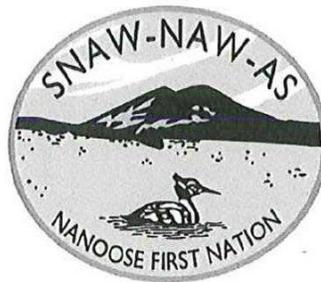


TE'MEXW TREATY ASSOCIATION AGREEMENT-IN-PRINCIPLE

Canada



BEECHER BAY
NATION



SONGHEES NATION



T'Sou-ke Nation

TE'MEXW TREATY ASSOCIATION AGREEMENT-IN-PRINCIPLE

TE'MEXW TREATY ASSOCIATION AGREEMENT-IN-PRINCIPLE

IN WITNESS WHEREOF the parties hereby execute this Agreement-in-Principle this 9
day of April, 2015, at VICTORIA, British Columbia.

FOR BEECHER BAY FIRST NATION:



Russ Chipps
Chief



Witnessed by: Henry Chipps
Negotiator



Witnessed by: Patty Chipps
Negotiator

FOR MALAHAT FIRST NATION:



Michael Harry
Chief



Witnessed by: Russell Harry
Negotiator

FOR SNAW-NAW-AS FIRST NATION:



David Bob
Chief



Witnessed by: Wayne Edwards
Negotiator

FOR SONGHEES FIRST NATION:



Ron Sam
Chief



Witnessed by: Garry Albany
Negotiator



Witnessed by: Harry Baptiste (Skip) Dick
Negotiator

FOR T'SOU-KE FIRST NATION:



Gordon Planes
Chief

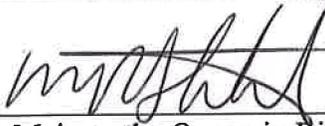


Witnessed by: Denise Purcell
Negotiator



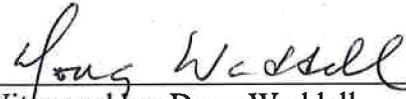
Witnessed by: Allan Planes
Co-Negotiator

FOR HER MAJESTY THE QUEEN IN RIGHT OF CANADA:



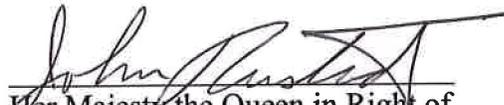
Her Majesty the Queen in Right of
Canada as represented by:

The Honourable Bernard Valcourt,
P.C., M.P.
Minister of Indian Affairs and
Northern Development



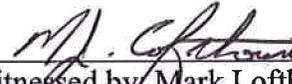
Witnessed by: Doug Waddell
Chief Federal Negotiator

FOR HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA:



Her Majesty the Queen in Right of
British Columbia as represented by:

The Honourable John Rustad,
Minister of Aboriginal Relations
And Reconciliation



Witnessed by: Mark Lofthouse
Chief Provincial Negotiator

TE'MEXW TREATY ASSOCIATION AGREEMENT-IN-PRINCIPLE

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APPENDICES

CHAPTER 1 – DEFINITIONS

1. In this Agreement-in-Principle:

“Aboriginal Human Remains” means human remains that are:

- (a) not the subject of investigation by police or coroner; and
- (b) reasonably considered to be of aboriginal ancestry.

“Administrative Penalty” means a sanction or monetary penalty established under a statutory regime in which liability for breach of a regulatory requirement and the imposition of sanctions are determined through an administrative process, rather than through prosecution or through an action in the civil courts.

“Agreement-in-Principle” means this agreement together with the Appendices.

“Agricultural Land Reserve” means agricultural land designated as an agricultural land reserve under the *Agricultural Land Commission Act* and includes an agricultural land reserve under a former Act.

“Appendix” means an appendix to this Agreement-in-Principle and, where applicable, includes any map or plan attached to that appendix.

“Aquatic Plants” includes all benthic and detached algae, brown algae, red algae, green algae, golden algae and phytoplankton, and all freshwater flowering plants, ferns and mosses, growing in water or in soils that are saturated during most of the growing season.

“Available Flow” means the volume of flow of water determined by British Columbia to be above that required:

- (a) to ensure conservation of Fish and Stream habitats;
- (b) to continue navigability; and
- (c) under water licences issued before May 29, 2009 and water licences issued under applications made before May 29, 2009;

and taking into account any applicable requirement under Federal and Provincial Law.

“Band” means a “band” as defined in section 2 of the *Indian Act*.

“BC Hydro” means the British Columbia Hydro and Power Authority, a corporation continued under the *Hydro and Power Authority Act*, or its successor.

“Beecher Bay First Nation Treaty Settlement Lands” means the land described in Appendix B-1 and any Submerged Land subject to paragraph 68 of the Treaty Settlement Lands Chapter that formed part of a Beecher Bay First Nation Indian Reserve the day before the Effective Date.

“British Columbia” means, unless the context otherwise requires, Her Majesty the Queen in right of the Province of British Columbia.

“British Columbia Building Code” means the building code established for British Columbia under the *Local Government Act*.

“Canada” means, unless the context otherwise requires, Her Majesty the Queen in right of Canada.

“Capital Transfer” means an amount paid by Canada or British Columbia to a Te'mexw Member First Nation under the Capital Transfer and Negotiation Loan Repayment Chapter.

“Child” means an individual under the age of majority under Provincial Law.

“Child Care” means the care, supervision, social or educational training, including pre-school education, or physical or mental rehabilitative therapy of children under the age of 13 years, with or without charge, by caregivers other than the child's parent or the person with whom the child resides and who stands in the place of the child's mother or father, but does not include an educational program provided under the *School Act* or the *Independent School Act* or a Te'mexw Member First Nation Law under paragraph 120 of the Governance Chapter.

“Child in Need of Protection” means a Child in need of protection in accordance with the circumstances described in the *Child, Family and Community Service Act*.

“Child Protection Service” means a service that provides for:

- (a) the protection of Children from abuse, neglect, and harm, or threat of abuse, neglect, or harm, and any need for intervention;
- (b) the custody, care and guardianship responsibilities of Children in Care;
- (c) the support of families and caregivers to provide a safe environment and

prevent abuse, neglect, and harm, or threat of abuse, neglect, or harm; and

- (d) the support of kinship ties and a Child's attachment to the extended family.

“Children in Care” means a Child who is in the custody, care or guardianship of a Director or an individual designated with comparable authority under Te'mexw Member First Nation Law.

“Collaborative Management Agreement” means an agreement, not part of the Final Agreement, between British Columbia and one or more Te'mexw Member First Nations regarding arrangements for Te'mexw Member First Nation participation in the planning, and management of one or more Provincial Protected Areas wholly or partially within the applicable Te'mexw Member First Nation Area.

“Community Correctional Services” means:

- (a) community supervision of offenders subject to court orders, including youth justice court orders, and offenders on conditional and interim release, including temporary release from a youth custody centre;
- (b) preparation of reports for courts, correctional centers, youth custody centers, crown counsel and parole boards;
- (c) supervision of diverted offenders and development and operation of Diversion programs;
- (d) community-based programs and interventions for offenders, including alternative to custody programs;
- (e) identification of and referral to appropriate community resources;
- (f) programs to meet the needs of youth in conflict with the law; and
- (g) other community correctional and community youth justice services as may be delivered by British Columbia or Canada from time to time.

“Conflict” means actual conflict in operation or operational incompatibility.

“Consult” and **“Consultation”** mean provision to a party of:

- (a) notice of a matter to be decided;
 - (b) sufficient information in respect of the matter to permit the party to prepare its
-

views on the matter;

- (c) a reasonable period of time to permit the party to prepare its views on the matter;
- (d) an opportunity for the party to present its views on the matter; and
- (e) a full and fair consideration of any views on the matter so presented by the party.

“Contamination” means “contamination” as defined in the *Environmental Management Act*.

“Contaminated Site” means “contaminated site” as defined in the *Environmental Management Act*.

“Crown” means Her Majesty the Queen in right of Canada or Her Majesty the Queen in right of British Columbia, as the case may be.

“Crown Corridors” means the lands described in an appendix to the Final Agreement.

“Cultural Heritage Site” means an area within a National Park or National Marine Conservation Area, which has heritage value to a group, including aboriginal people, communities, and other Canadians and may include traditional use sites, archaeological sites, burial sites, and sacred sites.

“Direct” has the same meaning, for the purposes of distinguishing between a direct tax and an indirect tax, as in class 2 of section 92 of the *Constitution Act, 1867*.

“Director” means a person designated by the Minister of Children and Family Development as a director under the *Child, Family and Community Service Act* or the *Adoption Act* or a successor to that position, as applicable.

“Disagreement” means a dispute or negotiation in relation to the Final Agreement set out in paragraph 6 of the Dispute Resolution Chapter.

“Diversion” means the use of options other than court proceedings to deal with a person alleged to have committed an offence.

“Domestic Purposes” means for use as food and for use in social and ceremonial activities, but, for greater certainty, does not include sale.

“Ecological Reserve” means provincial Crown land established as an ecological reserve under Provincial Law.

“Effective Date” means the date upon which the Final Agreement takes effect.

“Eligible Voter” means an individual who meets the criteria set out in paragraph 6 of the Ratification of the Final Agreement Chapter.

“Enrolment Appeal Board” means the appeal board established in accordance with paragraph 20 of the Eligibility and Enrolment Chapter.

“Enrolment Committee” means the body to which an Applicant may apply for Enrolment and which maintains the Enrolment Register prior to end of the Initial Enrolment Period.

“Enrolment Register” means the official record containing the name of each person who has been enrolled.

“Environment” means the components of the Earth and includes:

- (a) air, land, and water;
- (b) all layers of the atmosphere;
- (c) all organic and inorganic matter and living organisms; and
- (d) the interacting natural systems that include components referred to in subparagraphs (a) to (c) of this definition.

“Environmental Assessment” means an assessment of the environmental effects of a project.

“Environmental Emergency” means an uncontrolled, unplanned, or accidental release, or release in contravention of laws or regulations, of a substance into the Environment, or the reasonable likelihood of such a release into the Environment, that:

- (a) has or may have an immediate or long term harmful effect on the Environment;
- (b) constitutes or may constitute a danger to the Environment on which human life depends; or
- (c) constitutes or may constitute a danger in Canada to human life or health.

“Federal Expropriating Authority” means the Government of Canada or any other entity authorized under federal legislation to expropriate land or an interest in land.

“Federal Law” includes federal statutes, regulations, ordinances, Orders-in Council and the common law.

“Federal and Provincial Law” means Federal Law and Provincial Law.

“Federal or Provincial Law” means a Federal Law or a Provincial Law.

“Federal Project” means a project that is subject to an Environmental Assessment under the *Canadian Environmental Assessment Act, 2012*.

“Federal Settlement Legislation” means the Act of Parliament that gives effect to the Final Agreement.

“Final Agreement” means a final agreement between a Te'mexw Member First Nation, Canada, and British Columbia.

“First Nation Government in British Columbia” means the Nisga'a Lisims Government or the government of a First Nation in British Columbia which has a treaty or a lands claims agreement in effect with Canada and British Columbia under the British Columbia Treaty Process.

“First Nation Negotiation Support Agreements” means any agreement respecting loan funding allocated to Te'mexw Member First Nations or the Te'mexw Treaty Association by Canada directly, or through the British Columbia Treaty Commission or by British Columbia Treaty Commissioners.

“Fiscal Financing Agreement” means an agreement negotiated among the Parties in accordance with the Fiscal Relations Chapter of the Final Agreement.

“Fish” means:

- (a) fish, shellfish, crustaceans, and marine animals excluding cetaceans;
- (b) the parts of fish, shellfish, crustaceans and marine animals excluding cetaceans; and
- (c) the eggs, sperm, spawn, larvae, spat, juvenile stages and adult stages of fish, shellfish, crustaceans and marine animals excluding cetaceans.

“Foreshore Area” means, in relation to a Te'mexw Member First Nation, those Crown lands adjacent to its Treaty Settlement Lands identified in a foreshore agreement in relation to which that Te'mexw Member First Nation will exercise law-making authority in accordance with subparagraph 73(b) of the Treaty Settlement Lands Chapter.

“Forest Practices” means Timber harvesting, road construction, maintenance, use, and deactivation for forest purposes, silviculture treatments, including grazing for the purposes of brushing, botanical forest products collecting and fire use, but does not include Timber marking or scaling, manufacture of Timber or export of Timber.

“Forest Resources” means all Timber Resources and Plants, but does not include Aquatic Plants.

“Former Federal Lands” means any lands which are transferred to a Te'mexw Member First Nation on the Effective Date which were under the ownership, administration or control of Canada immediately before the Effective Date.

“Geothermal Resources” means the natural heat of the earth and all substances that derive an added value from it, including steam, water and water vapour heated by the natural heat of the earth and all substances dissolved in the steam, water or water vapour obtained from a well, but does not include:

- (a) water that has a temperature less than 80 degrees C at the point where it reaches the surface; or,
- (b) hydrocarbons.

“Gravel” means gravel, cobble, pebble, random borrow materials, and sand.

“Groundwater” means water below the surface of the ground.

“Gulf Islands National Park” means any federal Crown lands and waters named and

described as Gulf Islands National Park in the schedules to the *Canada National Parks Act*.

“Gulf Islands National Park Reserve” means any federal Crown lands and waters named and described as Gulf Islands National Park Reserve in the schedules to the *Canada National Parks Act*.

“Heritage Object” means an object of archaeological, historical or cultural significance and which is reasonably considered to be of aboriginal origin.

“Heritage Site” means a site of archaeological, historical or cultural significance and includes graves and burial sites.

“Implementation Committee” means a committee established under paragraph 6 of the Implementation Chapter.

“Implementation Plan” means an implementation plan concluded in accordance with paragraph 1 of the Implementation Chapter.

“Indian” means “Indian” as defined in the *Indian Act*.

“Indian Reserve” means “reserve” as defined in the *Indian Act*.

“Initial Enrolment Period” means an agreed upon period of up to two years commencing at an agreed upon date.

“Intellectual Property” means any intangible property right resulting from intellectual activity in the industrial, scientific, literary or artistic fields, including, but not limited to, any right relating to patents, copyrights, trademarks, industrial designs, or plant breeders' rights.

“International Legal Obligation” means an obligation binding on Canada under international law, including those that are in force before, on or after the Effective Date.

“Land Fund” means a Capital Transfer amount paid by Canada or British Columbia to a Te'mexw Member First Nation under paragraph 13 of the Capital Transfer and Negotiation Loan Repayment Chapter in addition to any amount paid under paragraph 1 of that chapter.

“Local Government” means “Local Government” as defined in Provincial Law.

“Malahat First Nation Treaty Settlement Lands” means the land described in Appendix B-2 and any Submerged Land subject to paragraph 68 of the Treaty Settlement Lands Chapter that formed part of a Malahat First Nation Indian Reserve the day before the Effective Date.

“Migratory Birds” means the birds, as defined under Federal Law that is enacted further to international conventions, and, for greater certainty, includes their eggs.

“Mineral” means an ore of metal including all base and precious metals or natural substance that can be mined and includes:

- (a) rock and other materials from mine tailings, dumps, and previously mined deposits of minerals; and
- (b) dimension stone.

“Minister” means the federal or provincial minister having the responsibility, from time to time, for the exercise of powers in relation to the matter in question and includes a person with authority to act in respect of the matter in question.

“National Marine Conservation Area” includes a national marine conservation area reserve and means lands and water areas named and described in the schedules to the *Canada National Marine Conservation Areas Act* and administered under Federal Law that lie wholly or partially within a Te'mexw Member First Nation Area.

“National Park” includes a national park reserve and means lands and waters named and described in the schedules to the *Canada National Parks Act* and administered under Federal Law that lie wholly or partially within a Te'mexw Member First Nation Area.

“Natural Gas” means all fluid hydrocarbons that are not defined as Petroleum, and includes coalbed gas and hydrogen sulphide, carbon dioxide and helium produced from a well.

“Neutral” means a person appointed to assist the Participants to resolve a Disagreement and, except as set out in paragraph 24 of the Dispute Resolution Chapter and Part 6 of Appendix D, includes an arbitrator.

“Neutral Appointing Authority” means an organization agreed to by the Parties as set out in the Final Agreement to act as specified in the Dispute Resolution Appendix.

“Non-Citizen Resident” means an individual who is ordinarily resident on the Treaty Settlement Lands of a Te'mexw Member First Nation and who is not a Te'mexw Member First Nation Citizen.

“Official Voters List” means the list of Eligible Voters maintained by the Ratification Committee established under subparagraph 4(c) of the Ratification of the Final Agreement Chapter.

“Participant” means a Party that initiates or is required or agrees to participate in a process described in the Dispute Resolution Chapter.

“Parties” means as the context requires:

- (a) the Te'mexw Member First Nations, Canada, and British Columbia in relation to the Agreement-in-Principle; or
- (b) the Te'mexw Member First Nation, Canada, and British Columbia in relation to the Final Agreement for that Te'mexw Member First Nation.

“Party” means any one of the Parties.

“Person” for the purposes of the Taxation Chapter includes an individual, a partnership, a corporation, a trust, an unincorporated association or other entity or government or any agency or political subdivision thereof, and their heirs, executors, administrators and other legal representatives.

“Petroleum” means crude petroleum and all other hydrocarbons, regardless of specific gravity, that are or can be recovered in liquid form from a pool or that are or can be recovered from oil sand or oil shale.

“Placer Mineral” means an ore of metal including all base and precious minerals and every natural substance that can be mined and that is either loose, or found in fragmentary or broken rock that is not talus rock and occurs in loose earth, gravel and sand, and includes rock or other materials from placer mine tailings, dumps and previously mined deposits of placer minerals.

“Plants” includes all flora and fungi but does not include Aquatic Plants or Timber Resources except for bark, branches, pitch, sap, burls, fruits, nuts, seedpods and roots of Timber.

“Private Lands” means, for the purposes of the Forest Resources Chapter, land that is not Crown land, privately owned land within a tree farm licence or woodlot licence issued under the *Forest Act*, or private managed forest land within the meaning of the *Private Managed Forest Land Act*.

“Provincial Expropriating Authority” means a provincial ministry or agency or any person who would otherwise have the authority to expropriate land under provincial legislation.

“Provincial Law” includes provincial statutes, regulations, ordinances, Orders-in-Council, by-laws and the common law.

“Provincial Park” means provincial Crown land established as a provincial park under Provincial Law.

“Provincial Project” means a “reviewable project”, as defined in the *Environmental Assessment Act* that is subject to an Environmental Assessment under that Act.

“Provincial Protected Area” means provincial Crown land established or designated as a provincial park, ecological reserve, conservancy or protected area under Provincial Law.

“Provincial Road” means a road under the administration and control of British Columbia.

“Provincial Settlement Legislation” means the Act of the Legislature of British Columbia that gives effect to the Final Agreement.

“Public Utility” means:

- (a) a person, or the person's lessee, trustee, receiver or liquidator who owns or operates in British Columbia equipment or facilities for the:
 - (i) production, gathering, processing, storage, transmission, sale, supply, distribution or delivery of petroleum, or petroleum products or by-products;
 - (ii) production, generation, gathering, processing, storage, transmission, sale, supply, distribution or delivery of gas (including natural gas, natural gas liquids, propane and coal bed methane), electricity, steam or water or any other agent for the production of light, heat, cold or power;
 - (iii) emission, transmission or reception of information, messages or communications by guided or unguided electromagnetic waves, including systems of cable, microwave, optical fibre or radio communications, if that service is offered to the public for compensation; or

- (b) a local or regional authority providing services in connection with air quality, dikes, water, sewage, solid waste disposal and wastewater treatment, but for the purposes of this definition, person does not include a person engaged in the petroleum industry who is not otherwise a Public Utility.

“Railway” means a company, established under Federal or Provincial Law, authorized to construct and operate a railway including:

- (a) all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, works, property and works connected with the railway and all railway bridges, tunnels or other structures connected with the railway; and
- (b) communications or signalling systems and related facilities and equipment used for railway purposes.

“Range Practices” means:

- (a) grazing of livestock;
- (b) cutting of hay;
- (c) activities related to grazing of livestock or cutting of hay; or
- (d) activities carried out for the purposes of range development related to constructing, modifying, or maintaining a structure, an excavation, a livestock trail, or an improvement to forage quality or quantity.

“Range Resources” means those plant communities that are associated with grazing.

“Ratification Committee” means a committee established under paragraph 3 of the Ratification of the Final Agreement Chapter.

“Records” means records documenting Te'mexw Member First Nation culture and includes any correspondence, memoranda, books, plans, maps, drawings, diagrams, pictorial or graphic work, photographs, films, microforms, sound recordings, videotape, machine readable records and any other documentary material regardless of physical form or characteristics and any copy thereof.

“Regional Hospital District” means “regional hospital district” as defined in the *Hospital District Act*.

“Renewable Resource Harvesting Activities” means:

- (a) gathering of traditional foods for Domestic Purposes, other than Fish and Aquatic Plants for Domestic Purposes;
- (b) hunting of birds and land animals for Domestic Purposes; and
- (c) gathering of Plants for medicinal, ceremonial, and artistic purposes, in accordance with the Federal Parks and Protected Areas Chapter.

“Renewable Resource Harvesting Document” means any authorizing document or amendment thereto, issued by the Minister under Federal Law in respect of the Te'mexw Member First Nation Renewable Resource Harvesting Right in National Parks and National Marine Conservation Areas.

“Responsible Person” means “responsible person” as defined in the *Environmental Management Act*.

“Safety and Well-Being of Children” includes those guiding principles under section 2 of the *Child, Family and Community Service Act*.

“Section 35 Rights of the Te'mexw Member First Nations” means the rights, anywhere in Canada of the Te'mexw Member First Nations, that are recognized and affirmed by section 35 of the *Constitution Act, 1982*.

“Settlement Legislation” means the Federal Settlement Legislation and the Provincial Settlement Legislation.

“Site Profile” means “site profile” as defined in the *Environmental Management Act*.

“Snaw-Naw-As First Nation Treaty Settlement Lands” means the land described in Appendix B-3 and any Submerged Land subject to paragraph 68 of the Treaty Settlement Lands Chapter that formed part of the Snaw-Naw-As First Nation Indian Reserve the day before the Effective Date.

“Songhees First Nation Treaty Settlement Lands” means the land described in Appendix B-4 and any Submerged Land subject to paragraph 68 of the Treaty Settlement Lands Chapter that formed part of a Songhees First Nation Indian Reserve the day before the Effective Date.

“Specific Claims Policy” means the policy described in Canada's Specific Claims Policy and Process Guide (2009).

“Stream” means a natural watercourse or source of water supply, whether usually containing water or not, and a lake, river, creek, spring, ravine, swamp and gulch but does not include Groundwater.

“Submerged Lands” means lands below the “natural boundary” as defined in the *Land Act*.

“Subsurface Resources” means:

- (a) earth, including diatomaceous earth, soil, peat, marl, sand and gravel;
- (b) slate, shale, argillite, limestone, marble, clay, gypsum, volcanic ash and rock;
- (c) Minerals, including Placer Minerals;
- (d) coal, Petroleum, and Natural Gas;
- (e) fossils; and
- (f) Geothermal Resources.

“Subsurface Tenures” means those tenures listed in Part 3 of Appendix C.

“T’Sou-ke First Nation Treaty Settlement Lands” means the land described in Appendix B-5 and any Submerged Land subject to paragraph 68 of the Treaty Settlement Lands Chapter that formed part of a T’Sou-ke First Nation Indian Reserve the day before the Effective Date.

“Te’mexw Member First Nation” means any one of the five collectivities of a Te’mexw Member First Nation People known as the Beecher Bay First Nation, Snaw-Naw-As First Nation, Malahat First Nation, Songhees First Nation and T’Sou-ke First Nation.

“Te’mexw Member First Nation Area” means the area identified for the Te’mexw Member First Nation in Appendix A.

“Te’mexw Member First Nation Artifact” means any object created by, traded to, commissioned by, sold to or given as a gift to a Te’mexw Member First Nation Citizen, a Te’mexw Member First Nation, or a Te’mexw Member First Nation Public Institution, or that originated from a Te’mexw Member First Nation, past or present, and that has past and ongoing importance to a Te’mexw Member First Nation’s culture or spiritual practices, but does not include any object traded to, commissioned by, sold to or given as a gift to any other person or another aboriginal group.

“Te’mexw Member First Nation Capital” means all land, cash, and other assets transferred to the Te’mexw Member First Nation Government under the Final Agreement or recognized as owned by the Te’mexw Member First Nation Government under the Final Agreement.

“Te’mexw Member First Nation Child” means a Child who is a Te’mexw Member First Nation Citizen.

“Te’mexw Member First Nation Citizen” means an individual who becomes a citizen of a Te’mexw Member First Nation under a Te’mexw Member First Nation Law.

“Te’mexw Member First Nation Constitution” means the constitution of a Te’mexw Member First Nation provided for in the Governance Chapter.

“Te’mexw Member First Nation Corporation” means a corporation that is incorporated under Federal or Provincial Law, all of the shares of which are owned, directly or indirectly, legally and beneficially by any or a combination of the following:

- (a) a Te’mexw Member First Nation; or
- (b) one or more trusts that are resident in Canada and are for the sole benefit of a Te’mexw Member First Nation.

“Te’mexw Member First Nation Family” means a family where one or both parents or guardians live together with one or more Children where:

- (a) at least one of the parents or guardians is a Te’mexw Member First Nation Citizen; or
- (b) at least one of the Children is a Te’mexw Member First Nation Child.

“Te’mexw Member First Nation Government” means the government of a Te’mexw Member First Nation as described in paragraph 2 of the Governance Chapter.

“Te’ mexw Member First Nation Indian Band” means any of the Beecher Bay Indian Band, Malahat First Nation, Nanoose First Nation, Songhees First Nation, and T’Sou-ke First Nation, each of which is a Band.

“Te’ mexw Member First Nation Indian Bands” means every Te’ mexw Member First Nation Indian Band.

“Te’ mexw Member First Nation Institution” means the Te’ mexw Member First Nation Government or a Te’ mexw Member First Nation Public Institution.

“Te’ mexw Member First Nation Law” means a law made pursuant to Te’ mexw Member First Nation law-making authority set out in the Final Agreement and includes the Te’ mexw Member First Nation Constitution.

“Te’ mexw Member First Nation Migratory Bird Harvesting Area” means an area to be defined in the Final Agreement.

“Te’ mexw Member First Nation People” means those individuals who are eligible to be enrolled under the Final Agreement in accordance with the Eligibility and Enrolment Chapter.

“Te’ mexw Member First Nation Plant Gathering Area” means an area to be defined in the Final Agreement.

“Te’ mexw Member First Nation Project” means a project on Treaty Settlement Lands that is subject to an Environmental Assessment under Te’ mexw Member First Nation Law but does not include a Provincial Project.

“Te’ mexw Member First Nation Public Institution” means a Te’ mexw Member First Nation Government body, board, commission or any other similar entity established under Te’ mexw Member First Nation Law, including a school board or health board.

“Te’ mexw Member First Nation Public Lands” means those lands described in an appendix to the Final Agreement.

“Te’ mexw Member First Nation Public Officer” means:

- (a) a member, commissioner, director, or trustee of a Te’ mexw Member First Nation Public Institution;

- (b) a director of a Te'mexw Member First Nation Corporation whose principal function is to provide public programs or services reasonably similar to those provided by federal, provincial or municipal governments, rather than to engage in commercial activities;
- (c) an officer or employee of the Te'mexw Member First Nation or a Te'mexw Member First Nation Institution;
- (d) an election official within the meaning of a Te'mexw Member First Nation Law; or
- (e) a volunteer who participates in the delivery of services by the Te'mexw Member First Nation, a Te'mexw Member First Nation Institution, or a body referred to in subparagraph (b) or (c) of this definition, under the supervision of an officer or employee of the Te'mexw Member First Nation, a Te'mexw Member First Nation Institution, or a body referred to in subparagraph (b) or (c) of this definition.

“Te'mexw Member First Nation Renewable Resource Harvesting Right” means the right of a Te'mexw Member First Nation to harvest renewable resources described in paragraph 1 of the Federal Parks and Protected Areas Chapter.

“Te'mexw Member First Nation Right to Gather Plants” means the right to gather Plants under the Final Agreement.

“Te'mexw Member First Nation Right to Harvest Migratory Birds” means the right of a Te'mexw Member First Nation to harvest Migratory Birds for Domestic Purposes within the Migratory Bird Harvest Area throughout the year in accordance with the Final Agreement.

“Te'mexw Member First Nation Right to Harvest Wildlife” means the right of the Te'mexw Member First Nation to harvest wildlife in accordance with the Final Agreement.

“Te'mexw Member First Nation Road” means any road, including the road allowance, that forms part of Treaty Settlement Lands that is owned by a Te'mexw Member First Nation.

“Te'mexw Member First Nation Water Reservation” means any water reservation established pursuant to paragraph 5 of the Water Chapter.

“Te'mexw Member First Nation Wildlife Harvest Area” means an area to be defined in the Final Agreement.

“Telus” means TELUS Communications Inc., a corporation incorporated under Federal Law, or its successor.

“Tenured Subsurface Resources” means those Subsurface Resources subject to Subsurface Tenures.

“Timber” or **“Timber Resources”** means trees, whether living, standing, dead, fallen, limbed, bucked, or peeled.

“Treaty Settlement Lands” means any of the:

- (a) Beecher Bay First Nation Treaty Settlement Lands;
- (b) Malahat First Nation Treaty Settlement Lands;
- (c) Snaw-Naw-As First Nation Treaty Settlement Lands;
- (d) Songhees First Nation Treaty Settlement Lands; or
- (e) T'Sou-ke First Nation Treaty Settlement Lands.

“Wildlife” means:

- (a) all vertebrate and invertebrate animals, including mammals, birds, reptiles, and amphibians; and
- (b) the eggs, juvenile stages, and adult stages of all vertebrate and invertebrate animals;

but does not include Fish or Migratory Birds.

2. In this Agreement-in-Principle each reference to a federal or provincial statute refers to the corresponding statute set out in Schedule 1 of the Definitions Chapter.

SCHEDULE 1. LIST OF STATUTES

Adoption Act, R.S.B.C. 1996, c. 5.

Agricultural Land Commission Act, B.C. 2002, c.36.

Canadian Environmental Assessment Act, 2012, S.C. 2012, c. 19, s. 52.

Canada Evidence Act, R.S.C. 1985, c. C-5.

Canada National Marine Conservation Areas Act, S.C. 2002, c. 18.

Canada National Parks Act, S.C. 2000, c. 32.

Canadian Charter of Rights and Freedoms, Part I of *The Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11.

Child, Family and Community Service Act, R.S.B.C. 1996, c. 46.

Constitution Act, 1867 (UK), 30 & 31 Victoria, c. 3.

Constitution Act, 1982, being Schedule B to the *Canada Act 1982* (UK), 1982, c. 11.

Cremation, Interment and Funeral Services Act, S.B.C. 2004, c. 35.

Emergencies Act, R.S.C. 1985, c. 22 (4th Supp.).

Environmental Assessment Act, S.B.C. 2002, c. 43.

Environmental Management Act, S.B.C. 2003, c. 53.

Expropriation Act (B.C.), R.S.B.C. 1996, c.124.

Expropriation Act (Canada), R.S.C. 1985, c. E-21.

Forest Act, R.S.B.C. 1996, c. 157.

Heritage Conservation Act, R.S.B.C. 1996, c. 187.

Hospital District Act, R.S.B.C. 1996, c. 202.

Hydro and Power Authority Act, R.S.B.C. 1996, c. 212.

Independent School Act, R.S.B.C. 1996, c. 216.

Indian Act, R.S.C 1985, c. I-5.

Judicial Review Procedure Act, R.S.B.C. 1996, c. 241.

Land Act, R.S.B.C. 1996, c. 245.

Land Title Act, R.S.B.C. 1996, c. 250.

Local Government Act, R.S.B.C.1996, c. 323.

Marriage Act, R.S.B.C. 1996, c. 282.

Occupiers Liability Act, R.S.B.C. 1996, c. 337.

Offence Act, R.S.B.C. 1996, c. 338.

Official Languages Act, R.S.C. 1985, c. 31 (4th Supp.).

Private Managed Forest Land Act, S.B.C. 2003, c. 80.

Range Act, S.B.C. 2004, c. 71.

School Act, R.S.B.C. 1996, c. 412.

Water Act, R.S.B.C. 1996, c. 483.

Wildlife Act, R.S.B.C. 1996, c. 488.

CHAPTER 2 – GENERAL PROVISIONS

NATURE OF THE AGREEMENT-IN-PRINCIPLE

1. This Agreement-in-Principle will form the basis for negotiating the Final Agreement.
2. The Parties acknowledge and agree that this Agreement-in-Principle, and, for greater certainty, any provision of it, and any related communication over the course of these negotiations:
 - (a) are not legally binding on the Parties,
 - (b) are without prejudice to the respective legal positions of the Parties before the Effective Date,
 - (c) may not be construed as creating, negating, denying, recognizing, defining or amending the rights or obligations of a Party, and
 - (d) may not be used against a Party in a court proceeding or any other forum,except as expressly provided for in the Final Agreement and only upon the Effective Date of the Final Agreement.

NATURE OF THE FINAL AGREEMENT

3. Prior to the conclusion of the Final Agreement, the Parties will address fisheries matters, and the Parties will review other parts of the Final Agreement that may be affected, including, if appropriate, the certainty provisions, and make any necessary changes, and the Final Agreement will reflect the agreement of the Parties.
4. The Final Agreement, when ratified by the Parties, will be a treaty and a land claims agreement within the meaning of sections 25 or 35 of the *Constitution Act, 1982*.
5. The Final Agreement, when ratified by the Parties, will be binding on and can be relied upon by the Parties and all persons.
6. Canada and British Columbia will recommend to Parliament and the Legislative Assembly of British Columbia, respectively, that the Settlement Legislation provide that the Final Agreement be approved, given effect, declared valid and have the force of law.

ASSURANCES

7. Each Te'mexw Member First Nation will provide assurances that, in respect of the matters dealt with in the Final Agreement, it represents, and has the authority to enter

into and enters into the Final Agreement on behalf of, all Te'mexw Member First Nation People who collectively comprise that Te'mexw Member First Nation and who, based on their identity as Te'mexw Member First Nation People of that Te'mexw Member First Nation, may have or may exercise any aboriginal rights, including aboriginal title, or Douglas Treaty rights, in Canada, or may make any claims in respect of those rights.

8. Canada and British Columbia will provide assurances that they have the authority to enter into the Final Agreement.
9. The Te'mexw Member First Nations will discuss the issue of overlaps and claimed shared territories with relevant First Nations and will make reasonable efforts to resolve any conflicts with those First Nations prior to the ratification of the Final Agreement by the Te'mexw Member First Nations.

CONSTITUTION OF CANADA

10. The Final Agreement will not alter the Constitution of Canada, including:
 - (a) the distribution of powers between Canada and British Columbia;
 - (b) the identity of Te'mexw Member First Nation People as aboriginal people of Canada within the meaning of the *Constitution Act, 1982*; and
 - (c) sections 25 or 35 of the *Constitution Act, 1982*.
11. The *Canadian Charter of Rights and Freedoms* will apply to the Te'mexw Member First Nation Governments in respect of all matters within its authority.

CHARACTER OF TREATY SETTLEMENT LANDS

12. After the Effective Date, there will be no "Lands reserved for the Indians" within the meaning of the *Constitution Act, 1867* for each Te'mexw Member First Nation, and there will be no Indian Reserves for each Te'mexw Member First Nation and, for greater certainty, Treaty Settlement Lands will not be "Lands reserved for the Indians" within the meaning of the *Constitution Act, 1867* and will not be Indian Reserves.

APPLICATION OF FEDERAL AND PROVINCIAL LAWS

13. Except as otherwise provided in the Final Agreement, Federal and Provincial Law will apply to Te'mexw Member First Nations, Te'mexw Member First Nation Citizens, Te'mexw Member First Nation Governments, Te'mexw Member First Nation Public Institutions, Te'mexw Member First Nation Corporations and Treaty Settlement Lands.

