



PROTOCOL AGREEMENT

THIS Protocol Agreement dated for reference the ____ day of _____, 2023

BETWEEN:

**THE ISLANDS TRUST
COUNCIL
("Islands Trust")**

AND

**SNAW-NAW-AS NATION
209 Mallard Way
Lantzville, BC V0R 2H0
("Snaw-naw-as")**

(individually a "**Party**," collectively the "**Parties**")

WHEREAS:

- A. Snaw-naw-as and the Islands Trust have mutual respect for each Party's mandates, policies, rights, responsibilities, and areas of jurisdiction;
- B. Snaw-naw-as is an Indigenous government with territory on and around the islands that comprise the Islands Trust;
- C. Snaw-naw-as has and asserts Aboriginal rights and title and has constitutional status within the meaning of section 35 of the *Constitution Act, 1982*, as well as legal and cultural interests, including Aboriginal rights, relating to lands and resources in its territories;
- D. Snaw-naw-as, as part of the Te'mexw Treaty Association, is engaged in reconciliation by negotiating a modern Treaty with the federal and provincial governments;
- E. Islands Trust operates through its statutory authority and obligations under the *Islands Trust Act* (the "**Act**");
- F. Pursuant to section 3 of the Act, Islands Trust is responsible for upholding the object of the trust, which is to preserve and protect the trust area and its unique amenities and environment for the benefit of the residents of the trust area and of British Columbia generally, in cooperation with municipalities, regional districts, improvement districts, First Nations, other persons and organizations and the government of British Columbia;
- G. The Parties each have distinct governance authorities and responsibilities toward their residents and members, and acknowledge that the interests of all persons living in their communities are best served by the Parties working together in the spirit of reconciliation

and cooperation to achieve mutual benefits;

- H. Islands Trust has jurisdiction in relation to matters such as planning, land use management and heritage conservation under the Act with respect to areas within Snaw-naw-as' territory;
- I. Islands Trust recognizes that it operates in Snaw-naw-as' territory and seeks to advance reconciliation by building a strong and enduring relationship with Snaw-naw-as, based on mutual respect and respect for Snaw-naw-as' Indigenous knowledge, rights and culture;
- J. The Islands Trust is committed to reconciliation with Snaw-naw-as and working together to advance actual reconciliation in a manner that will serve the public interest;
- K. Snaw-naw-as and Islands Trust have common interests in planning, land use management, and heritage conservation in the areas within the authority of Islands Trust;
- L. The Parties recognize that building stronger government-to-government relationships will benefit their respective communities; and
- M. Snaw-naw-as and Islands Trust wish to establish a government-to-government relationship of mutual respect and cooperation, for the purpose of sharing information, improving communications, and identifying opportunities for collaboration between Snaw-naw-as and Islands Trust with respect to their common interests in planning, land use management and heritage conservation in the areas within the jurisdiction of Islands Trust and in compliance with the object of the trust set out in section 3 of the Act,

NOW THEREFORE, the Parties wish to establish a meaningful government-to-government relationship and to deepen their understanding of one another based on mutual respect and agree as follows:

DEFINITIONS AND INTERPRETATION

1. In this Protocol Agreement:
 - (a) **“Islands Trust”** means the Islands Trust Council acting on its own behalf and on behalf of the Lasqueti Island Local Trust Committee;
 - (b) **“Leadership”** means the elected representatives of a Party;
 - (c) **“Joint Working Group”** means the working group established under this Protocol Agreement;
 - (d) Reference to the singular includes a reference to the plural and vice versa;
 - (e) Where a word or expression is defined in this Protocol Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
 - (f) Headings are included for ease of reference only and are not to be used in interpreting this Protocol Agreement; and

(g) “Includes” means “including but not limited to.”

PURPOSE AND NATURE OF PROTOCOL AGREEMENT

2. The Parties commit to establishing a positive and open relationship where issues of concern for either Party are discussed and resolved in an open and respectful manner.
3. The Parties will establish a Joint Working Group that will meet to exchange information and facilitate open and productive dialogue between the Parties.
4. The Parties will seek to develop an understanding of each other’s public initiatives, governing structures, traditions, jurisdiction and responsibilities and will support and encourage each other in this work.
5. The Parties share the objective of developing a long-term collaborative process for working together to protect the interests of both Islands Trust and Snaw-naw-as and provide certainty for each Party with respect to addressing issues of mutual interest as they arise over time.
6. The Parties will proactively communicate about proposed development and other initiatives in each community with the intent to prevent negative impacts in the other community.
7. The Parties seek to establish an approach for considering their shared interests, including planning, marine initiatives, parks and protected areas, beachfronts and foreshore areas, harvesting, resource management and stewardship, management and heritage conservation, and other issues of interest for the communities.
8. The Parties seek to establish a relationship of mutual respect for each other, including in accordance with:
 - (a) Snaw-naw-as’ inherent right to maintain and strengthen their distinctive spiritual relationship with their traditional territories, and to uphold their responsibilities to future generation, which is affirmed by the *United Nations Declaration on the Rights of Indigenous Peoples Act*; and
 - (b) the Islands Trust’s legislative authority, objectives, purposes, and requirements as defined in the Act, including, but not limited to, the object of the Islands Trust as set out in section 3 of the Act.
9. The Parties will seek to implement this Protocol Agreement in the spirit of reconciliation and establish a collaborative process that will advance the Parties’ shared interests and aspirations, in recognition of Snaw-naw-as’ responsibility and connection to and knowledge about its territory and Islands Trust’s objectives, duties and obligations as set out in the Act.

