- (b) a list, attached as Annex "D", and copies of all existing information in Canada's possession, respecting any actual or potential environmental problems with the Tsawout First Nation Land; and
- (c) a list, attached as Annex "E", and copies of any other information in Canada's possession that materially affects the interests and licences mentioned in clause 2.1(a).

2.2 The First Nation hereby acknowledges that it has received or will receive and/or been provided access to all the documents listed in clause 2.1.

3. TRANSFER OF RIGHTS

3.1 As of the date the Land Code comes into force, Canada transfers to the First Nation the following:

- (a) all of Canada's rights, obligations and powers as a grantor in or under instruments creating, granting, transferring or disposing of interests or licences in Tsawout First Nation Land; and
- (b) all of Canada's rights to the benefit of covenants, stipulations and provisions contained in those instruments.

3.2 As of the date the Land Code comes into force, the First Nation shall be responsible for, among other responsibilities identified in this Agreement, the *Framework Agreement* and the *Act*, the following:

- (a) the collection of all rents and other amounts owing, payable or accruing pursuant to any instrument granting an interest in Tsawout First Nation Land; and
- (b) the performance of any powers, authorities, covenants, terms

and conditions under those instruments that, but for the transfer, would have been Canada's responsibility.

3.3 Notwithstanding clauses 3.1 and 3.2, Canada and the First Nation agree:

- (a) to resolve those issues affecting Tsawout First Nation Land as specifically listed in Annex "E" ; and
- (b) to implement the recommended environmental action plan for those sites listed in Annex "D".

4. TRANSFER OF LAND ADMINISTRATION

4.1 As of the date the Land Code comes into force, and in accordance with the *Framework Agreement* and section 18 of the *Act*:

- (a) the land management provisions of the *Indian Act*, as listed in clause 21 of the *Framework Agreement* and section 38 of the *Act*, cease to apply and Canada retains no powers in relation to Tsawout First Nation Land under these provisions;
- (b) the First Nation shall have all the powers required to manage Tsawout First Nation Land and resources; and
- (c) the First Nation shall commence administering Tsawout First Nation Land pursuant to its Land Code.

4.2 The First Nation, pursuant to the *Framework Agreement* and the *Act*, hereby accepts the transfer of land administration from Canada.

5. OPERATIONAL FUNDING

- 5.1 In accordance with clause 30.1 of the *Framework Agreement*, Canada shall provide the First Nation with operational funding in accordance with Annex A for the purpose of managing Tsawout First Nation Land and developing, administering and enforcing First Nation law.
- 5.2 The operational funding will be provided until March 31st, 2008 (being the end of the current five-year funding authority) and then subsequently in five-year budget cycles, provided that the Department of Indian Affairs and Northern Development is able to appropriate funding from Parliament for that purpose. The First Nation will receive operational funding commencing on the first day of the month following the date their Land Code comes into force. The first year's funding will be pro-rated, based on the number of months remaining in that fiscal year, as set out in Annex A.
- 5.3 One year prior to the expiration of the First Nations Land Management's five year funding authority, the Parties will negotiate a new term of operational funding.

6. TRANSFER OF REVENUES

- 6.1 Subject to clause 6.3, on the coming into force of the Land Code, all revenue moneys collected, received or held by Canada for the use and benefit of the First Nation or its members, cease to be Indian Moneys and Canada shall:
- (a) within 30 days of the Land Code coming into force, or
 - (b) upon notice in writing from the First Nation which shall specify either April 15 or October 15 of the year the Land Code comes into force,
- transfer to the First Nation the revenue moneys described in Annex B.
- 6.2 Revenue moneys payable pursuant to clause 6.1 shall be deposited in the First Nation's account at such financial institution as the First Nation may direct.

6.3 Canada may hold back such revenue moneys as are required to cover any ministerial guarantee of a liability of the First Nation previously made at the request of the First Nation.

7. NOTICE TO OTHER PERSONS

7.1 Immediately following ratification of the Land Code and this Agreement, the First Nation shall give written notice to each person:

- (a) who is not a member of the First Nation; and
- (b) who holds a registered interest or licence in Tsawout First Nation Land as listed in Annex C.

7.2 The notice must inform the person that

- (a) the administration of Tsawout First Nation Land and Canada's rights in Tsawout First Nation Land, other than title, has been transferred to the First Nation effective the date this Land Code comes into effect; and
- (b) the person must pay to the First Nation at the address provided in this Agreement, all amounts owing, payable or accruing due under the person's interest or licence on or after that date.

7.3 Notice under this clause must be given no later than 30 days after the date this Land Code is ratified by the members of the First Nation.

8. INTERIM ENVIRONMENTAL ASSESSMENT PROCESS

8.1 Until a separate agreement on environmental assessment is agreed upon by the Parties in accordance with clause 25 of the *Framework Agreement*, the environmental assessment of projects on Tsawout First Nation Land shall be conducted in accordance with Annex F.