14. Canada will recommend to Parliament that Federal Settlement Legislation include a provision that, to the extent that a law of British Columbia does not apply of its own force to Te'mexw Member First Nations, Te'mexw Member First Nation Citizens, Te'mexw Member First Nation Governments, Te'mexw Member First Nation Public Institutions, Te'mexw Member First Nation Corporations or Treaty Settlement Lands, that law of British Columbia will, subject to the Federal Settlement Legislation and any other Act of Parliament, apply in accordance with the Final Agreement to Te'mexw Member First Nations, Te'mexw Member First Nation Citizens, Te'mexw Member First Nation Governments, Te'mexw Member First Nation Public Institutions, Te'mexw Member First Nation Corporations and Treaty Settlement Lands, as the case may be.
 15. Te'mexw Member First Nation Law will not apply to Canada or British Columbia, except as provided for in the Final Agreement.
 16. A Te'mexw Member First Nation Law will be of no force or effect to the extent of an inconsistency with the Final Agreement.
 17. For greater certainty, a Te'mexw Member First Nation authority to make laws will not include criminal law, criminal procedure, the official languages of Canada, labour relations and working conditions, aeronautics, navigation and shipping or Intellectual Property.
 18. The Final Agreement will prevail to the extent of a Conflict or inconsistency with a Federal or Provincial Law.
 19. Federal Settlement Legislation will prevail over other Federal Law to the extent of a Conflict, and Provincial Settlement Legislation will prevail over other Provincial Law to the extent of a Conflict.
 20. Notwithstanding any other rule of priority in the Final Agreement, Federal and Provincial Law will prevail over Te'mexw Member First Nation Law to the extent of any Conflict involving a provision of a Te'mexw Member First Nation Law that:
 - (a) has a double aspect on, or an incidental impact on, any area of federal or provincial legislative jurisdiction for which a Te'mexw Member First Nation does not have any law-making authority set out in the Final Agreement; or
 - (b) has a double aspect on, or an incidental impact on, any area of legislative jurisdiction for which a Te'mexw Member First Nation does have law-making authority set out in the Final Agreement but in respect of which Federal and Provincial Laws prevail in the event of a Conflict.
 21. Notwithstanding any other rule of priority in the Final Agreement, Federal Law in relation to peace, order and good government, criminal law, human rights, and the
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protection of the health and safety of all Canadians, or other matters of overriding national importance will prevail over Te'mexw Member First Nation Law to the extent of a Conflict.

22. Any licence, permit or other authorization to be issued by Canada or British Columbia as a result of the Final Agreement will be issued under Federal or Provincial Law and will not be part of the Final Agreement, but the Final Agreement will prevail to the extent of an inconsistency with any provision of the licence, permit or other authorization.
23. Federal and Provincial Law, and Te'mexw Member First Nation Law will apply concurrently.

INCIDENTAL AUTHORITIES

24. For greater certainty, the authority of a Te'mexw Member First Nation Government to make laws in respect of a subject matter as set out in the Final Agreement will include the authority to make laws and to do other things as may be necessarily incidental to exercising its authority.

APPLICATION OF THE *INDIAN ACT*

25. Subject to the Transitional Provisions Chapter and paragraph 18 of the Taxation Chapter, the *Indian Act* will not apply to Te'mexw Member First Nations, Te'mexw Member First Nation Citizens, Te'mexw Member First Nation Governments, Te'mexw Member First Nation Public Institutions, Te'mexw Member First Nation Corporations and Treaty Settlement Lands, except for the purpose of determining whether an individual is an Indian.

CERTAINTY

Full and Final Settlement

26. The Final Agreement will constitute the full and final settlement in respect of any aboriginal rights, including aboriginal title, in Canada that Te'mexw Member First Nations may have.

Section 35 Rights of the Te'mexw Member First Nations

27. The Final Agreement will exhaustively set out the Section 35 Rights of the Te'mexw Member First Nations, their attributes, the geographic extent of those rights, and the limitations to those rights, to which the Parties have agreed, and those rights will be:
 - (a) any Douglas Treaty rights and any aboriginal rights, including aboriginal title, that Te'mexw Member First Nations may have, modified as a result of the Final Agreement and the Settlement Legislation, in Canada, of the Te'mexw

- Member First Nations in and to the Treaty Settlement Lands and other lands and resources in Canada;
- (b) the jurisdictions, authorities and rights of the Te'mexw Member First Nations Government; and
 - (c) the other Section 35 Rights of the Te'mexw Member First Nations.

Modification

- 28. Notwithstanding the common law, as a result of the Final Agreement and the Settlement Legislation, any Douglas Treaty rights and aboriginal rights, including aboriginal title, of the Te'mexw Member First Nations, as they may have existed anywhere in Canada before the Effective Date, including their attributes and geographic extent, will be modified, and will continue as modified, as set out in the Final Agreement.
- 29. For greater certainty, any aboriginal title of a Te'mexw Member First Nation anywhere that it may have existed in Canada before the Effective Date, including its attributes and geographic extent, will be modified and continue as the estates in fee simple to those areas identified in the Final Agreement as the Treaty Settlement Lands.
- 30. Approval of this Agreement-in-Principle, based on the modification technique, does not preclude the Parties from reviewing a different certainty technique prior to initialing the Final Agreement. Any agreement to a different technique may require changes to other provisions of the Final Agreement that may be affected.

Purpose of Modification

- 31. The purpose of the modification referred to in paragraph 28 of this chapter is to ensure that as of the Effective Date:
 - (a) the Te'mexw Member First Nations have, and can exercise, the Section 35 Rights of the Te'mexw Member First Nations set out in the Final Agreement, including their attributes, geographic extent, and the limitations to those rights, to which the Parties have agreed;
 - (b) Canada, British Columbia and all other persons can exercise their rights, authorities, jurisdictions and privileges in a manner that is consistent with the Final Agreement; and
 - (c) Canada, British Columbia and all other persons do not have any obligations in respect of any Douglas Treaty rights and any aboriginal rights, including aboriginal title, that the Te'mexw Member First Nations may have to the

extent that those rights, including title, might be in any way other than, or different in attributes or geographic extent from, the Section 35 Rights of the Te'mexw Member First Nations set out in the Final Agreement.

32. The Final Agreement will provide that, for greater certainty, any Douglas Treaty rights and aboriginal rights, including aboriginal title that Te'mexw Member First Nations may have are not extinguished, but are modified and continue as modified as set out in the Final Agreement.

Release of Past Claims

33. The Te'mexw Member First Nations will release Canada, British Columbia and all other persons from all suits, claims, demands, actions, or proceedings, of whatever kind, whether known or unknown, that the Te'mexw Member First Nations ever had, now have or may have in the future, relating to or arising from any act or omission before the Effective Date that may have affected, interfered with or infringed any Douglas Treaty right or any aboriginal right, including aboriginal title, in Canada of the Te'mexw Member First Nations as it may have existed anywhere in Canada before the Effective Date.

Indemnities

34. The Te'mexw Member First Nations will indemnify and forever save harmless Canada or British Columbia, as the case may be, from any and all damages, costs, excluding fees and disbursements of solicitors and other professional advisors, losses or liabilities, that Canada or British Columbia, respectively, may suffer or incur in connection with or as a result of any suit, action, claim, proceeding or demand initiated or made before or after the Effective Date relating to or arising from:
- (a) the existence in Canada of a Douglas Treaty right or an aboriginal right, including aboriginal title, of the Te'mexw Member First Nations, that is determined to be other than, or different in attributes or geographical extent from, the Section 35 Rights of the Te'mexw Member First Nations set out in the Final Agreement; or
 - (b) any act or omission by Canada or British Columbia, before the Effective Date, that may have affected, interfered with or infringed any Douglas Treaty right or any aboriginal right, including aboriginal title, in Canada of the Te'mexw Member First Nations as it may have existed anywhere in Canada before the Effective Date.
35. A Party who is the subject of a suit, action, claim, proceeding or demand, that may give rise to a requirement to provide payment to that Party pursuant to an indemnity under this Agreement:

- (a) will vigorously defend the suit, action, claim, proceeding or demand; and
- (b) will not settle or compromise the suit, action, claim, proceeding or demand, except with the consent of the Party who has granted the indemnity, which consent will not be arbitrarily or unreasonably withheld or delayed.

Specific Claims

- 36. The Final Agreement will provide that, for greater certainty, nothing in the Final Agreement precludes the Te'mexw Member First Nations from pursuing any claim in accordance with Canada's Specific Claims Policy other than any claim to which the release in paragraph 33 of this chapter applies.
- 37. For greater certainty, claims referred to in paragraph 36 of this chapter will not result in any land being declared to be, or being set aside as "Lands reserved for the Indians" within the meaning of the *Constitution Act, 1867* for Te'mexw Member First Nations, or an Indian Reserve for the use and benefit of Te'mexw Member First Nations.

CONSULTATION

- 38. In respect of a right of a Te'mexw Member First Nation set out in the Final Agreement, the following is an exhaustive list of the consultation obligations of Canada and British Columbia:
 - (a) as provided in the Final Agreement;
 - (b) as may be provided in federal or provincial legislation;
 - (c) as may be provided in an agreement with a Te'mexw Member First Nation other than the Final Agreement; and
 - (d) as may be required under the common law in relation to a justified infringement of that right.
- 39. For greater certainty, the exercise of a power or authority, or an action taken, by Canada or British Columbia that is consistent with or in accordance with the Final Agreement is not an infringement of any right of a Te'mexw Member First Nation set out in the Final Agreement, unless the effect of exercising the power or authority or of taking that action leaves a Te'mexw Member First Nation with no meaningful treaty right, and will not be subject to any obligation to consult except as provided for in subparagraphs 38(a), 38(b) or 38(c) of this chapter.

INTERNATIONAL LEGAL OBLIGATIONS

- 40. The Final Agreement will provide for the consistency of Te'mexw Member First
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Nation Law and other exercises of power with International Legal Obligations.

OTHER RIGHTS, BENEFITS, AND PROGRAMS

41. The Final Agreement will not affect the rights that Te'mexw Member First Nation People and Te'mexw Member First Nation Citizens may have as citizens or permanent residents of Canada.
42. The Te'mexw Member First Nations and Te'mexw Member First Nation Citizens may benefit from programs and services established by Canada or British Columbia, including those for aboriginal people, in accordance with general criteria established from time to time, except to the extent that a Te'mexw Member First Nation has assumed responsibility for those programs and services under a Fiscal Financing Agreement.

OTHER ABORIGINAL GROUPS

43. The Final Agreement will not affect, recognize or provide any aboriginal or treaty rights for any aboriginal group other than the Te'mexw Member First Nations.
44. If a court determines that a provision of the Final Agreement adversely affects the aboriginal or treaty rights of another aboriginal group, that provision will not operate to the extent of the adverse effect and the Parties will make best efforts to remedy or replace the provision.
45. The Final Agreement will set out provisions for providing appropriate remedies where Te'mexw Member First Nation treaty rights are adversely affected by a future treaty with another aboriginal group.

OFFICIAL LANGUAGES

46. For greater certainty, the Parties acknowledge that the *Official Languages Act* will apply to the Final Agreement, including the execution of the Final Agreement.

FREEDOM OF INFORMATION AND PRIVACY

47. For the purposes of federal and provincial access to information and privacy legislation, information that Te'mexw Member First Nations provide to Canada or British Columbia in confidence will be deemed to be information received or obtained in confidence from another government.
48. Other than for information obtained under a Federal or Provincial Law in respect of taxation, if a Te'mexw Member First Nation requests disclosure of information from Canada or British Columbia, the request will be evaluated as if it were a request by a province for disclosure of that information, but Canada and British Columbia will not be required to disclose to a Te'mexw Member First Nation information that is

available only to a particular province or to particular provinces.

49. The Parties may enter into agreements in respect of the collection, protection, retention, use, disclosure or confidentiality of personal, general or other information.
50. Canada or British Columbia may provide information to a Te'mexw Member First Nation in confidence if the Te'mexw Member First Nation Government has made a law or has entered into any agreement with Canada or British Columbia, as the case may be, under which the confidentiality of the information will be protected.
51. Notwithstanding any other provision of the Final Agreement:
- (a) Canada and British Columbia will not be required to disclose any information that they are required or authorized to withhold under any Federal or Provincial Law, including sections 37 to 39 of the *Canada Evidence Act*;
 - (b) if federal or provincial legislation allows the disclosure of certain information only if specified conditions for disclosure are satisfied, Canada and British Columbia will not be required to disclose the information unless those conditions are satisfied; and
 - (c) the Parties will not be required to disclose any information that may otherwise be withheld under a rule of privilege at law.

JUDICIAL DETERMINATIONS IN RESPECT OF VALIDITY

52. If a superior court of a province, the Federal Court of Canada or the Supreme Court of Canada finally determines any provision of the Final Agreement to be invalid or unenforceable:
- (a) the Parties will make best efforts to amend the Final Agreement to remedy or replace the provision; and
 - (b) the provision will be severable from the Final Agreement to the extent of the invalidity or unenforceability and the remainder of the Final Agreement will be construed, to the extent possible, to give effect to the intent of the Parties.
53. No Party will challenge, or support a challenge to, the validity of any provision of the Final Agreement.
54. A breach of the Final Agreement by a Party will not relieve any Party from its obligations under the Final Agreement.

OBLIGATIONS TO NEGOTIATE

55. The Final Agreement will provide that whenever the Parties are obliged under any provision of the Final Agreement to negotiate and attempt to reach agreement, unless the Parties otherwise agree, all Parties will participate in the negotiations.
56. Where the Final Agreement provides that the Parties, or any two of them, “will negotiate and attempt to reach agreement,” those negotiations will be conducted as set out in the Dispute Resolution Chapter, but no Party will be obliged to proceed to Stage Three of the Dispute Resolution Chapter unless in a particular case they are required to do so under paragraph 28 of the Dispute Resolution Chapter.
57. Except as set out in the Final Agreement, an agreement reached as a result of negotiations that are required or permitted under any paragraph of the Final Agreement will not be part of the Final Agreement.

AMENDMENT

58. Any Party may propose an amendment to the Final Agreement.
59. Before proceeding with an amendment to the Final Agreement under paragraph 58 of this chapter, the Parties will attempt to find other means to address the interests of the Party proposing the amendment.
60. Except for any provision of the Final Agreement that provides that an amendment requires the consent of only a Te'mexw Member First Nation and either Canada or British Columbia, amendments to the Final Agreement will require the consent of all Parties to that Final Agreement.
61. Where all Parties agree that an amendment to the Final Agreement is required, the Parties will proceed as soon as practicable to agree on the wording of the amendment.
62. Except as provided under paragraphs 66 and 67 of this chapter, the Parties will provide consent to an amendment to the Final Agreement in the following manner:
 - (a) Canada, by order of the Governor-in-Council
 - (b) British Columbia, by passing a resolution of the Legislative Assembly of British Columbia; and
 - (c) the Te'mexw Member First Nation, by a resolution of the Te'mexw Member First Nation Government.

63. Where federal or provincial legislation is required to give effect to an amendment to the Final Agreement, Canada or British Columbia, as the case may be, will take all reasonable steps to enact the legislation.
64. Except as provided under paragraphs 66 and 67 of this chapter, unless the Parties otherwise agree, an amendment to the Final Agreement takes effect once the consent requirements under paragraphs 60 to 62 of this chapter are completed and any legislation referred to in paragraph 63 of this chapter, if applicable, has been brought into force.
65. Each Party will give notice to the other Parties when consent in accordance with paragraph 62 of this chapter has been given and when any legislation referred to in paragraph 63 of this chapter, if applicable, has been brought into force.
66. Where a Final Agreement provides that the Parties will amend that Final Agreement upon the happening of an event:
- (a) the requirements for consent referred to in paragraph 62 of this chapter will not apply;
 - (b) paragraphs 59, 60, and 64 of this chapter will not apply;
 - (c) as soon as possible after the happening of the event;
 - (i) the Parties will take all steps necessary to conclude and give effect to the amendment including those steps referred to in paragraph 61 of this chapter and, if applicable, paragraph 63 of this chapter; and
 - (ii) each Party will provide notice to the other Parties when it has completed all of its respective requirements to conclude and give effect to the amendment; and
 - (d) the amendment will take effect on the date agreed by the Parties, but if no date is agreed to, on the date that the last Party provides notice to the other Parties that it has completed all of its requirements to conclude and give effect to the amendment.
67. Notwithstanding paragraphs 59 to 66 of this chapter, where:
- (a) a Final Agreement provides that:
 - (i) the Parties, or any two of them, will negotiate and attempt to reach agreement in respect of a matter that will result in an amendment to that Final Agreement, including a change to a Schedule or an Appendix; and

- (ii) if agreement is not reached, the matter will be finally determined by arbitration in accordance with the Dispute Resolution Chapter; and
- (b) those Parties have reached an agreement or the matter has been finally determined by arbitration,

the Final Agreement will be deemed to be amended on the date the agreement or the decision of the arbitrator, as the case may be, takes effect.

68. In respect of amendments contemplated by paragraph 67 of this chapter, the applicable Parties will:
- (a) provide notice to any Party that is not a party to the agreement of the agreement reached or of any arbitrator's decisions, as the case may be; and
 - (b) agree on the form and wording of the amendment, including additions, substitutions and deletions.
69. In the case of an arbitrator's decision referred to in paragraph 68 of this chapter, if the Parties are unable to agree, the form and wording of the amendment will be finally determined by the arbitrator.

INTERPRETATION

70. Except as set out in the Final Agreement, the provisions of the General Provisions Chapter of the Final Agreement will prevail over any other provision of the Final Agreement to the extent of an inconsistency.
71. There will be no presumption that doubtful expressions, terms or provisions in the Final Agreement are to be resolved in favour of any particular party.
72. The Parties agree that they are subject to a duty to act in good faith in the performance of the Final Agreement.
73. The Parties acknowledge the intention that there be separate Final Agreements for each Te'mexw Member First Nation. In this Agreement-in-Principle reference to the Te'mexw Member First Nation, the Te'mexw Member First Nation Area, the Te'mexw Member First Nation Constitution and the Final Agreement means a reference to each of them unless the context requires otherwise.
74. In the Final Agreement, as the context requires:
- (a) the use of the word "will" will denote an obligation that, unless the Final Agreement provides to the contrary, must be carried out as soon as practicable after the Effective Date or the event that gives rise to the obligation;

- (b) unless it is otherwise clear from the context, the use of the word “including” will mean “including, but not limited to”, and the use of the word “includes” will mean “includes, but is not limited to”;
 - (c) unless it is otherwise clear from the context, a reference to a “chapter”, “paragraph”, “Schedule” or “Appendix” will mean a chapter, paragraph, schedule or appendix, respectively, of the Final Agreement;
 - (d) headings and subheadings will be for convenience only, will not form a part of the Final Agreement and will in no way define, limit, alter or enlarge the scope or meaning of any provision of the Final Agreement;
 - (e) a reference to a statute will include every amendment to it, every regulation made under it and any law enacted in substitution for it or in replacement of it;
 - (f) unless it is otherwise clear from the context, the use of the singular will include the plural, and the use of the plural will include the singular; and
 - (g) a reference to “harvest” will include an attempt to harvest.
75. The Final Agreement may contain such other interpretative provisions as the Parties agree.
76. No agreement, plan, guideline or other document made by a Party or Parties that is referred to in or contemplated by the Final Agreement, including an agreement that is reached as a result of negotiations that are required or permitted by the Final Agreement, is:
- (a) part of the Final Agreement; or
 - (b) a treaty or land claims agreement, or recognizes or affirms aboriginal or treaty rights, within the meaning of sections 25 or 35 of the *Constitution Act, 1982*.

ENTIRE AGREEMENT

77. The Final Agreement will be the entire agreement among the Parties in respect of the subject matter of that agreement and, except as set out in it, there will be no representation, warranty, collateral agreement, condition, right or obligation affecting that agreement.

NO IMPLIED WAIVER

78. No Party may waive a provision of the Final Agreement or the performance by a Party of an obligation under the Final Agreement, unless the waiver is in writing and

signed by the Party or Parties giving the waiver.

79. No written waiver of a provision of the Final Agreement, of performance by a Party of an obligation under the Final Agreement or of default by a Party of an obligation under the Final Agreement, will be a waiver of any other provision, obligation or subsequent default.

ASSIGNMENT

80. Unless the Parties otherwise agree, the Final Agreement may not be assigned, either in whole or in part, by any Party.

ENUREMENT

81. The Final Agreement will enure to the benefit of and be binding on the Parties and their respective permitted assigns.

CHAPTER 3 – ELIGIBILITY AND ENROLMENT

APPLICATION FOR ENROLMENT UNDER THE FINAL AGREEMENT

1. An individual may apply to the Enrolment Committee for enrolment under the Final Agreement on his or her own behalf or as representative of a minor or adult whose affairs the individual has the legal authority to manage.
2. For greater certainty, the provisions of this chapter will apply *mutatis mutandis* to an individual acting as representative of a minor or adult whose affairs the individual has the legal authority to manage.

ELIGIBILITY CRITERIA

3. An individual is eligible to be enrolled under the Final Agreement if that individual:
 - (a) is entitled to have his or her name entered on the Band list, as defined in the *Indian Act*, of the Te'mexw Member First Nation as of the day before the Effective Date;
 - (b) identifies with the Te'mexw Member First Nation, is of Te'mexw Member First Nation ancestry, and has a substantial connection to the Te'mexw Member First Nation; or
 - (c) is a descendant of an individual described in subparagraphs 3(a) or 3(b) of this chapter, identifies with the Te'mexw Member First Nation and has a substantial connection to the Te'mexw Member First Nation.
 4. For the purposes of subparagraph 3(c) of this chapter “descendant” means a direct descendant, notwithstanding any intervening adoption or any birth outside marriage, and, for greater certainty, includes an individual who has been legally adopted.
 5. For the purpose of determining whether an individual has a substantial connection to the Te'mexw Member First Nation, the Enrolment Committee will consider the following factors cumulatively, and no single factor will be determinative:
 - (a) the number and degree of ancestral connections of the individual to the Te'mexw Member First Nation;
 - (b) the location and duration of the individual's residence;
 - (c) the individual's work on behalf of or for the benefit of the Te'mexw Member First Nation;
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- (d) the degree to which the individual has participated in the cultural life of the Te'mexw Member First Nation;
 - (e) the degree to which the individual has participated in the cultural practices of the Coast Salish; and
 - (f) such other factors as may, in the opinion of the Enrolment Committee or its successor, be relevant.
6. Enrolment under the Final Agreement will not:
- (a) confer or deny rights of entry into Canada, Canadian citizenship, the right to be registered as an Indian under the *Indian Act*, or any rights or benefits under the *Indian Act*; or
 - (b) except as set out in the Final Agreement or in any Federal or Provincial Law, impose any obligation on Canada or British Columbia to provide rights or benefits.

OTHER TREATIES OR LAND CLAIMS AGREEMENTS

7. An individual who is a member of a First Nation that is a signatory to a treaty or land claims agreement in Canada or who is a beneficiary under another treaty or land claims agreement in Canada, other than a Douglas Treaty, will not be enrolled under the Final Agreement.
8. A individual described in paragraph 7 of this chapter may apply to be enrolled under the Final Agreement provided that, if the application succeeds, he or she will:
- (a) withdraw from enrolment under the other treaty or land claims agreement; or
 - (b) if there is no enrolment procedure or register under the other treaty or land claims agreement, not exercise or assert any rights as a beneficiary under the other treaty or land claims agreement.
9. Where the Enrolment Committee determines that an individual meets the criteria under paragraph 3 of this chapter but is ineligible to be enrolled pursuant to paragraph 7 of this chapter, the individual will be conditionally enrolled and his or her name entered on the Enrolment Register, and his or her enrolment will be effective when he or she ceases to be enrolled under, or agrees not to exercise or assert any rights as a beneficiary of, the other treaty or land claims agreement.
10. An individual who has been conditionally enrolled will, within sixty days of the later
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of written notification from the Enrolment Committee or the Effective Date, demonstrate that he or she has ceased to be enrolled under, or agreed not to exercise or assert any rights as a beneficiary of, the other treaty or land claims agreement.

11. The Enrolment Committee may, in its discretion, extend the time period under paragraph 10 of this chapter. If an individual fails to satisfy the requirements of paragraph 10 of this chapter his or her enrolment will not be effective and the Enrolment Committee will remove his or her name from the Enrolment Register.
12. Notwithstanding paragraph 10 of this chapter, a minor individual who meets the criteria under paragraph 3 of this chapter but is ineligible to be enrolled pursuant to paragraph 7 of this chapter, may elect to be enrolled provided that:
 - (a) such election takes place within two years of the individual attaining the age of majority; and
 - (b) the individual demonstrates that he or she has ceased to be enrolled under, or agreed not to exercise or assert any rights as a beneficiary of, the other treaty or land claims agreement.

THE ENROLMENT COMMITTEE

13. As soon as practicable after the decision to submit the Final Agreement for ratification, the Te'mexw Member First Nation Indian Band will establish an Enrolment Committee comprised of three of its Te'mexw Member First Nation Indian Band members.
 14. The Enrolment Committee will:
 - (a) establish enrolment procedures and time limits including procedures for an individual acting as representative of a minor or adult whose affairs the individual has the legal authority to manage;
 - (b) publish its procedures, including the documentation and information required of each individual to apply for enrolment;
 - (c) publish the eligibility criteria and provide information and application forms;
 - (d) review and consider each application, make any determinations required, request further information if required, enrol each individual who meets the eligibility criteria, and refuse to enrol other individuals;
 - (e) keep a record of its proceedings and decisions;
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- (f) establish and maintain the Enrolment Register;
 - (g) notify in writing each applicant for enrolment, the Te'mexw Member First Nation Indian Band or the Te'mexw Member First Nation, as the case may be, Canada and British Columbia of its decision and, where enrolment is refused, provide written reasons;
 - (h) upon request, provide information to the Te'mexw Member First Nation Indian Band or the Te'mexw Member First Nation, as the case may be, Canada, British Columbia, the Ratification Committee, and the Enrolment Appeal Board in respect of an individual's enrolment application;
 - (i) add or delete names from the Enrolment Register in accordance with decisions of the Enrolment Appeal Board;
 - (j) subject to this chapter, keep information provided by and about individuals applying for enrolment confidential; and
 - (k) provide a true copy of the Enrolment Register to Canada and British Columbia on request.
15. Subject to the provisions of this chapter, all decisions and orders of the Enrolment Committee will be final and binding.
16. During the Initial Enrolment Period, the Enrolment Committee may, prior to the bringing of an appeal, vary a decision on the basis of new information where it considers the decision was in error.
17. Where the Enrolment Committee fails to decide upon an application for Enrolment within the time established in its procedures, the application will be deemed to be refused pursuant to subparagraph 14(d) of this chapter.
18. The burden of demonstrating eligibility to the Enrolment Committee will be on the individual applying for enrolment.
19. Where an individual applies to have his or her name removed from the Enrolment Register, the Enrolment Committee will remove the name and so notify the individual.

THE ENROLMENT APPEAL BOARD

20. During the Initial Enrolment Period, the Te'mexw Member First Nation Indian Band will establish an Enrolment Appeal Board comprised of not less than three

individuals appointed by the Te'mexw Member First Nation Indian Band, which board shall continue as the Enrolment Appeal Board upon the Effective Date of the Final Agreement.

21. No member of the Enrolment Committee may be a member of the Enrolment Appeal Board.
 22. An individual applying for enrolment, the Te'mexw Member First Nation Indian Band or the Te'mexw Member First Nation, as the case may be, Canada or British Columbia may appeal to the Enrolment Appeal Board any decision of the Enrolment Committee made or deemed to be made pursuant to paragraph 14(d) of this chapter.
 23. The Enrolment Appeal Board will:
 - (a) establish its own procedures and time limits;
 - (b) hear and determine any appeal brought pursuant to paragraph 22 of this chapter and decide whether the individual will be enrolled;
 - (c) conduct its hearings in public unless it determines in a particular case that there are reasons for confidentiality which outweigh the public interest in having an open hearing; and
 - (d) provide written reasons for its decisions to the appellant, the Te'mexw Member First Nation Indian Band or the Te'mexw Member First Nation, as the case may be, Canada and British Columbia.
 24. The Final Agreement will provide that as of the Effective Date the Enrolment Appeal Board may:
 - (a) by summons require any individual to appear before the Enrolment Appeal Board as a witness and produce any document in his or her possession; and
 - (b) require any witness to answer on oath or solemn affirmation any question posed to him or her.
 25. The Final Agreement will provide that where an individual fails to comply with a direction of the Enrolment Appeal Board made under subparagraphs 24(a) or 24(b) of this chapter, on application by the Enrolment Appeal Board, a judge of the Provincial Court of British Columbia or other court of competent jurisdiction may enforce the direction.
 26. The Enrolment Appeal Board will permit any individual applying for enrolment, the Te'mexw Member First Nation Indian Band or the Te'mexw Member First Nation, as
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the case may be, Canada, British Columbia, or any witness appearing before it to be assisted by counsel or an agent.

27. No action lies against the Enrolment Appeal Board or any of its members for anything done or omitted in good faith in the performance or intended performance of a duty under this chapter.
28. Subject to paragraphs 29 to 33 of this chapter, all decisions of the Enrolment Appeal Board will be final and binding.

JUDICIAL REVIEW

29. An individual applying for enrolment, the Te'mexw Member First Nation Indian Band or the Te'mexw Member First Nation, as the case may be, Canada, British Columbia, or anyone whose legal interests are directly affected by a decision of the Enrolment Appeal Board may apply to the Supreme Court of British Columbia to review and set aside a decision of the Enrolment Appeal Board, on the grounds that the Enrolment Appeal Board acted without jurisdiction, acted beyond its jurisdiction or refused to exercise its jurisdiction, failed to observe procedural fairness, erred in law, or based its decision on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.
30. On an application pursuant to paragraph 29 of this chapter the Supreme Court of British Columbia may either dismiss the application, or set aside the decision and refer the matter back to the Enrolment Appeal Board for determination in accordance with such directions as the court considers appropriate.
31. Where an Enrolment Appeal Board refuses or fails to hear or decide an appeal, an individual applying for enrolment, the Te'mexw Member First Nation Indian Band or the Te'mexw Member First Nation, as the case may be, Canada or British Columbia may apply to the Supreme Court of British Columbia for an order directing the Enrolment Appeal Board to hear or decide the appeal in accordance with such directions as the court considers appropriate.
32. An application pursuant to paragraph 29 of this chapter will be made within 60 days of notification of the decision of the Enrolment Appeal Board or such other period as may be determined by the court.
33. No court shall review a decision of the Enrolment Committee or the Enrolment Appeal Board except in accordance with this chapter.

COSTS

34. Canada and British Columbia will provide agreed upon funding for the Enrolment Committee and the Enrolment Appeal Board.

ENROLMENT AFTER THE INITIAL ENROLMENT PERIOD

35. The Enrolment Committee and the Enrolment Appeal Board will be dissolved when all applications, appeals or appeals from applications commenced before the end of the Initial Enrolment Period have been finally resolved.
36. On dissolution, the Enrolment Committee and Enrolment Appeal Board will provide their records to the appropriate Te'mexw Member First Nation Government.
37. Following the Initial Enrolment Period, the Te'mexw Member First Nation Government will:
- (a) be responsible for the enrolment process under the Final Agreement;
 - (b) maintain the Enrolment Register;
 - (c) provide a true copy of the Enrolment Register to Canada and British Columbia each year or as otherwise requested by Canada or British Columbia; and
 - (d) provide information respecting enrolment to Canada or British Columbia upon request.

TE'MEXW TREATY ASSOCIATION AGREEMENT-IN-PRINCIPLE
ELIGIBILITY AND ENROLMENT

CHAPTER 4 – TREATY SETTLEMENT LANDS

TREATY SETTLEMENT LANDS

1. On the Effective Date:
 - (a) Beecher Bay First Nation Treaty Settlement Lands described in Appendix B1 will consist of:
 - (i) approximately 372.62 hectares of existing Beecher Bay First Nation Indian Reserves; and
 - (ii) approximately 165.73 hectares of Crown land;
 - (b) Malahat First Nation Treaty Settlement Lands described in Appendix B2 will consist of:
 - (i) approximately 242.00 hectares of existing Malahat First Nation Indian Reserves; and
 - (ii) approximately 623.11 hectares of Crown land;
 - (c) Snaw-Naw-As First Nation Treaty Settlement Lands described in Appendix B3 will consist of:
 - (i) approximately 63.20 hectares of existing Nanoose First Nation Indian Reserve; and
 - (ii) approximately 425.11 hectares of Crown land;
 - (d) Songhees First Nation Treaty Settlement Lands described in Appendix B4 will consist of:
 - (i) approximately 176.37 hectares of existing Songhees First Nation Indian Reserves; and
 - (ii) approximately 0.49 hectares of Crown land;
 - (e) T'Sou-ke First Nation Treaty Settlement Lands described in Appendix B5 will consist of:
 - (i) approximately 75.60 hectares of existing T'Sou-ke First Nation Indian

Reserves; and

(ii) approximately 350.17 hectares of Crown land.

2. For greater certainty, after the Effective Date there will be no Te'mexw Member First Nation Indian Reserves and the Te'mexw Member First Nation Indian Reserves will not be included in any calculation of land quantum for the purpose of valuing the treaty settlement.

SUBSURFACE RESOURCES

3. On the Effective Date, each Te'mexw Member First Nation owns the Subsurface Resources on or under Treaty Settlement Lands, subject to the Subsurface Tenures.
4. Each Te'mexw Member First Nation's ownership of Subsurface Resources is subject to all Subsurface Tenures and, for greater certainty, those interests will not be affected by the Te'mexw Member First Nation's ownership of Subsurface Resources.
5. Subject to paragraph 14 of this chapter, each Te'mexw Member First Nation, as owner of the Subsurface Resources, has authority to set fees, rents, royalties and charges other than taxes, for exploration, development, extraction and production of Subsurface Resources owned by that Te'mexw Member First Nation.
6. Nothing in the Final Agreement will confer authority on a Te'mexw Member First Nation Government to make laws in relation to the exploration for, development, production, use and application of nuclear energy and atomic energy and the production, possession and use, for any purpose, of nuclear substances, prescribed substances, prescribed equipment and prescribed information.
7. Nothing in the Final Agreement will confer authority on a Te'mexw Member First Nation Government to make laws in respect of:
- (a) spacing and target areas related to Petroleum and Natural Gas, and conservation and allocation of Petroleum and Natural Gas among parties having interests in the same reservoir; and
 - (b) Subsurface Tenures and Tenured Subsurface Resources.

TENURED SUBSURFACE RESOURCES

8. Federal and Provincial Laws prevail to the extent of a Conflict with any Te'mexw Member First Nation Law respecting the exploration, development, extraction and production of Subsurface Resources.
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9. The Subsurface Tenures:
 - (a) will continue in accordance with Provincial Law and the Final Agreement; and
 - (b) will be administered by British Columbia in accordance with Provincial Law and the Final Agreement.
 10. Subject to paragraphs 12 and 13 of this chapter, Provincial Law applies to any exploration, development, extraction and production of Tenured Subsurface Resources as if the Tenured Subsurface Resources were owned by British Columbia.
 11. In administering the Subsurface Tenures and Tenured Subsurface Resources, British Columbia may grant, as necessary, any related extensions, renewals, continuations, replacements or issue any further rights in the Tenured Subsurface Resources as the Tenured Subsurface Resources are developed.
 12. In administering the Subsurface Tenures and Tenured Subsurface Resources, British Columbia will notify the applicable Te'mexw Member First Nation Government before changing or eliminating any rents or royalties applicable to the Tenured Subsurface Resources.
 13. British Columbia will:
 - (a) ensure that any rents and royalties applicable to Tenured Subsurface Resources that British Columbia would be entitled to receive after the Effective Date if those Tenured Subsurface Resources were owned by British Columbia, and any interest earned on those rents and royalties, are paid to the applicable Te'mexw Member First Nation from time to time; and
 - (b) retain any fees, charges or other payments applicable to Subsurface Tenures and Tenured Subsurface Resources under Provincial Law.
 14. A Te'mexw Member First Nation will not have the authority to establish taxes, fees, rents, royalties, or other charges in relation to Subsurface Tenures or the exploration, development, extraction or production of Tenured Subsurface Resources.
 15. If a Subsurface Tenure forfeits, is abandoned or is surrendered to British Columbia under Provincial Law, the Tenured Subsurface Resources and the Treaty Settlement Lands will no longer be subject to that Subsurface Tenure.
 16. Treaty Settlement Lands will be treated as private lands under Provincial Law respecting Subsurface Resources for the purposes of determining and resolving
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access and compensation rights associated with any proposed entrance, occupation or use of the surface by holders of Subsurface Tenures.

17. For greater certainty, any disagreements between holders of Subsurface Tenures and owners of Treaty Settlement Lands respecting entrance, occupation or use of an area of Treaty Settlement Lands may be resolved under Provincial Law relating to entrance and compensation disputes involving Subsurface Resources.

