

PROTOCOL AGREEMENT

BETWEEN:

THE REGIONAL DISTRICT OF NANAIMO, a Regional District in the Province of British Columbia, having an administrative office at 6300 Hammond Bay Road, Nanaimo, British Columbia, V9T 6N2

(the "RDN")

AND:

NANAIMO PORT AUTHORITY, a corporation in the Province of British Columbia, having an office at 100 Port Drive, Nanaimo, British Columbia V9R 0C7

(the "Port")

(collectively referred as the "Parties")

WHEREAS:

- A. The RDN, was established by letters patent, effective August 24, 1967 and continued under s. 774 of the Local Government Act, RSBC 2015, c.1;
- B. The Port was incorporated by Letters Patent, issued effective July 1, 1999, pursuant to the *Canada Marine Act*;
- C. The Parties recognize that building an effective relationship will help create certainty for their respective jurisdictions; and
- D. The Parties wish to enter into this Agreement with the intention and desire to develop a working relationship based on mutual respect and cooperation.

NOW THEREFORE, the Parties wish to enter into this Protocol Agreement to establish their commitment to a true, meaningful and transformative relationship that is designed to deepen the understanding for one another based on respect for each other's area of jurisdiction, and agree as follows:

1. Purpose

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

2. Guiding Principles

The RDN and the Port 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, subject to all applicable laws;
- b) Nurture trust and collaboration between one another to create confidence of the Nanaimo region in the relationship between the Parties;
- c) Mutual recognition and respect for each other, including respective legislative authorities and responsibilities to foster the economic, social and environmental wellbeing of the region; and
- d) Adopt a "solutions oriented" approach in all work.

3. Implementation of the Protocol Agreement

- a) The Parties will utilize an RDN/Port Liaison Committee (the "Committee"), which will consist of a total of four members. Two members of the RDN Board will be appointed by the RDN and two members of the Port Board will be appointed by the Port. The Committee will carry out the direction of this Agreement. Additional staff to staff working group meetings will be held as required on the direction of Port Chief Executive Officer and the RDN Chief Administrative Officer.
- b) The Committee shall by direction to the Chief Administrative Officer of the RDN and the President/CEO of the Port:
 - i. Implement a collaborative process to identify interests, priorities and current initiatives that will allow the Parties to develop and achieve their shared vision;
 - ii. Identify and confirm opportunities for collaboration between the Parties that promote the alignment of interests, priorities and current initiatives identified 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;
 - iii. Meet once each calendar year, and more frequently as it may consider necessary to carry out its responsibilities under this Agreement;
 - iv. Review existing agreements between the Parties; and

- v. At all times operate to achieve resolution by consensus that may lead to negotiations and agreements ultimately to be authorized by the Nanaimo Port Authority Board of Directors and the RDN Board of Directors.

4. Communications and Confidentiality

- a) All communications at Committee meetings, including any written materials which are produced for the purposes of a meeting or are otherwise created at the request of the committee are to remain confidential, subject to the disclosure requirements of applicable privacy and access to information legislation. 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.
- b) The Port will notify the RDN 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 Port, may materially impact the operation or intent of this Agreement. Any such issues shall be discussed at the next scheduled Committee meeting.
- c) The RDN will notify the Port 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 Port, may materially impact the operation or intent of this Agreement. Any such issues shall be discussed at the next scheduled Committee meeting.

5. Review, Amendment and Termination

- a) The Parties agree that this Agreement:
 - i. Will take effect upon adoption by resolution of both the Nanaimo Port Authority Board of Directors and the RDN Board of Directors;
 - ii. Is subject to review at least every two years unless an additional review is requested in writing by either the Port or the RDN at least 30 days before the next scheduled committee meeting at which the review will take place. A review shall occur no more than once every 6 months; and
 - iii. Is a living document and may be subject to amendment from time to time by mutual agreement of both Parties. Pursuant to 5a)ii, requests for amendments are to be made in writing and are subject to review by the Committee and authorization by both the Nanaimo Port Authority Board of Directors and the RDN Board of Directors by resolution.

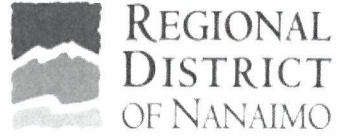
- b) The Port or the RDN may terminate this Agreement upon 90 days' notice, in writing, and delivered to the other party via email or letter.

6. General

- 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, the Parties will actively listen to each other's concerns and seek clarification in the event of any issues or misunderstandings.
- c) 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.
- d) The Parties confirm that each have had the full opportunity to review the terms of this Agreement and each have had the opportunity to seek legal advice.
- e) Nothing in this Agreement is to be construed so as to fetter the ability of either Party to exercise its rights, powers, duties, or obligations in the exercise of its functions pursuant to any applicable letters patent, legislation or regulations, or as limiting the Parties' ability to exercise their discretion pursuant to any bylaw, agreement or legislation.
- f) With the exception of the confidentiality obligations set out in paragraphs 4(a) and (b) above, this Agreement is not intended to create any legal obligations between the Parties.
- g) Should any costs arise as a result of initiatives coming out of this agreement, shared payment of those costs will be agreed upon prior to implementation.
- h) Any notice, document or communication required under this Agreement will be in writing and delivered by hand, mail, email or facsimile to the other party as follows:

To the Port:

Nanaimo Port Authority
100 Port Drive
Nanaimo B.C., V9R 0C7
Attention: Chair of the Board of Directors
Fax No. (250) 753-4899



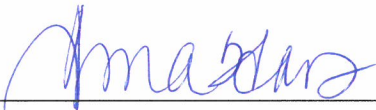
To the RDN:

Regional District of Nanaimo
6300 Hammond Bay Road
Nanaimo, B.C. V9T 6N2
Attention: Chair of the Board of Directors
Fax No. (250) 390-4163

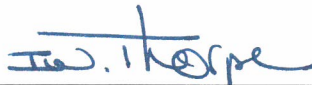
Executed at Nanaimo, B.C., on the 29 day of May, 2020.

NANAIMO PORT AUTHORITY

REGIONAL DISTRICT OF NANAIMO



Chair Donna Hais



Chair Ian Thorpe