9. AMENDMENTS

- 9.1 This Agreement may be amended by agreement of the Parties.
- 9.2 Any amendment to this Agreement must be in writing and executed by the duly authorized representatives of the Parties.

10. NOTICES

- 10.1 Any notice or other official communication under this Agreement, including notice to other persons required under clause 7, must be in writing addressed to the party for whom it is intended.
- 10.2 The notice referred to in clause 10.1 will be effective using any one of the following methods and will be deemed to have been given as at the date specified for each method:
 - (a) by personal delivery, on the date upon which notice is delivered;
 - (b) by registered mail or courier, the date upon which receipt of the notice is acknowledged by the other party; or
 - (c) by facsimile or electronic mail, the date upon which the notice is transmitted and receipt of such transmission by the other party can be confirmed or deemed.
- 10.3 The addresses of the Parties for the purpose of any notice or other official communication are:

Canada:
Minister of Indian Affairs &
Northern Development

OTTAWA ON K1A 0H4
Fax: (819) 953-4941

Tsawout First Nation:
PO Box 121
SAANICHTON BC V8M 2C3
Fax: (250) 652-9114



ALL

11. DISPUTE RESOLUTION

11.1 The dispute resolution provisions of the *Framework Agreement* apply to this Agreement.

12. LIABILITY

12.1 The liability provisions, as set out in the *Act*, apply to this Agreement:

- (a) The First Nation is not liable in respect of anything done or omitted to be done before the coming into force of its Land Code by Canada or any person or body authorized by Canada to act in relation to Tsawout First Nation Land.
- (b) Canada shall indemnify the First Nation for any loss suffered by the First Nation as a result of an act or omission described in clause 12.1 (a).
- (c) Canada is not liable in respect of anything done or omitted to be done after the coming into force of the Land Code of the First Nation by the First Nation or any person or body authorized by the First Nation to act in relation to Tsawout First Nation Land.
- (d) The First Nation shall indemnify Canada for any loss suffered by Canada as a result of an act or omission described in subsection 12.1(c).

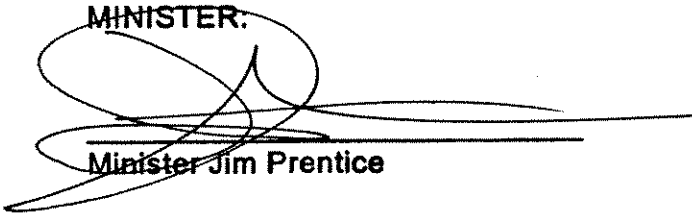
13. DATE OF COMING INTO FORCE

13.1 The Parties acknowledge that the Land Code and this Agreement must be approved by the registered voters of Tsawout First Nation, in accordance with clause 7 of the *Framework Agreement*, to be effective.

13.2 This Agreement takes effect on the date the Land Code comes into force.

SIGNED on the 29th day of May 2007.

MINISTER:

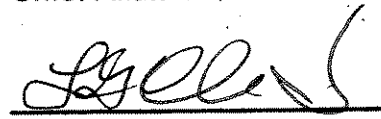


Minister Jim Prentice

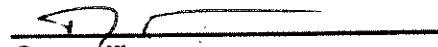
CHIEF:



Chief Allan Claxton



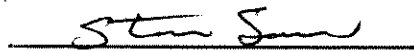
Councillor



Councillor



Councillor



Councillor



Councillor



Councillor

ANNEX A

FUNDING PROVIDED BY CANADA

1. The funding will be provided commencing on the date the Land Code comes into force and continuing until March 31st, 2008, being the end of the current five-year funding authority.
2. The Parties acknowledge that:
 - (a) current funding is calculated under the operational funding formula; and
 - (b) funding for the first year of this Agreement will be pro-rated, based on the number of months from the date that the Land Code comes into effect to March 31st of that fiscal year, based on the amount set out below.

OPERATIONAL FUNDING	
1st Year (pro-rated)	\$ 282,572.59
Subsequent Years	Operational funding is calculated on an annual basis reflecting Tsawout First Nation land management activity.

3. The Parties further acknowledge that Canada operates under a five-year funding authority and that the operational funding provided for management of Tsawout First Nation Land is an ongoing statutory commitment in accordance with clause 28.1 of the *Framework Agreement*.

ANNEX B

LIST OF MONEYS PAYABLE BY CANADA

1. As of the 8th day of January, 2007, Canada is holding \$ 19,022.06 of revenue moneys for the benefit of the First Nation.
2. Canada shall, on a quarterly basis, transfer to the First Nation any other revenue moneys received after the date the Land Code comes into force, together with interest at the rate prescribed under the *Financial Administration Act*.
3. As of the 8th day of January, 2007 there are \$ 2,538,080.70 in outstanding ministerial loan guarantees secured by the First Nation against the revenue monies held by Canada for the benefit of the First Nation.