LAW MAKING

18. Each Te'mexw Member First Nation Government may make laws in respect of:
- (a) the use, management, planning, zoning, and development of the Treaty Settlement Lands;
 - (b) the ownership and disposition of estates or interests in Treaty Settlement Lands owned by the Te'mexw Member First Nation, its Te'mexw Member First Nation Corporations or a Te'mexw Member First Nation Institution;
 - (c) the establishment and operation of a Te'mexw Member First Nation land title or land registry system for Treaty Settlement Lands; and
 - (d) expropriation for public purposes and public works by the Te'mexw Member First Nation Government of interests in Treaty Settlement Lands other than:
 - (i) interests, granted or continued on the Effective Date, or thereafter replaced in accordance with the Final Agreement, situated on Treaty Settlement Lands unless specifically provided for otherwise in the Final Agreement;
 - (ii) interests expropriated by Canada or British Columbia or otherwise acquired by Canada or British Columbia; or
 - (iii) any other interests upon which the Parties have agreed in the Final Agreement.
19. In the event of a Conflict between a Te'mexw Member First Nation Law under paragraph 18 of this chapter and a Federal or Provincial Law, the Te'mexw Member First Nation Law prevails to the extent of the Conflict.

20. The Te'mexw Member First Nation Law under subparagraph 18(b) of this chapter in respect of estates or interests that are recognized under Federal or Provincial Law must be consistent with Federal and Provincial Law in respect of estates or interests in land.
21. Any land title or land registry system established by a Te'mexw Member First Nation pursuant to subparagraph 18(c) of this chapter will be independent of political influence, ensure that interests recorded are publicly available, and be cost-effective.
22. When a Te'mexw Member First Nation exercises an expropriation power contained in a law enacted pursuant to subparagraph 18(d) of this chapter, the following conditions will apply:
 - (a) reasonable efforts will have been made to acquire interests through agreement;
 - (b) the expropriation is authorized by a Te'mexw Member First Nation Law pursuant to subparagraph 18(d) of this chapter;
 - (c) the expropriation is justifiable and necessary for a public purpose;
 - (d) the expropriation is of the smallest interest necessary for the public purpose or public work;
 - (e) the Te'mexw Member First Nation will pay fair compensation for the expropriated interests; and
 - (f) the Te'mexw Member First Nation will provide a means of fairly and independently resolving disputes between the Te'mexw Member First Nation and the private interest holders as to the fair compensation for any interests expropriated.

LAND SURVEYS

23. Prior to the Final Agreement, the Parties will determine the need for any exterior boundary surveys of the Treaty Settlement Lands including the timing, order and priority of such surveys.
24. Canada and British Columbia will, as agreed between them, pay for the costs of any exterior boundary surveys of the Treaty Settlement Lands.

OWNERSHIP OF TREATY SETTLEMENT LANDS

25. Subject to paragraph 26 of this chapter, each Te'mexw Member First Nation will own its Treaty Settlement Lands in fee simple, being the largest estate known in law. This estate is not subject to any condition, proviso, restriction, exception, or reservation set out in the *Land Act*, or any comparable limitation under any Federal or Provincial Law.
26. In respect of any Treaty Settlement Lands which are held in fee simple immediately before the Effective Date:
 - (a) the interest of the person holding the indefeasible title will continue as it was before the Effective Date;
 - (b) section 50 of the *Land Act* shall cease to apply in respect of those lands; and
 - (c) the interests, rights, privileges, titles and estates described in section 50(1)(a), (b) and (c) of the *Land Act* as excluded from a disposition of Crown land vest in the Te'mexw Member First Nation.
27. In accordance with the Final Agreement, the Te'mexw Member First Nation Constitution, and any Te'mexw Member First Nation Law, a Te'mexw Member First Nation may transfer interests in its Treaty Settlement Lands without the consent of Canada or British Columbia.
28. A Te'mexw Member First Nation may request the consent of Canada and British Columbia to have a fee simple parcel of land removed from Treaty Settlement Lands.
29. Where a Te'mexw Member First Nation wishes to dispose of a fee simple estate in a parcel of its Treaty Settlement Lands it will, prior to the disposition, register the indefeasible title to that parcel under the *Land Title Act* in accordance with the Final Agreement.
30. Except as provided in paragraphs 86 and 132 of this chapter or with the consent of Canada and British Columbia in accordance with paragraph 28 of this chapter, a parcel of Treaty Settlement Land does not cease to be Treaty Settlement Land as a result of the disposition of an interest in such parcel.
31. If a Te'mexw Member First Nation transfers the estate in fee simple in a parcel of its Treaty Settlement Land to any person other than to a:
 - (a) member of the Te'mexw Member First Nation;

- (b) Te'mexw Member First Nation Corporation of the Te'mexw Member First Nation; or
- (c) Te'mexw Member First Nation Public Institution of the Te'mexw Member First Nation Government,

expropriation by a Provincial Expropriating Authority of such Treaty Settlement Lands may occur in accordance with Provincial Law and is not subject to paragraphs 110 to 137 of this chapter, except paragraph 132 of this chapter and any limit that may be established pursuant to paragraph 133 of this chapter to the total amount of such Te'mexw Member First Nation's Treaty Settlement Lands that may be expropriated.

- 32. In deciding whether to consent to the removal of a parcel of land from Treaty Settlement Lands under paragraph 28 of this chapter, Canada and British Columbia may consider:
 - (a) necessary jurisdictional, administrative and servicing arrangements;
 - (b) the views of any affected Local Government and affected First Nations;
 - (c) whether removal of the land will have an impact on negotiated fiscal arrangements; or
 - (d) whether removal of the land will create legal or financial exposure to Canada or British Columbia.
 - 33. If Canada and British Columbia consent to the removal of a parcel of land from Treaty Settlement Lands under paragraph 28 of this chapter, the parcel will cease to be Treaty Settlement Land upon receipt by a Te'mexw Member First Nation of written notice of the consent of each of Canada and British Columbia, and Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter.
 - 34. For greater certainty, a parcel of Treaty Settlement Land will not cease to be Treaty Settlement Land except as a result of the operation of paragraph 44 of the General Provisions Chapter, paragraphs 28, 33, 35, 86 and 132 of this chapter or pursuant to any provision of the Final Agreement that provide for changes in the boundaries of Treaty Settlement Lands.
 - 35. If a fee simple estate in a parcel of Treaty Settlement Lands is acquired through an agreement between a Te'mexw Member First Nation and a federal department or
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agency, those lands will no longer be Treaty Settlement Lands and Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter.

36. All methods of acquiring a right in or over land by prescription or by adverse possession, including the common law doctrine of prescription and the doctrine of the lost modern grant, are abolished in respect of Treaty Settlement Lands.
37. If, at any time, any parcel of Treaty Settlement Lands, or any interest in a parcel of Treaty Settlement Lands, finally escheats to the Crown, the Crown will transfer, at no charge, that parcel or interest to the Te'mexw Member First Nation.
38. No interest, reservation, or exception of a Te'mexw Member First Nation in any parcel of its Treaty Settlement Lands, the indefeasible title to which parcel, under the *Land Title Act*, is not registered in fee simple or subject to an application for registration in fee simple, is subject to attachment, charge, seizure, distress, execution or sale, except:
 - (a) pursuant to:
 - (i) a lien, charge or other encumbrance in favour of Canada or British Columbia; or
 - (ii) the terms of a security instrument granted by that Te'mexw Member First Nation; or
 - (b) if allowed under a Te'mexw Member First Nation Law made by the applicable Te'mexw Member First Nation Government.

AGRICULTURAL LAND RESERVE

39. Subject to paragraph 41 of this chapter, Treaty Settlement Lands will be subject to any Agricultural Land Reserve designation in effect immediately before the Effective Date.
40. Prior to the Effective Date, the Te'mexw Member First Nation Indian Bands intend to apply to have any Agricultural Land Reserve designations applying to proposed Treaty Settlement Lands removed.
41. Treaty Settlement Lands that were Former Federal Lands will not be subject to the Agricultural Land Reserve designation.

42. Treaty Settlement Lands not subject to the Agricultural Land Reserve designation on the Effective Date will not subsequently be made subject to the Agricultural Land Reserve designation.

LAND REGISTRY

43. The Final Agreement will set out the process under which Treaty Settlement Lands or parcels of Treaty Settlement Lands may be registered under the provincial land title system should the Te'mexw Member First Nation Government choose to register its Treaty Settlement Lands or interests in lands in the provincial land title system.

INTERESTS ON TREATY SETTLEMENT LANDS

44. On the Effective Date, title to Treaty Settlement Lands is free and clear of all interests, except as listed in:
- (a) Part 1 of Appendix C in respect of interests on Te'mexw Member First Nation Indian Reserves to be replaced on the Effective Date;
 - (b) Part 2 of Appendix C in respect of interests on federal or provincial Crown land to be replaced on the Effective Date; and
 - (c) Part 3 of Appendix C in respect of interests to continue after the Effective Date under their existing terms and conditions.
45. Subject to paragraph 44 of this chapter, every interest that, before the Effective Date, encumbered or applied to Treaty Settlement Lands, ceases to exist.
46. On the Effective Date, the Te'mexw Member First Nation will grant or issue interests to those persons who are named in Appendix C relating to its Treaty Settlement Lands.
47. On the Effective Date, the Te'mexw Member First Nations will execute documents granting or issuing to each person named in Appendix C relating to its Treaty Settlement Lands that person's interest, as described in that Appendix.
48. On the Effective Date, the Te'mexw Member First Nations will issue to each individual named in Appendix C, a form of tenure for the parcel of Treaty Settlement Lands ascribed to that individual and described in Appendix C.
49. An individual to whom the Te'mexw Member First Nation issues a form of tenure in accordance with paragraph 48 of this chapter has substantially the same right to possess the described parcel of Treaty Settlement Lands as the individual had as the
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- holder of the certificate of possession under the *Indian Act* immediately before the Effective Date, modified to reflect the law-making authority of the Te'mexw Member First Nation Government over such lands and ownership of such lands by the Te'mexw Member First Nation in accordance with the Final Agreement.
50. A document executed in accordance with paragraph 47 of this chapter for an interest listed in Appendix C will be in the applicable form described in Part 4 of Appendix C and in all cases will include any modifications agreed upon in writing before the Effective Date by the Te'mexw Member First Nation Indian Band and the person entitled to the interest.
51. A document referred to in paragraphs 47 and 48 of this chapter is deemed to be:
- (a) delivered by the Te'mexw Member First Nation on the Effective Date; and
 - (b) executed and delivered by the applicable person named in Appendix C on the Effective Date.
52. The Te'mexw Member First Nation will physically deliver the applicable document:
- (a) to the applicable person named in Appendix C; or
 - (b) to any other person who, before the Effective Date, was identified by the Parties as the correct interest holder, and the Parties will amend Appendix C in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter to reflect the correction.
53. If following the Effective Date, Canada or British Columbia notifies a Te'mexw Member First Nation that an interest granted in accordance with paragraph 46 of this chapter:
- (a) is in the name of a person who was not entitled to the interest on the Effective Date; or
 - (b) contains a clerical error or a wrong description of a material fact,
- the appropriate Parties will take reasonable measures to rectify the error.
54. Any right of way of the nature described in section 218 of the *Land Title Act* that is granted by a Te'mexw Member First Nation under the Final Agreement is legally binding and enforceable notwithstanding those Treaty Settlement Lands to which the right of way relates are not subject to the *Land Title Act*.
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55. The interests listed in Part 3 of Appendix C are retained by the persons who hold those interests on the Effective Date in accordance with Provincial Law and with the terms and conditions of the interest existing on the Effective Date, modified where appropriate to reflect ownership of the Treaty Settlement Lands by the Te'mexw Member First Nation. If such an interest is not renewed or replaced when it expires in accordance with its terms or Provincial Law, that interest ceases to exist.
56. If, after the Effective Date, BC Hydro or Telus is requested by a Te'mexw Member First Nations to construct facilities for the provision of electrical or telecommunications services on Treaty Settlement Lands, that Te'mexw Member First Nation, will grant or issue to BC Hydro and Telus an interest for such facilities on terms substantially the same as those set out in Part 4 of Appendix C.

INDEMNITY AND CONFIRMATION

57. British Columbia will indemnify and forever save harmless each Te'mexw Member First Nation from any damages, losses, liabilities or costs, excluding fees and disbursements of solicitors and other professional advisors, that the Te'mexw Member First Nation may suffer or incur in connection with or as a result of any claims, demands, actions or proceedings relating to or arising out of:
- (a) the omission from Appendix C of the name of a person who, immediately before the Effective Date, had an interest in the Treaty Settlement Lands of the Te'mexw Member First Nation that had been granted by British Columbia; or
 - (b) the incorrect naming of a person in Appendix C as a person entitled to an interest, where another person was actually entitled, immediately before the Effective Date, to the interest in the Treaty Settlement Lands of the Te'mexw Member First Nation that had been granted by British Columbia.
58. For greater certainty, a Te'mexw Member First Nation does not release Canada from any damages, losses, liability or costs that Canada may otherwise be liable for before the Effective Date in relation to:
- (a) the omission in Appendix C of the name of an individual who, immediately before the Effective Date, had an interest in or certificate of possession in respect of an Indian Reserve of the applicable Te'mexw Member First Nation; or
 - (b) the incorrect naming of an individual in Appendix C as an individual entitled to an interest or certificate of possession where another individual was actually entitled, immediately before the Effective Date, to the interest or the
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certificate of possession in respect of an Indian Reserve of the applicable Te'mexw Member First Nation that had been granted by Canada.

SITE REMEDIATION ON TREATY SETTLEMENT LANDS

59. If, after the Effective Date, a Te'mexw Member First Nation decides to develop a site described in an appendix to the Final Agreement, it will provide notice of such development to British Columbia.
 60. After receiving notice in accordance with paragraph 59 of this chapter, British Columbia will inspect the applicable site and if it is determined that such site is a Contaminated Site, British Columbia will undertake or cause to be undertaken appropriate remediation of the site in accordance with the *Environmental Management Act* and paragraph 61 of this chapter.
 61. In determining whether a site referred to in paragraph 59 of this chapter is a Contaminated Site and in determining the extent of the appropriate remediation of such site, the use of that site is deemed to be the use described in an appendix to the Final Agreement.
 62. British Columbia or any person undertaking the inspection or remediation of a site in accordance with paragraph 60 of this chapter, will provide the Te'mexw Member First Nation with:
 - (a) notice before commencing any inspection or remediation; and
 - (b) the opportunity to observe any inspection or remediation.
 63. Nothing in the Final Agreement limits the ability of British Columbia to recover the costs incurred on account of inspecting and remediating a site referred to in paragraph 59 of this chapter from any third party determined to be a Responsible Person in respect of the Contamination of any such site.
 64. Unless otherwise liable pursuant to Provincial Law, British Columbia is not liable in respect of the Contamination of any site referred to in paragraph 59 of this chapter which occurs after the Effective Date.
 65. The transfer of Former Federal Lands to the Te'mexw Member First Nation in accordance with the Final Agreement does not, in and of itself, result in British Columbia being determined to be a Responsible Person in respect of any potential Contamination of any Former Federal Lands.
 66. British Columbia is not required to prepare and provide a Site Profile for any lands transferred to a Te'mexw Member First Nation in accordance with the Final
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Agreement.

SUMBERGED LANDS

Ownership of Submerged Lands

67. Unless otherwise agreed, Submerged Lands will not form part of Treaty Settlement Lands and nothing in the Final Agreement will affect British Columbia's ownership of Submerged Lands.
68. Where Submerged Lands formed part of a Te'mexw Member First Nation Indian Reserve before the Effective Date, they will form part of Treaty Settlement Lands after the Effective Date.

Riparian Rights

69. A Te'mexw Member First Nation's ownership of its Treaty Settlement Lands will include all riparian rights enjoyed by fee simple owners.
70. The Te'mexw Member First Nations will own lawful accretions to their Treaty Settlement Lands.
71. Where the Te'mexw Member First Nation provides to Canada and British Columbia a certificate issued by the Surveyor General of British Columbia confirming that there has been lawful accretion upon receipt of the certificate by Canada and British Columbia, the accreted land will become part of the Treaty Settlement Lands and Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter.

Foreshore Agreements

72. British Columbia and each Te'mexw Member First Nation will enter into an agreement in accordance with paragraph 30 of the Governance Chapter which will come into effect on the Effective Date, to provide the applicable Te'mexw Member First Nation Government with law-making authority in accordance with paragraph 73 of this chapter in respect of the applicable Foreshore Area.
73. A foreshore agreement will:
 - (a) identify the applicable Foreshore Area;
 - (b) provide the Te'mexw Member First Nation Government of the applicable Te'mexw Member First Nation with law-making authority in relation to the

Foreshore Area, comparable to the law-making authority of a Local Government in respect of:

- (i) the regulation of nuisances;
 - (ii) the regulation of buildings and structures;
 - (iii) the regulation of business;
 - (iv) land use, planning, zoning and development; and
 - (v) such other matters as a Te'mexw Member First Nation and British Columbia may agree to;
- (c) provide that if the Foreshore Area is located within the boundaries of a Local Government, that Local Government will not exercise law-making authority in respect of matters listed in subparagraph 73(b) of this chapter in relation to that Foreshore Area; and
- (d) provide that Federal or Provincial Law prevail to the extent of a Conflict with a law made by the Te'mexw Member First Nation Government in accordance with the foreshore agreement.
74. Before concluding an agreement in accordance with paragraph 72 of this chapter, British Columbia will Consult with Canada regarding the proposed foreshore agreement.
75. Prior to the initialing of the Final Agreement, the Parties will negotiate and attempt to reach agreement on provisions concerning the termination and/or renewal of the foreshore agreement.

FEDERAL EXPROPRIATION OF TREATY SETTLEMENT LANDS

Statement of Principle

76. Canada and the Te'mexw Member First Nations declare that it is of fundamental importance to maintain the size and integrity of Treaty Settlement Lands. Therefore, Canada and the Te'mexw Member First Nations agree that, as a general principle, and to the extent reasonably practicable, Treaty Settlement Lands will not be subject to expropriation, except as set out in this chapter.

Governor-in-Council Consent

77. Notwithstanding paragraph 76 of this chapter, any interest in Treaty Settlement Lands
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may be expropriated by a Federal Expropriating Authority in accordance with Federal Law, this chapter and with the consent of the Governor-in-Council.

78. The Governor-in-Council may consent to an expropriation of an interest in Treaty Settlement Lands only if the expropriation is justifiable in accordance with paragraph 80 of this chapter and necessary for a public purpose.
79. For greater certainty, where Federal Law deems an expropriation to be for a public work or other public purpose, the expropriation will be deemed to be necessary for a public purpose under the Final Agreement.
80. For the purposes of paragraph 78 of this chapter, an expropriation is justifiable where the Governor-in-Council is satisfied that the following requirements have been met:
 - (a) there is no other reasonably feasible alternative to the expropriation, such as the use of land that is not Treaty Settlement Land;
 - (b) the Federal Expropriating Authority has made reasonable efforts to acquire the interest through agreement with the Te'mexw Member First Nation;
 - (c) the most limited interest in Treaty Settlement Lands necessary for the purpose for which the interest in land is sought is expropriated for the shortest time required; and
 - (d) information relevant to the expropriation, other than documents that would be protected from disclosure pursuant to Federal Law, is provided to the Te'mexw Member First Nation.

Report on Proposed Expropriation

81. Prior to the Governor-in-Council issuing an order consenting to the expropriation of an interest in Treaty Settlement Lands, the Federal Expropriating Authority will provide to the Te'mexw Member First Nation, and make available to the public, a report stating the justification for the expropriation and describing the steps taken to satisfy the requirements set out in paragraph 80 of this chapter.
82. For greater certainty, the Federal Expropriating Authority will include in the report referred to in paragraph 81 of this chapter information provided by the Te'mexw Member First Nation regarding Aboriginal Human Remains, Heritage Sites or Heritage Objects that are or may be situated on the lands proposed to be expropriated, and the steps taken or to be taken by the Federal Expropriating Authority to address concerns raised by the Te'mexw Member First Nation in respect of those Aboriginal Human Remains, Heritage Sites or Heritage Objects.

Referral to Neutral Evaluator

83. If the Te'mexw Member First Nation objects to a proposed expropriation of an interest in Treaty Settlement Lands, it may, within 60 days after the report has been provided to the Te'mexw Member First Nation in accordance with paragraph 81 of this chapter, by providing notice in writing to the Federal Expropriating Authority, refer the matter for review of the steps taken to satisfy the requirements set out in paragraph 80 of this chapter directly to neutral evaluation in accordance with Appendix D Part 4.
84. The Federal Expropriating Authority may not seek Governor-in-Council consent to the expropriation of an interest in Treaty Settlement Lands before the expiration of the period referred to in paragraph 83 of this chapter or, if the Te'mexw Member First Nation has referred the matter to a neutral evaluator in accordance with paragraph 83 of this chapter, before the neutral evaluator has delivered an opinion on the matter, such opinion to be rendered within 60 days of the referral being made or within such additional time as the parties may agree.
85. Without limiting the generality of the Dispute Resolution Chapter, the opinion of the neutral evaluator under paragraph 84 of this chapter:
- (a) is without prejudice to the legal positions that may be taken by the Federal Expropriating Authority and the Te'mexw Member First Nation in court or in any other forum;
 - (b) will not be admissible in any legal proceedings, unless otherwise required by law; and
 - (c) is not binding on the Governor-in-Council or the Te'mexw Member First Nation under paragraphs 78 and 80 of this chapter.

Status of Expropriated Land

86. If a fee simple estate in a parcel of Treaty Settlement Lands is expropriated by a Federal Expropriating Authority, the parcel will no longer be Treaty Settlement Land.

Expropriation of Less than a Fee Simple Interest in Land

87. Where less than a fee simple interest in Treaty Settlement Lands is expropriated in accordance with this section:
- (a) the land retains its status as Treaty Settlement Land;
 - (b) the land remains subject to Te'mexw Member First Nation Law that is otherwise applicable, except to the extent that such laws interfere with the expropriation; and
 - (c) the Te'mexw Member First Nation may continue to use and occupy the land, except to the extent that the use or occupation, in the view of the Federal Expropriating Authority, interferes with the purpose of the expropriation.

Compensation – Land

88. If a fee simple interest in a parcel of Treaty Settlement Land is expropriated by a Federal Expropriating Authority, the Federal Expropriating Authority will make reasonable efforts:
- (a) to identify replacement land within the Te'mexw Member First Nation Area, being either federal Crown land or land available on a “willing-seller, willing-buyer” basis, of equivalent or greater size and comparable value; and
 - (b) if acceptable to the Te'mexw Member First Nation, to acquire and offer the replacement land to the Te'mexw Member First Nation as partial or full compensation for the expropriation.
89. If the Federal Expropriating Authority and the Te'mexw Member First Nation are unable to agree on the provision of replacement land as compensation, the Federal Expropriating Authority will provide the Te'mexw Member First Nation with other compensation in accordance with the Final Agreement.
90. If the replacement land identified by the Federal Expropriating Authority would result in the total size of Treaty Settlement Lands being less than at the Effective Date, and the Te'mexw Member First Nation does not agree that the replacement land is of comparable value to the interest in Treaty Settlement Lands being expropriated, the Te'mexw Member First Nation may refer the matter to be finally determined by arbitration under the Dispute Resolution Chapter.
91. Land provided as compensation under paragraph 88 of this chapter may at the election of the Te'mexw Member First Nation become Treaty Settlement Lands

provided that the land meets the criteria set out in subparagraphs 138(a) through 138(c) of this chapter.

Effect of Dispute Resolution

92. A dispute on the valuation of replacement land under paragraph 89 of this chapter, or on the total value of compensation under paragraph 95 of this chapter, or on the terms and conditions of the return of land under paragraph 102 of this chapter, will not delay the expropriation.
93. Interest is payable on compensation from the effective date of an expropriation at the interest rate payable in accordance with Federal Law.

Total Value of Compensation

94. The total value of compensation for an interest in Treaty Settlement Lands expropriated by a Federal Expropriating Authority pursuant to this chapter will be determined by taking into account the following factors:
 - (a) the fair market value of the expropriated interest or of the Treaty Settlement Lands in which an interest has been expropriated;
 - (b) the replacement value of any improvement to the Treaty Settlement Lands that is expropriated;
 - (c) any expenses or losses resulting from the disturbance attributable to the expropriation;
 - (d) any reduction in the value of any interest in Treaty Settlement Lands that is not expropriated which relates to the expropriation;
 - (e) any adverse effect on any cultural or other special value of the Treaty Settlement Lands to the Te'mexw Member First Nation, provided that the cultural or other special value is only applied to an interest in Treaty Settlement Lands recognized in law and held by a Te'mexw Member First Nation, and provided that there will be no increase in compensation on account of any Aboriginal claim, title or interest; and
 - (f) the value of any special economic advantage arising out of or incidental to the occupation or use of the Treaty Settlement Lands to the extent that the value is not otherwise compensated.

95. Subject to paragraph 92 of this chapter if the total value of compensation cannot be agreed upon between the Federal Expropriating Authority and the Te'mexw Member First Nation, or where there is disagreement on whether the combination of replacement land and cash is equal to the total value of compensation, either Canada, acting on behalf of the Federal Expropriating Authority, or the Te'mexw Member First Nation may refer the issue of the total value of compensation for dispute resolution under the Dispute Resolution Chapter.

Return of Interest in Land

96. Where an expropriated interest in a parcel of a Treaty Settlement Land is no longer required for the purpose for which it was expropriated, the federal department, agency or other entity, or its successors or assignees, who holds the expropriated interest, will ensure that the interest in land is returned to the Te'mexw Member First Nation on the terms and conditions negotiated in accordance with paragraph 101 of this chapter.
97. Where a fee simple interest in a parcel of land is returned to the Te'mexw Member First Nation in accordance with paragraph 96 of this chapter, the parcel of land will become Treaty Settlement Land on the date of the transfer of the fee simple interest in the parcel of land to the Te'mexw Member First Nation.
98. If a parcel of land is no longer Treaty Settlement Land under paragraph 86 of this chapter, or where replacement lands are added to Treaty Settlement Lands under paragraph 97 of this chapter, Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter.
99. The consent of the Governor-in-Council is not required to give effect to a return of land under paragraph 96 of this chapter, and the federal department, agency or other entity who holds the expropriated interest will determine the disposition of any improvements made to the land in a manner consistent with the agreement reached pursuant to paragraph 101 of this chapter, or the outcome of an arbitration under paragraph 102 of this chapter.
100. The Te'mexw Member First Nation agrees that the return of an interest in Treaty Settlement Lands in accordance with paragraph 96 of this chapter will not result in Canada or British Columbia assuming financial or other obligations, unless agreed to in writing at the time of the expropriation.
101. At the time of the expropriation, the Te'mexw Member First Nation and the Federal Expropriating Authority will negotiate the terms and conditions of the return or an expropriated interest in Treaty Settlement Lands, including:

- (a) requirements relating to financial considerations based on market value principles;
 - (b) the condition of the land to be returned; and
 - (c) the process for resolving any disputes around the implementation of these terms and conditions.
102. Where the Federal Expropriating Authority and the Te'mexw Member First Nation cannot agree on the terms and conditions of the return of an expropriated interest in Treaty Settlement Lands at the time of the expropriation, either the Te'mexw Member First Nation or Canada, acting on behalf of the Federal Expropriating Authority, may refer the issue to be finally determined by arbitration under the Dispute Resolution Chapter.

Treaty Settlement Lands not held by a Te'mexw Member First Nation

103. Between Agreement-in-Principle and Final Agreement, Canada and the Te'mexw Member First Nations will negotiate whether one or more of the provisions in subparagraphs 104(b) and 104(c) of this chapter will apply to federal expropriation of an interest in Treaty Settlement Lands held in fee simple by a person other than a Te'mexw Member First Nation, a member of a Te'mexw Member First Nation, a Te'mexw Member First Nation Corporation or a Te'mexw Member First Nation Public Institution.
104. Where the fee simple interest in a parcel of Treaty Settlement Land is held by a Te'mexw Member First Nation Citizen, a Te'mexw Member First Nation Corporation or a Te'mexw Member First Nation Public Institution, any interest in that parcel may be expropriated by a Federal Expropriating Authority in accordance with:
- (a) Federal Law;
 - (b) the consent of the Governor-in-Council; and
 - (c) paragraphs 77 to 87, 92, 96 to 102, and 105 to 108 of this chapter.

and, for greater certainty, any return of land under paragraph 96 of this chapter will be to the Te'mexw Member First Nation.

105. Except as otherwise provided in paragraphs 76 through 102 of this chapter, no conflict or dispute between the Parties respecting the interpretation, application or implementation of paragraphs 76 through 102 of this chapter will go to dispute resolution under the Dispute Resolution Chapter.
106. For greater certainty, nothing in paragraph 105 of this chapter is intended to preclude, in respect of a conflict or dispute referred to in that paragraph, the availability of judicial review proceedings in a court of competent jurisdiction.
107. For greater certainty, and subject to paragraph 108 of this chapter, except to the extent that the provisions of this chapter modify the application of federal legislation relating to expropriation of Treaty Settlement Lands, all federal legislation relating to expropriation applies to an expropriation of Treaty Settlement Lands under this chapter
108. Without limiting the generality of paragraph 13 of the General Provisions Chapter, in the event of a conflict between the Final Agreement and the *Expropriation Act* (Canada) or other federal legislation relating to expropriation, the provisions of the Final Agreement will prevail to the extent of a conflict.
109. Nothing in the Final Agreement affects or limits the application of the *Emergencies Act*, or any successor legislation, and the *Emergencies Act* will continue to apply in all aspects to Treaty Settlement Lands.

PROVINCIAL EXPROPRIATION OF TREATY SETTLEMENT LANDS

Statement of Principle

110. British Columbia and the Te'mexw Member First Nations declare that it is of fundamental importance to maintain the size and integrity of Treaty Settlement Lands.
111. British Columbia and the Te'mexw Member First Nations agree that as a general principle that where it is reasonably possible to achieve British Columbia's objectives by another means, provincial expropriation of Treaty Settlement Lands will be avoided.

General

112. The *Expropriation Act* (BC) applies to the expropriation of Treaty Settlement Lands by a Provincial Expropriating Authority except to the extent that the Final Agreement modifies its application.

113. For greater certainty, Treaty Settlement Lands will not be subject to expropriation by British Columbia, except as set out in this chapter.

Acquisition of Land by Consent

114. Where British Columbia has determined that it requires an interest or estate in a Treaty Settlement Lands,
- (a) it will make reasonable efforts to acquire the land through agreement with the appropriate Te'mexw Member First Nation; and
 - (b) it will provide to the Te'mexw Member First Nation a report which addresses factors under subparagraph 117(b) of this chapter in respect of information relevant to the acquisition or expropriation.

Lieutenant Governor-in-Council Consent

115. A Provincial Expropriating Authority may expropriate an interest or estate in the Treaty Settlement Lands of a Te'mexw Member First Nation only with the consent of and by the order of the Lieutenant Governor-in-Council.
116. Before the Lieutenant Governor-in-Council makes a decision under paragraph 117 of this chapter, the Provincial Expropriating Authority will provide to the Te'mexw Member First Nation a report which states the reasons for the expropriation and addresses the factors under subparagraphs 117(b) and 117(d) of this chapter.
117. An expropriation is justifiable where the Lieutenant Governor-in-Council is satisfied that the following requirements have been met:
- (a) reasonable efforts have been made by the Provincial Expropriating Authority to acquire the interest or estate in the Treaty Settlement Lands through agreement with the Te'mexw Member First Nation;
 - (b) there is no other reasonably feasible alternative to the expropriation, including the use of lands that are not the Treaty Settlement Lands;
 - (c) the most limited interest or estate in the Treaty Settlement Lands necessary is expropriated for the shortest time possible;
 - (d) information relevant to the expropriation, other than documents that would be protected from disclosure under Provincial Law, has been provided to the Te'mexw Member First Nation, including the report referred to in subparagraph 114(b) of this chapter; and

- (e) where the Te'mexw Member First Nation has objected to the expropriation, reasonable efforts have been made to resolve the objection.
- 118. Notwithstanding paragraphs 112 and 113 of this chapter and paragraph 6 of the Environmental Assessment Chapter, a Provincial Expropriating Authority may expropriate Treaty Settlement Lands in accordance with this chapter.
- 119. If the Te'mexw Member First Nation objects to the expropriation of the interest or estate in its Treaty Settlement Lands, the Provincial Expropriating Authority and the Te'mexw Member First Nation will, within 60 days of the delivery to the Te'mexw Member First Nation of the report prepared pursuant to subparagraph 114(b) of this chapter, make reasonable efforts to resolve the objection raised by the Te'mexw Member First Nation.
- 120. The Lieutenant Governor-in-Council will not consent to the expropriation before the end of the period provided for in paragraph 119 of this chapter.
- 121. Notwithstanding paragraphs 117 to 120 of this chapter, the Lieutenant Governor-in-Council may consent to the expropriation if the Minister or Lieutenant Governor-in-Council has declared a state of emergency.

Compensation – Land/Cash

- 122. If there is a provincial expropriation of Treaty Settlement Lands under Provincial Law, British Columbia will make reasonable efforts to provide alternative land as compensation. If there is no agreement, British Columbia will provide the Te'mexw Member First Nation with monetary compensation.
- 123. If the Provincial Expropriating Authority and the Te'mexw Member First Nation disagree on the total value of compensation for an expropriated interest or estate held by the Te'mexw Member First Nation, the dispute will be finally determined by arbitration under the Dispute Resolution Chapter. A dispute under this section will not delay the expropriation. For the purposes of this section British Columbia will act on behalf of the Provincial Expropriating Authority on such terms as British Columbia and the Provincial Expropriating Authority may agree.

Value of Land or Cash Compensation

- 124. The total value of the compensation will take into account the following factors:
 - (a) the fair market value of the interest or estate, including improvements, that is expropriated;

- (b) if the expropriated property has a limited market because of its use, compensation may be based on the reasonable costs of rebuilding on another site;
- (c) the damages attributable to disturbance;
- (d) the value of any special economic advantage arising out of or incidental to the occupation or use of the affected Treaty Settlement Lands to the extent that this value is not otherwise compensated; and
- (e) damages for any reduction in the value of a remaining interest as per provincial legislation on Effective Date.

Provincial Crown Lands as Replacement Lands

125. If British Columbia expropriates a fee simple estate in Treaty Settlement Lands, British Columbia will make reasonable efforts to identify and offer provincial Crown land of comparable value within the Te'mexw Member First Nation Area as compensation.
126. If the replacement land provided under paragraph 125 of this chapter is of less than comparable value, British Columbia will provide additional compensation in accordance with paragraph 122 of this chapter.
127. If the Te'mexw Member First Nation accepts Crown land as replacement land:
- (a) British Columbia will transfer the replacement lands to the Te'mexw Member First Nation; and
 - (b) unless otherwise agreed by British Columbia and the Te'mexw Member First Nation, the replacement land will include the Subsurface Resources provided that the Subsurface Resources are owned by British Columbia.
128. Land provided by British Columbia to the Te'mexw Member First Nation as compensation for a provincial expropriation will, at the option of the Te'mexw Member First Nation at the time of the negotiation of the compensation, become Treaty Settlement Lands if:
- (a) the proposed replacement land is located within the Te`mexw Member First Nation Area;
 - (b) the proposed replacement land is located outside of municipal boundaries or within municipal boundaries, if the municipality consents;
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- (c) the addition of proposed replacement land to Treaty Settlement Lands will not result in British Columbia being required to assume financial or other obligations; and
- (d) Canada consents to replacement land being added to the Treaty Settlement Lands;

in which case Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter, to reflect the addition, and the land will become Treaty Settlement Land when the amendment takes effect.

129. Replacement land transferred to the Te'mexw Member First Nation in accordance with paragraph 128 of this chapter:
- (a) continues to be subject to any interest existing immediately before the transfer to the Te'mexw Member First Nation, unless otherwise agreed by the Te'mexw Member First Nation and British Columbia; and
 - (b) any tenured Subsurface Resources continue to be administered by British Columbia as though they were Tenured Subsurface Resources.
130. If there is no agreement between British Columbia and the Te'mexw Member First Nation on the provision of land as compensation under paragraph 125 of this chapter, British Columbia will provide the Te'mexw Member First Nation with other compensation in accordance with the *Expropriation Act* (BC) subject to paragraphs 124 and 125 of this chapter.

Expropriation of Less than Fee Simple Estates

131. Where less than the fee simple estate in Treaty Settlement Lands is expropriated by a Provincial Expropriating Authority:
- (a) the parcel of land retains its status as Treaty Settlement Lands;
 - (b) the Te'mexw Member First Nation may continue to use and occupy the parcel of land, subject to the terms of the Final Agreement or except to the extent that such use or occupation interferes with the use of land for which the expropriation took place; and
 - (c) the Te'mexw Member First Nation Law applies to the parcel of land, subject to the terms of the Final Agreement or except to the extent that the Te'mexw Member First Nation Law is inconsistent with the use of land for which the

expropriation took place.