JOINT WORKING GROUP ESTABLISHED

10. Following the execution of this Protocol Agreement, the Parties will establish the Joint Working Group to work together towards achieving the purposes set out in sections 2 through 9.
11. The Joint Working Group will collaborate and discuss issues of shared interest and key priorities within the Island Trust's statutory authority, as well as in furtherance of the object of the Islands Trust in section 3 of the *Island Trust Act*, including:
 - (a) legislative changes and policy initiatives;
 - (b) resource management and stewardship;
 - (c) harvesting and culture;
 - (d) foreshore and beachfront areas;
 - (e) marine initiatives, and mariculture;
 - (f) land use planning and access;
 - (g) parks and conservation and protected areas;
 - (h) economic and financial opportunities;
 - (i) climate change strategies;
 - (j) matters related to Lasqueti Island, and other areas of particular significance to Snaw-naw-as in the Islands Trust Area; and
 - (k) other matters as the Parties may agree.
12. The Joint Working Group will meet on a mutually agreed-upon schedule, and will schedule four standing meetings each calendar year, provided that the Joint Working Group may cancel meetings or meet more frequently as needed.
13. Unless otherwise agreed to by the Joint Working Group, the Joint Working Group meetings will take place virtually or at a location agreed to by the Joint Working Group.
14. The Joint Working Group will make recommendations to Leadership concerning how best to collaborate on issues of shared interest, including the issues set out at section 11 of this Protocol Agreement.
15. Leadership may establish strategic goals and priorities for the Joint Working Group.
16. The Parties will provide the Joint Working Group all reasonably available information necessary to carry out its responsibilities.

17. On the request of Leadership, the Joint Working Group will review any data, reports, policies, or other information and, as appropriate, use this data or information in making any recommendations.
18. Islands Trust will make best efforts to ensure its Leadership and staff is available to attend Joint Working Group meetings upon request, including representatives from local trust committees other than the Lasqueti Island Local Trust Committee.
19. The Joint Working Group will establish its own procedures, including the development of agenda items and the process for chairing meetings.
20. In carrying out its work, the Joint Working Group may:
 - (a) invite advisors, speakers, knowledge holders, or other presenters to share information;
 - (b) share and discuss available information for emerging issues or initiatives;
 - (c) request, obtain and exchange available data on servicing needs;
 - (d) communicate with other bodies in respect of matters of mutual interest;
 - (e) share respective goals about land use planning objectives; and
 - (f) explore other matters that the Joint Working Group considers relevant.
21. The Joint Working Group will seek to operate by consensus.
22. The Joint Working Group may work with other bodies as appropriate.

COMPOSITION OF JOINT WORKING GROUP

23. The Joint Working Group shall consist of four members appointed by Leadership to represent each Party, including representation from the Lasqueti Island Local Trust Committee and the Islands Trust Executive Committee, provided that not all members need to attend every Joint Working Group Meeting.
24. Additional individuals may participate in meetings at the discretion of the Joint Working Group or as requested by the Parties.

COORDINATED VISION AND GUIDING PRINCIPLES

25. All members of the Joint Working Group commit to a positive relationship, and to follow the principles guiding how they work together:
 - (a) **Collaboration:** Commit to working together to identify interests, options, and potential solutions when members of the Joint Working Group have differing opinions.

- (b) **Openness:** Commit to keeping an open mind when contemplating solutions by focusing on the desired outcomes rather than the tools used.
- (c) **Solution Orientated:** Commit to being accountable and to upholding the provisions of this Protocol Agreement, and the spirit and aspirations of provincial and federal reconciliation commitments and the *United Nations Declaration of the Rights of Indigenous Peoples*, recognizing Islands Trust’s object and statutory limitations in the Act.
- (d) **Transparency:** Commit to being transparent with each other and strive to be transparent about considerations behind decisions in the Islands Trust Area. The Joint Working Group will be provided all information it requires to carry out its objectives, including information on Islands Trust and Lasqueti Island planning, development and conservation initiatives.
- (e) **Consensus:** Commit to moving beyond agreeing to disagree and working to reach an outcome or approach that is actively supported or is not objected to by the Parties. Any disagreements between the member of the Joint Working Group should be resolved as early as possible, with, if necessary, assistance from Leadership.
- (f) **Mutual Respect:** the Parties recognize and respect each other’s commitments and obligations to other matters within their respective jurisdictions, and will therefore approach timeliness with flexibility and in a spirit of understanding and reasonable compromise where necessary or desirable to accommodate each other’s schedules and other commitments, including prioritizing issues of key concern when necessary.

