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**Tsartlip First Nation**  
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April 11, 2023

**Notice to Tsartlip Members**

**Re: Tsartlip reaches Mutual Benefits Agreement with the Vancouver Fraser Port Authority**

Dear Tsartlip Members,

Tsartlip Chief and Council would like to advise Tsartlip Members of our strategic decision to enter into a mutual benefits agreement (the **Agreement**) in October 2022 with the Vancouver Fraser Port Authority (**VFPA**) regarding the Roberts Bank Terminal 2 Project (the **Project**).

The benefits and opportunities under the Agreement will provide meaningful and much-needed financial support for Tsartlip community projects and initiatives, and will contribute towards the restoration and protection of Tsartlip's Douglas Treaty rights.

***About the Project***

VFPA is proposing to construct a new three-berth marine container terminal located at Roberts Bank in Delta, BC approximately 35 km south of Vancouver. The proposed Project would provide an additional 2.4 million twenty-foot equivalent units of container capacity per year at Roberts Bank. The Project is being assessed by the Impact Assessment Agency of Canada (the **Agency**) under reference number 80054 and is undergoing an environmental assessment by the BC Environmental Assessment Office.

The proposed marine terminal and container ship routes to and from the terminal are located within Tsartlip's traditional territory, including our traditional marine territories where Members exercise their constitutionally protected Douglas Treaty rights to fish as formerly. The impacts of the Project and associated marine traffic on Tsartlip's Douglas Treaty rights and traditional territory were the foremost considerations for Chief and Council in assessing the Project and negotiating the Agreement.

***Benefits for the Tsartlip Community***

While full terms of the Agreement are confidential, we may share the following details of the benefits that Tsartlip will receive:

- Tsartlip has received certain immediate financial compensation upon signing of the Agreement, and will receive further financial compensation upon VFPA Board of Directors making a final decision authorizing construction of the Project, if approved.
- Compensation may be used at Tsartlip's discretion and put towards areas such as:
  - community projects and initiatives;
  - environmental stewardship initiatives; and
  - initiatives relating to Tsartlip's Douglas Treaty rights to fish as formerly.

- There will be significant employment and contracting/subcontracting opportunities for Tsartlip Members and businesses if the Project is approved and proceeds.

### ***Tsartlip's Concerns and Negotiations Timeline***

In 2020, VFPA and Tsartlip negotiated but ultimately did not reach agreement on the terms of a draft mutual benefits agreement. Chief and Council voted against the agreement as they did not feel that VFPA's offer at that time was sufficient to offset the Project's impacts to Tsartlip.

The Project was reviewed by an independent review panel from 2015 to 2019. On March 27, 2020, the review panel issued a report identifying potential significant adverse effects and several areas of uncertainty. In August 2020, the federal Minister of Environment and Climate Change issued an information request (IR) on topics including effects on salmon, Southern Resident Killer Whale, biofilm as a result of fish mitigation measures, and on Indigenous peoples.

VFPA provided the additional information requested in the IR in 2021 and VFPA shared its submissions with the Agency in early 2022. During the IR process, VFPA undertook further consultation with Indigenous groups and added Project design changes and additional mitigation to further reduce effects identified by the review panel. It also worked to refine mitigation measures for potential effects on key species such as Southern Resident Killer Whale, fish and fish habitat, particularly Chinook salmon, and Dungeness crab.

Tsartlip provided a submission to the Agency dated March 14, 2022, which outlined its concerns and opposition to the Project. Tsartlip's submission noted that despite mitigation, there were likely to be significant adverse effects to fish and fish habitat, wildlife, health and Indigenous culture. The submission emphasized the significant compounding barriers on Tsartlip to access and availability of marine resources and ability of Members to exercise their Douglas Treaty rights to the fishery.

In early 2022, VFPA approached Tsartlip to renew discussions on a mutual benefits agreement. These renewed negotiations took place through Spring, Summer and Fall 2022 and resulted in a significantly improved offer to Tsartlip since the initial offer in 2020.

### ***Why we decided to reach this Agreement***

The Project is expected to be referred to Cabinet for a decision soon, in Fall 2022. Tsartlip understands that more than 20 First Nations affected by the Project have already provided their support or non-objection to the Project, as evidenced by letters posted on the Agency's registry.

As one of the few remaining affected First Nations to provide its support or non-objection to the Project, and after seeking guidance from community members, a majority of Tsartlip Chief and Council voted to reach an agreement with VFPA in October 2022. Chief and Council felt that they were best placed to reach agreement before a Project decision is made. In weighing the benefits versus impacts, Chief and Council did not want to leave on the table significant financial benefits and opportunities for our community, over a project that appears positioned to receive approval.

Tsartlip has provided a letter to the Agency setting out Chief and Council's reasons for providing Tsartlip's consent and non-objection to the Project, including on the basis of the compensation and opportunities offered by VFPA under the Agreement. This letter of non-objection is available on the Agency's online [registry](#).

### *Ensuring Protection of our Douglas Treaty Rights*

Chief and Council share and acknowledge the concerns of Tsartlip Members regarding the potential impacts of the Project and associated marine shipping, and in particular their contribution to the cumulative impacts of development and marine traffic on our Douglas Treaty rights.

The Agreement does not affect, limit or modify Tsartlip's constitutionally protected Aboriginal rights or Douglas Treaty rights. Importantly, Tsartlip's consent and non-objection to the Project are limited to authorizations and approvals for the Project and associated marine shipping as currently being assessed, and related permitting processes. The Agreement also does not preclude Tsartlip from opposing or bringing claims against any other projects, activities or approvals, or from bringing claims on the basis of any past, present or future impacts or infringements (including cumulative impacts) of Tsartlip's Aboriginal rights, title and interests, or its Douglas Treaty rights.

Tsartlip will also continue to be consulted, and to participate in the impact assessment and other regulatory processes for the Project in a manner consistent with our consent for the Project, and to continue to stand up for the integrity of our traditional territories and our Douglas Treaty rights.

Please refer to the attached FAQ for additional details.

HÍSKWE, SI,ÁM,

A handwritten signature in black ink, appearing to be 'Don Tom', written in a cursive style.

Don Tom, Chief of Tsartlip First Nation

## **Mutual Benefits Agreement with VFPA – Frequently Asked Questions**

### ***How will Tsartlip spend the funds provided under the Agreement?***

Tsartlip will engage with the Tsartlip community to receive Members' suggestions and input on the allocation of funds among important community projects and initiatives, environmental stewardship initiatives and initiatives relating to our Douglas Treaty rights.

A portion of the funds has been provided to Tsartlip following signing of the Agreement, and further funds will be provided if and when the Project has received regulatory approvals and the VFPA Board of Directors has made a final decision authorizing construction of the Project.

### ***What opportunities are available for Tsartlip Members and businesses?***

There will be substantial contracting/subcontracting opportunities for Tsartlip businesses and employment opportunities for Tsartlip Members in relation to the Project. Tsartlip will communicate further details as these opportunities arise and will seek expressions of interest from Members and businesses to be shared with VFPA.

Employment opportunities will be available during pre-construction and construction of the Project. Tsartlip expects that most contracting/subcontracting opportunities will become available during construction, once the Project has received regulatory approvals and the VFPA Board of Directors has made a final decision authorizing construction of the Project.

### ***How will this Agreement affect Tsartlip's rights?***

The Agreement does not affect, limit or modify Tsartlip's constitutionally protected Aboriginal rights or Douglas Treaty rights. In addition, the Crown's duty to consult with Tsartlip will continue to be required throughout the remainder of the Project application phase, through other regulatory approvals phases, and for the duration and decommissioning of the Project.