Expropriation of Fee Simple Lands

132. Where an estate in fee simple in Treaty Settlement Lands is expropriated by British Columbia the expropriation will include the estate in fee simple to the surface and Subsurface Resources unless British Columbia and the Te'mexw Member First Nation agree otherwise.
133. Before Final Agreement, British Columbia and Te'mexw Member First Nations will negotiate the total amount of the Treaty Settlement Lands that may be expropriated by the Provincial Expropriating Authority.

Reacquisition of Expropriated Land

134. If an expropriated interest or estate in Treaty Settlement Lands is no longer required by the Provincial Expropriating Authority the expropriated interest or estate will be returned to the Te'mexw Member First Nation subject to terms to be negotiated at the time of the return of the expropriated interest or estate.
135. Where a Te'mexw Member First Nation becomes the registered owner of the fee simple estate to a parcel of land under paragraph 134 of this chapter, the Te'mexw Member First Nation may add that parcel to its Treaty Settlement Lands upon notice to Canada and British Columbia.
136. Upon receipt by Canada and British Columbia of a notice under paragraph 135 of this chapter, Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter to reflect the addition of the land to the Treaty Settlement Lands, and the land will become Treaty Settlement Lands when the amendment takes effect.

STATUS OF LANDS PURCHASED WITH CASH COMPENSATION

137. The Final Agreement will include provisions concerning the status of land that a Te'mexw Member First Nation purchases with cash received as compensation for an expropriation of Treaty Settlement Lands.

ADDITIONS TO TREATY SETTLEMENT LANDS

138. At any time after the Effective Date, with the agreement of Canada and British Columbia, the Te'mexw Member First Nation may add land to Treaty Settlement Lands that is:

- (a) owned in fee simple by the Te'mexw Member First Nation;
- (b) within the Te'mexw Member First Nation Area; and
- (c) outside of municipal boundaries, or within municipal boundaries, if the municipality consents; and

British Columbia and Canada will not be required to assume financial or other obligations associated with that land.

139. In addition to the requirements under paragraph 138 of this chapter, Canada may require that any addition of land to Treaty Settlement Lands will be in an area that is not an area to which another First Nation has a claim of legal interest, an area subject to treaty negotiations or an area subject to a treaty or land claims agreement, unless consent is obtained from the First Nation that has made the claim of legal interest or is party to the treaty negotiation, treaty or land claims agreement.
140. Any interest in the land that is added to a Treaty Settlement Lands under paragraph 138 of this chapter will remain unless the Te'mexw Member First Nation and the person holding that interest agree to a replacement interest.
141. The Te'mexw Member First Nation will own the Subsurface Resources on land that is added to the Treaty Settlement Lands under paragraph 138 of this chapter if:
- (a) the fee simple title includes ownership of the Subsurface Resources; or
 - (b) British Columbia owns the Subsurface Resources and British Columbia and the Te'mexw Member First Nation agree.

Acquisition and Addition of Other Provincial Crown Lands

142. The Final Agreement will provide that if a Te'mexw Member First Nation wishes to acquire any parcel of land, or any portion thereof, described in an appendix to the Final Agreement, the Te'mexw Member First Nation will, within an agreed time frame after the Effective Date, provide notice to British Columbia.
143. Within 180 days of receiving a notice in accordance with paragraph 142 of this chapter, British Columbia will prepare and forward to the Te'mexw Member First Nation an offer to sell the parcel of land, setting out:
- (a) a description of the parcel of land;
 - (b) the purchase price of the parcel of land which, unless British Columbia and

the Te'mexw Member First Nation otherwise agree, will be equal to the fair market value of the parcel of land;

- (c) any interests which the parcel of land will be subject to; and
 - (d) any other terms and conditions applicable to the purchase and sale of the parcel of land.
144. An offer to sell provincial Crown land made in accordance with paragraph 143 of this chapter will be open for acceptance by the Te'mexw Member First Nation for a period of one year from the receipt of such offer, after which the Te'mexw Member First Nation is deemed to have refused the offer to sell and the offer to sell expires.
145. If British Columbia and the Te'mexw Member First Nation disagree on the fair market value of any provincial Crown land identified in an appendix to the Final Agreement offered for sale in accordance with paragraph 143 of this chapter, the Te'mexw Member First Nation may refer the issue to be finally determined by arbitration under the Dispute Resolution Chapter without having to proceed through Stage One and Stage Two.
146. If a Te'mexw Member First Nation acquires provincial Crown land in accordance with paragraphs 142 to 146 of this chapter, such land will be added to the Treaty Settlement Lands upon the Te'mexw Member First Nation becoming the owner of such lands and Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter to reflect such addition to the Treaty Settlement Lands.
147. Between Agreement-in-Principle and Final Agreement the Te'mexw Member First Nation and British Columbia will negotiate a time period whereby, after the Effective Date, British Columbia will not, in respect of provincial Crown lands described in an appendix to the Final Agreement:
- (a) grant an estate in fee simple; or
 - (b) grant a lease with any rights of renewal for a time period to be negotiated by the Parties before Final Agreement,

without the consent of the Te'mexw Member First Nation Government.

Acquisition and Addition of Excluded Provincial Crown Lands

148. The Final Agreement will provide that if, at any time, British Columbia determines that a parcel of provincial Crown land, or any portion thereof, described in an appendix to the Final Agreement is surplus to provincial requirements, British Columbia will offer to sell such parcel by providing notice to the Te'mexw Member First Nation setting out:
- (a) a description of the parcel of land;
 - (b) the purchase price of the parcel of land which, unless British Columbia and the Te'mexw Member First Nation otherwise agree, will be equal to the fair market value of the parcel of land;
 - (c) any interests which the parcel of land will be subject to; and
 - (d) any other terms and conditions applicable to the purchase and sale of the land.
149. An offer to sell provincial Crown land made in accordance with 148 of this chapter will be open for acceptance by the Te'mexw Member First Nation for a period of one year from the receipt of such offer, after which the Te'mexw Member First Nation is deemed to have refused the offer to sell, the offer to sell expires and British Columbia may otherwise dispose of such parcel of land.
150. If a Te'mexw Member First Nation acquires provincial Crown land in accordance with paragraphs 148 to 153 of this chapter, such land will be added to the Treaty Settlement Lands upon the Te'mexw Member First Nation becoming the owner of such lands and Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter to reflect such addition to the Treaty Settlement Lands.
151. For greater certainty, in determining which provincial Crown lands described in an appendix to the Final Agreement are surplus to provincial requirements, British Columbia may identify requirements for Crown Corridors and exclude such corridors from those lands and the above appendix is deemed to be amended to reflect such Crown Corridors.
152. If British Columbia and the Te'mexw Member First Nation disagree on the fair market value of any provincial Crown land identified in an appendix to the Final Agreement offered for sale in accordance with paragraph 148 of this chapter, the Te'mexw Member First Nation may refer the issue to be finally determined by arbitration in accordance with the Dispute Resolution Chapter without having to

proceed through Stage One and Stage Two.

153. British Columbia will continue to manage and use the provincial Crown lands identified in an appendix to the Final Agreement at its sole discretion and, for greater certainty, nothing in the Final Agreement will limit the ability of British Columbia to authorize the use or disposition of Forest Resources or Subsurface Resources on any lands identified in the above appendix before the acquisition of an estate in fee simple in such lands by the Te'mexw Member First Nation.

ACQUISITION AND ADDITIONS OF FEE SIMPLE LANDS

154. Between Agreement-in-Principle and Final Agreement the Parties will negotiate a time period whereby, if after the Effective Date, a Te'mexw Member First Nation, a Te'mexw Member First Nation Corporation or Te'mexw Member First Nation Public Institution, becomes the registered owner of the estate in fee simple in a parcel of land, or any portion thereof, identified for illustrative purposes and legally described in the applicable appendix to the Final Agreement, and:

- (a) where the owner of such parcel is a Te'mexw Member First Nation Corporation or Public Institution, such owner provides written consent; and
- (b) the registered holder of any financial charge or encumbrance provides written consent,

then the Te'mexw Member First Nation may provide notice to British Columbia and Canada that the parcel of land is to be added to the Treaty Settlement Lands.

155. After receipt of a notice in accordance with paragraph 154 of this chapter, British Columbia and Canada will each, upon satisfactory review of the consents referred to in that paragraph, provide confirmation that such parcel of land is to be added to the Treaty Settlement Lands.
156. If British Columbia and Canada provide confirmation in accordance with paragraph 155 of this chapter, that parcel of land will become Treaty Settlement Lands and the appropriate appendix of the Final Agreement will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter to reflect such addition to the Treaty Settlement Lands.

Continuation of Interests

157. A parcel of land added to the Treaty Settlement Lands in accordance with paragraphs 154 and 156 of this chapter continues to be subject to any interest existing immediately before the parcel of land becomes Treaty Settlement Lands, unless the holder of such interest agrees otherwise in writing.
158. The Te'mexw Member First Nation will own the Subsurface Resources on land that is added to the Treaty Settlement Lands under paragraphs 154 and 156 of this chapter if:
- (a) the estate in fee simple includes ownership of the Subsurface Resources; or
 - (b) British Columbia and the Te'mexw Member First Nation agree.
159. For greater certainty, a Te'mexw Member First Nation's ownership of Subsurface Resources added pursuant to paragraphs 154 to 156 is subject to any subsurface tenures existing immediately before the acquisition of the parcel of land by the Te'mexw Member First Nation and those subsurface tenures continue to be administered by British Columbia as though they were Tenured Subsurface Resources.
160. Unless otherwise agreed by the Te'mexw Member First Nation, Canada and British Columbia, neither Canada nor British Columbia is responsible for the costs associated with the survey, registration and transfer of any parcel.

FEDERAL CROWN LANDS

161. Recognizing that federal real properties may become available for disposition in the future, during Final Agreement negotiations, Canada and Te'mexw Member First Nations will explore options and solutions for addressing the interests expressed by Te'mexw Member First Nations in federal real properties located within the Te'mexw Member First Nation Area.

CHAPTER 5 – ACCESS

GENERAL

1. Except as modified by the Final Agreement, as owner of Treaty Settlement Lands a Te'mexw Member First Nation has the same rights and obligations in respect of public access to, occupation of, and trespass on, its Treaty Settlement Lands as owners of estates in fee simple have in respect of their land.
2. Nothing in the Final Agreement will affect the public right of navigation.

TE'MEXW MEMBER FIRST NATION LAW

3. A Te'mexw Member First Nation Government may make laws in respect of access to its Treaty Settlement Lands.
4. Te'mexw Member First Nation Law under paragraph 3 of this chapter prevails to the extent of a Conflict with Federal or Provincial Law.
5. Notwithstanding paragraph 4 of this chapter, Federal and Provincial Law prevail to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 3 of this chapter in respect of public access to lands identified in paragraph 11 of this chapter.

TE'MEXW MEMBER FIRST NATION ACCESS TO CROWN LANDS

6. Agents, employees, contractors, subcontractors and other representatives of Te'mexw Member First Nations have access, in accordance with Federal and Provincial Law, at no cost, to Crown lands in order to:
 - (a) deliver and manage programs and services;
 - (b) carry out duties under Te'mexw Member First Nation Law;
 - (c) enforce Te'mexw Member First Nation Law;
 - (d) respond to emergencies; and
 - (e) carry out the terms of the Final Agreement.
7. Unless otherwise agreed, a Te'mexw Member First Nation will provide reasonable notice of entry onto Crown land under paragraph 6 of this chapter to Canada or British Columbia as the case may be:
 - (a) before the entry if it is practicable to do so; or

- (b) as soon as practicable after the entry.

ACCESS TO INTERESTS AND ESTATES IN FEE SIMPLE

8. Te'mexw Member First Nations will allow reasonable access to Treaty Settlement Lands, at no cost, to interests listed in an appendix to the Final Agreement, consistent with the terms and conditions of those interests.
9. If no other reasonable access exists, a Te'mexw Member First Nation will allow reasonable access across Treaty Settlement Lands that is held in fee simple by the Te'mexw Member First Nation or a Te'mexw Member First Nation Institution:
 - (a) to any interest located on or beneath lands adjacent, or in close proximity, to the Treaty Settlement Lands, consistent with the terms and conditions of those interests; and
 - (b) to an estate in fee simple located adjacent, or in close proximity, to Treaty Settlement Lands.
10. British Columbia or a Te'mexw Member First Nation may refer any disagreement in respect of paragraphs 8 and 9 of this chapter to be finally determined by arbitration under the Dispute Resolution Chapter, without having to proceed through Stage One and Stage Two.

PUBLIC ACCESS TO TE'MEXW MEMBER FIRST NATION PUBLIC LAND

11. Between the Agreement-in-Principle and Final Agreement, the Parties will identify any Te'mexw Member First Nation Public Lands which will be subject to public access for recreation and non-commercial purposes.
 12. Public access does not include:
 - (a) harvesting or extracting resources, unless authorized by a Te'mexw Member First Nation or in accordance with the Final Agreement;
 - (b) causing damage to land or resources; or
 - (c) causing nuisance.
 13. A Te'mexw Member First Nation may authorize uses of or dispose of portions of any lands referenced in paragraph 11 of this chapter and any such authorized use or disposition may affect the methods, times and locations of public access, provided that the Te'mexw Member First Nation ensures that those authorized uses or dispositions do not deny reasonable public access under paragraph 11 of this chapter.
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14. For greater certainty, any public access under paragraph 11 of this chapter will be in accordance with any applicable Te'mexw Member First Nation Law under paragraph 3 of this chapter.
15. A Te'mexw Member First Nation will take reasonable measures to notify the public of the terms and conditions respecting public access to lands in paragraph 11 of this chapter.
16. A Te'mexw Member First Nation's liability for any public access to the lands identified in paragraph 11 of this chapter is comparable to the liability of the provincial Crown for public access to unoccupied provincial Crown lands.
17. The Parties will, prior to the Final Agreement, negotiate a process for lands ceasing to be Te'mexw Member First Nation Public Lands.

CROWN ACCESS TO TREATY SETTLEMENT LANDS

18. Agents, employees, contractors, subcontractors and other representatives of Canada, British Columbia, Public Utilities, Railways, NAV CANADA and any successor entity, members of the Canadian Armed Forces, and peace officers, have access, in accordance with Federal and Provincial Law, at no cost, to Treaty Settlement Lands in order to:
 - (a) deliver and manage programs and services;
 - (b) carry out duties under Federal and Provincial Law;
 - (c) enforce laws;
 - (d) respond to emergencies;
 - (e) access Crown land, including Submerged Lands, located adjacent or in close proximity to Treaty Settlement Lands if no other reasonable access exists; and
 - (f) carry out the terms of the Final Agreement.
19. Unless otherwise agreed, Canada or British Columbia or persons authorized to provide services under Federal or Provincial Law will provide reasonable notice of entry onto Treaty Settlement Lands under paragraph 18 of this chapter to the Te'mexw Member First Nation:
 - (a) before the entry if it is practicable to do so; or
 - (b) as soon as practicable after the entry

20. Nothing in the Final Agreement limits the authority of Canada or the Minister of National Defence to carry out activities related to national defence and security on Treaty Settlement Lands, without payment of any fees or other charges to Te'mexw Member First Nations except as provided for under Federal Law.

EMERGENCIES AND NATURAL DISASTERS

21. Any Party may respond to an emergency or natural disaster on Crown land or Treaty Settlement Lands or the bodies of water immediately adjacent to Treaty Settlement Lands, if the person with primary responsibility for responding has not responded, or is unable to respond, in a timely way.
22. The Party responding will, if possible, notify the person with primary responsibility in advance of taking action but, in any case, will notify that person as soon as practicable after responding.
23. In the event of a provincial declaration of emergency or natural disaster, access to Treaty Settlement Lands will be in accordance with Federal or Provincial Law.

CHAPTER 6 – OFF-TREATY SETTLEMENT LANDS

1. A Te'mexw Member First Nation has the right to participate in any public planning process that may be developed by British Columbia within its Te'mexw Member First Nation Area in accordance with procedures established by British Columbia for that public planning process.
2. A Te'mexw Member First Nation may make proposals to British Columbia to establish a public planning process within its Te'mexw Member First Nation Area.
3. Nothing in the Final Agreement obligates British Columbia to undertake a public planning process within the Te'mexw Member First Nation Area.
4. A Te'mexw Member First Nation has the right to participate in the development of the terms of reference of any public planning process intended to apply within its Te'mexw Member First Nation Area.
5. In participating in any public planning process referred to in paragraph 1 of this chapter, the Te'mexw Member First Nation may bring forward any matters it considers relevant, including any rights set out in the Final Agreement.
6. British Columbia will review any Te'mexw Member First Nation proposals brought forward under paragraph 5 of this chapter and take them into consideration when undertaking a public planning process within the Te'mexw Member First Nation Area.
7. British Columbia will provide the Te'mexw Member First Nation with the draft plan resulting from any public planning process intended to apply within the Te'mexw Member First Nation Area, and the Te'mexw Member First Nation may provide written recommendations to the Minister which recommendations may be made public by British Columbia.
8. After considering any written recommendations from the Te'mexw Member First Nation and any matters the Minister considers appropriate, the Minister will provide written reasons for any Te'mexw Member First Nation recommendations that are not accepted.
9. Where the Te'mexw Member First Nation recommendations are not accepted under paragraph 8 of this chapter, and at the request of the Te'mexw Member First Nation, the Minister will meet with the Te'mexw Member First Nation to discuss concerns that the Te'mexw Member First Nation has with the Minister's response.
10. British Columbia may proceed with any public planning process even if the Te'mexw Member First Nation does not participate in the process.

11. Nothing in the Final Agreement precludes a Te'mexw Member First Nation from participating in a provincial process or institution including a process or institution that may address matters of shared decision making and revenue and benefit sharing, or benefitting from any future provincial program, policy or initiative of general application to First Nations as British Columbia develops a new relationship with First Nations, including the enactment of legislation to support these initiatives.
12. Nothing in the Final Agreement precludes a Te'mexw Member First Nation from participating in, or benefitting from, provincial benefits sharing programs of general application in accordance with the general criteria established for those programs from time to time.
13. Nothing in the Final Agreement precludes a Te'mexw Member First Nation from entering into arrangements for economic opportunities with third parties, provided that these arrangements are consistent with the Final Agreement.

CHAPTER 7 – CROWN CORRIDORS AND ROADS

CROWN CORRIDORS

1. Crown Corridors will not be part of Treaty Settlement Lands and will be owned by British Columbia.
2. The Final Agreement will identify all Crown Corridors within Treaty Settlement Lands, including their widths, in an appendix to the Final Agreement.
3. BC will Consult with the Te'mexw Member First Nation regarding new uses of or major construction on Provincial Roads which are adjacent to Treaty Settlement Lands or which may appreciably affect usual access, or result in increased traffic, to Treaty Settlement Lands.

ENTRY ON TREATY SETTLEMENT LANDS

4. In addition to the provisions of the Access Chapter, British Columbia, a Railway, municipality or any Public Utility, their employees, agents, contractors, or representatives may enter and stay temporarily on Treaty Settlement Lands, at no cost, except as provided for in paragraph 8 of this chapter, for the purpose of undertaking works, including:
 - (a) constructing or repairing drainage works;
 - (b) maintaining slope stability;
 - (c) removing dangerous trees or other hazards;
 - (d) as authorized by Te'mexw Member First Nations, constructing, or extending transmission or distribution works;
 - (e) maintaining or repairing transmission or distribution works; or
 - (f) carrying out vegetation management;where such work is necessary for constructing, operating, maintaining, repairing, replacing, removing or protecting Provincial Roads or rights of way, or works located on Provincial Roads or rights of way that are on or adjacent to Treaty Settlement Lands.
5. Unless otherwise agreed, British Columbia or a Public Utility, Railway or municipality will provide reasonable notice of entry to Treaty Settlement Lands under paragraph 4 of this chapter to the Te'mexw Member First Nation:

- (a) 30 days before or as early as reasonably possible before the entry if it is practicable to do so; or
 - (b) as soon as practicable after the entry.
6. Where the party undertaking the work gives notice under paragraph 5 of this chapter, the Te'mexw Member First Nation, may request the party undertaking the work to provide a written work plan for approval describing the effect and extent of the proposed work on Treaty Settlement Lands. The Te'mexw Member First Nation will, within 30 days of receipt of the work plan notify the party of its decision regarding approval of the project. The Te'mexw Member First Nation approval will not be unreasonably withheld.
 7. In undertaking works referred to in paragraph 4 of this chapter, the party undertaking the work will minimize the damage to, and time spent on, Treaty Settlement Lands.
 8. The party undertaking the work pursuant to paragraph 4 of this chapter will pay fair compensation for any interference with, or damage to, the applicable Treaty Settlement Lands resulting from the works undertaken by that party.
 9. British Columbia or the applicable Te'mexw Member First Nation may refer a disagreement between them in respect of compensation in paragraph 8 of this chapter to be finally determined by arbitration under Stage Three of the Dispute Resolution Chapter without having to proceed through Stage One and Stage Two.
 10. Notwithstanding any other provision of the Final Agreement, British Columbia, a Railway, municipality or a Public Utility may undertake works and take steps on Treaty Settlement Lands that are urgently required in order to protect works constructed on Crown Corridors, or to protect persons or vehicles using Crown Corridors.
 11. British Columbia or a Public Utility will, as soon as practicable, notify the affected Te'mexw Member First Nation in writing that it has undertaken works on its Treaty Settlement Lands under paragraph 10 of this chapter.
 12. Prior to concluding the Final Agreement, the Parties will review the adequacy of the provisions to be included in the Final Agreement that address rights of way and access for existing and future Public Utility works on Treaty Settlement Lands and may agree to include additional provisions in the Final Agreement accordingly.

ACCESS AND SAFETY REGULATION

13. Upon request by a Te'mexw Member First Nation, British Columbia will Consult with that Te'mexw Member First Nation with respect to regulation of traffic and transportation on a Crown Corridor that is adjacent to its Treaty Settlement Lands.
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14. A Te'mexw Member First Nation will Consult with British Columbia on any access or public safety issue associated with land use decisions relating to the development of the Treaty Settlement Lands adjacent to any Crown lands or Crown Corridors and Provincial Roads.
15. British Columbia will retain the authority to regulate all matters relating to:
 - (a) the location and design of intersecting roads giving access to Crown Corridors from Treaty Settlement Lands, including:
 - (i) regulating or requiring signs, signals, or other traffic control devices on Crown Corridors,
 - (ii) regulating or requiring merging lanes, on ramps and off ramps, or
 - (iii) requiring contributions to the cost of the matters referred to in subparagraphs 15(a)(i) and 15(a)(ii) of this chapter; and
 - (b) the height and location of structures on Treaty Settlement Lands immediately adjacent to Crown Corridors, only to the extent reasonably required to protect the safety of the users of Crown Corridors.
16. Subject to provincial requirements, including those set out in paragraphs 15 and 17 of this chapter, British Columbia will not unreasonably deny a Te'mexw Member First Nation access to a Provincial Road from its Treaty Settlement Lands.
17. British Columbia will provide the Te'mexw Member First Nation with any licence, permit or approval required under Provincial Law to join or cross a Provincial Road with a Te'mexw Member First Nation road if:
 - (a) the application for the required licence, permit or approval complies with Provincial Law, including the payment of any prescribed fees; and
 - (b) the intersecting Te'mexw Member First Nation Road complies with standards established under Provincial Law for equivalent Provincial Roads.
18. Each Te'mexw Member First Nation will Consult with British Columbia on land use decisions relating to the development of its Treaty Settlement Lands adjacent to Crown Corridors.

ROADS

19. Te'mexw Member First Nation Roads are owned, administered, controlled and maintained by the applicable Te'mexw Member First Nation.

20. In accordance with the Access Chapter, each Te'mexw Member First Nation will allow public use of its Te'mexw Member First Nation Roads.
21. For greater certainty, British Columbia will not maintain or otherwise expend public funds on a Te'mexw Member First Nation Road without the prior agreement of the Te'mexw Member First Nation Government.

CROWN CORRIDORS NO LONGER REQUIRED

22. If British Columbia determines that it no longer requires any portion of a Crown Corridor and rights of way identified in an appendix to the Final Agreement, it will transfer the estate in fee simple, including the Subsurface Resources if owned by the Crown, in that portion of the Crown Corridor and rights of way to the Te'mexw Member First Nation.
23. If a Te'mexw Member First Nation acquires a portion of a Crown Corridor and rights of way in accordance with paragraph 22 of this chapter, such parcel of land will be added to its Treaty Settlement Lands upon the Te'mexw Member First Nation becoming the owner of such parcel of land, and Appendix B is deemed to be amended to reflect such addition to the Treaty Settlement Lands unless the Te'mexw Member First Nation provides notice to British Columbia and Canada before it becomes the owner of such parcel of land that such lands are not to be added.
24. When the Te'mexw Member First Nation becomes the owner of an estate in fee simple in accordance with paragraph 22 of this chapter, the total amount of the estate in fee simple will be added to the Treaty Settlement Lands and Appendix B will be amended in accordance with the process set out in paragraphs 58 to 69 of the General Provisions Chapter.

GRAVEL

25. Each Te'mexw Member First Nation will have reasonable access, at no cost, other than the cost of extraction, refinement, transportation, and, where appropriate, remediation, to sufficient quantities of Gravel and related aggregate materials from existing Gravel on provincial Crown lands in the vicinity of its Treaty Settlement Lands to fulfill any obligations it may have to construct, maintain or repair roads or rights of way on its Treaty Settlement Lands.
26. British Columbia will have reasonable access, at no cost, other than the cost of extraction, refinement, transportation, and, where appropriate, remediation, to sufficient quantities of Gravel and related aggregate materials from existing Gravel on Treaty Settlement Lands. Gravel and related aggregate materials extracted from those sites will be used to fulfill any obligations British Columbia may have to construct, maintain or repair roads and public rights of way in the vicinity of the Treaty Settlement Lands.

27. For greater certainty, British Columbia's rights under paragraph 26 of this chapter are not intended to significantly affect any Te'mexw Member First Nation's ability to use Gravel situated on its existing reserves for commercial purposes.
28. The Final Agreement will contain provisions for Te'mexw Member First Nations and British Columbia to prepare Gravel management plans in respect of paragraphs 25 and 26 of this chapter respectively, including remediation plans, if appropriate.

CHAPTER 8 – ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL PROTECTION

POWER TO MAKE LAWS

1. The Final Agreement will provide that a Te'mexw Member First Nation Government may make laws applicable on Treaty Settlement Lands to manage, protect, preserve and conserve the Environment including laws in respect of:
 - (a) Environmental Assessment for projects that are not subject to Environmental Assessment under Provincial Law;
 - (b) prevention, mitigation and remediation of pollution and degradation of the Environment;
 - (c) waste management, including solid wastes and wastewater;
 - (d) protection of local air quality; and
 - (e) Environmental Emergency response.
2. In the event of a Conflict between a Te'mexw Member First Nation Law made under paragraph 1 of this chapter and a Federal or Provincial Law, the Federal or Provincial Law will prevail to the extent of the Conflict.
3. Te'mexw Member First Nation Law under subparagraph 1(a) of this chapter in relation to Te'mexw Member First Nation Projects that are also Federal Projects will have the equivalent effect of, or exceed, the requirements of the *Canadian Environmental Assessment Act, 2012*.
4. Where a Te'mexw Member First Nation exercises law-making authority under subparagraph 1(a) of this chapter and a Te'mexw Member First Nation Project is also a Federal Project, Canada and the Te'mexw Member First Nation will negotiate and attempt to reach agreement to:
 - (a) coordinate their respective environmental requirements, and
 - (b) avoid duplication.

ENVIRONMENTAL ASSESSMENT

5. For greater certainty, Federal and Provincial Law in relation to Environmental Assessment apply on Treaty Settlement Lands.
 6. The Final Agreement will provide that, notwithstanding any decision made by Canada or British Columbia in respect of a Federal Project or a Provincial Project,
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no Federal Project or Provincial Project on Treaty Settlement Lands will proceed without the consent of the applicable Te'mexw Member First Nation except where the lands have been expropriated in accordance with the Treaty Settlement Lands Chapter.

7. Prior to the Final Agreement, the Parties will determine whether and how the consent requirement in paragraph 6 of this chapter will apply to Federal Projects or Provincial Projects developed according to the terms of any third party tenures on Treaty Settlement Lands.

TE'MEXW MEMBER FIRST NATION PARTICIPATION IN FEDERAL ENVIRONMENTAL ASSESSMENTS

8. If a proposed Federal Project may reasonably be expected to have the potential to adversely affect Treaty Settlement Lands or Te'mexw Member First Nation rights as set out under the Final Agreement, Canada will ensure that the Te'mexw Member First Nation is provided with timely notice of the Environmental Assessment and information describing the Federal Project in sufficient detail to permit the Te'mexw Member First Nation to determine if it is interested in participating in the Environmental Assessment.
9. If the Te'mexw Member First Nation confirms that it is interested in participating in the Environmental Assessment of the Federal Project referred to in paragraph 8 of this chapter:
 - (a) Canada will provide the Te'mexw Member First Nation with the opportunity to be involved in the planning and conduct of the Environmental Assessment conducted under the *Canadian Environmental Assessment Act, 2012*;
 - (b) Canada will provide the Te'mexw Member First Nation with the opportunity to comment on the Environmental Assessment conducted under the *Canadian Environmental Assessment Act, 2012*, including:
 - (i) the scope of the Environmental Assessment;
 - (ii) the environmental effects of the Federal Project;
 - (iii) the impact of the environmental effects of the Federal Project on Treaty Settlement Lands or Te'mexw Member First Nation rights as set out under the Final Agreement;
 - (iv) any mitigation measures to be implemented; and
 - (v) any follow-up programs to be implemented;

- (c) Canada will give full and fair consideration to any comments referred to in subparagraph 9(b) of this chapter, and will respond to the comments, prior to taking any decision that would have the effect of enabling the proposed Federal Project to be carried out in whole or in part; and
 - (d) the Te'mexw Member First Nation will have access to information in Canada's possession related to the Environmental Assessment of the Federal Project in accordance with the public registry provisions in the *Canadian Environmental Assessment Act, 2012*.
10. In addition to paragraph 9 of this chapter, if a proposed Federal Project is referred to a panel under the *Canadian Environmental Assessment Act, 2012*, and may reasonably be expected to have adverse environmental effects on Treaty Settlement Lands or on Te'mexw Member First Nation rights under the Final Agreement, Canada will provide the Te'mexw Member First Nation with:
- (a) the opportunity to propose to the Minister a list of names in accordance with the requirements of the *Canadian Environmental Assessment Act, 2012* that the Minister may consider for appointment to the panel unless the Te'mexw Member First Nation Government is a proponent of the Federal Project;
 - (b) the opportunity to comment on the terms of reference of the panel; and
 - (c) formal standing before that panel.
11. If a proposed Federal Project that is referred to a panel under the *Canadian Environmental Assessment Act, 2012* will be located on Treaty Settlement Lands, Canada will provide the Te'mexw Member First Nation with:
- (a) the opportunity to propose to the Minister a list of names from which the Minister will appoint one member in accordance with the requirements of the *Canadian Environmental Assessment Act, 2012*, unless the Te'mexw Member First Nation Government is a proponent of the proposed Federal Project;
 - (b) the opportunity to comment on the terms of reference of the panel; and
 - (c) formal standing before that panel.

**TE'MEXW MEMBER FIRST NATION GOVERNMENT PARTICIPATION IN
PROVINCIAL ENVIRONMENTAL ASSESSMENTS**

12. If a Provincial Project is located on Treaty Settlement Lands or may reasonably be expected to have adverse environmental effects on Treaty Settlement Lands, on residents of Treaty Settlement Lands or on Te'mexw Member First Nation rights as

set out in the Final Agreement, British Columbia will ensure that the Te'mexw Member First Nation Government:

- (a) receives timely notice of, and relevant available information on, the Provincial Project and the potential environmental effects;
 - (b) is Consulted about the environmental, economic, social, heritage or health effects of the Provincial Project; and
 - (c) receives an opportunity to participate in any Environmental Assessment of the Provincial Project.
13. If a Provincial Project referred to in paragraph 12 of this chapter is referred to a commission or panel under the *Environmental Assessment Act*, the Te'mexw Member First Nation may appear before and make written or oral submissions to the commission or panel.
14. British Columbia will give full and fair consideration to the comments received under subparagraphs 12(b) and 12(c) of this chapter, and will respond to the comments before completion of the Environmental Assessment process.

CONSULTATION AND PARTICIPATION IN ENVIRONMENTAL APPROVAL PROCESS

15. Between Agreement-in-Principle and Final Agreement, the Parties will negotiate and attempt to reach agreement on measures that may address decisions or projects that are not subject to environmental assessment but may have an adverse effect on Treaty Settlement Lands or rights under the Final Agreement.

PROTECTED AREAS

16. Prior to the Final Agreement any Te'mexw Member First Nation may identify areas of special interest within the Te'mexw Member First Nation Area, and if such areas are identified the Parties will discuss the Te'mexw Member First Nation's role in the management of each area, including special management measures that may be required.

ENVIRONMENTAL EMERGENCIES

17. A Te'mexw Member First Nation may enter into agreements with Canada, British Columbia, Local Government or other First Nation Governments in British Columbia for the prevention of, preparedness for, response to and recovery from Environmental Emergencies occurring on Treaty Settlement Lands or on land and waters adjacent to Treaty Settlement Lands.

CHAPTER 9 – FOREST RESOURCES

FOREST RESOURCES ON TREATY SETTLEMENT LANDS

1. On the Effective Date, each Te'mexw Member First Nation will own all Forest Resources on its Treaty Settlement Lands.
2. Treaty Settlement Lands will be treated as Private Lands for the purposes of Provincial Laws in respect of Forest Resources, Forest Practices, and Range Practices.
3. No provincial requirement for obtaining a licence, permit or other authorization or paying a fee in respect of any Forest Practice on Treaty Settlement Lands is intended to apply on Treaty Settlement Lands.
4. Each Te'mexw Member First Nation Government will have authority to determine, collect and administer any fees, rents, or other charges but not taxes relating to the harvesting of Forest Resources on Treaty Settlement Lands.

LAW MAKING

5. Each Te'mexw Member First Nation Government may make laws in respect of Forest Resources, Forest Practices and Range Practices on its Treaty Settlement Lands.
6. In the event of a Conflict between a Federal or Provincial Law and a Te'mexw Member First Nation Law made under paragraph 5 of this chapter, the Federal or Provincial Law will prevail to the extent of the Conflict.

TIMBER MARKING AND SCALING

7. Nothing in the Final Agreement confers authority on a Te'mexw Member First Nation to make laws applicable to timber marks, timber marking or timber scaling.
8. Provincial Laws applicable to timber marks and scaling will not impose any condition on the issuance of a timber mark for Treaty Settlement Lands not imposed for Private Lands.

MANUFACTURE AND EXPORT

9. Logs harvested from Treaty Settlement Lands will not be subject to any legal requirement for use or manufacturing in British Columbia.
10. Logs from Treaty Settlement Lands may be proposed for export pursuant to Federal Law and policy as if the logs had been harvested from an Indian Reserve in British Columbia.

INFORMATION SHARING

11. The Parties agree to share information relating to Forest Practices and Range Practices on Treaty Settlement Lands and on Crown land immediately adjacent to Treaty Settlement Lands from time to time.

EXISTING INTERESTS

12. Except as provided in an appendix to the Final Agreement, British Columbia will ensure that on the Effective Date, any portion of:
 - (a) any agreement under the *Forest Act* or *Range Act*; and
 - (b) any plan, permit or authorization associated with any agreement under the *Forest Act* or *Range Act*, or other legislation that governs forest practices, that applies on Treaty Settlement Lands ceases to be valid.
13. Except for those obligations described in an appendix to the Final Agreement British Columbia will ensure that on the Effective Date, or as soon as practicable, all obligations on Treaty Settlement Lands in respect of Forest Practices and Range Practices, including road deactivation, will be fulfilled in accordance with Provincial Law.
14. Each Te'mexw Member First Nation will provide access to its Treaty Settlement Lands, at no cost, to British Columbia and to any tenure holder whose rights to Forest Resources under paragraph 12 of this chapter cease to be valid, and to their respective employees, agents, contractors, successors or assigns, so that they may fulfill the obligations referred to under paragraph 13 of this chapter.

COOPERATION AND COORDINATION OF FORESTRY PRACTICES

15. Prior to the Final Agreement, the Parties may negotiate provisions for cooperation and coordination in respect of Forest Practices on and off Treaty Settlement Lands.