ANNEX C

LIST OF ALL INTERESTS AND LICENCES GRANTED BY CANADA

The following reports describing all interests and licenses granted by Her Majesty in or in relation to the Tsawout First Nation Land that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register are available for review at the Tsawout First Nation Land Management Office, 7725 Tetayut Road, Saanichton BC, V8M 2C3:

- Reserve General Abstract Reports for:
 - East Saanich No. 2
 - Fulford Harbour No. 5

- Lawful Possessors Reports for:
 - East Saanich No. 2

- Lease or Permits Reports for:
 - East Saanich No. 2

Please note: Not all reserves contain lawful possessors, leases, or permits. Therefore, these reports are limited to reserves where these interests are present.

ANNEX D

LIST OF ALL INFORMATION PROVIDED BY CANADA RELATING TO ENVIRONMENTAL CONDITIONS

**Executive Summary. Phase I Environmental Site Assessment.
Tsawout First Nation Reserves, BC. Prepared for Tsawout First Nation.
Prepared by Acres International Ltd, January 2003.**

ANNEX E

LIST OF ALL OTHER MATERIAL INFORMATION PROVIDED BY CANADA

1. Documentation and Resolution of Outstanding Land Issues at Tsawout First Nation

Whereas the Minister of Indian Affairs and Northern Development ("INAC") has been managing Tsawout First Nation lands and resources pursuant to the Indian Act;

Whereas Tsawout First Nation wishes to resume control of their reserve lands and resources pursuant to their own Land Code, the Framework Agreement on First Nation Land Management, and the First Nations Lands Management Act ;

Whereas outstanding issues and liabilities relating to the interests in land will be resolved in accordance with this Annex and pursuant to section 50 of the Framework Agreement on First Nation Land Management and Section 34 of the First Nations Land Management Act;

I. Issues

- 1.1 Outstanding land issues on East Saanich I.R.#2 are identified in the list attached to this Annex (the "Tsawout First Nation Outstanding Land Issues Chart") based on research undertaken by the parties.
- 1.2 The list set out in the Tsawout First Nation Outstanding Land Issues Chart will not be fully resolved prior to the community ratification vote on this Agreement and the Tsawout Land Code, and may require further research and work.
- 1.3 Following the successful ratification vote on this Agreement and the Tsawout Land Code, INAC and the First Nation will undertake to complete the research necessary to document these outstanding issues fully, and any additional outstanding land issues on East Saanich I.R. #2 that may come to light according to the process established by this Annex.

II. Funding for Annex E

- 2.1 The First Nation can submit budget requests to INAC and the Lands Advisory Board.
- 2.2 Any budget that was established to determine the level of funding necessary to undertake the process set out in this Annex, not included in Annex A, or work plan developed to address the Tsawout First Nation Outstanding Land Issues Chart, may be appended and form part of this Agreement.

III. Dispute Resolution

3.1 INAC and the First Nation agree to participate in dispute resolution processes pursuant to part IX of the Framework Agreement on First Nation Land Management and the First Nation Land Management Act before initiating any court action on any impasse.

IV. Lands Resolution Committee

4.1 A Lands Resolution Committee ("LRC") composed of representatives from the First Nation and INAC is established to oversee the management and implementation of this Annex.

4.2 The LRC will:

- (a)** coordinate any further research on the Tsawout First Nation Outstanding Land Issues Chart to be undertaken by the First Nation and INAC jointly, or by the First Nation or by INAC;
- (b)** coordinate the identification of further outstanding land issues which may be added to the Tsawout Outstanding Land Issues Chart by the mutual consent of the parties;
- (c)** develop a work plan for each 4.2(a) and (b), such work plans to include timelines;
- (d)** ensure that each work plan is carried out according to mutually established timelines;
- (e)** manage any jointly agreed upon contracts for professional services; and
- (f)** report, through the First Nation and INAC regional representative, to the Tsawout Lands Committee and the Tsawout Band Council on a bi-monthly basis.

2. Tsawout First Nation Outstanding Land Issues Chart (attached to this Annex).

ANNEX F

INTERIM ENVIRONMENTAL ASSESSMENT PROCESS

- 1. The Parties agree that the provisions on environmental assessment in this Annex are without prejudice to any subsequent environmental assessment process they may agree upon.**
- 2. The Council shall ensure that every project on Tsawout First Nation Land that does not appear on the "exclusion list", established pursuant to paragraph 59(c) of the Canadian Environmental Assessment Act (CEAA), and that must be approved by the Council under its Land Code, shall not proceed until a decision is completed in keeping with the intent of CEAA or as CEAA may be amended from time to time.**
- 3. For the purposes of carrying out any assessment described in clause 2 of this Annex, the Council shall provide to Canada such information in the Council's possession as Canada determines is required to conduct the assessment.**

ANNEX G

THE LEGAL DESCRIPTION OF Tsawout FIRST NATION LAND

The following Natural Resources Canada First Nations Land Management Legal Description Reports are available for review at the Tsawout First Nation Land Management Office, 7725 Tetayut Road, Saanichton, BC V8M 2C3:

- East Sannich No. 2
- Fulford Harbour No. 5