LEADERSHIP MEETINGS

- 26. Leadership may meet as needed to build a strong relationship on a government-to-government level and to discuss key initiatives. Leadership may meet at the request of the Joint Working Group or the request of either Party.
- 27. Key staff, Elders, youth representatives, or other advisors may attend the Leadership meeting at the invitation of either Party.

TERM AND TERMINATION

- 28. This Protocol Agreement will take effect upon the adoption of authorizing Council resolutions by each Party, and approval by the Minister of Municipal Affairs.
- 29. The Parties recognize that this Protocol Agreement is a living document and may be subject to amendment from time to time by mutual agreement. The amendments must be in writing and authorized by Council resolution of each Party, and may require approval by the Minister of Municipal Affairs.
- 30. This Protocol Agreement will remain in effect until:
 - (a) superseded or replaced by another agreement;

- (b) terminated by mutual consent of the Parties; or
- (c) terminated by either Party upon ninety days' written notice.

CONFIDENTIALITY

- 31. The Parties acknowledge that the success of government-to-government relationships depends upon open and transparent communications based on trust, respect and mutual understanding.
- 32. In cases where a Party wishes to provide information to the other Party in expectation of confidentiality, it may so indicate, and the other Party will, acting reasonably, accept and hold such information in confidence to the extent permitted by law.
- 33. Each of the Parties acknowledges that information it provides to the other Party in the course of activities contemplated by this Protocol Agreement may be subject to the *Freedom of Information and Protection of Privacy Act* (British Columbia) (“**FOIPPA**”). The Parties acknowledge that decisions made by Islands Trust under FOIPPA are subject to review by BC’s Information and Privacy Commissioner, and further by the courts of BC.
- 34. Islands Trust shall consult with Snaw-naw-as, in advance, prior to including any information shared or discussed by the Joint Working Group, in an open meeting agenda.
- 35. Where one Party receives a request to disclose information related to this Protocol Agreement, information exchanged in connection with this Protocol Agreement, or activities carried out pursuant to this Protocol Agreement, that Party will refer the disclosure request to the other Party for consultation regarding any confidential or sensitive information.

EFFECT OF AGREEMENT

- 36. This Protocol Agreement does not in any way fetter, limit or restrict the jurisdiction of the respective Parties.
- 37. Nothing in this Protocol Agreement is construed as limiting Islands Trust’s ability to exercise its rights, powers, duties or obligations in the exercise of its functions pursuant to the Act, as amended or replaced, or as limiting or fettering Island Trust’s ability to exercise its discretion pursuant to any bylaw, agreement, or legislation.
- 38. This Protocol Agreement in no way abrogates or derogates from the rights of Snaw-naw-as under section 35 of the *Constitution Act, 1982*, the *United Nations Declaration of the Rights of Indigenous Peoples* or the inherent jurisdiction of Snaw-naw-as.
- 39. This Protocol Agreement is not a Treaty or land claim agreement and this Protocol Agreement does not limit any rights under section 35 of the *Constitution Act, 1982*, including Treaty rights.
- 40. This Protocol Agreement does not create any rights or legal obligations between the Parties and does not create or give rise to any contractual obligations between the Parties.

GENERAL

41. Nothing in this Protocol Agreement or in the Parties' dealing with each other is intended to be interpreted as creating an agency relationship, joint venture or partnership or any kind between the Parties or as imposing on any of the Parties any partnership, duty, obligation or liability to any other Party or to any other person.
42. Each of the Parties agrees to execute other documents and instruments, and to do other things as they are authorized to do and as may be necessary to implement and carry out the intent of this Protocol Agreement.
43. The Parties will make best efforts to ensure that the matters contemplated by this Protocol Agreement are carried out in a timely manner and in accordance with agreed upon timelines.
44. This Protocol Agreement is without prejudice to the existing rights, positions, powers and obligations of either Party, including under applicable legislation or other sources of law.
45. This Protocol Agreement:
 - (a) Is without prejudice to the existing rights and positions of non-parties; and
 - (b) Does not limit the positions any Party may make in future negotiations.
46. The Parties are committed to open and respectful communication with each other in order to effectively achieve shared goals and avoid disputes. Where a dispute among the Joint Working Group has not been resolved by informal communications, it may be referred to the Parties to resolve the dispute. Where the Parties are unable to resolve a dispute by special meeting of the Joint Working Group, any Party may request a dispute resolution session with the procedure mutually agreed upon and cost-shared.
47. Each of the parties warrants to the other that it has the authority to enter into this Protocol Agreement.
48. This Protocol Agreement may be executed in counterparts and if so executed such counterparts will be read and construed together as if they formed one document. A counterpart signed by a Party and delivered electronically will have the same effect as a counterpart originally signed and delivered by such Party.
49. The Parties indicate agreement with this Protocol Agreement by their signatures below.

ISLANDS TRUST

SNAW-NAW-AS NATION

**Peter Luckham, Chair,
Islands Trust Council**

Gordon Edwards, Chief

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