ECONOMIC OPPORTUNITIES

16. Prior to the Final Agreement, the Parties may negotiate provisions with regard to economic opportunities in forest related undertakings for a Te'mexw Member First Nation.

FIRE SUPPRESSION AND CONTROL

17. Arrangements for wildfire suppression and control on Treaty Settlement Lands will be addressed before the Final Agreement.

FOREST AND RANGE HEALTH

18. If British Columbia or a Te'mexw Member First Nation becomes aware of insects, diseases, invasive plants, animals, or abiotic factors on Crown land or Treaty Settlement Lands that threaten the health of Forest Resources on Crown land or Treaty Settlement Lands, British Columbia or the Te'mexw Member First Nation, as the case may be, will notify the other Parties and the affected Parties will use reasonable efforts to reach an agreement on an appropriate co-operative response to minimize the impacts of such insects, diseases, invasive plants, animals, or abiotic factors on Forest Resources on Treaty Settlement Lands or Crown land.
19. Nothing in paragraph 18 of this chapter will be construed so as to limit the application of Federal or Provincial Law in relation to the health of Forest Resources or Range Resources.

CHAPTER 10 – WILDLIFE

HARVEST RIGHT

1. The Final Agreement will provide that the Te'mexw Member First Nation has the right to harvest Wildlife for Domestic Purposes within the Te'mexw Member First Nation Wildlife Harvest Area in accordance with the Final Agreement.
2. The Te'mexw Member First Nation Right to Harvest Wildlife will be limited by:
 - (a) measures necessary for conservation; and
 - (b) measures necessary for public health or public safety.
3. The Te'mexw Member First Nation Right to Harvest Wildlife is a communal right held by the Te'mexw Member First Nation, and the Te'mexw Member First Nation may not dispose of that right.
4. The Te'mexw Member First Nation Government may designate individuals other than Te'mexw Member First Nation Citizens to exercise the Te'mexw Member First Nation Right to Harvest Wildlife on behalf of a Te'mexw Member First Nation Citizen who is unable to exercise the Te'mexw Member First Nation Right to Harvest Wildlife.
5. The designated individual referred to in paragraph 4 of this chapter must not pay any remuneration to the Te'mexw Member First Nation, the Te'mexw Member First Nation Government or a Te'mexw Member First Nation Citizen in exchange for, or as compensation for, being designated.
6. The designated individual referred to in paragraph 4 of this chapter must:
 - (a) be the spouse or a child or a grandchild of the Te'mexw Member First Nation Citizen;
 - (b) be qualified to possess and operate a firearm under Federal and Provincial Law;
 - (c) have provided to the Te'mexw Member First Nation a signed agreement to provide harvested Wildlife to Te'mexw Member First Nation Citizens for Domestic Purposes;
 - (d) carry on his or her person and present to an authorized person upon request, any documentation issued by the Te'mexw Member First Nation as evidence of the designation;

- (e) harvest in accordance with the Final Agreement and Te'mexw Member First Nation Law; and
 - (f) either possess a hunting licence that under Provincial Law may only be issued to a "resident" as defined in the *Wildlife Act*, or be a British Columbia "resident" as defined in the *Wildlife Act* and be exempt from the requirement to possess a British Columbia resident hunting licence while hunting in British Columbia.
7. Each year, if requested by the Minister, the Te'mexw Member First Nation Government will provide to the Minister a list of all individuals who are designated under paragraph 4 of this chapter.
8. Except as otherwise provided under a Te'mexw Member First Nation Law, all Te'mexw Member First Nation Citizens may exercise the Te'mexw Member First Nation Right to Harvest Wildlife throughout the year.
9. The Final Agreement will not preclude Te'mexw Member First Nation Citizens from harvesting Wildlife outside of the Te'mexw Member First Nation Wildlife Harvest Area throughout Canada in accordance with:
- (a) Federal and Provincial Law;
 - (b) any agreements that are in accordance with Federal and Provincial Law as between a Te'mexw Member First Nation and other aboriginal people; or
 - (c) any arrangements between other aboriginal people and Canada or British Columbia.
10. Prior to the ratification of the Final Agreement, the Parties will negotiate and attempt to reach agreement regarding Te'mexw Member First Nations' opportunities to harvest Wildlife within the Te'mexw Member First Nation Wildlife Harvest Area and elsewhere in British Columbia and provincial consultation regarding the use and disposition of provincial Crown lands within the Te'mexw Member First Nation Wildlife Harvest Area.
11. The Te'mexw Member First Nation Right to Harvest Wildlife may be carried out on lands within the Te'mexw Member First Nation Wildlife Harvest Area that are owned in fee simple off Treaty Settlement Lands, but access to those lands for harvesting is subject to Federal and Provincial Law in respect of access to fee simple lands.
12. Subject to paragraph 15 of this chapter the Te'mexw Member First Nations and the Te'mexw Member First Nation Citizens will not be required to have federal or provincial licences or pay any fees, charges other than taxes or royalties to Canada or British Columbia relating to the Te'mexw Member First Nation Right to Harvest
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Wildlife.

GENERAL

13. The Minister will retain authority to manage and conserve Wildlife and Wildlife habitat and will exercise that authority in a manner consistent with and subject to the Final Agreement.
14. The Final Agreement does not alter Federal or Provincial Law with respect to proprietary interest in Wildlife.
15. Nothing in the Final Agreement affects or alters Canada's or British Columbia's ability to require Te'mexw Member First Nation Citizens to comply with Federal and Provincial Law in respect of the use and possession of firearms.
16. Te'mexw Member First Nation Citizens may use resources on provincial Crown land within the Te'mexw Member First Nation Wildlife Harvest Area for purposes reasonably incidental to the exercise of the Te'mexw Member First Nation Right to Harvest Wildlife, subject to Federal and Provincial Law.

LAW MAKING

17. The Te'mexw Member First Nation Government may make laws to regulate the Te'mexw Member First Nation Right to Harvest Wildlife respecting:
 - (a) the distribution of Wildlife harvested by Te'mexw Member First Nations under the Final Agreement;
 - (b) the designation and administration of documentation of Te'mexw Member First Nation Citizens to harvest Wildlife;
 - (c) the methods, timing, and location of the harvest of Wildlife under the Te'mexw Member First Nation Right to Harvest Wildlife and any conservation measures established by the Minister;
 - (d) trade or barter of Wildlife harvested by Te'mexw Member First Nation Citizens; and
 - (e) other matters agreed to by the Parties prior to the Final Agreement;provided that those laws are consistent with the Final Agreement and any conservation measure approved in accordance with the Final Agreement.
18. In the event of a Conflict between a Te'mexw Member First Nation Law made under paragraph 17 of this chapter and a Federal or Provincial Law, the Te'mexw Member First Nation Law will prevail to the extent of the Conflict.

19. The Te'mexw Member First Nation Government will make laws to require all Te'mexw Member First Nation harvesters to comply with any conservation measure approved in accordance with the Final Agreement that affects the Te'mexw Member First Nation Right to Harvest Wildlife.
20. The Te'mexw Member First Nation Government will make laws to require all Te'mexw Member First Nation Citizens who harvest Wildlife under the Final Agreement, or transport Wildlife harvested under the Final Agreement, to carry documentation issued by the Te'mexw Member First Nation and produce that documentation on request by an authorized individual.

DOCUMENTATION

21. The Te'mexw Member First Nation will issue upon application documentation to Te'mexw Member First Nation Citizens who are eligible to harvest, attempt to harvest or transport Wildlife under the Te'mexw Member First Nation Right to Harvest Wildlife, including any individuals designated under paragraph 4 of this chapter.
22. Documentation issued under paragraph 21 of this chapter will:
 - (a) be in the English language, which version is authoritative, and, at the discretion of the Te'mexw Member First Nation, in the Te'mexw Member First Nation language;
 - (b) include the name and address of the individual harvester; and
 - (c) meet any other requirements as set out by the Te'mexw Member First Nation Government.

MANAGEMENT

23. The Te'mexw Member First Nations will be invited to and have the right to participate in any public regional Wildlife management process established by British Columbia in respect of any portion of the Te'mexw Member First Nation Wildlife Harvest Area.

CONSULTATION ON WILDLIFE CONSERVATION MEASURES

Conservation Measures of a Wildlife Species

24. The Minister will Consult with a Te'mexw Member First Nation regarding a conservation measure proposed by the Minister or a Te'mexw Member First Nation in respect of a Wildlife species within the Te'mexw Member First Nation Wildlife Harvest Area.
 25. For the purposes of paragraph 24 of this chapter, without limiting the generality of the foregoing, the following will be taken into account:
 - (a) the conservation risk to the Wildlife species;
 - (b) the population of the Wildlife species:
 - (i) within the Te'mexw Member First Nation Wildlife Harvest Area;
and
 - (ii) within its normal range or area of movement outside the Te'mexw Member First Nation Wildlife Harvest Area;
 - (c) the necessity for, and the nature of, the proposed conservation measure; and
 - (d) the Te'mexw Member First Nation role in the development and implementation of the conservation measure.
 26. For greater certainty, the Minister's obligation to Consult in respect of a proposed conservation measure includes providing the following, if requested by the Te'mexw Member First Nation:
 - (a) information that the Minister considered in deciding to propose the conservation measure; and
 - (b) a description of any other conservation measures that have been considered and the reasons why they were rejected.
 27. Prior to and in authorizing the implementation of a conservation measure which will affect the Te'mexw Member First Nation Right to Harvest Wildlife, the Minister will use reasonable efforts to minimize the impact of the conservation measure on the Te'mexw Member First Nation Right to Harvest Wildlife.
 28. The Minister will provide the adopted conservation measure to the Te'mexw Member First Nation in writing.
 29. At the request of the Te'mexw Member First Nation, the Minister will provide the
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- Te'mexw Member First Nation with written reasons for the adoption of any conservation measure.
30. Where the Minister determines that establishing or varying an allocation for a Te'mexw Member First Nation is the necessary conservation measure, British Columbia and the Te'mexw Member First Nation will negotiate and attempt to reach agreement on that allocation.
31. Where British Columbia and a Te'mexw Member First Nation fail to agree on an allocation under paragraph 30 of this chapter, the dispute will be finally determined by arbitration under the Dispute Resolution Chapter.
32. In determining the allocation under paragraph 30 of this chapter, the arbitrator must take into account all relevant information provided by the Te'mexw Member First Nation and British Columbia.

TRADE, BARTER, AND SALE OF WILDLIFE

33. Except as otherwise provided under Te'mexw Member First Nation Law, Te'mexw Member First Nation Citizens have the right to trade or barter Wildlife or Wildlife parts, including meat and furs, harvested under the Final Agreement:
- (a) among themselves; and
 - (b) with other aboriginal people of Canada.
34. For greater certainty:
- (a) trade or barter does not include sale; and
 - (b) traded or bartered Wildlife or Wildlife parts, including meat, may not be sold, except in accordance with Federal or Provincial Law that may permit the sale.
35. Te'mexw Member First Nations and Te'mexw Member First Nation Citizens may transport Wildlife or Wildlife parts, including meat or furs, harvested in accordance with the Final Agreement, in accordance with:
- (a) Federal and Provincial Law; and
 - (b) Te'mexw Member First Nation Law enacted under paragraph 20 of this chapter.
36. Notwithstanding paragraph 35 of this chapter, Wildlife harvested in accordance with the provisions of the Final Agreement may be transported within Canada throughout the year.

37. Any export or sale of Wildlife and the parts of Wildlife including meat or fur harvested under the Te'mexw Member First Nation Right to Harvest Wildlife will be in accordance with Federal and Provincial Laws.

TRAPPING

38. Traplines wholly or partially on Treaty Settlement Lands that exist as of the Effective Date set out in Part 3 of Appendix C are retained by the persons who hold those interests.
39. The Te'mexw Member First Nations will not unreasonably withhold access to persons who hold traplines as set out in Part 3 of Appendix C or any person who has written permission from a registered trap line holder to trap within the registered trap line area for the purpose of carrying out trapping activities.
40. British Columbia will not register any new trapline that is located on Treaty Settlement Lands without the consent of the Te'mexw Member First Nation Government.
41. If the holder of a registered trapline that is located on Treaty Settlement Lands agrees to transfer the trapline to a Te'mexw Member First Nation, British Columbia will consent to and register the transfer.
42. When a trapline within the Te'mexw Member First Nation Wildlife Harvest Area becomes vacant, British Columbia will negotiate and attempt to reach agreement with the Te'mexw Member First Nation Government for the transfer, without charge, of the trapline to the Te'mexw Member First Nation or Te'mexw Member First Nations. The trapline may be divided to satisfy competing First Nation interests, but the trapline will be transferred rather than sold.

GUIDING

43. Guide outfitter licences and certificates and angling guide licences set out in Part 3 of Appendix C which exist as of the Effective Date will be retained by the persons who hold those interests. The privileges conferred by those interests may be transferred or renewed in accordance with Provincial Law.
44. The Te'mexw Member First Nation will not unreasonably restrict access to the Te'mexw Member First Nation Public Lands for the purpose of carrying out guiding activities by:
- (a) any person who holds a guide outfitter licence or guide outfitter certificate set out in an appendix to the Final Agreement or any renewal or replacement by transfer; and

- (b) the respective employees, agents and other representatives of a person described in subparagraph 44(a) of this chapter.
45. British Columbia will not issue a new guide outfitter licence and certificate that applies to any portion of Treaty Settlement Lands without the consent of the Te'mexw Member First Nation Government.

CHAPTER 11 – MIGRATORY BIRDS

GENERAL

1. The Final Agreement will provide that the Te'mexw Member First Nation has a Te'mexw Member First Nation Right to Harvest Migratory Birds.
2. The Te'mexw Member First Nation Right to Harvest Migratory Birds will be limited by:
 - (a) measures that are necessary for conservation purposes; and
 - (b) measures that are necessary for public health or safety.
3. The Te'mexw Member First Nation Right to Harvest Migratory Birds is a communal right held by the Te'mexw Member First Nation, and the Te'mexw Member First Nation may not dispose of that right.
4. Except as otherwise required by a Te'mexw Member First Nation Law, all Te'mexw Member First Nation Citizens may exercise the Te'mexw Member First Nation Right to Harvest Migratory Birds.
5. Nothing in the Final Agreement precludes Te'mexw Member First Nation Citizens from harvesting Migratory Birds throughout Canada in accordance with:
 - (a) Federal and Provincial Law;
 - (b) any agreements, that are in accordance with Federal and Provincial Laws, between Te'mexw Member First Nations and other aboriginal people; or
 - (c) any lawful arrangements between other aboriginal groups and Canada or British Columbia.
6. The Minister retains authority for managing and conserving Migratory Birds and Migratory Bird habitat and will exercise this authority in a manner consistent with the provisions of the Final Agreement.
7. Except as provided in the Final Agreement, Federal and Provincial Law will apply in respect of Migratory Birds and their inedible byproducts, including down, and Migratory Bird habitat.
8. Subject to paragraph 9 of this chapter, Te'mexw Member First Nation Citizens will not be required to have federal or provincial licences or pay any fees, charges other than taxes or royalties to Canada or British Columbia relating to the Te'mexw Member First Nation Right to Harvest Migratory Birds.

9. Nothing in the Final Agreement affects or alters Canada's or British Columbia's ability to require Te'mexw Member First Nation Citizens to comply with Federal and Provincial Laws in respect of the use and possession of firearms.
10. The Final Agreement is not intended to alter Federal or Provincial Law in respect of property in Migratory Birds.

TRADE AND BARTER

11. The Te'mexw Member First Nations and Te'mexw Member First Nation Citizens, in accordance with any Te'mexw Member First Nation Law made under paragraph 16 of this chapter, may exchange for goods or services, Migratory Birds harvested in accordance with the Te'mexw Member First Nation Right to Harvest Migratory Birds within a Te'mexw Member First Nation's community, or with other aboriginal people of Canada. For greater certainty, exchange for goods or services does not include sale.

SALE

12. If the sale of Migratory Birds is permitted by Federal and Provincial Law, Te'mexw Member First Nations and Te'mexw Member First Nation Citizens may sell Migratory Birds harvested under the Te'mexw Member First Nation Right to Harvest Migratory Birds, and such sale will be in accordance with Federal and Provincial Law and any Te'mexw Member First Nation Law made under subparagraph 18(b) of this chapter.
13. Notwithstanding paragraph 12 of this chapter, the Te'mexw Member First Nation and Te'mexw Member First Nation Citizens may sell inedible byproducts, including down, of Migratory Birds harvested under the Te'mexw Member First Nation Right to Harvest Migratory Birds in accordance with any Te'mexw Member First Nation Law enacted pursuant to paragraph 18 of this chapter.

TRANSPORT AND EXPORT

14. The Te'mexw Member First Nation and Te'mexw Member First Nation Citizens will transport or export Migratory Birds and their inedible byproducts, including down, harvested under the Te'mexw Member First Nation Right to Harvest Migratory Birds in accordance with Federal and Provincial Law.
15. Notwithstanding paragraph 14 of this chapter, Migratory Birds harvested in accordance with the provisions of the Final Agreement may be transported within Canada throughout the year.

LAW MAKING

16. The Te'mexw Member First Nation Government may make laws respecting the rights and obligations of the Te'mexw Member First Nation and Te'mexw Member First Nation Citizens, under the Te'mexw Member First Nation Right to Harvest Migratory Birds in relation to:
 - (a) the distribution among Te'mexw Member First Nation Citizens of Migratory Birds harvested;
 - (b) the designation and documentation of Te'mexw Member First Nation Citizens as harvesters of Migratory Birds;
 - (c) the methods to be used for, the timing of, and the geographic location for harvesting Migratory Birds; and
 - (d) the exchange for goods or services of Migratory Birds harvested by Te'mexw Member First Nation Citizens with other aboriginal people of Canada.
 17. In the event of a Conflict between a Te'mexw Member First Nation Law under paragraph 16 of this chapter and a Federal or Provincial Law, the Te'mexw Member First Nation Law prevails to the extent of the Conflict.
 18. The Te'mexw Member First Nation Government may make laws respecting the rights and obligations of the Te'mexw Member First Nation and Te'mexw Member First Nation Citizens under the Te'mexw Member First Nation Right to Harvest Migratory Birds in relation to:
 - (a) the management of Migratory Birds and Migratory Bird habitat on Treaty Settlement Lands;
 - (b) the sale of Migratory Birds, other than their inedible byproducts, if permitted by Federal and Provincial Law;
 - (c) the sale of inedible byproducts, including down, of Migratory Birds.
 19. In the event of a Conflict between a Te'mexw Member First Nation Law under paragraph 18 of this chapter and a Federal or Provincial Law in relation to Migratory Birds, the Federal or Provincial Law prevails to the extent of the Conflict.
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DOCUMENTATION

20. The Te'mexw Member First Nation will issue upon application documentation to Te'mexw Member First Nation Citizens who are eligible to harvest or attempt to harvest Migratory Birds under the Te'mexw Member First Nation Right to Harvest Migratory Birds.
21. Te'mexw Member First Nation Citizens who harvest or attempt to harvest or transport Migratory Birds under the Te'mexw Member First Nation Right to Harvest Migratory Birds will be required to carry documentation issued by the Te'mexw Member First Nation and to produce that documentation on request by an authorized person as described in paragraph 20 of this chapter.
22. Documentation issued by Te'mexw Member First Nation to Te'mexw Member First Nation Citizens who harvest Migratory Birds under the Te'mexw Member First Nation Right to Harvest Migratory Birds will:
 - (a) be in the English language, which will be the authoritative version, and, at the discretion of the Te'mexw Member First Nation Government, in the Te'mexw Member First Nation language;
 - (b) include the name and address of the individual harvester; and
 - (c) meet any other requirements as set out by the Te'mexw Member First Nation Government.

CONSERVATION MEASURES

23. If, in the opinion of the Minister, conservation measures are needed to protect a particular population of Migratory Bird that is harvested by a Te'mexw Member First Nation under its Te'mexw Member First Nation Right to Harvest Migratory Birds, the Minister will Consult with the Te'mexw Member First Nation in respect of:
 - (a) the necessity of the conservation measures;
 - (b) the nature of the conservation measures;
 - (c) measures to minimize or mitigate restrictions or limitations on the Te'mexw Member First Nation Right to Harvest Migratory Birds resulting from the proposed conservation measures; and
 - (d) if applicable, the Te'mexw Member First Nation's role in the development and the implementation of the conservation measures.
 24. If the Te'mexw Member First Nation is of the opinion that conservation measures
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are needed in respect of a species of Migratory Bird that is harvested by that Te'mexw Member First Nation under its Te'mexw Member First Nation Right to Harvest Migratory Birds, the Te'mexw Member First Nation may present its views to Canada in respect of the need for such conservation measures and its proposed role in the development and implementation of them, and Canada will give full and fair consideration to the Te'mexw Member First Nation's proposal.

25. Where the Minister has authorized the implementation of conservation measures and the conservation measures will affect the Te'mexw Member First Nation Right to Harvest Migratory Birds:
- (a) the Minister will use reasonable efforts to avoid, minimize, or mitigate restrictions or limitations on the Te'mexw Member First Nation Right to Harvest Migratory Birds to the extent possible; and
 - (b) the Minister, if requested, will provide written reasons to the Te'mexw Member First Nation on the conservation measures adopted.
26. If Canada believes on reasonable grounds that an emergency exists it may act without first Consulting the Te'mexw Member First Nation in accordance with paragraph 23 of this chapter. However, as soon as practicable thereafter, Canada will inform the Te'mexw Member First Nation of, and provide reasons for, its action.
27. The Te'mexw Member First Nation will provide to the Minister upon request for conservation purposes, information in its possession concerning the activities of the Te'mexw Member First Nation and Te'mexw Member First Nation Citizens related to the exercise of the rights of the Te'mexw Member First Nation in relation to Migratory Birds set out in the Final Agreement.
28. Before making a request for information under paragraph 27 of this chapter, the Minister will:
- (a) attempt to obtain the information under an agreement under subparagraph 29(a) of this chapter; and
 - (b) provide the Te'mexw Member First Nation with sufficient information to enable it to be adequately informed of the conservation purpose for the request.

MIGRATORY BIRD MANAGEMENT AGREEMENTS

29. At the request of the Minister or the Te'mexw Member First Nation, Canada and the Te'mexw Member First Nation may negotiate a side agreement in respect of Migratory Bird conservation issues within the Te'mexw Member First Nation

Migratory Bird Harvesting Area. The agreement may include provisions on:

- (a) information sharing;
 - (b) actions to be taken by Canada and the Te'mexw Member First Nation to jointly address conservation issues;
 - (c) local management of Migratory Birds and their habitats;
 - (d) population, harvest, and habitat monitoring;
 - (e) enforcement; and
 - (f) licence or permit requirements.
30. The Parties may negotiate side agreements on matters within the Te'mexw Member First Nation Migratory Bird Harvesting Area related to stewardship and recovery of Migratory Bird species and species at risk identified by federal legislation, provincial legislation, or a Te'mexw Member First Nations' Law as extirpated, endangered or threatened, or species of special concern. These agreements may include provisions on:
- (a) the determining of the occurrence and range of species;
 - (b) the monitoring of the status of species;
 - (c) the development and implementation of recovery strategies, action plans, and management plans;
 - (d) the protection and enhancement of species' habitats; and
 - (e) the undertaking of research projects in support of stewardship and recovery efforts for species.

CHAPTER 12 – FISHERIES

1. As set out in paragraph 3 of the General Provisions Chapter, this Agreement-in-Principle does not address fisheries matters.

CHAPTER 13 – WATER

GENERAL

1. Subject to the provisions of the Final Agreement, storage, diversion, extraction or use of water will be in accordance with Federal and Provincial Law and Te'mexw Member First Nation Law made pursuant to paragraphs 23 to 26 of this chapter.
2. The Final Agreement will not alter Federal or Provincial Laws in respect of proprietary interests in water.

TE'MEXW MEMBER FIRST NATION WATER RESERVATION

3. Subject to there being sufficient Available Flows, the Final Agreement will provide the Te'mexw Member First Nations with water reservations for all purposes under the *Water Act*, including domestic, agricultural, and industrial uses of water, but excluding hydro power purposes, on Treaty Settlement Lands.
4. After the Streams that are to be subject to the water reservations are identified, British Columbia will recommend the establishment of water reservations under the *Water Act* in favour of each of the Te'mexw Member First Nations to achieve the purpose of paragraph 5 of this chapter.
5. On the Effective Date, British Columbia will establish a Te'mexw Member First Nation Water Reservation under the *Water Act* that specifies a volume of unrecorded water, the Streams that are subject to the water reservations, and the extent to which the water reservations apply to Streams.
6. The Te'mexw Member First Nation Water Reservation will have priority over all water licences on that Stream other than existing water licences on that Stream, and water licences applied for on that Stream prior to a date that will be agreed to by the Parties.

WATER LICENCES APPLIED AGAINST THE TE'MEXW MEMBER FIRST NATION WATER RESERVATION

7. Any person seeking a water licence for volumes of water to be applied against a Te'mexw Member First Nation Water Reservation, must gain consent from the Te'mexw Member First Nation Government before submitting that application to British Columbia.
8. If any person applies for a water licence to be applied against a Te'mexw Member First Nation Water Reservation and:

- (a) the Te'mexw Member First Nation Government has consented to the application;
- (b) the application conforms to provincial regulatory requirements, including safety standards;
- (c) there is sufficient unrecorded volume of flow in the Te'mexw Member First Nation Water Reservation;
- (d) where required, the application will include provision for storage where the Available Flow during periods of low flow is insufficient to meet proposed demand; and
- (e) the application contains terms and conditions that will ensure that the total volume of water extracted in a month does not exceed the percentage of Available Flow available in that month,

British Columbia will approve the application and issue the water licence.

- 9. A water licence issued to a Te'mexw Member First Nation Government, a Te'mexw Member First Nation Citizen, or other person designated by the Te'mexw Member First Nation Government for use on Treaty Settlement Lands under paragraph 8 of this chapter will not be subject to any rentals, fees, or other charges except taxes by British Columbia.
 - 10. For greater certainty, a person may apply for water licences under paragraph 8 of this chapter for use of water off Treaty Settlement Lands.
 - 11. The volume approved in a water licence issued under paragraph 8 of this chapter will be deducted from the unrecorded volume of flow in the Te'mexw Member First Nation Water Reservation.
 - 12. If a water licence issued from the water reservation referred to in paragraph 8 of this chapter is cancelled, expires or is otherwise terminated, the volume of flow in that water licence will be added back to the unrecorded volume of flow in the Te'mexw Member First Nation Water Reservation.
 - 13. After the Effective Date, British Columbia will Consult with a Te'mexw Member First Nation prior to granting or amending any water licence where, having considered alternatives to the use of Treaty Settlement Lands, the applicant may reasonably require access across or an interest in Treaty Settlement Lands. Without limiting the generality of the foregoing, Consultation will include the route and the nature of the works.
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14. If a person other than a Te'mexw Member First Nation, a Te'mexw Member First Nation Public Institution, a Te'mexw Member First Nation Corporation, or a Te'mexw Member First Nation Citizen is issued a water licence before or after the Effective Date and requires reasonable access across, or an interest in, Treaty Settlement Lands for the construction, maintenance, improvement or operation of works authorized under that water licence, the Te'mexw Member First Nation may not unreasonably withhold consent to, and will take reasonable steps to ensure, access, or the granting of that interest, if that licence holder offers fair compensation to the owner of the estate or interest affected.
15. Prior to the Final Agreement the Parties will address access to Treaty Settlement Lands for water works associated with existing water interests which continue in accordance with the Treaty Settlement Lands Chapter.
16. British Columbia or the Te'mexw Member First Nation Government may refer a dispute arising under paragraph 14 of this chapter to be finally determined by arbitration under the Dispute Resolution Chapter.
17. For greater certainty, sections 27, 28, 29 and 30 of the *Water Act* respecting a licensee's right to expropriate land do not apply on Treaty Settlement Lands.
18. If a person, including a Te'mexw Member First Nation, a Te'mexw Member First Nation Public Institution, a Te'mexw Member First Nation Corporation, or a Te'mexw Member First Nation Citizen has a water licence approved under paragraphs 8 or 36 of this chapter and reasonably requires access across, or an interest in, provincial Crown land for the construction, maintenance, improvement or operation of work authorized under that water licence, British Columbia will grant the access or interest on reasonable terms.

GROUNDWATER

19. If British Columbia brings into force Provincial Law regulating the volume of Groundwater under Treaty Settlement Lands which may be extracted and used, British Columbia will, if Groundwater is reasonably available, negotiate and attempt to reach agreement with the Te'mexw Member First Nation on the volume of Groundwater which may be extracted and used for domestic, agricultural, waterworks, irrigation, and industrial purposes or other purposes as agreed to by British Columbia and the relevant Te'mexw Member First Nation on Treaty Settlement Lands for as long as such Provincial Laws are in effect.
 20. For the purposes of paragraph 19 of this chapter, British Columbia and the Te'mexw Member First Nation will:
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- (a) determine the volume of flow of Groundwater which can reasonably be withdrawn from the Groundwater aquifer under consideration while maintaining the sustainability and quality of the Groundwater aquifer; and
 - (b) determine the existing and reasonable future needs for Groundwater of the Te'mexw Member First Nation on Treaty Settlement Lands, as well as the existing and future needs of other users in the area, and take into account any applicable requirement under Federal and Provincial Law.
21. If British Columbia and the Te'mexw Member First Nation fail to agree on the volume of Groundwater which may be extracted and used by the Te'mexw Member First Nation in negotiations under paragraphs 19 and 20 of this chapter, British Columbia or the Te'mexw Member First Nation may refer the matter to be finally determined by arbitration in accordance with the Dispute Resolution Chapter.
22. Access to extract Groundwater on Treaty Settlement Lands will require the consent of the Te'mexw Member First Nation.

TE'MEXW MEMBER FIRST NATION GOVERNMENT LAW MAKING AUTHORITY

23. Each Te'mexw Member First Nation Government may make laws in respect of the consent of the Te'mexw Member First Nation Government under subparagraph 8(a) of this chapter to applications for water licences to be applied against the Te'mexw Member First Nation Water Reservation.
24. In the event of a Conflict between a Federal or Provincial Law and a Te'mexw Member First Nation Law made under paragraph 23 of this chapter, the Te'mexw Member First Nation Law will prevail to the extent of the Conflict.
25. Each Te'mexw Member First Nation Government may make laws in respect of the supply to, and the use of water from, a water licence issued to the Te'mexw Member First Nation in accordance with paragraph 8 of this chapter.
26. In the event of a Conflict between a Federal or Provincial Law and a Te'mexw Member First Nation Law made under paragraph 25 of this chapter, the Federal or Provincial Law will prevail to the extent of the Conflict.

SALE OF WATER

27. If Federal and Provincial Law permits the sale of water, the Te'mexw Member First Nation may sell water in accordance with those laws.

FLOOD PROTECTION

28. Each Te'mexw Member First Nation Government will have exclusive ownership and responsibility for maintenance of all diking systems or other flood protection works situated entirely on its Treaty Settlement Lands owned by the Te'mexw Member First Nation.
29. Where a diking system or other flood protection works extend beyond Treaty Settlement Lands or provide protection for other lands, the Te'mexw Member First Nation Government may enter into agreements for joint management and responsibility for such systems or works with other jurisdictions and owners.
30. A Te'mexw Member First Nation Government may make laws regulating the development and use of Treaty Settlement Lands which are vulnerable to flooding and will require that any development on such land is subject to flood-proofing standards equal to or greater than provincial standards.
31. In the event of a Conflict between a Federal or Provincial Law and a Te'mexw Member First Nation Law made under paragraph 30 of this chapter, the Federal or Provincial Law will prevail to the extent of the Conflict.
32. The Te'mexw Member First Nation Government will identify risks associated with the failure of any dam, dike or other protective works for which the Te'mexw Member First Nation Government has responsibility, and develop plans for:
 - (a) immediate local response in the event of a potential emergency;
 - (b) quick notice to all other jurisdictions which may be threatened by the uncontrolled release of water; and
 - (c) coordination with provincial authorities for disaster assistance when local capacity is exceeded.

WATER MANAGEMENT

33. The Te'mexw Member First Nation Government may participate in water planning processes in the Te'mexw Member First Nation Area in the same manner as Local Governments and other First Nations.
34. In respect of the management of water within a Te'mexw Member First Nation Area, the Te'mexw Member First Nation Government and Canada or British Columbia may negotiate agreements to:
 - (a) define respective roles and responsibilities and coordinate activities related to:

- (i) flood response and public safety;
 - (ii) protection of water quality;
 - (iii) ground water management and regulation;
 - (iv) resource inventory;
 - (v) monitoring of water quality and quantity;
 - (vi) management of and access to information;
 - (vii) water conservation;
 - (viii) water management objectives and planning; and
 - (ix) any other matters as agreed to by the Parties; and
- (b) identify watersheds that require water management planning.
35. Where a watershed includes both the Treaty Settlement Lands of a Te'mexw Member First Nation and other provincial Crown land in British Columbia, and if the Te'mexw Member First Nation or British Columbia considers that the watershed is an important source of drinking water, British Columbia and the Te'mexw Member First Nation Government may negotiate agreements on promoting the protection of drinking water in the area.

WATER LICENCES UNDER PROVINCIAL LAW

36. The Final Agreement does not preclude a Te'mexw Member First Nation or a Te'mexw Member First Nation Citizen from applying for additional water licences under Provincial Law not provided for under the Te'mexw Member First Nation Water Reservation established under paragraph 3 of this chapter.

CHAPTER 14 – GOVERNANCE

TE'MEXW MEMBER FIRST NATION SELF-GOVERNMENT

1. Each Te'mexw Member First Nation will have the right to self-government, and the authority to make laws, as set out in the Final Agreement.

TE'MEXW MEMBER FIRST NATION GOVERNMENT

2. Each Te'mexw Member First Nation Government, as provided for under its Te'mexw Member First Nation Constitution and the Final Agreement, will be the government of that Te'mexw Member First Nation.
3. Te'mexw Member First Nation Governments will operate within the framework of the Constitution of Canada.
4. The rights, powers, privileges and authorities of a Te'mexw Member First Nation will be exercised in accordance with:
 - (a) the Final Agreement; and
 - (b) Te'mexw Member First Nation Law, including the Te'mexw Member First Nation Constitution.
5. Each Te'mexw Member First Nation will act through its own Te'mexw Member First Nation Government in exercising its rights, powers, privileges and authorities and carrying out its duties, functions and obligations.
6. Members of each Te'mexw Member First Nation Government will be elected in accordance with that Te'mexw Member First Nation's Constitution and any applicable Te'mexw Member First Nation Law.

LEGAL STATUS AND CAPACITY

7. Each of the Te'mexw Member First Nations will be legal entities with the powers set out in the Final Agreement and with the rights, powers, and privileges of a natural person whose rights, powers, and privileges shall include the capacity to:
 - (a) enter into contracts and agreements;
 - (b) form corporations or other legal entities in accordance with Federal and Provincial Law;
 - (c) sue and be sued; and

- (d) do other things ancillary to the exercise of their rights, powers, and privileges.
8. For greater certainty, the legal capacity, rights, powers, and privileges referred to in paragraph 7 of this chapter will not limit the ability of the Te'mexw Member First Nation to govern itself in accordance with the Te'mexw Member First Nation Constitution and the Final Agreement.

TE'MEXW MEMBER FIRST NATION GOVERNMENT LIABILITY

Elected Members of Te'mexw Member First Nation Government

9. No action for damages lies or may be instituted against an elected member or former elected member of the Te'mexw Member First Nation Government for:
- (a) anything said or done, or omitted to be said or done, by or on behalf of the Te'mexw Member First Nation or the Te'mexw Member First Nation Government by somebody other than that elected member or former elected member while he or she is, or was, an elected member;
 - (b) any alleged neglect or default in the performance, or intended performance, of a duty, or the exercise of a power, of the Te'mexw Member First Nation or the Te'mexw Member First Nation Government while that person is, or was, an elected member;
 - (c) anything said or done or omitted to be said or done by that person in the performance, or intended performance, of the person's duty or the exercise of the person's power; or
 - (d) any alleged neglect or default in the performance, or intended performance, of that person's duty or exercise of that person's power.
10. Subparagraphs 9(c) and 9(d) of this chapter do not provide a defence if:
- (a) the person has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or willful misconduct; or
 - (b) the cause of action is libel or slander.
11. Subparagraphs 9(c) and 9(d) of this chapter do not absolve the Te'mexw Member First Nation from vicarious liability arising out of a tort committed by an elected member or former elected member of the Te'mexw Member First Nation for which the Te'mexw Member First Nation would have been liable had those subparagraphs not been in effect.

Te'mexw Member First Nation Public Officers

12. No action for damages lies or may be instituted against a Te'mexw Member First Nation Public Officer or former Te'mexw Member First Nation Public Officer for:
 - (a) anything said or done or omitted to be said or done by that person in the performance, or intended performance, of the person's duty or the exercise of the person's power; or
 - (b) any alleged neglect or default in the performance, or intended performance, of that person's duty or exercise of that person's power.
13. Paragraph 12 of this chapter does not provide a defence if:
 - (a) the Te'mexw Member First Nation Public Officer has, in relation to the conduct that is the subject matter of the action, been guilty of dishonesty, gross negligence or malicious or willful misconduct; or
 - (b) the cause of action is libel or slander.
14. Paragraph 12 of this chapter does not absolve any of the corporations or bodies referred to in the definition of Te'mexw Member First Nation Public Officer from vicarious liability arising out of a tort committed by a Te'mexw Member First Nation Public Officer for which the corporation or body would have been liable had that paragraph not been in effect.
15. Notwithstanding paragraph 12 of this chapter, except as may be otherwise provided under Federal or Provincial Law, a Te'mexw Member First Nation Public Officer does not have protections, immunities or limitations in respect of liability, in respect of the provision of a service, if no persons delivering reasonably similar programs or services under Federal or Provincial Laws have protections, immunities, limitations in respect of liability and rights under Federal or Provincial Laws.

Te'mexw Member First Nation and Te'mexw Member First Nation Government

16. The Te'mexw Member First Nation and the Te'mexw Member First Nation Government have the protections, immunities, limitations in respect of liability, remedies over, and rights provided to a municipality and its municipal council under Part 7 of the Local Government Act.
17. For greater certainty, the provisions of paragraph 16 of this chapter in relation to remedies over and rights provided to a municipality under Part 7 of the *Local Government Act*, do not limit any authority of the Te'mexw Member First Nation Government under the Final Agreement to apply to a court of competent jurisdiction to enforce, prevent or restrain the contravention of Te'mexw Member

First Nation Law, including the recovery or imposition of any penalty established under Te'mexw Member First Nation Law for the contravention of a Te'mexw Member First Nation Law.

18. Subject to paragraph 16 of the Access Chapter, the Te'mexw Member First Nation has the protections, immunities, limitations in respect of liability, remedies over, and rights provided to a municipality under the *Occupiers Liability Act*, and, for greater certainty, has those protections, immunities, limitations in respect of liability, remedies over, and rights, in respect of a road on Treaty Settlement Lands used by the public, or by industrial or resource users, if the Te'mexw Member First Nation is the occupier of that road.

Writ of Execution Against the Te'mexw Member First Nation

19. Notwithstanding paragraph 16 of this chapter, a writ of execution against the Te'mexw Member First Nation must not be issued without leave of the Supreme Court of British Columbia, which may:
- (a) permit its issue at a time and on conditions the court considers proper; or
 - (b) refuse to permit it to be issued or suspend action under it on terms and conditions the court thinks proper or expedient.
20. In determining how it will proceed under paragraph 19 of this chapter, the court must have regard to:
- (a) any reputed insolvency of the Te'mexw Member First Nation;
 - (b) any security afforded to the person entitled to the judgment by the registration of the judgment;
 - (c) the delivery of programs or services by the Te'mexw Member First Nation that are not provided by municipalities in British Columbia, and the funding of those programs or services; and
 - (d) the immunities from seizure of assets of the Te'mexw Member First Nation as set out in the Final Agreement.

CONSTITUTION OF TE'MEXW MEMBER FIRST NATION

21. Prior to the Final Agreement coming into force, the Te'mexw Member First Nation will adopt a Constitution that will be consistent with the Final Agreement, which will:
- (a) provide for a democratically elected Te'mexw Member First Nation Government including its duties, composition, membership, and procedures;

- (b) provide for the establishment of Te'mexw Member First Nation Public Institutions;
 - (c) contain a citizenship code for the Te'mexw Member First Nation;
 - (d) provide for a system of financial accountability to Te'mexw Member First Nation Citizens including reporting and administration requirements comparable to those generally accepted for governments in Canada;
 - (e) provide for conflict of interest rules that are comparable to those generally accepted for governments in Canada;
 - (f) require that Te'mexw Member First Nation Governments be democratically accountable to Te'mexw Member First Nation Citizens with elections at least every five years;
 - (g) provide that only Te'mexw Member First Nation Citizens may vote in elections for the Te'mexw Member First Nation Government;
 - (h) provide a process for the enactment of Te'mexw Member First Nation Law and for the challenging of the validity of Te'mexw Member First Nation Law;
 - (i) recognize and protect rights and freedoms of Te'mexw Member First Nation Citizens;
 - (j) contain an amending formula;
 - (k) provide that any Te'mexw Member First Nation Law which is inconsistent with its Te'mexw Member First Nation Constitution is, to the extent of the inconsistency, of no force or effect; and
 - (l) contain other provisions as determined by the Te'mexw Member First Nation.
22. Subparagraph 21(l) of this chapter may include provisions respecting conditions under which the Te'mexw Member First Nation may dispose of lands or interests in lands in accordance with subparagraph 18(b) of the Treaty Settlement Lands Chapter.
23. Each Te'mexw Member First Nation Constitution, once ratified in accordance with the Final Agreement, will come into force on the Effective Date.
24. The Te'mexw Member First Nation Constitution will not form part of the Final Agreement.
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CITIZENSHIP CODE

25. The citizenship codes established in the Te'mexw Member First Nation Constitutions will entitle all persons enrolled under the Final Agreement to be Te'mexw Member First Nation Citizens.

DELEGATION

26. Any law-making authority of the Te'mexw Member First Nation Government under the Final Agreement may be delegated by a Te'mexw Member First Nation Law to:

- (a) a Te'mexw Member First Nation Public Institution;
- (b) another First Nation Government in British Columbia;
- (c) a public institution established by one or more First Nation Governments in British Columbia; or
- (d) British Columbia, Canada, or a Local Government,

if the delegation and the exercise of any law-making authority is in accordance with the Final Agreement and the Te'mexw Member First Nation Constitution.

27. Any authority of the Te'mexw Member First Nation Government under the Final Agreement other than a law-making authority may be delegated by a Te'mexw Member First Nation Law to:

- (a) any body set out in paragraph 26 of this chapter; or
- (b) a legal entity in British Columbia,

if the delegation and the exercise of any delegated authority is in accordance with the Final Agreement and the Te'mexw Member First Nation Constitution.

28. No delegation under paragraphs 26 and 27 of this chapter will be irrevocable.
29. Any delegation under paragraphs 26 and 27 of this chapter will require the written consent of the delegate.
30. Each Te'mexw Member First Nation Government has the capacity to enter into agreements to receive powers, including law-making authority, by delegation.

NON-CITIZEN RESIDENT PARTICIPATION IN DECISION MAKING

31. Te'mexw Member First Nation Institutions will consult with Non-Citizen Residents

in respect of Te'mexw Member First Nation Institution decisions that directly and significantly affect those Non-Citizen Residents.

32. A Te'mexw Member First Nation Institution will carry out its obligation to consult under paragraph 31 of this chapter with Non-Citizen Residents who are directly and significantly affected by:
- (a) giving the Non-Citizen Residents notice of a pending decision subject to paragraph 31 of this chapter;
 - (b) providing sufficient information with respect to the matter to permit the Non-Citizen Residents to prepare their views on the matter;
 - (c) giving the Non-Citizen Residents a reasonable period of time to prepare their comments and views on the matter;
 - (d) allowing the Non-Citizen Residents a reasonable opportunity to make representations and comment on the pending decision; and
 - (e) giving serious consideration to any comments or views made by the Non-Citizen Residents before making a decision.
33. In addition to the requirement to consult under paragraph 31 of this chapter, the Te'mexw Member First Nation Government will provide Non-Citizen Residents with the opportunity to participate in the decision-making processes of a Te'mexw Member First Nation Public Institution if the administrative decisions of that Te'mexw Member First Nation Public Institution directly and significantly affect Non-Citizen Residents.
34. The means of participation under paragraph 33 of this chapter will include:
- (a) the appointment of at least one Non-Citizen Resident, selected by the Non-Citizen Residents, as a member of the Te'mexw Member First Nation Public Institution with the ability to participate in discussions and vote on matters that directly and significantly affect Non-Citizen Residents;
 - (b) if the members of a Te'mexw Member First Nation Institution are elected, the ability of Non-Citizen Residents to elect at least one Non-Citizen Resident as a member of the Te'mexw Member First Nation Public Institution with the ability to participate in discussions and vote on matters that directly and significantly affect Non-Citizen Residents; or
 - (c) other comparable measures.
35. Notwithstanding paragraph 34 of this chapter, the Te'mexw Member First Nation Government may provide that a majority of the members of the Te'mexw Member
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First Nation Public Institution must be Te'mexw Member First Nation members and all members must satisfy generally applicable eligibility criteria.

36. The Te'mexw Member First Nation Government will establish the means of participation under paragraph 34 of this chapter by law at the same time that it establishes a Te'mexw Member First Nation Public Institution whose administrative decisions may directly and significantly affect Non-Citizen Residents.
37. Subject to paragraphs 32 and 34 of this chapter, the Te'mexw Member First Nation Government may make laws prescribing:
 - (a) the means by which notice may be given for the purposes of paragraph 32 of this chapter;
 - (b) the information that must be provided when notice pursuant to paragraph 32 of this chapter is given;
 - (c) the process by which persons may provide comments pursuant to paragraph 32 of this chapter; and
 - (d) the establishment of other comparable measures pursuant to subparagraph 34(c) of this chapter.
38. The Te'mexw Member First Nation Government will provide Non-Citizen Residents with access to the appeal and review procedures established under paragraph 40 of this chapter in respect of administrative decisions of the Te'mexw Member First Nation Public Institution that directly and significantly affect Non-Citizen Residents.
39. In the event of a Conflict between a Te'mexw Member First Nation Law under paragraph 37 of this chapter, Federal or Provincial Law will prevail to the extent of the Conflict.

APPEAL AND REVIEW OF ADMINISTRATIVE DECISIONS

40. The Te'mexw Member First Nation Government will establish processes for appeal or review of administrative decisions made by Te'mexw Member First Nation Institutions and if those processes provide for a right of appeal to a court, the Supreme Court of British Columbia will have jurisdiction to hear those appeals.
41. The Supreme Court of British Columbia has jurisdiction in respect of applications for judicial review of administrative decisions taken by Te'mexw Member First Nation Institutions under a Te'mexw Member First Nation Law, but no application for judicial review of those decisions may be brought until all procedures for appeal or review provided by the Te'mexw Member First Nation Government and applicable to that decision have been exhausted.

42. The *Judicial Review Procedure Act* applies to an application for judicial review of administrative decisions taken by the Te'mexw Member First Nation Institutions under paragraph 41 of this chapter as if the Te'mexw Member First Nation Law were an "enactment" within the meaning of that Act.

CHALLENGES TO VALIDITY OF TE'MEXW MEMBER FIRST NATION LAW

43. A court or tribunal that has jurisdiction over the proceeding in which the validity of a Te'mexw Member First Nation Law is challenged may determine the question of validity of the Te'mexw Member First Nation Law.

REGISTER OF LAWS/PROCEDURE FOR PROCLAMATION OF LAWS

44. The Te'mexw Member First Nation Governments will:
- (a) maintain a public registry of Te'mexw Member First Nation Law and Constitutions in the English language;
 - (b) provide Canada and British Columbia with copies of Te'mexw Member First Nation Laws and Constitutions as soon as practical after they are enacted; and
 - (c) establish procedures for the coming into force and the publication of Te'mexw Member First Nation Law.

LAW-MAKING PROVISIONS

45. Before the Te'mexw Member First Nation Government enacts a law in respect of adoption, Child Protection Services, health, family and social services, Child Care, or kindergarten to grade 12 education, the Te'mexw Member First Nation Government will give at least six months written notice to Canada and British Columbia of its intention to enact the law.
46. After notice is given under paragraph 45 of this chapter, if Canada and British Columbia agree, the Te'mexw Member First Nation Government may enact the law prior to the expiration of the six months.
47. At the written request of Canada or British Columbia made within three months of receiving notice under paragraph 45 of this chapter, the Te'mexw Member First Nation Government will discuss with Canada or British Columbia, as the case may be:
- (a) the comparability of standards to be established under Te'mexw Member First Nation Law to standards set out in Provincial Law;
 - (b) immunity of individuals providing services or exercising authority under

- Te'mexw Member First Nation Law;
- (c) readiness;
 - (d) quality assurance; and
 - (e) other matters agreed to by the Parties.
48. At the written request of any Party made within three months of receiving notice under paragraph 45 of this chapter, the relevant Parties will discuss:
- (a) options to address the interests of the Te'mexw Member First Nation Government through methods other than the exercise of law-making authority;
 - (b) any transfer of cases and related documentation from federal or provincial institutions to Te'mexw Member First Nation Institutions, including any confidentiality and privacy considerations;
 - (c) any transfer of assets from federal or provincial institutions to Te'mexw Member First Nation Institutions;
 - (d) any appropriate amendments to Federal or Provincial Law, including amendments to address duplicate licencing requirements; and
 - (e) other matters agreed to by the Parties.
49. The Parties may enter into agreements regarding any of the matters set out in paragraph 47 or 48 of this chapter, but an agreement under this paragraph is not a condition precedent to the exercise of law-making authority by the Te'mexw Member First Nation Government, and such authority may be exercised immediately following the six-month notice period.

NOTIFICATION OF PROVINCIAL LEGISLATION

50. Except where this cannot be done for reasons of emergency or confidentiality, subject to paragraph 54 of this chapter, or an agreement under paragraph 53 of this chapter, before legislation is introduced in the Legislative Assembly, or before a regulation is approved by the Lieutenant Governor-in-Council, British Columbia will notify the Te'mexw Member First Nation if:
- (a) the Final Agreement provides the Te'mexw Member First Nation Government law-making authority in respect of the subject matter of the legislation or regulation;
 - (b) the legislation or regulation may affect the protections, immunities,
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limitations in respect of liability, remedies over, and rights referred to in paragraphs 9, 12 and 16 of this chapter; or,

- (c) the legislation or regulation may affect:
 - (i) the rights, powers, duties, obligations, or
 - (ii) the protections, immunities, and or limitations in respect of liability referred to in paragraph 129 of this chapter.

 - 51. If British Columbia does not notify the Te'mexw Member First Nation under paragraph 50 of this chapter for reasons of emergency or confidentiality, British Columbia will notify the Te'mexw Member First Nation, as soon as practicable, that the legislation has been introduced in the Legislative Assembly, or the regulation has been deposited with the Registrar of Regulations.

 - 52. Notification under paragraphs 50 and 51 of this chapter will include:
 - (a) the nature and purpose of the proposed legislation or regulation; and
 - (b) the date the proposed legislation or regulation is anticipated to take effect, if it has not already done so.

 - 53. The Te'mexw Member First Nation and British Columbia may enter into an agreement establishing alternatives to the obligations which would otherwise apply under paragraphs 50 to 52 and 54 of this chapter.

 - 54. Subject to paragraphs 55 and 56 of this chapter, or an agreement under paragraph 53 of this chapter, if, within 30 days after notice is given under paragraphs 50 or 51 of this chapter or by agreement under paragraph 53 of this chapter, the Te'mexw Member First Nation makes a written request to British Columbia, then British Columbia and the Te'mexw Member First Nation will discuss the effect of the legislation or regulation, if any, on:
 - (a) a law which has been enacted by the Te'mexw Member First Nation Government under the Final Agreement; or
 - (b) a matter referred to in subparagraphs 50(b) or 50(c) of this chapter.

 - 55. If British Columbia establishes a process providing for collective discussion with First Nation Governments in British Columbia in relation to matters referred to in paragraph 54 of this chapter:
 - (a) the Te'mexw Member First Nation will participate in that process; and
 - (b) the process will be deemed to satisfy British Columbia's obligation for
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discussion in respect of a particular matter under paragraph 54 of this chapter.

56. If the Te'mexw Member First Nation is a member of a representative body and British Columbia and that body have entered into an agreement, with the Te'mexw Member First Nation's consent, providing for consultation in respect of matters under paragraphs 50, 51 and 54 of this chapter, then consultations in respect of a particular matter will be deemed to satisfy British Columbia's obligations for notification under paragraph 50 and 51 of this chapter and discussion under paragraph 54 of this chapter.
57. Unless British Columbia agrees otherwise, the Te'mexw Member First Nation will retain the information provided under paragraphs 50 to 56 of this chapter in strict confidence until such time, if ever, the draft legislation is given First Reading in the Legislative Assembly or a regulation is deposited with the Registrar of Regulations, as applicable.
58. The Parties acknowledge that nothing in paragraphs 50 to 56 of this chapter is intended to interfere with British Columbia's legislative process.
59. Notwithstanding any other provision of the Final Agreement, to the extent that provincial legislation or a regulation referred to in paragraph 50 of this chapter renders a Te'mexw Member First Nation Law inapplicable, the Te'mexw Member First Nation Law will be deemed to be applicable for a period of six months after the coming into force of the provincial legislation or regulation.

TE'MEXW MEMBER FIRST NATION LAW-MAKING AUTHORITIES

Te'mexw Member First Nation Governments

60. The Te'mexw Member First Nation Government may make laws in respect of the election, administration, management, and operation of the Te'mexw Member First Nation Government including:
 - (a) the establishment of Te'mexw Member First Nation Public Institutions, including their respective powers, duties, composition, and membership, but any registration or incorporation of a Te'mexw Member First Nation Public Institution must be under Federal or Provincial Law;
 - (b) the powers, duties, responsibilities, remuneration, and indemnification of members, officials, and appointees of Te'mexw Member First Nation Institutions;
 - (c) the establishment of Te'mexw Member First Nation Corporations, but the registration or incorporation of Te'mexw Member First Nation Corporations

must be under Federal or Provincial Law;

- (d) financial administration of the Te'mexw Member First Nation and Te'mexw Member First Nation Institutions; and
 - (e) elections, by-elections, and referenda.
61. The Te'mexw Member First Nation Government will make laws to provide Te'mexw Member First Nation Citizens with reasonable access to information in the custody or control of a Te'mexw Member First Nation Institution.
62. The Te'mexw Member First Nation Government will make laws to provide persons other than Te'mexw Member First Nation Citizens with reasonable access to information in the custody or control of a Te'mexw Member First Nation Institution regarding matters that directly and significantly affect those persons.
63. A Te'mexw Member First Nation Law under paragraphs 61 or 62 of this chapter may exempt access to information that is generally unavailable under Federal or Provincial Law.
64. A Te'mexw Member First Nation Law under paragraph 60, 61 or 62 of this chapter prevails to the extent of a Conflict with a Federal or Provincial Law except Federal or Provincial Law in respect of the protection of personal information prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 60, 61 or 62 of this chapter.

Te'mexw Member First Nation Citizenship

65. The Te'mexw Member First Nation Government may make laws in respect of Te'mexw Member First Nation citizenship.
66. The conferring of Te'mexw Member First Nation citizenship does not:
- (a) confer or deny rights of entry into Canada, Canadian citizenship, the right to be registered as an Indian under the *Indian Act*, or any of the rights or benefits under the *Indian Act*; or
 - (b) except as set out in the Final Agreement or in any Federal or Provincial Law, impose any obligation on Canada or British Columbia to provide rights or benefits.
67. A Te'mexw Member First Nation Law under paragraph 65 of this chapter prevails to the extent of a Conflict with a Federal or Provincial Law.

Te'mexw Member First Nation Assets

68. The Te'mexw Member First Nation Government may make laws in respect of the use, possession, and management of assets of the Te'mexw Member First Nation, Te'mexw Member First Nation Corporation or Te'mexw Member First Nation Public Institution:
- (a) located off Treaty Settlement Lands; and
 - (b) located on Treaty Settlement Lands.
69. For greater certainty, the law-making authority under paragraph 68 of this chapter does not include the authority to make laws regarding creditor's rights and remedies.
70. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under subparagraph 68(a) of this chapter.
71. Te'mexw Member First Nation Law prevails to the extent of a Conflict with a Federal or Provincial Law under subparagraph 68(b) of this chapter.

Adoption

72. For the purposes of this chapter, all relevant factors must be considered in determining a child's best interests, including those factors that must be considered under the *Adoption Act*.
73. The Te'mexw Member First Nation Government may make laws in respect of adoptions in British Columbia for:
- (a) Te'mexw Member First Nation Children; and
 - (b) Children who reside on Treaty Settlement Lands to be adopted by Te'mexw Member First Nation Citizens.
74. Te'mexw Member First Nation Law under paragraph 73 of this chapter must:
- (a) expressly provide that the best interests of the Child are the paramount consideration in determining whether an adoption will take place; and
 - (b) provide for the consent of individuals whose consent to a Child's adoption is required under Provincial Law, subject to the power of the court to dispense with such consent under Provincial Law.
75. If the Te'mexw Member First Nation Government exercises a law-making power under paragraph 73 of this chapter, the Te'mexw Member First Nation will:

- (a) develop operational and practice standards that promote the best interests of the Child, and
 - (b) provide British Columbia and Canada with a record of all adoptions occurring under Te'mexw Member First Nation Law.
76. The Parties will negotiate and attempt to reach agreement on the information that will be included in the record under subparagraph 75(b) of this chapter.
77. A Te'mexw Member First Nation Law under paragraph 73 of this chapter applies to the adoption of a Te'mexw Member First Nation Child residing off Treaty Settlement Lands in British Columbia or a Child residing on Treaty Settlement Lands who is not a Te'mexw Member First Nation Child if:
- (a) the child has not been placed for adoption under the *Adoption Act*, and each of the parents, the child, if the child has reached the age where consent to adoption is required under the *Adoption Act*, and, as the case may be, the guardian of the child, other than the Director, consents to the application of a Te'mexw Member First Nation Law to the adoption;
 - (b) a Director designated under the *Child, Family and Community Service Act* is guardian of the child and the Director consents, or
 - (c) a court dispenses with the requirement for the consent referred to in subparagraph 74(a) of this chapter, in accordance with the criteria that would be used by that court in an application to dispense with the requirement for a parent or guardian's consent to an adoption under Provincial Law.
78. If a Director designated under the *Child, Family and Community Service Act* becomes the guardian of a Te'mexw Member First Nation Child, the Director will:
- (a) provide notice to the Te'mexw Member First Nation Government that the Director is the guardian of the child;
 - (b) provide notice to the Te'mexw Member First Nation Government when the Director applies for a continuing custody order;
 - (c) provide the Te'mexw Member First Nation Government with a copy of the continuing custody order once the order is made and make reasonable efforts to involve the Te'mexw Member First Nation Government in planning for the child;
 - (d) if requested by the Te'mexw Member First Nation Government, consent to the application of Te'mexw Member First Nation Law to the adoption of that Te'mexw Member First Nation Child, provided that it is in the best
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interests of the child under Provincial Law; and

- (e) in determining the best interests of the child under subparagraph 78(d) of this chapter, the Director will consider, if not set out in the *Adoption Act*, the importance of preserving the child's cultural identity.
79. A Te'mexw Member First Nation Law under paragraph 73 of this chapter prevails to the extent of a Conflict with a Federal or Provincial Law.
80. Before placing a Te'mexw Member First Nation Child for adoption, an adoption agency must make reasonable efforts to obtain information about the child's cultural identity and discuss with the designated representative of the Te'mexw Member First Nation, the child's placement.
81. Paragraph 80 of this chapter does not apply if the child has reached the age where consent to adoption is required under the *Adoption Act*, and objects to the discussion taking place, or if the birth parent or other guardian of the child who requested that the child be placed for adoption objects to the discussion taking place.

Child Custody

82. The Te'mexw Member First Nation Government has standing in any judicial proceedings in which custody of a Te'mexw Member First Nation Child is in dispute and the court will consider any evidence and representations in respect of Te'mexw Member First Nation Law and customs in addition to any other matters it is required by law to consider.
83. The participation of the Te'mexw Member First Nation Government in proceedings referred to in paragraph 82 of this chapter will be in accordance with the applicable rules of court and will not affect the court's ability to control its process.

Child Protection Services

84. The Te'mexw Member First Nation Government may make laws in respect of Child Protection Services with respect to Te'mexw Member First Nation Families resident on Treaty Settlement Lands.
85. Te'mexw Member First Nation Law under paragraph 84 of this chapter must:
- (a) expressly provide that those Laws will be interpreted and administered such that the Safety and Well-Being of Children are the paramount consideration; and
 - (b) not preclude the reporting, under Provincial Law, of a Child in Need of Protection.
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86. If the Te'mexw Member First Nation Government makes laws under paragraph 84 of this chapter, the Te'mexw Member First Nation Government will:
- (a) develop operational and practice standards intended to ensure the Safety and Well-Being of Children and Te'mexw Member First Nation Families;
 - (b) participate in British Columbia's information management systems, or establish an information management system that is compatible with British Columbia's information systems, concerning Children in Need of Protection and Children in Care;
 - (c) allow for mutual sharing of information concerning Children in Need of Protection and Children in Care with British Columbia; and
 - (d) establish and maintain a system for the management, storage and disposal of Child Protection Services records and the safeguarding of personal Child Protection Services information.
87. Notwithstanding any laws made under paragraph 84 of this chapter, if there is an emergency in which a Te'mexw Member First Nation Child on Treaty Settlement Lands is in need of protection, and the Te'mexw Member First Nation has not responded or is unable to respond in a timely manner, British Columbia may act to protect the Te'mexw Member First Nation Child and, in those circumstances, unless British Columbia and the Te'mexw Member First Nation Government otherwise agree in writing, British Columbia, as appropriate, will refer the matter to the Te'mexw Member First Nation Government after the emergency.
88. A Te'mexw Member First Nation Law under paragraph 84 of this chapter prevails to the extent of a Conflict with a Federal or Provincial Law.
89. At the request of the Te'mexw Member First Nation Government or British Columbia, the Parties will negotiate and attempt to reach agreement in respect of Child Protection Services for:
- (a) Te'mexw Member First Nation Children who reside on or off Treaty Settlement Lands; or
 - (b) Children who reside on Treaty Settlement Lands who are not Te'mexw Member First Nation Children.
90. Where the Director becomes the guardian of a Te'mexw Member First Nation Child, the Director will make reasonable efforts to include the Te'mexw Member First Nation Government in planning for the Te'mexw Member First Nation Child, including adoption planning.
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Education of Language and Culture

91. The Te'mexw Member First Nation Government may make laws in respect of language and culture education on Treaty Settlement Lands for:
- (a) the certification of teachers for Te'mexw Member First Nation language and culture; and
 - (b) the development and teaching of a Te'mexw Member First Nation language and culture curriculum.
92. Te'mexw Member First Nation Law under paragraph 91 of this chapter does not apply to schools under the *School Act*.
93. A Te'mexw Member First Nation Law under paragraph 91 of this chapter prevails to the extent of a Conflict with a Federal or Provincial Law.

Health

94. The Te'mexw Member First Nation Government may make laws in respect of health services:
- (a) for Te'mexw Member First Nation Citizens; or
 - (b) provided by a Te'mexw Member First Nation Institution,
- on Treaty Settlement Lands.
95. Te'mexw Member First Nation Law under paragraph 94 of this chapter will take into account the protection, improvement and promotion of public and individual health and safety.
96. Te'mexw Member First Nation Law under paragraph 94 of this chapter do not apply to health services provided by a provincially-funded health institution, agency or body, other than an institution, agency or body established by the Te'mexw Member First Nation.
97. At the request of any Party, the Parties will negotiate and attempt to reach agreement for the delivery and administration of federal and provincial health services and programs by a Te'mexw Member First Nation Institution for individuals residing on Treaty Settlement Lands.
98. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 94 of this chapter.
99. Notwithstanding paragraph 98 of this chapter, a Te'mexw Member First Nation

Law under paragraph 94 of this chapter in respect of the organization and structure of Te'mexw Member First Nation Institutions used to deliver health services on Treaty Settlement Lands will prevail to the extent of a Conflict with a Federal or Provincial Law.

Family and Social Services

100. The Te'mexw Member First Nation Government may make laws in respect of family and social services, including income assistance and housing, provided by a Te'mexw Member First Nation Institution.
101. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 100 of this chapter.
102. The Te'mexw Member First Nation Government law-making authority under paragraph 100 of this chapter does not include the authority to make laws in respect of the licensing and regulation of facility-based services off Treaty Settlement Lands.
103. If the Te'mexw Member First Nation Government makes laws under paragraph 100 of this chapter, at the request of any Party, the Parties will negotiate and attempt to reach agreements in respect of exchange of information with regards to avoidance of double payments, and related matters.
104. At the request of any Party, the Parties will negotiate and attempt to reach agreements for administration and delivery by a Te'mexw Member First Nation Institution of federal and provincial social services and programs for all individuals residing within Treaty Settlement Lands.

Liquor Control

105. The Te'mexw Member First Nation Government may make laws in respect of the prohibition of, and the terms and conditions for, the sale, exchange, possession, manufacture or consumption of liquor on Treaty Settlement Lands.
106. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 105 of this chapter.
107. British Columbia will not issue a licence, permit, or other authority to sell liquor on Treaty Settlement Lands without the consent of the Te'mexw Member First Nation.
108. British Columbia will, in accordance with Provincial Law, authorize persons designated by the Te'mexw Member First Nation to approve or deny applications for special occasion licences to sell liquor on Treaty Settlement Lands.

Solemnization of Marriages

109. A Te'mexw Member First Nation Government may make laws in respect of:
- (a) the marriage rites and ceremonies of a Te'mexw Member First Nation culture; and
 - (b) the designation of Te'mexw Member First Nation Citizens to solemnize marriages.
110. Nothing in the *Marriage Act* will be construed as in any way preventing the Te'mexw Member First Nation from solemnizing, according to the rites and ceremonies of the Te'mexw Member First Nation culture, a marriage between any two persons:
- (a) neither of whom is under any legal disqualification to contract marriage under Federal or Provincial Law; and
 - (b) either or both of whom are Te'mexw Member First Nation Citizens
111. A marriage may not be solemnized under a Te'mexw Member First Nation Law unless the persons intending to marry possess a valid marriage licence.
112. For the purposes of paragraph 111 of this chapter, marriage licences may only be issued by the Te'mexw Member First Nation where:
- (a) the Te'mexw Member First Nation Government has been appointed as an issuer of marriage licences under Provincial Law; and
 - (b) the issuance of the marriage licence complies with the *Marriage Act*.
113. Immediately after the solemnization of the marriage, a representative designated under subparagraph 109(b) of this chapter must register the marriage:
- (a) by entering a record of it in a marriage register book issued by the chief executive officer under the *Vital Statistics Act* and kept by the Te'mexw Member First Nation for that purpose; and
 - (b) by providing the original registration to the chief executive officer under the *Vital Statistics Act*.
114. The chief executive officer, or a person authorized by the chief executive officer, under the *Vital Statistics Act* may, during normal business hours and as often as the chief executive officer considers necessary, inspect the marriage register book kept by the Te'mexw Member First Nation and compare it with the registrations returned by the Te'mexw Member First Nation under subparagraph 113(a) of this chapter.
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115. The record under subparagraph 113(a) of this chapter must be signed:
- (a) by each of the parties to the marriage;
 - (b) by two witnesses; and
 - (c) by a representative designated under subparagraph 109(b) of this chapter.
116. A representative designated under subparagraph 109(b) of this chapter by whom a marriage is solemnized must observe and perform the duties imposed on him or her under the *Vital Statistics Act* respecting the records of marriage.
117. Subject to paragraphs 110 to 116 of this chapter, a Te'mexw Member First Nation Law under paragraph 109 of this chapter prevails to the extent of a Conflict with Federal or Provincial Law.

Child Care

118. The Te'mexw Member First Nation Government may make laws in respect of Child Care services on Treaty Settlement Lands.
119. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 118 of this chapter.

Kindergarten to Grade 12 Education

120. The Te'mexw Member First Nation Government may make laws in respect of kindergarten to grade 12 education:
- (a) for Te'mexw Member First Nation Citizens; or
 - (b) provided by a Te'mexw Member First Nation Institution
on Treaty Settlement Lands.
121. Any Te'mexw Member First Nation Law under subparagraph 120(b) of this chapter must:
- (a) establish curriculum, examination, and other standards that permit transfers of students between school systems in British Columbia at a similar level of achievement and permit entry of students to the provincial post-secondary education systems; and

- (b) provide for the certification, other than for the teaching of a Te'mexw Member First Nation language and culture, of teachers, by a Te'mexw Member First Nation Public Institution, or a body recognized by British Columbia, in accordance with standards comparable to standards applicable to individuals who teach in public or provincially funded independent schools in British Columbia.
122. Te'mexw Member First Nation Law under paragraph 120 of this chapter does not apply to schools under the *School Act* or the *Independent School Act*, unless the school is established under the *Independent School Act* by a Te'mexw Member First Nation Institution.
123. The Te'mexw Member First Nation Government may make laws in respect of home education of Te'mexw Member First Nation Citizens on Treaty Settlement Lands.
124. Te'mexw Member First Nation Law under paragraphs 120 and 123 of this chapter must not interfere with the ability of parents to decide where their Children may be enrolled to receive kindergarten to grade 12 education.
125. Te'mexw Member First Nation Law under paragraph 120 or 123 of this chapter prevails to the extent of a Conflict with Federal or Provincial Law.
126. At the request of the Te'mexw Member First Nation or British Columbia, those Parties will negotiate and attempt to reach an agreement concerning the provision of kindergarten to grade 12 education by a Te'mexw Member First Nation Institution to:
- (a) persons other than Te'mexw Member First Nation Citizens residing on Treaty Settlement Lands; or
 - (b) Te'mexw Member First Nation Citizens residing off Treaty Settlement Lands.

Post-Secondary Education

127. The Te'mexw Member First Nation Government may make laws in respect of post-secondary education provided by a Te'mexw Member First Nation Institution on Treaty Settlement Lands including:
- (a) the establishment of post-secondary education institutions with the ability to grant degrees, diplomas or certificates;
 - (b) the determination of the curriculum for post-secondary education institutions established by the Te'mexw Member First Nation Government; and

- (c) the provision for and coordination of adult education programs.
128. Federal and Provincial Law prevail to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 127 of this chapter.

Emergency Preparedness

129. The Te'mexw Member First Nation Government has:
- (a) the rights, powers, duties, and obligations; and
 - (b) the protections, immunities and limitations in respect of liability,
of a local authority under Federal and Provincial Law in respect of emergency preparedness and emergency measures on Treaty Settlement Lands.
130. The Te'mexw Member First Nation Government may make laws in respect of its rights, powers, duties, and obligations under paragraph 129 of this chapter.
131. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 130 of this chapter.
132. For greater certainty, the Te'mexw Member First Nation Government may declare a state of local emergency, and exercise the powers of a local authority in respect of local emergencies in accordance with Federal and Provincial Law in respect of emergency measures, but any declaration and any exercise of those powers is subject to the authority of Canada and British Columbia under Federal and Provincial Law.
133. Nothing in the Final Agreement affects the authority of:
- (a) Canada to declare a national emergency; or
 - (b) British Columbia to declare a provincial emergency,
in accordance with Federal and Provincial Law.

Regulation of Business

134. The Te'mexw Member First Nation Government may make laws in respect of the regulation, licensing and prohibition of business on Treaty Settlement Lands, including the imposition of licence fees or other fees.

135. The Te'mexw Member First Nation Government law-making authority under paragraph 134 of this chapter does not include the authority to make laws in respect of the accreditation, certification, or professional conduct of professions and trades.
136. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 134 of this chapter.

Public Order, Peace and Safety

137. The Te'mexw Member First Nation Government may make laws in respect of the regulation, control or prohibition of any actions, activities or undertakings on Treaty Settlement Lands that constitute, or may constitute, a nuisance, a trespass, a danger to public health, or a threat to public order, peace or safety.
138. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 137 of this chapter.

Buildings and Structures

139. The Te'mexw Member First Nation Government may make laws in respect of buildings and structures on Treaty Settlement Lands to the same extent as municipal governments in British Columbia.
140. Subject to paragraph 141 of this chapter, Te'mexw Member First Nation Law under paragraph 139 of this chapter must not establish standards for buildings or structures to which the British Columbia Building Code applies which are additional to or different from the standards established by the British Columbia Building Code.
141. At the request of the Te'mexw Member First Nation, British Columbia will negotiate and attempt to reach an agreement to enable the Te'mexw Member First Nation Government to establish standards for buildings or structures which are additional to or different from the standards established by the British Columbia Building Code.
142. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law made under paragraph 139 of this chapter.

Traffic, Parking, Highways and Transportation

143. The Te'mexw Member First Nation Government may make laws in respect of traffic, parking, transportation and Te'mexw Member First Nation Roads on Treaty Settlement Lands to the same extent as municipal governments have authority to make laws in respect of traffic, parking, transportation and highways in municipalities in British Columbia.

144. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 143 of this chapter.

Public Works

145. The Te'mexw Member First Nation Government may make laws in respect of public works and related services on its Treaty Settlement Lands.
146. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law made under paragraph 145 of this chapter.

ADMINISTRATION OF JUSTICE

Community Correctional Services

147. The Te'mexw Member First Nation may provide Community Correctional Services for persons charged with, or found guilty of, an offence under Te'mexw Member First Nation Law and to carry out such other responsibilities as may be set out in an agreement under paragraphs 148 or 149 of this chapter.
148. At the request of the Te'mexw Member First Nation, the Te'mexw Member First Nation and British Columbia may enter into agreements to provide Community Correctional Services in relation to persons who fall under the jurisdiction of British Columbia on Treaty Settlement Lands for persons charged with, or found guilty of, an offence under a Federal or Provincial Law.
149. The Te'mexw Member First Nation and British Columbia may enter into agreements to enable the Te'mexw Member First Nation to provide rehabilitative community-based programs and interventions off Treaty Settlement Lands for Te'mexw Member First Nation Citizens charged with, or found guilty of, an offence under a Federal or Provincial Law.
150. The Final Agreement does not authorize the Te'mexw Member First Nation to establish or maintain places of confinement, except for police jails or lockups operated by a police service established under Provincial Law.

Penalties

151. A Te'mexw Member First Nation Law may provide for the imposition of sanctions, including fines, Administrative Penalties, community service, restitution and imprisonment, for the violation of Te'mexw Member First Nation Law.
152. Subject to paragraph 155 of this chapter, a Te'mexw Member First Nation Law may provide for:

- (a) a maximum fine that is not greater than that which may be imposed for comparable regulatory offences punishable by way of summary conviction under Federal or Provincial Law; and
 - (b) a maximum Administrative Penalty that is not greater than that which may be imposed for a breach of a comparable regulatory requirement under Federal or Provincial Law.
153. Where there is no comparable regulatory offence or regulatory requirement under Federal or Provincial Law, the maximum fine or Administrative Penalty shall not be greater than the general limit for offences under the provincial *Offence Act*.
154. Subject to paragraph 155 of this chapter, a Te'mexw Member First Nation Law may provide for a maximum term of imprisonment that is not greater than the general limit for offences under the provincial *Offence Act*.
155. A Te'mexw Member First Nation Law with respect to taxation may provide for:
- (a) a fine that is greater than the limits set out in paragraph 152 of this chapter; or
 - (b) a term of imprisonment that is greater than the limit set out in paragraph 154 of this chapter,
- where there is an agreement to that effect as contemplated in paragraph 4 of the Taxation Chapter.

Federal or Provincial Laws

156. The Te'mexw Member First Nation Government may adopt Federal or Provincial Law in respect of matters within Te'mexw Member First Nation Government law-making authority set out in the Final Agreement.

Enforcement of Te'mexw Member First Nation Law

157. The Te'mexw Member First Nation Government is responsible for the enforcement of Te'mexw Member First Nation Law.
158. The Parties may, to the extent of their respective authority, negotiate agreements for the enforcement of Te'mexw Member First Nation Law by a police force or federal or provincial enforcement officials.
159. The Te'mexw Member First Nation Government may make laws for the enforcement of Te'mexw Member First Nation Law including:
- (a) the appointment of officers to enforce Te'mexw Member First Nation Law;
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and

- (b) powers of enforcement, provided such powers will not exceed those provided by laws of Canada or British Columbia for enforcing similar laws in British Columbia.

160. The Te'mexw Member First Nation Government law-making authority in paragraph 159 of this chapter does not include the authority to:

- (a) establish a police force; or
- (b) authorize the carriage or use of a firearm by Te'mexw Member First Nation enforcement officials;

but nothing in the Final Agreement prevents the Te'mexw Member First Nation Government from establishing a police force under Provincial Law.

161. If the Te'mexw Member First Nation Government appoints officials to enforce Te'mexw Member First Nation Law, the Te'mexw Member First Nation Government will:

- (a) ensure that any Te'mexw Member First Nation enforcement officials are adequately trained to carry out their duties having regard to recruitment, selection and training standards for other enforcement officers carrying out similar duties in British Columbia; and
- (b) establish and implement procedures for responding to complaints against Te'mexw Member First Nation enforcement officials.

162. Te'mexw Member First Nation Law made under the Wildlife and Migratory Birds Chapters may be enforced by persons authorized to enforce Federal, Provincial or Te'mexw Member First Nation Law in respect of Wildlife and Migratory Birds in British Columbia.

163. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under paragraph 159 of this chapter.

164. The Te'mexw Member First Nation Government may, by a proceeding brought in the Supreme Court of British Columbia, enforce, or prevent or restrain the contravention of a Te'mexw Member First Nation Law.

Adjudication of Te'mexw Member First Nation Law

165. The Provincial Court of British Columbia has the exclusive jurisdiction to hear prosecutions of offences under Te'mexw Member First Nation Law.

166. The summary conviction proceedings of the *Offence Act* apply to prosecutions of offences under Te'mexw Member First Nation Law.
167. The Provincial Court of British Columbia or the Supreme Court of British Columbia, as the case may be, has jurisdiction to hear legal disputes arising between persons under Te'mexw Member First Nation Law.
168. The Te'mexw Member First Nation Government is responsible for the prosecution of all matters arising from Te'mexw Member First Nation Law, including appeals, and may carry out this responsibility by:
- (a) appointing or retaining individuals to conduct prosecutions and appeals, in a manner consistent with the principle of prosecutorial independence and consistent with the overall authority and role of the Attorney General in the administration of justice in British Columbia;
 - (b) entering into agreements with Canada or British Columbia in respect of the conduct of prosecutions and appeals; or
 - (c) both subparagraphs 168(a) and 168(b) of this chapter.
169. Unless the parties agree otherwise, British Columbia will pay any fines collected, in respect of a penalty imposed on a person by the Provincial Court of British Columbia, or the Supreme Court of British Columbia, as the case may be, for an offence under a Te'mexw Member First Nation Law, to the Te'mexw Member First Nation Government on a similar basis as British Columbia makes payments to Canada for fines that may be collected by British Columbia in respect of an offence under a Federal Law.
170. The Te'mexw Member First Nation Government law-making authority does not include the authority to establish a court.

CHAPTER 15 – LOCAL GOVERNMENT RELATIONS

GENERAL

1. Treaty Settlement Lands do not form part of any municipality or electoral area, and do not form part of any regional district unless a Te'mexw Member First Nation becomes a member of a regional district in accordance with paragraph 10 of this chapter.
2. On the Effective Date, a Te'mexw Member First Nation Government is responsible for managing its intergovernmental relations with Local Government.
3. Nothing in the Final Agreement limits the ability of British Columbia to restructure regional districts or to amend or divide the boundaries of a regional district, municipality or electoral area in accordance with Provincial Law.
4. British Columbia will Consult with a Te'mexw Member First Nation on any changes to the boundaries of a regional district or municipality that directly and significantly affect a Te'mexw Member First Nation.

INTERGOVERNMENTAL AGREEMENTS

5. Te'mexw Member First Nation Governments may enter into agreements with Local Governments with respect to the provision and delivery of:
 - (a) Local Government services to Treaty Settlement Lands; and
 - (b) Te'mexw Member First Nation Government services for lands under the jurisdiction of Local Government.
6. Services referred to in paragraph 5 of this chapter can include, but are not restricted to, water, sewer, solid waste disposal, fire protection, emergency response and road maintenance.
7. Any contractual service agreement between a Te'mexw Member First Nation Indian Band and a Local Government in effect on the Effective Date will remain in effect until such time as it is renegotiated or is terminated under the terms of the agreement.
8. A Te'mexw Member First Nation Government and Local Government may establish and maintain agreements that set out principles, procedures and guidelines for the management of their relationship. The matters that may be governed by such agreements include, but are not limited to, the following:

- (a) coordination and harmonization of land use planning, for certainty including regulating land use, enforcement of regulations and development;
 - (b) coordination and harmonization of property tax structures;
 - (c) coordination and harmonization of the development of infrastructure;
 - (d) cooperative economic development;
 - (e) environmental protection; and
 - (f) dispute resolution.
9. In the absence of an agreement under paragraph 8 of this chapter, Te'mexw Member First Nation Governments and Local Government will discuss with each other regarding land use planning on respective contiguous parcels of land.

REGIONAL DISTRICT MEMBERSHIP

10. Upon the request of a Te'mexw Member First Nation Government, it may become an individual member of the relevant geographic regional district as it relates to Treaty Settlement Lands and as set out in Provincial Law.
11. Where the Te'mexw Member First Nation becomes a member of the regional district under paragraph 10 of this chapter the Te'mexw Member First Nation Government will appoint a director to the board of the regional district who will have the powers, duties and functions of a "treaty first nation director" as set out in Provincial Law.
12. If a Te'mexw Member First Nation Government is a member of the regional district and a dispute arises, that Te'mexw Member First Nation Government may be required to use a dispute resolution process set out in Provincial Law.

REGIONAL HOSPITAL DISTRICT MEMBERSHIP

13. Treaty Settlement Lands form part of the relevant geographic Regional Hospital District.
14. On the Effective Date, each Te'mexw Member First Nation will be a member of the relevant geographic Regional Hospital District and will appoint an elected member of the Te'mexw Member First Nation Government to sit as a director on the board of the relevant geographic Regional Hospital District in accordance with Provincial Law.

15. The director appointed pursuant to paragraph 14 of this chapter will have the functions, powers, duties, obligations and liability protections of a director of the regional hospital district board as is provided to a “treaty first nation director” under Provincial Law.
16. Where the Te'mexw Member First Nation becomes a member of the regional district under paragraph 10 of this chapter, the Te'mexw Member First Nation's membership in the relevant geographic Regional Hospital District under paragraph 14 of this chapter will be replaced through regional district membership.

CHAPTER 16 – CULTURE AND HERITAGE

LAW MAKING

1. Each Te'mexw Member First Nation Government may make laws applicable on its Treaty Settlement Lands in respect of the preservation, promotion, and development of Te'mexw Member First Nation language and culture.
 2. Nothing in the Final Agreement will confer jurisdiction on a Te'mexw Member First Nation Government to make laws in respect of Intellectual Property or the official languages of Canada.
 3. Each Te'mexw Member First Nation Government may make laws in respect of:
 - (a) the management, conservation and protection of Heritage Objects owned by the Te'mexw Member First Nation located off Treaty Settlement Lands;
 - (b) the management, conservation and protection of Heritage Objects owned by the Te'mexw Member First Nation, and Heritage Sites, located on Treaty Settlement Lands; and
 - (c) public access to Heritage Sites on Treaty Settlement Lands.
 4. Each Te'mexw Member First Nation Government may make laws applicable on its Treaty Settlement Lands in respect of the protection, interment or cremation of Aboriginal Human Remains found on Treaty Settlement Lands or returned to the Te'mexw Member First Nation by Canada, British Columbia or any other party.
 5. Before Final Agreement, the Parties will negotiate provisions concerning the application of the *Cremation, Interment and Funeral Services Act* to Aboriginal Human Remains.
 6. Subject to paragraph 7 of this chapter, in the event of a Conflict between a Te'mexw Member First Nation Law made under paragraphs 1, 3, or 4 of this chapter and a Federal or Provincial Law, the Te'mexw Member First Nation Law will prevail to the extent of the Conflict.
 7. Federal or Provincial Law prevails to the extent of a Conflict with a Te'mexw Member First Nation Law under subparagraph 3(a) of this chapter.
 8. To the extent that a Te'mexw Member First Nation Government has made a law in respect of subparagraph 3(b) of this chapter, British Columbia will ensure no Provincial Law in respect of granting permits or other authorizations will apply in respect of the same subject matter on Treaty Settlement Lands.
 9. A Te'mexw Member First Nation Government law under paragraph 3 of this
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chapter will:

- (a) establish standards and processes for the conservation and protection of Heritage Sites; and
 - (b) ensure the Minister is provided with information relating to:
 - (i) the location of Heritage Sites; and
 - (ii) any materials recovered from Heritage Sites.
10. Where British Columbia and the Te'mexw Member First Nation agree, information provided by the Te'mexw Member First Nation to British Columbia under paragraph 9 of this chapter will not be subject to public disclosure without the Te'mexw Member First Nation's prior written consent.

OWNERSHIP OF HERITAGE OBJECTS ON TREATY SETTLEMENT LANDS

11. Each Te'mexw Member First Nation owns any Heritage Object discovered within its Treaty Settlement Lands after the Effective Date, unless another person or Band establishes ownership of that Heritage Object.

RECORDING HERITAGE SITES

12. Where a Te'mexw Member First Nation provides to British Columbia information on an archaeological site within its Te'mexw Member First Nation Area, in a format that meets the standards of the provincial archaeological site inventory, British Columbia will record that information in the provincial archaeological site inventory.

CONSULTATION WITH OTHER FIRST NATIONS

13. Where a Te'mexw Member First Nation Government makes a law pursuant to paragraphs 3 or 4 of this chapter which may affect the cultural interests of other First Nations, the Te'mexw Member First Nation will:
- (a) consult with the other First Nations in respect of the potential effects of the law; or
 - (b) provide a mechanism for consulting in respect of a decision potentially affecting the cultural interests of another First Nation.

PLACE NAMES

14. Before Final Agreement the Te'mexw Member First Nations and British Columbia will negotiate and attempt to reach agreement on a list of key geographic features, to be set out in an appendix to the Final Agreement, to be named, re-named, or jointly named in the Te'mexw Member First Nation language or English, in accordance with the provincial policy and procedures.
15. At the request of a Te'mexw Member First Nation, British Columbia will record names in the Te'mexw Member First Nation language, or English, and historic background information submitted by a Te'mexw Member First Nation for inclusion in the British Columbia geographic names database for the geographic features that are set out in the Final Agreement, in accordance with provincial policy and procedures.
16. After the Effective Date, a Te'mexw Member First Nation may propose that British Columbia name, re-name, or jointly name other geographic features with names in the Te'mexw Member First Nation language, or English, and British Columbia will consider those proposals in accordance with Provincial Law.

REPATRIATION OF ARTIFACTS HELD BY THE ROYAL BRITISH COLUMBIA MUSEUM

17. The Final Agreement will set out provisions for the transfer to Te'mexw Member First Nations of certain Te'mexw Member First Nation Artifacts, if any, in the permanent collection of the Royal British Columbia Museum.
18. The Royal British Columbia Museum will transfer to Te'mexw Member First Nations without condition all its legal interests in, and possession of, the Te'mexw Member First Nation Artifacts set out in an appendix to the Final Agreement:
 - (a) as soon as practicable following a request by a Te'mexw Member First Nation;
 - (b) if there is no request by a Te'mexw Member First Nation five years after the Effective Date;
 - (c) notwithstanding subparagraph 18(b) of this chapter, if the transfer of Te'mexw Member First Nation Artifacts has not occurred within five years following the Effective Date of the Final Agreement, at the request of the Te'mexw Member First Nation or the Royal British Columbia Museum, the Te'mexw Member First Nation and the Royal British Columbia Museum will negotiate and attempt to reach agreement on:

- (i) the extension of that time period for up to an additional five years;
and
 - (ii) the payment by that Te'mexw Member First Nation of the costs of the Royal British Columbia Museum associated with holding the Te'mexw Member First Nation Artifacts during any such extended time period, including costs related to storage, insurance, access, inspection and shipping of those Te'mexw Member First Nation Artifacts; or
- (d) by any other date agreed to by British Columbia and the Te'mexw Member First Nation.
19. If any Te'mexw Member First Nation Artifact discovered in British Columbia outside Treaty Settlement Lands comes into the permanent possession of British Columbia after the Effective Date, British Columbia may lend, or transfer its interest in, that Te'mexw Member First Nation Artifact to the Te'mexw Member First Nation in accordance with an agreement negotiated between British Columbia and that Te'mexw Member First Nation.

TE'MEXW MEMBER FIRST NATION ARTIFACTS HELD BY CANADA

20. After the Effective Date, if any Te'mexw Member First Nation Artifact discovered outside Treaty Settlement Lands comes into the permanent possession of Canada, Canada may lend, or transfer its interest in, that Te'mexw Member First Nation Artifact to a Te'mexw Member First Nation in accordance with any agreements negotiated outside the Final Agreement with the Te'mexw Member First Nation Government.
21. As part of Final Agreement negotiations, the Canadian Museum of Civilization and the Te'mexw Member First Nation will attempt to agree on a schedule to the Final Agreement that will set out:
- (a) a list of any Te'mexw Member First Nation Artifacts to be transferred to the Te'mexw Member First Nation by the Canadian Museum of Civilization;
and
 - (b) a list of any Te'mexw Member First Nation Artifacts in respect of which the Te'mexw Member First Nation and the Canadian Museum of Civilization will attempt to negotiate custodial arrangements.
22. Agreements concerning custodial arrangements under paragraph 21 of this chapter will respect Te'mexw Member First Nation Law in respect of Te'mexw Member First Nation Artifacts and will comply with Federal and Provincial Laws, including the statutory mandate of the Canadian Museum of Civilization.

23. Agreements concerning repatriation arrangements under paragraph 21 of this chapter will require that any repatriated Te'mexw Member First Nation Artifact will become the sole legal responsibility of the Te'mexw Member First Nation Government.

ACCESS TO OTHER COLLECTIONS

24. At the request of a Te'mexw Member First Nation Government, Canada and British Columbia will use reasonable efforts, in accordance with Federal and Provincial Laws, to facilitate Te'mexw Member First Nation Governments' access to other Canadian public collections that are known to hold Te'mexw Member First Nation Artifacts and Records.

MANAGEMENT OF CULTURE AND HERITAGE OFF-TREATY SETTLEMENT LANDS

25. The Te'mexw Member First Nations continue to have an interest in the management and protection of Heritage Sites and Heritage Objects situated in the Te'mexw Member First Nation Area off Treaty Settlement Lands including interests with respect to the:
- (a) remains and associated artifacts of aboriginal people that have significance to the Te'mexw Member First Nation; and
 - (b) Heritage Sites and Heritage Objects that have significance to the Te'mexw Member First Nation.
26. British Columbia and the relevant Te'mexw Member First Nation will negotiate and attempt to reach agreement on measures to manage or protect Aboriginal Human Remains and Heritage Sites found within the Te'mexw Member First Nation Area after the Effective Date that have significance to the Te'mexw Member First Nation. Such measures may include:
- (a) provisions in the Final Agreement;
 - (b) arrangements outside of the Final Agreement; or
 - (c) administrative arrangements allowing for meaningful Te'mexw Member First Nation input into government decisions related to the Heritage Sites and Heritage Objects of significance to the Te'mexw Member First Nation.

27. British Columbia will negotiate and attempt to reach agreement with the relevant Te'mexw Member First Nation with respect to the delivery to the Te'mexw Member First Nation of Aboriginal Human Remains that are reasonably considered to be of Te'mexw Member First Nation ancestry that come into the possession of British Columbia after the Effective Date.
28. In the event of competing claims between a Te'mexw Member First Nation and another First Nation regarding an interest in Heritage Sites, Heritage Objects, Aboriginal Human Remains, or associated artifacts situated off Treaty Settlement Lands in the Te'mexw Member First Nation Area, British Columbia may request that the relevant parties to the dispute resolve the competing claim and provide British Columbia with written confirmation of the settlement of such dispute before further negotiations continue in regards to that Heritage Site, Heritage Object, Aboriginal Human Remains, or associated artifacts.
29. On the Effective Date, British Columbia will commence the provincial designation process under the *Heritage Conservation Act* for sites of cultural or historic significance set out in an appendix to the Final Agreement.

CHAPTER 17 – PROVINCIAL PARKS AND PROTECTED AREAS

TE'MEXW MEMBER FIRST NATION RIGHTS IN PROTECTED AREAS

1. Harvesting of Wildlife and gathering of Plants by a Te'mexw Member First Nation in Provincial Protected Areas will be managed and carried out in accordance with the provisions of the Final Agreement, unless agreed otherwise by the Parties in a Collaborative Management Agreement.
2. Subject to any Collaborative Management Agreement, and measures necessary for conservation, public health and public safety, the Te'mexw Member First Nation Citizens may access any Provincial Protected Areas, wholly or partially within the Te'mexw Member First Nation Area, and exercise the harvest rights, without charges other than taxes or fees, except where fees are charged for visitor facilities and services.

DESIGNATION OF PROTECTED AREAS

3. Any Te'mexw Member First Nation may make proposals to British Columbia to establish or designate a Provincial Protected Area.
4. Except as provided in paragraph 10 of this chapter, nothing in the Final Agreement will obligate British Columbia to establish or designate a Provincial Protected Area wholly or partially within a Te'mexw Member First Nation Area.

MANAGEMENT OF PROTECTED AREAS

5. If a Te'mexw Member First Nation chooses, British Columbia and the Te'mexw Member First Nation will, prior to the Effective Date, negotiate and attempt to reach agreement on a Collaborative Management Agreement for the Provincial Protected Areas as follows:
 - (a) Englishman River Provincial Park;
 - (b) Rath Trevor Provincial Park;
 - (c) Shawnigan Lake Provincial Park;
 - (d) Goldstream Provincial Park; and
 - (e) French Beach Provincial Park.
6. These Agreements under paragraph 5 of this chapter:
 - (a) are not part of the Final Agreement; and

- (b) are not a treaty or land claims agreements and do not recognize or affirm any aboriginal or treaty rights within the meaning of Sections 25 or 35 of the *Constitution Act, 1982*.
7. A Collaborative Management Agreement for Provincial Protected Areas may identify or set out:
- (a) management planning priorities for the Provincial Protected Areas;
 - (b) operational issues;
 - (c) park use permits;
 - (d) compatible economic opportunities;
 - (e) major changes to parks and major boundary amendments;
 - (f) naming protocols and the use of Te'mexw Member First Nation place names; and
 - (g) other matters agreed upon.
8. Each Party to the negotiation of the Collaborative Management Agreement will fund its own participation in these negotiations.
9. The Parties to the negotiation of the Collaborative Management Agreement agree to structure the negotiations on Collaborative Management Agreements in a way that will maximize efficiencies where possible and appropriate.

CONSULTATION

10. British Columbia will Consult with the Te'mexw Member First Nation in respect of:
- (a) the establishment or designation of new Provincial Protected Areas;
 - (b) the disposition of Provincial Protected Areas;
 - (c) the modification of boundaries of existing Provincial Protected Areas; and
 - (d) changing the zoning or use of the Provincial Protected Areas.

CHANGE OF USE OR COMMERCIAL DEVELOPMENT OF PROTECTED AREAS

11. At the request of either Party, British Columbia and the Te'mexw Member First Nation will meet to discuss and exchange written information about maintenance, construction, research and operations opportunities available for competitive bid within any Provincial Protected Area wholly or partially within the Te'mexw Member First Nation Area.

PROVINCIAL PLANNING PROCESSES

12. Where a management planning process is established for a Provincial Protected Area that is wholly or partially within a Te'mexw Member First Nation Area, the Te'mexw Member First Nation has the right to participate in any public planning process that may be developed by British Columbia within the Te'mexw Member First Nation Area in accordance with procedures established by British Columbia for that public planning process.
13. British Columbia may proceed with any Provincial Protected Area management planning process even if the applicable Te'mexw Member First Nation does not participate in that process.
14. Nothing in the Final Agreement will obligate British Columbia to undertake any Provincial Protected Area management planning process.

OTHER

15. Notwithstanding the Treaty Settlement Lands Chapter, British Columbia will not acquire any interest in Treaty Settlement Lands by expropriation for the purpose of establishing or enlarging an existing Provincial Protected Area.

CHAPTER 18 – FEDERAL PARKS AND PROTECTED AREAS

GENERAL MANAGEMENT

1. The Final Agreement will provide that where any National Park or National Marine Conservation Area is wholly or partly within a Te'mexw Member First Nation Area, that Te'mexw Member First Nation has a right to carry out Renewable Resource Harvesting Activities on the land and in the non-tidal waters of those National Parks or National Marine Conservation Areas within that Te'mexw Member First Nation Area, subject to measures necessary for conservation, public health, and public safety.
2. The Te'mexw Member First Nation Renewable Resource Harvesting Right is a communal right held by the Te'mexw Member First Nation, and the Te'mexw Member First Nation may not dispose of that right.
3. Subject to this chapter, Te'mexw Member First Nation Citizens will not be required to have federal licences or pay any fees, charges other than taxes or royalties to Canada relating to the Te'mexw Member First Nation Renewable Resource Harvesting Right.
4. Nothing in the Final Agreement affects or alters Canada's or British Columbia's ability to require Te'mexw Member First Nation Citizens to comply with Federal and Provincial Law in respect of the use and possession of firearms.
5. The Final Agreement is not intended to alter Federal and Provincial Law in respect of property in the renewable resources being harvested pursuant to the Te'mexw Member First Nation Renewable Resource Harvesting Right.
6. The Minister retains the authority granted by Parliament for, amongst other things, the management, administration, and control of National Parks and National Marine Conservation Areas, or any other protected areas that are owned by Canada and administered under the jurisdiction of the Parks Canada Agency.

Trade, Barter and Sale

7. Each Te'mexw Member First Nation and its Te'mexw Member First Nation Citizens may trade and barter among themselves, or with other aboriginal people of Canada, any renewable resources harvested under the Te'mexw Member First Nation Renewable Resource Harvesting Right.
8. Sale by a Te'mexw Member First Nation of traditional crafts and artistic objects made from Plants will be in accordance with Federal and Provincial Law.

Transport

9. Any transport or export of renewable resources harvested pursuant to the Te'mexw Member First Nation Renewable Resource Harvesting Right will be done in accordance with Federal and Provincial Law.
10. Notwithstanding paragraph 9 of this chapter, renewable resources harvested pursuant to the Te'mexw Member First Nation Renewable Resource Harvesting Right and in accordance with the provisions of the Final Agreement may be transported within Canada throughout the year.

Law Making

11. Each applicable Te'mexw Member First Nation Government may make laws respecting the rights and obligations of its Te'mexw Member First Nation Citizens under the Te'mexw Member First Nation Renewable Resource Harvesting Right in respect of:
 - (a) the distribution of the renewable resources harvested to its Te'mexw Member First Nation Citizens; and
 - (b) the designation of its Te'mexw Member First Nation Citizens who may carry out Renewable Resource Harvesting Activities.
12. In the event of a Conflict between a Te'mexw Member First Nation Law made under paragraph 11 of this chapter and a Federal or Provincial Law, the Te'mexw Member First Nation Law prevails to the extent of the Conflict.

Documentation

13. Each Te'mexw Member First Nation will issue documentation to its Te'mexw Member First Nation Citizens who harvest or attempt to harvest renewable resources under the Te'mexw Member First Nation Renewable Resource Harvesting Right.
14. Te'mexw Member First Nation Citizens who harvest or attempt to harvest renewable resources under the Te'mexw Member First Nation Renewable Resource Harvesting Right will be required to carry documentation issued by the Te'mexw Member First Nation and to produce that documentation on the request of any person authorized by Canada to enforce Federal Law in respect of Renewable Resource Harvesting Activities.

15. Documentation issued by a Te'mexw Member First Nation to its Te'mexw Member First Nation Citizens who harvest or attempt to harvest renewable resources under the Te'mexw Member First Nation Renewable Resource Harvesting Right will:
- (a) be in the English language, which version is authoritative, and at the discretion of Te'mexw Member First Nation, in the Te'mexw Member First Nation language;
 - (b) include the name and address of the Te'mexw Member First Nation Citizen;
 - (c) meet any requirements set out in the Renewable Resource Harvesting Document; and
 - (d) meet any terms and conditions that the Te'mexw Member First Nation and Canada may agree to.

Renewable Resource Harvesting in National Parks and National Marine Conservation Areas

16. Each year or as otherwise agreed, Canada and each applicable Te'mexw Member First Nation will meet to discuss and develop terms and conditions upon which Renewable Resource Harvesting Activities under the Te'mexw Member First Nation Renewable Resource Harvesting Right may be undertaken by its Te'mexw Member First Nation Citizens. Canada and the applicable Te'mexw Member First Nation will make reasonable efforts to reach consensus on the terms and conditions of renewable resource harvesting in any National Park or National Marine Conservation Area using a collaborative process described in paragraphs 17 and 18 of this chapter.
17. In developing the terms and conditions referred to in paragraph 16 of this chapter, Canada and the applicable Te'mexw Member First Nation will take into account:
- (a) the conservation and ecological integrity requirements and availability of the renewable resources to which the terms and conditions would relate;
 - (b) that Te'mexw Member First Nation's preferences, if any, in respect of methods, timing, and locations of Renewable Resource Harvesting Activities throughout the applicable National Park or National Marine Conservation Area;
 - (c) utilization of the applicable National Park or National Marine Conservation Area for the benefit and enjoyment of all Canadians;

- (d) any other authorized uses of the National Park or National Marine Conservation Area;
 - (e) requirements for management of the National Park or National Marine Conservation Area;
 - (f) opportunities for similar harvesting activities outside any National Park or National Marine Conservation Area as provided for in other chapters of the Final Agreement;
 - (g) Renewable Resource Harvesting Activities, if any, by other aboriginal groups; and
 - (h) any other matters Canada and the applicable Te'mexw Member First Nation consider appropriate.
18. Subject to paragraph 20 of this chapter, having received and considered the terms and conditions, if any, developed pursuant to paragraph 16 of this chapter, the Minister will, after taking into account all of the factors listed in paragraph 17 of this chapter, on a timely basis, issue Renewable Resource Harvesting Documents to the applicable Te'mexw Member First Nation setting out terms and conditions of the Renewable Resource Harvesting Activities within that Te'mexw Member First Nation Area.
19. Each Te'mexw Member First Nation will exercise Renewable Resource Harvesting Activities in any National Park or National Marine Conservation Area in accordance with the applicable Renewable Resource Harvesting Document.
20. If circumstances make it impractical to collaboratively develop terms and conditions regarding Renewable Resource Harvesting Activities as contemplated by paragraph 16 of this chapter, the Minister:
- (a) may make the decision or take the action, including issuing a Renewable Resource Harvesting Document, that the Minister considers necessary; and
 - (b) will advise the applicable Te'mexw Member First Nation as soon as practical of the circumstances and the decision made or action taken.
21. Where Canada and the Te'mexw Member First Nation do not reach consensus on the terms and conditions of the Renewable Resource Harvesting Document as set out in paragraph 16 of this chapter, and the Minister issues a Renewable Resource Harvesting Document as set out in paragraph 18 of this chapter, the Te'mexw Member First Nation may, within 60 days of receiving the Renewable Resource Harvesting Document, provide the Minister with its views on the Renewable Resource Harvesting Document and propose changes to the terms and conditions
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of the Renewable Resource Harvesting Document.

22. The Minister will consider information provided to the Minister under paragraph 21 of this chapter and will, within 60 days, respond to the Te'mexw Member First Nation and provide written reasons for any differences between the Renewable Resource Harvesting Document and the Te'mexw Member First Nation's proposed changes to the terms and conditions of Renewable Resource Harvesting.
23. Each Te'mexw Member First Nation will provide to the Minister, upon request, information in the Te'mexw Member First Nation's possession concerning the activities of its Te'mexw Member First Nation Citizens related to the exercise of the Te'mexw Member First Nation Renewable Resource Harvesting Right.
24. Canada will Consult with the applicable Te'mexw Member First Nation concerning any proposed amendments to or creation of legislation and regulations that are reasonably expected to have an adverse effect on its Te'mexw Member First Nation Renewable Resource Harvesting Right.
25. If the Minister believes that an emergency exists within any National Park or National Marine Conservation Area, the Minister may close areas to any Renewable Resource Harvesting Activities without first Consulting with the applicable Te'mexw Member First Nation, but as soon as practicable thereafter will inform that Te'mexw Member First Nation of, and provide reasons for, the closure.

Additional Conservation Measures

26. Canada will Consult with the applicable Te'mexw Member First Nation regarding:
 - (a) the need for additional conservation measures during the term of the Renewable Resource Harvesting Document within a portion of its Te'mexw Member First Nation Area within a National Park or National Marine Conservation Area; and
 - (b) the development and implementation of such additional conservation measures, if they are deemed necessary.
27. Following the completion of the Consultation contemplated by subparagraph 26(b) of this chapter, the Minister may amend and re-issue the Renewable Resource Harvesting Document, to the extent required to bring into effect the conservation measures, provided that:

- (a) the Minister uses reasonable efforts to avoid, minimize, or mitigate restrictions or limitations on the Te'mexw Member First Nation Renewable Resource Harvesting Right to the extent possible; and
- (b) the Minister, if requested, provides written reasons to the Te'mexw Member First Nation on the conservation measures adopted.

NATIONAL PARKS AND NATIONAL MARINE CONSERVATION AREAS

Establishment

- 28. After the Effective Date, Canada may establish those portions of Gulf Islands National Park Reserve lying within the Te'mexw Member First Nation Areas as described in Appendix A as part of Gulf Islands National Park, subject to resolution of any overlapping claims by other aboriginal groups that may exist.
- 29. Canada will Consult with the applicable Te'mexw Member First Nation prior to the establishment of, or changing the boundaries of, any National Park or National Marine Conservation Area within that Te'mexw Member First Nation Area.

Closure or Transfer

- 30. No area forming part of any National Park or any National Marine Conservation Area within a Te'mexw Member First Nation Area will be removed from that National Park or National Marine Conservation Area without the consent of that Te'mexw Member First Nation.

Te'mexw Member First Nation Rights in Parks and Protected Areas

- 31. Where any National Park or National Marine Conservation Area is wholly or partly within the Te'mexw Member First Nation Area, Te'mexw Member First Nation Citizens will have access, without a fee being charged for entrance to and within that National Park or National Marine Conservation Area, except where fees are charged in relation to visitor facilities and services.

Co-operation in Planning and Management

- 32. Where any National Park or National Marine Conservation Area is wholly or partly within a Te'mexw Member First Nation Area, Canada will Consult with the applicable Te'mexw Member First Nation regarding that Te'mexw Member First Nation's:
 - (a) role in and interests with respect to the interim planning and management planning of that National Park or National Marine Conservation Area, including Renewable Resource Harvesting Activities;

- (b) role in and interests with respect to the research, management, and protection of Heritage Resources of significance to that Te'mexw Member First Nation located within that National Park or National Marine Conservation Area;
 - (c) role in and interests with respect to the identification, protection, interpretation, and presentation of Te'mexw Member First Nation Artifacts and heritage where applicable, including Te'mexw Member First Nation language use in signage and interpretation, where appropriate, in that National Park or National Marine Conservation Area;
 - (d) traditional ecological and cultural knowledge being considered in the natural history and management of that National Park or National Marine Conservation Area; and
 - (e) interests with respect to economic, employment, and training opportunities in or associated with that National Park or National Marine Conservation Area.
33. Where any National Park or National Marine Conservation Area is wholly or partly within a Te'mexw Member First Nation Area, at the request of the applicable Te'mexw Member First Nation, Canada and that Te'mexw Member First Nation will negotiate and attempt to reach agreement on a renewable side agreement with respect to all or some of the matters listed in paragraph 32 of this chapter.
34. Unless Canada and the applicable Te'mexw Member First Nation agree otherwise, an agreement negotiated pursuant to paragraph 33 of this chapter, on a matter listed in paragraph 32 of this chapter, will take the place of the Consultation on that matter for the term of the agreement.
35. An agreement made under paragraph 32 of this chapter may provide for an advisory structure and include:
- (a) representation in the advisory structure;
 - (b) procedures for the advisory structure, including a consensus seeking approach;
 - (c) procedures related to cooperation in management of Renewable Resource Harvesting Activities and cooperation in appropriate cultural activities;
 - (d) procedures related to any agreements regarding the management of Cultural Heritage Sites negotiated under paragraph 33 of this chapter; and
 - (e) any other matters as agreed by Canada and the Te'mexw Member First
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Nation.

36. An agreement made under paragraph 33 of this chapter may include provisions, to be negotiated, respecting:
- (a) the term of the side agreement;
 - (b) amendment of the side agreement by written agreement of the Parties;
 - (c) renewal of the side agreement on the same terms and conditions at the discretion of the applicable Te'mexw Member First Nation, or negotiation of a replacement side agreement with mutually agreeable conditions; and
 - (d) a process for dispute resolution.
37. An agreement made under paragraph 33 of this chapter:
- (a) will not be part of the Final Agreement; and
 - (b) will not be a treaty or land claims agreement and will not recognize or affirm any aboriginal or treaty rights within the meaning of sections 25 or 35 of the *Constitution Act, 1982*.
38. Where any National Park or National Marine Conservation Area is wholly or partly within a Te'mexw Member First Nation Area and any other Te'mexw Member First Nation Area, the applicable Te'mexw Member First Nations will make reasonable efforts to jointly participate in the processes contemplated by paragraphs 32 and 39 of this chapter.
39. Where any National Park or National Marine Conservation Area is wholly or partly within a Te'mexw Member First Nation Area, Canada and the applicable Te'mexw Member First Nation agree to make reasonable efforts to cooperate with other aboriginal groups in the process of planning and management of any such National Park or National Marine Conservation Area where these other aboriginal groups have expressed that they have a historical relationship with the region containing any National Park or National Marine Conservation Area.
40. Where the boundaries of a National Park or National Marine Conservation Area that is wholly or partly within a Te'mexw Member First Nation Area are changed, any agreement made under paragraph 33 of this chapter will apply to any new area added to that National Park or National Marine Conservation Area unless the parties to that agreement agree otherwise.
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CHAPTER 19 – GATHERING

GENERAL

1. The Final Agreement will provide that each Te'mexw Member First Nation has the right to gather Plants for Domestic Purposes on provincial Crown land within the Te'mexw Member First Nation Plant Gathering Area in accordance with the Final Agreement. For greater certainty, this includes the right to gather Plants for the purpose of making household goods and apparel.
2. The Te'mexw Member First Nation Right to Gather Plants is limited by:
 - (a) measures necessary for conservation; and
 - (b) measures necessary for the purposes of public health or public safety.
3. The Te'mexw Member First Nation Right to Gather Plants is held by the Te'mexw Member First Nation and cannot be alienated.
4. Te'mexw Member First Nation Citizens may exercise the Te'mexw Member First Nation Right to Gather Plants except as otherwise provided under Te'mexw Member First Nation Law.
5. The Final Agreement does not alter Federal or Provincial Law in respect of property in Plants.
6. The Minister retains the authority for managing and conserving Plants and Plant habitat.

INCIDENTAL USE OF RESOURCES

7. Te'mexw Member First Nation Citizens may use resources on provincial Crown land within the Te'mexw Member First Nation Plant Gathering Area for purposes reasonably incidental to the exercise of the Te'mexw Member First Nation Right to Gather Plants, subject to Federal and Provincial Law.

TRADE, BARTER AND SALE

8. The Te'mexw Member First Nation has the right to trade and barter Plants and household goods and apparel made from Plants gathered under the Te'mexw Member First Nation Right to Gather Plants:
 - (a) among themselves; or
 - (b) with other aboriginal people of Canada.

9. The Te'mexw Member First Nation right to trade and barter under paragraph 8 of this chapter is held by the Te'mexw Member First Nation and cannot be alienated.
10. Te'mexw Member First Nation Citizens may exercise the right to trade and barter under paragraph 8 of this chapter except as otherwise provided under Te'mexw Member First Nation Law.
11. Te'mexw Member First Nation Citizens may, in accordance with Federal and Provincial Law, sell Plants gathered under the Te'mexw Member First Nations Right to Gather Plants.

LICENCES AND FEES

12. Te'mexw Member First Nation Citizens are not required to have federal or provincial licences or pay any fees or royalties to Canada or British Columbia relating to the exercise of the Te'mexw Member First Nation Right to Gather Plants.

LAW-MAKING

13. The Te'mexw Member First Nation Government may make laws in respect of the Te'mexw Member First Nation Right to Gather Plants for:
 - (a) the designation of Te'mexw Member First Nation Citizens to gather Plants;
 - (b) the distribution among Te'mexw Member First Nation Citizens of the gathered Plants; and
 - (c) the trade and barter of Plants gathered under the Te'mexw Member First Nation Right to Gather Plants.
 14. Te'mexw Member First Nation Law under paragraph 13 of this chapter prevails to the extent of a Conflict with Federal or Provincial Law.
 15. The Te'mexw Member First Nation Government may make laws in respect of the documentation of Te'mexw Member First Citizens who have been designated under subparagraph 13(a) of this chapter.
 16. The Te'mexw Member First Nation Government will make laws to require Te'mexw Member First Nation Citizens gathering under the Te'mexw Member First Nation Right to Gather Plants to comply with any conservation measures that affect the Te'mexw Member First Nation Right to Gather Plants.
 17. Federal or Provincial Law prevails to the extent of a Conflict with Te'mexw
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Member First Nation Law under paragraphs 15 and 16 of this chapter.

DOCUMENTATION

18. The Te'mexw Member First Nation will issue documentation to Te'mexw Member First Nation Citizens who gather or transport Plants under the Te'mexw Member First Nation Right to Gather Plants, if documentation is required for gathering under Federal or Provincial Law.
19. Te'mexw Member First Nation Citizens who gather or transport Plants under the Te'mexw Member First Nation Right to Gather Plants will be required to carry documentation issued by the Te'mexw Member First Nation and to produce that documentation on request by an authorized individual, if documentation is required for gathering under Federal or Provincial Law.
20. Documentation issued by the Te'mexw Member First Nation under paragraph 18 of this chapter will:
 - (a) be in the English language which will be the authoritative version and, at the discretion of the Te'mexw Member First Nation, in the Te'mexw Member First Nation language;
 - (b) include sufficient information to identify the Te'mexw Member First Nation Citizen; and
 - (c) meet any other requirements to which the Te'mexw Member First Nation and British Columbia may agree.

GATHERING IN PARKS

21. British Columbia may authorize the use or disposition of Provincial Protected Areas and any authorized use or disposition may affect the methods, times and locations of the gathering of Plants under the Te'mexw Member First Nation Right to Gather Plants, provided that British Columbia ensures that those authorized uses or dispositions do not deny the Te'mexw Member First Nation the reasonable opportunity to gather Plants in Provincial Protected Areas under the Te'mexw Member First Nation Right to Gather Plants.
22. For the purposes of paragraph 21 of this chapter, British Columbia and the Te'mexw Member First Nation will negotiate and attempt to reach agreement on a process to evaluate the impact of authorized uses or dispositions of Provincial Protected Areas on the Te'mexw Member First Nation's reasonable opportunity to gather Plants.
23. The Te'mexw Member First Nation Right to Gather Plants will be exercised in a manner that does not interfere with authorized uses or dispositions of Provincial

Protected Areas existing as of the Effective Date or authorized in accordance with paragraph 21 of this chapter.

GATHERING ON OTHER PROVINCIAL CROWN LAND

24. British Columbia may authorize the use or disposition of provincial Crown land within the Te'mexw Member First Nation Plant Gathering Area and any authorized use or disposition may affect the methods, times and locations of the gathering of Plants under the Te'mexw Member First Nations Right to Gather Plants.
25. British Columbia will Consult with the Te'mexw Member First Nation before:
 - (a) issuing a tenure under the *Forest Act* on Provincial Crown land within the Te'mexw Member First Nation Plant Gathering Area which permits the tenure holder to manage Plants, including the gathering of Plants, on the tenure; or
 - (b) bringing into force provincial legislation or regulations regulating the gathering of Plants on provincial Crown land within the Te'mexw Member First Nation Plant Gathering Area.
26. The Te'mexw Member First Nation Right to Gather Plants will be exercised in a manner that does not interfere with authorized uses or dispositions of provincial Crown land existing as of the Effective Date or authorized in accordance with paragraph 24 or 25 of this chapter.
27. The Te'mexw Member First Nation Right to Gather Plants may be carried out on lands within the Te'mexw Member First Nation Area that are owned in fee simple off Treaty Settlement Lands, but that gathering is subject to permission of the title holder and to Federal and Provincial Law with respect to access to lands that are owned in fee simple.

TRANSPORT AND EXPORT

28. Te'mexw Member First Nation Citizens may, in accordance with Federal and Provincial Law, transport and export Plants gathered under the Te'mexw Member First Nation Right to Gather Plants.

CONSERVATION

29. The Minister may, for conservation, public health or public safety reasons, require the Te'mexw Member First Nation to prepare a gathering plan.
30. Where a gathering plan is required under paragraph 29 of this chapter, the Te'mexw Member First Nation will exercise the Te'mexw Member First Nation

Right to Gather Plants in accordance with the gathering plan approved by the Minister or any Provincial Protected Area management plan.

GATHERING OF TIMBER RESOURCES

31. Prior to the Effective Date, the Parties will negotiate and attempt to reach agreement on the gathering of Timber Resources for Domestic Purposes.

**CHAPTER 20 – CAPITAL TRANSFER AND NEGOTIATION LOAN
REPAYMENT**

CAPITAL TRANSFER

1. Canada and British Columbia will provide a Capital Transfer of \$58,900,000 (3rd Q 2013\$) to Te'mexw Member First Nations distributed in the following way:
 - (a) \$11,400,000 to the Beecher Bay First Nation;
 - (b) \$11,000,000 to the Malahat First Nation;
 - (c) \$8,500,000 to the Snaw-Naw-As First Nation;
 - (d) \$16,000,000 to the Songhees First Nation; and
 - (e) \$12,000,000 to the T'Sou-ke First Nation,and will be paid in accordance with the provisions of this chapter.
2. A provisional schedule of payments will be negotiated prior to the initialing of the Final Agreement such that:
 - (a) the payment of the Capital Transfer will begin on the Effective Date;
 - (b) the net present value of the amounts listed in the provisional schedule of payments will equal the amount set out in paragraph 1 of this chapter; and
 - (c) the net present value of the amounts listed in the provisional schedule of payments will be calculated using as a discount rate the most recent and appropriate Consolidated Revenue Fund Lending Rate available before the initialing of the Final Agreement from the Department of Finance, Canada, less one-eighth of one percent.
3. A final schedule of payments will be determined approximately one month before Effective Date or as soon as the Effective Date is known, whichever date is closest to the Effective Date, in accordance with the following formula:

Final Amount = Provisional Amount *

Effective Date FDDIPI / 3rd Q 2013 FDDIPI

Where,

“*” means multiplied by, and “/” means divided by,

“Final Amount” refers to each amount in the final schedule of payments;

“Provisional Amount” refers to the corresponding amount in the provisional schedule of payments;

“Effective Date FDDIPI” refers to the value of the Canada Final Domestic Demand Implicit Price Index (FDDIPI) for the quarter before the Effective Date;

“3rd Q 2013 FDDIPI” refers to the value of the Canada FDDIPI for the 3rd quarter of the year 2013;

the Effective Date FDDIPI and 3rd Q 2013 FDDIPI values used will be the latest published values available from Statistics Canada approximately one month prior to Effective Date, or as soon as the Effective Date is known, whichever date is closest to the Effective Date.

4. Canada, subject to paragraph 10 of this chapter, and British Columbia will make payments to Te'mexw Member First Nations in accordance with the final schedule of payments determined under paragraph 3 of this chapter.

NEGOTIATION LOAN REPAYMENT

5. On the date of the initialing of the Final Agreement, Canada will determine the outstanding amount of negotiation loans made by Canada to the Te'mexw Member First Nations including any interest that may have accrued to that date, in accordance with First Nation Negotiation Support Agreements.
6. Prior to the initialing of the Final Agreement, the Te'mexw Treaty Association and Canada will determine the percentage allocations of the negotiation loans amongst the Te'mexw Member First Nations.
7. On the date of the initialing of the Final Agreement, Canada will prepare a provisional schedule for each Te'mexw Member First Nation for the repayment of the outstanding negotiation loan based on the amount referred to in paragraph 5 of this chapter and the percentage allocations referred to in paragraph 6 of this chapter, such that the repayments will be proportional to the provisional schedule of payments referred to in paragraph 2 of this chapter.
8. This provisional schedule will use an interest rate equal to the discount rate referred to in subparagraph 2(c) of this chapter.

9. A final schedule of loan repayment amounts for each Te'mexw Member First Nation will be determined approximately one month before Effective Date or as soon as the Effective Date is known, whichever date is closest to the Effective Date, by:
- (a) determining the amount of any additional negotiation loans made by Canada to the Te'mexw Treaty Association or Te'mexw Member First Nations after the initialing of the Final Agreement and before the Effective Date, and any further interest that may have accrued in respect of any negotiation loans, in accordance with First Nation Negotiation Support Agreements; and
 - (b) pro-rating the additional amount in subparagraph 9(a) of this chapter over the provisional repayment schedule.
10. Canada may deduct any amounts due under the final schedule of loan repayments referred to in paragraph 9 of this chapter from Capital Transfer payments payable to Te'mexw Member First Nations under paragraph 4 of this chapter.
11. Te'mexw Member First Nations may pay to Canada, in advance and on account, without bonus or penalty, amounts that will be credited against the loan repayment amounts set out in paragraph 9 of this chapter.
12. Pursuant to paragraph 11 of this chapter, the amounts that Canada may deduct under paragraph 10 of this chapter will be reduced to reflect the adjustment in outstanding principal and reduction in any interest that would have accrued in the absence of the advance payment.

LAND FUND

13. Subject to paragraphs 14 and 15 of this chapter, on the Effective Date, Canada and British Columbia will provide a Land Fund to the Te'mexw Member First Nations distributed as follows:
- (a) \$15,000,000 to the Beecher Bay First Nation;
 - (b) \$9,000,000 to the Malahat First Nation;
 - (c) \$9,000,000 to the Snaw-Naw-As First Nation;
 - (d) \$40,000,000 to the Songhees First Nation; and
 - (e) \$10,000,000 to the T'Sou-ke First Nation,

and will pay the Land Fund in accordance with the provisions of this chapter.

14. Between the signing of this Agreement-in-Principle and the Final Agreement, the Parties will attempt to identify:
- (a) additional Crown lands, including federal surplus lands, which could be transferred as fee simple lands or Treaty Settlement Lands, upon the agreement of all Parties; or
 - (b) private lands which could be acquired through treaty-related measures on a willing-seller willing-buyer basis, and transferred to the Te'mexw Member First Nation;

subject to the following conditions:

- (c) the value of any additional Crown land or the purchase price paid by Canada or British Columbia to acquire the private lands for any Te'mexw Member First Nation being deducted from the total value of the Land Fund for that Te'mexw Member First Nation set out in paragraph 13 of this chapter;
 - (d) the total value of any additional Crown or private lands acquired for any one Te'mexw Member First Nation not exceeding the amounts specified for that Te'mexw Member First Nation set out in paragraph 13 of this chapter;
 - (e) Canada and British Columbia obtaining the necessary appropriations, expenditure authorities and other approvals;
 - (f) the addition of lands satisfying Canada's and British Columbia's due diligence requirements;
 - (g) parties to the treaty-related measure agreeing to its terms; and
 - (h) the Te'mexw Member First Nation agreeing to accept any lands acquired under this chapter as fee simple lands on the Effective Date, unless the Parties agree that such lands will be Treaty Settlement Land.
15. Approximately one month before Effective Date, or as soon as the Effective Date is known, whichever date is closest to the Effective Date, the amounts of the Land Fund referred to in paragraph 13 of this chapter, as adjusted in accordance with subparagraph 14(c) of this chapter, will be finalized in accordance with the formula in paragraph 3 of this chapter, where the amount adjusted in accordance with subparagraph 14(c) of this chapter equals the Provisional Amount for purposes of the paragraph 3 of this chapter calculation.

REVENUE SHARING

16. Prior to the Final Agreement, the Parties will negotiate and attempt to reach agreement on sharing with the Te'mexw Member First Nations agreed-upon resource revenues originating in British Columbia and flowing to Canada or British Columbia.
17. These negotiations may include:
 - (a) the identification of types of resource revenues to be shared;
 - (b) the basis upon which they will be shared;
 - (c) the term, if any, over which the revenues will be shared;
 - (d) the placement in the Final Agreement of the resource revenue sharing provisions;
 - (e) the tax and own source revenue treatment of the resource revenue shared;
and
 - (f) such other matters as may be relevant.

CHAPTER 21 – FISCAL RELATIONS

1. The Parties acknowledge they each have a role in supporting each Te'mexw Member First Nation, through direct or indirect financial support or through access to public programs and services, as set out in the Fiscal Financing Agreement or provided through other arrangements.
 2. In Final Agreement negotiations, the Parties will address fiscal matters including:
 - (a) Final Agreement provisions regarding the ongoing fiscal relationship among the Parties; and
 - (b) funding arrangements to take effect no later than Effective Date that will set out terms, conditions and funding with respect to the responsibilities assumed by the Te'mexw Member First Nation, taking into account its ability to contribute from its own source revenues.
 3. The Parties acknowledge that Canada is developing a new national fiscal policy including a transparent methodology for determining levels of federal funding that may be provided to self governing aboriginal groups in Canada to support the delivery of agreed upon programs and services, taking into account the ability of each self governing aboriginal group to generate revenues from its own sources.
 4. Unless otherwise agreed by the Parties in a Fiscal Financing Agreement, the creation of the Te'mexw Member First Nation Government, the provision of Te'mexw Member First Nation Government legislative authority under the Final Agreement, or the exercise of Te'mexw Member First Nation Government legislative authority, does not create or imply any financial obligation or service responsibility on the part of any Party.
 5. Any funding required for the purposes of the Fiscal Financing Agreement, or any other agreement that is contemplated by the Final Agreement and that provides for financial obligations to be assumed by a Party, is subject to the appropriation of funds:
 - (a) in the case of Canada, by the Parliament of Canada;
 - (b) in the case of British Columbia, by the Legislature of British Columbia;
or
 - (c) in the case of the Te'mexw Member First Nation, by the Te'mexw Member First Nation Government.
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CHAPTER 22 – TAXATION

TAXATION POWERS

1. The Te'mexw Member First Nation Government may make laws in relation to:
 - (a) direct taxation of Te'mexw Member First Nation Citizens, within Treaty Settlement Lands, in order to raise revenue for Te'mexw Member First Nation Government purposes; and
 - (b) the implementation of any taxation agreement entered into between it and Canada or British Columbia, or both.
2. The powers of the Te'mexw Member First Nation Government under paragraph 1 of this chapter will not limit the taxation powers of Canada or British Columbia.
3. Notwithstanding any other provision of the Final Agreement, any Te'mexw Member First Nation Law made under this chapter, or any exercise of power by a Te'mexw Member First Nation, is subject to International Legal Obligations respecting taxation.

TAXATION POWERS AGREEMENTS

4. From time to time, at the request of the Te'mexw Member First Nation Government, Canada and British Columbia, together or separately, may negotiate and attempt to reach agreement with the Te'mexw Member First Nation Government respecting:
 - (a) the extent that the power of the Te'mexw Member First Nation Government under subparagraph 1(a) of this chapter may be extended to apply to Persons other than Te'mexw Member First Nation Citizens, within Treaty Settlement Lands; and
 - (b) the manner in which the taxation powers of the Te'mexw Member First Nation Government under subparagraph 1(a) of this chapter, as extended by the application of subparagraph 4(a) of this chapter, will be coordinated with existing federal or provincial tax systems, including:
 - (i) the amount of tax room that Canada or British Columbia may be prepared to vacate in favour of taxes imposed by the Te'mexw Member First Nation Government, and

- (ii) the terms and conditions under which Canada or British Columbia may administer taxes imposed by the Te'mexw Member First Nation Government.

Real Property Tax Coordination Agreement

5. Prior to the Final Agreement, each Te'mexw Member First Nation Government and British Columbia will negotiate and attempt to reach agreement on:
 - (a) each Te'mexw Member First Nation Government's authority to impose property taxes on persons who are not its Te'mexw Member First Nation Citizens in relation to those persons' ownership or occupation of Treaty Settlement Lands; and
 - (b) the coordination of the exercise of the Te'mexw Member First Nation taxation authority with British Columbia's taxation systems.
6. Notwithstanding the provisions of the Governance Chapter, parties to an agreement under paragraph 4 of this chapter may provide for an alternative approach to the appeal, enforcement or adjudication of a Te'mexw Member First Nation Law with respect to taxation.
7. A Te'mexw Member First Nation Law with respect to taxation may provide for:
 - (a) a fine that is greater than the limits set out in paragraph 152 of the Governance Chapter; or
 - (b) a term of imprisonment that is greater than the limit set out in paragraph 154 of the Governance Chapter,where there is an agreement to that effect as contemplated in paragraph 4 of this chapter.
8. A taxation agreement referred to in this chapter is not a treaty or land claims agreement and does not recognize or affirm aboriginal or treaty rights within the meaning of sections 25 or 35 of the *Constitution Act, 1982*.

LANDS

9. A Te'mexw Member First Nation is not subject to capital taxation, including real property taxes and taxes on capital or wealth, with respect to the estate or interest of the Te'mexw Member First Nation in the Treaty Settlement Lands on which there are no improvements or on which there is a designated improvement.

10. In paragraph 9 of this chapter, “designated improvement” means:
- (a) a residence of a Te'mexw Member First Nation Citizen; or
 - (b) an improvement, all or substantially all of which is used for a public purpose or a purpose ancillary or incidental to the public purpose, including:
 - (i) a public governance or administration building, public meeting building, public hall, public school or other public educational institution, teacherage, public library, public health facility, public care facility, public seniors home, public museum, place of public worship, manse, fire hall, police facility, court, correction facility, public recreation facility, public park, or an improvement used for Te'mexw Member First Nation cultural or spiritual purposes;
 - (ii) works of public convenience constructed or operated for the benefit of Te'mexw Member First Nation Citizens, occupiers of Treaty Settlement Lands or individuals visiting or in transit through Treaty Settlement Lands, including public utility works, public works used to treat or deliver water or as part of a public sewer system, public roads, public bridges, public drainage ditches, traffic signals, street lights, public sidewalks and public parking lots; or
 - (iii) other improvements similar in nature to those described in subparagraphs 10(b)(i) and 10(b)(ii) of this chapter;
 - (iv) an improvement that is used primarily for the management, protection or enhancement of a natural resource, including a Forest Resource or a fishery or wildlife resource, other than an improvement that is used primarily in harvesting or processing a natural resource for profit; and
 - (v) Forest Resources and forest roads.
11. In subparagraph 10(b) of this chapter, “public purpose” does not include the provision of property or services primarily for the purpose of profit.
12. For the purposes of paragraphs 9 and 10 of this chapter:
- (a) for greater certainty, Treaty Settlement Lands include the improvements on those lands; and

- (b) an improvement is deemed to be on the land that is necessarily ancillary to the use of the improvement.
- 13. For greater certainty, the exemption from taxation in paragraph 9 of this chapter does not apply to a taxpayer other than the Te'mexw Member First Nation nor does it apply with respect to a disposition of Treaty Settlement Lands, or interests in those lands, by the Te'mexw Member First Nation.
- 14. For federal and provincial income tax purposes, proceeds of disposition received by the Te'mexw Member First Nation on expropriation of Treaty Settlement Lands in accordance with the Treaty Settlement Lands Chapter will not be taxable.

TRANSFER OF TE'MEXW MEMBER FIRST NATION CAPITAL

- 15. A transfer under the Final Agreement of Te'mexw Member First Nation Capital is not taxable and a recognition of ownership of Te'mexw Member First Nation Capital under the Final Agreement is not taxable.
- 16. For purposes of paragraph 15 of this chapter, an amount paid to a person enrolled under the Final Agreement is deemed to be a transfer of Te'mexw Member First Nation Capital under the Final Agreement if the payment:
 - (a) reasonably can be considered to be a distribution of a Capital Transfer received by the Te'mexw Member First Nation; and
 - (b) becomes payable to the person within 90 days and is paid to the person within 270 days from the date that the Te'mexw Member First Nation receives the Capital Transfer.
- 17. For federal and provincial income tax purposes, Te'mexw Member First Nation Capital is deemed to have been acquired by the Te'mexw Member First Nation at a cost equal to its fair market value on the latest of:
 - (a) the Effective Date; and
 - (b) the date of transfer of ownership or the date of recognition of ownership, as the case may be.

INDIAN ACT TAX EXEMPTION AND TRANSITIONAL EXEMPTION

18. Before the Final Agreement, the Parties agree to negotiate transitional tax measures to address the fact that the *Indian Act* will no longer apply after the Effective Date. These transitional measures will be negotiated in a way that provides a reasonably comparable effect to transitional tax measures in other treaties negotiated with other aboriginal groups in British Columbia.

TAX TREATMENT AGREEMENT

19. The Parties will enter into a tax treatment agreement, which will come into effect on the Effective Date.
20. The tax treatment agreement shall address the tax treatment of:
- (a) the Te'mexw Member First Nation Government;
 - (b) corporations or other entities of the Te'mexw Member First Nation Government;
 - (c) donations to the Te'mexw Member First Nation;
 - (d) Te'mexw Member First Nation settlement trusts; and
 - (e) other matters as agreed by the Parties.
21. Canada and British Columbia will recommend to Parliament and the Legislature of British Columbia, respectively, that the tax treatment agreement be given effect and force of law under federal and provincial legislation.

CHAPTER 23 – DISPUTE RESOLUTION

GENERAL

1. In this chapter, and in Appendix D, a Party is deemed to be directly engaged in a Disagreement if another Party, acting reasonably, gives the first Party a written notice requiring it to participate in a process described in this chapter to resolve the Disagreement.
2. The Parties share the following objectives:
 - (a) to cooperate with each other to develop harmonious working relationships;
 - (b) to prevent, or, alternatively, to minimize Disagreements;
 - (c) to identify Disagreements quickly and resolve them in the most expeditious and cost-effective manner possible; and
 - (d) to resolve Disagreements in a non-adversarial, collaborative, and informal atmosphere.
3. Except as otherwise provided, Participants may agree to vary a procedural requirement contained in this chapter, or in Appendix D, as it applies to a particular Disagreement.
4. Participants may agree to, and the Supreme Court of British Columbia, on application, may order:
 - (a) the abridgement of a time limit; or
 - (b) the extension of a time limit, despite the expiration of that time limit in this chapter or in Appendix D.

SCOPE: WHEN THIS CHAPTER APPLIES TO A DISAGREEMENT

5. This chapter is not intended to apply to all conflicts or disputes between or among the Parties, but is limited to the conflicts or disputes described in paragraph 6 of this chapter.
6. This chapter only applies to:
 - (a) a conflict or dispute respecting:
 - (i) the interpretation, application, or implementation of the Final Agreement; or

- (ii) a breach or anticipated breach of the Final Agreement;
 - (b) a conflict or dispute, where provided for in the Final Agreement; or
 - (c) negotiations required to be conducted under any provision of the Final Agreement that provides that the Parties, or any of them, “will negotiate and attempt to reach agreement.”
7. This chapter does not apply to:
- (a) an agreement, plan, guideline or other document made by a Party or Parties that is referred to in or contemplated by the Final Agreement unless the Parties have agreed that this chapter applies to that agreement, plan, guideline or other document;
 - (b) the Implementation Plan; or
 - (c) conflicts or disputes, where excluded from this chapter.
8. Nothing in this chapter limits the application of a dispute resolution process, under any law, to a conflict or dispute involving a person if that conflict or dispute is not a Disagreement.
9. Nothing in any law limits the rights of a Party to refer a Disagreement to be resolved pursuant to this chapter.

DISAGREEMENTS TO GO THROUGH STAGES

10. The Parties desire and expect that most Disagreements will be resolved by informal discussions between or among the Parties, without the necessity of invoking this chapter.
11. Except as otherwise provided, Disagreements not resolved informally will progress, until resolved, through the following Stages:
- (a) Stage One: formal, unassisted efforts to reach agreement between or among the Participants, in collaborative negotiations under Appendix D Part 2;
 - (b) Stage Two: structured efforts to reach agreement between or among the Participants with the assistance of a Neutral, who has no authority to resolve the dispute, in a facilitated process under Appendix D Parts 3 to 6 as applicable; and
 - (c) Stage Three: final adjudication in arbitral proceedings under Appendix D Part 7, or in judicial proceedings.

12. Except as otherwise provided in the Final Agreement, no Party may refer a Disagreement to final adjudication in Stage Three without first proceeding through Stage One and Stage Two as required in this chapter.
13. Nothing in this chapter prevents a Party from commencing arbitral or judicial proceedings at any time:
 - (a) to prevent the loss of a right to commence proceedings due to the expiration of a limitation period; or
 - (b) to obtain interlocutory or interim relief that is otherwise available pending resolution of the Disagreement under this chapter.

STAGE ONE: COLLABORATIVE NEGOTIATIONS

14. If a Disagreement is not resolved by informal discussion, a Party may deliver a written notice, as required under Appendix D Part 2, as soon as practicable to all the other Parties, requiring the commencement of collaborative negotiations.
15. A notice under paragraph 14 of this chapter will include all information required under section 2 of Appendix D Part 2.
16. Upon receiving the notice under paragraph 14 of this chapter, a Party identified in that notice as a Party directly engaged in the Disagreement will participate in the collaborative negotiations.
17. A Party not identified in the notice under paragraph 14 of this chapter as a Party directly engaged in the Disagreement may participate in the collaborative negotiations by giving written notice to the other Parties, preferably before the collaborative negotiations commence.
18. If Parties have commenced negotiations in the circumstances described in subparagraph 6(c) of this chapter, then, for all purposes under this chapter, those negotiations will be deemed collaborative negotiations participated in by those Parties and the particular matter under negotiation will be considered a Disagreement.
19. Collaborative negotiations terminate in the circumstances set out in Appendix D Part 2.

STAGE TWO: FACILITATED PROCESSES

20. Within 15 days of termination of collaborative negotiations that have not resolved the Disagreement, a Party directly engaged in a Disagreement, by delivering a notice to all the other Parties, may require the commencement of a
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facilitated process.

21. A notice under paragraph 20 of this chapter:
 - (a) will identify the Party or Parties directly engaged in the Disagreement and a summary of the particulars of the Disagreement; and
 - (b) may propose the use of a particular facilitated process described in paragraph 24 of this chapter.
22. Upon receiving a notice under paragraph 20 of this chapter a Party identified in that notice as a Party directly engaged in the Disagreement will participate in a facilitated process described in paragraph 24 of this chapter.
23. A Party not identified as a Party directly engaged in the Disagreement may participate in the facilitated process by giving written notice to the other Parties within 15 days of delivery of a notice under paragraph 20 of this chapter.
24. Within 30 days after delivery of a notice under paragraph 20 of this chapter, the Participants in the facilitated process will attempt to agree to use one of the following processes:
 - (a) mediation under Appendix D Part 3;
 - (b) technical advisory panel under Appendix D Part 4;
 - (c) neutral evaluation under Appendix D Part 5;
 - (d) eminent persons advisory panel under Appendix D Part 6; or
 - (e) any other non-binding dispute resolution process assisted by a Neutral;and, if they fail to agree, they will be deemed to have selected mediation under Appendix D Part 3.
25. A facilitated process terminates:
 - (a) in the circumstances set out in the applicable part of Appendix D; or
 - (b) as agreed by the Participants, if no part of Appendix D applies.

NEGOTIATING CONDITIONS

26. In order to enhance the prospect of reaching agreement, the Participants in collaborative negotiations or a negotiation component of a facilitated process will:
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- (a) at the request of a Participant, provide timely disclosure of sufficient information and documents to enable a full examination of the subject matter being negotiated;
- (b) make every reasonable effort to appoint negotiating representatives with sufficient authority to reach an agreement, or with ready access to such authority; and
- (c) negotiate in good faith.

SETTLEMENT AGREEMENT

27. Any agreement reached in a process under this chapter:
- (a) will be:
 - (i) recorded in writing,
 - (ii) signed by authorized representatives of the Parties to the agreement, and
 - (iii) delivered to all Parties; and
 - (b) is binding only on the Parties who have signed the agreement.

STAGE THREE: ADJUDICATION – ARBITRATION

28. After the later of termination of collaborative negotiations, or of a required facilitated process, in respect of a Disagreement arising out of any provision of the Final Agreement that provides that a matter will be “finally determined by arbitration,” the Disagreement will, on the delivery of a notice by a Party directly engaged in the Disagreement, to all Parties as required under Appendix D Part 7, be referred to and finally resolved by arbitration in accordance with Appendix D Part 7.
29. After the later of termination of collaborative negotiations, or a required facilitated process, in respect of any Disagreement, other than a Disagreement referred to in paragraph 28 of this chapter, and with the written agreement of all Parties directly engaged in the Disagreement, the Disagreement will be referred to, and finally resolved by, arbitration in accordance with Appendix D Part 7.
30. If any two Participants make a written agreement under paragraph 29 of this chapter, they will deliver a copy of the agreement as soon as practicable to the other Party.
31. Upon delivering a written notice to the Parties within 15 days after receiving a

notice under paragraph 28 of this chapter or copy of a written agreement under paragraph 30 of this chapter, a Party not directly engaged in the Disagreement is entitled to be, and will be added as, a party to the arbitration of that Disagreement whether or not that Party has participated in collaborative negotiations or a required facilitated process.

32. Notwithstanding paragraph 31 of this chapter, an arbitral tribunal may make an order adding a Party as a Participant at any time, if the considers that:

- (a) the other Parties will not be unduly prejudiced; or
- (b) the issues raised in the arbitration are materially different from those identified in the notice to arbitrate under paragraph 28 of this chapter or the written agreement to arbitrate in paragraph 29 of this chapter,

and in that event, the arbitral tribunal may make any order it considers appropriate or necessary in the circumstances respecting conditions, including the payment of costs, upon which the Party may be added.

EFFECT OF ARBITRAL AWARD

33. An arbitral award is final and binding on all Parties whether or not a Party was a Participant in the arbitration.

34. Notwithstanding paragraph 33 of this chapter, an arbitral award is not binding on a Party that was not a Participant in the arbitration if:

- (a) the Party did not receive copies of:
 - (i) the notice of arbitration or agreement to arbitrate, or
 - (ii) the documents referenced in paragraphs 65, 66 and 69 of Appendix D Part 7; or
- (b) the arbitral tribunal refused to add the Party as a Participant to the arbitration under paragraph 32 of this chapter.

APPLICATION OF LEGISLATION

35. No legislation of any Party respecting arbitration, except the Settlement Legislation, applies to an arbitration conducted under this chapter.

36. A court must not intervene or offer assistance in an arbitration or review an arbitral award under this chapter except as provided in Appendix D Part 7.

STAGE THREE: ADJUDICATION – JUDICIAL PROCEEDINGS

37. Nothing in this chapter creates a cause of action where none otherwise exists.
38. Subject to paragraph 39 of this chapter, at any time a Party may commence proceedings in the Supreme Court of British Columbia in respect of a Disagreement.
39. A Party may not commence judicial proceedings in respect of a Disagreement if the Disagreement:
- (a) is required to be referred to arbitration under paragraph 28 of this chapter or has been agreed to be referred to arbitration under paragraph 29 of this chapter;
 - (b) has not been referred to collaborative negotiations or a facilitated process as required under this chapter; or
 - (c) has been referred to collaborative negotiations or a facilitated process that has not yet been terminated.
40. Nothing in subparagraph 39(a) of this chapter prevents an arbitral tribunal or the Participants from requesting the Supreme Court of British Columbia to make a ruling respecting a question of law as permitted in Appendix D Part 7.

NOTICE TO PARTIES

41. If, in any judicial, arbitral, or administrative proceeding, an issue arises in respect of:
- (a) the interpretation or validity of the Final Agreement; or
 - (b) the validity, or applicability of:
 - (i) any Settlement Legislation, or
 - (ii) any Te'mexw Member First Nation Law,

the issue will not be decided until the party raising the issue has properly served notice on the Attorney General of British Columbia, the Attorney General of Canada, and all the Te'mexw Member First Nation Governments.

42. In any judicial, arbitral, or administrative proceeding to which paragraph 41 of this chapter applies, the Attorney General of British Columbia, the Attorney General of Canada, and any Te'mexw Member First Nation Government may appear and participate in the proceedings as parties with the same rights as any

other party.

COSTS

43. Except as provided otherwise in the Appendix D, each Participant will bear the costs of its own participation, representation, and appointments in collaborative negotiations, a facilitated process, or an arbitration conducted under this chapter.
44. Subject to paragraph 43 of this chapter and except as provided otherwise in the Appendix D, the Participants will share equally all costs of collaborative negotiations, a facilitated process, or an arbitration conducted under this chapter.
45. For purposes of paragraph 44 of this chapter, costs include:
 - (a) fees of the Neutrals;
 - (b) costs of hearing and meeting rooms;
 - (c) actual and reasonable costs of communications, accommodation, meals, and travel of the Neutrals;
 - (d) costs of required secretarial and administrative support for the Neutrals, as permitted in Appendix D; and
 - (e) administration fees of a Neutral Appointing Authority.

CHAPTER 24 – TRANSITIONAL PROVISIONS

ESTATES

1. The Final Agreement will provide that the *Indian Act* applies, with any modifications that the circumstances require, to the estate of an individual who:
 - (a) died testate or intestate before the Effective Date; and
 - (b) at the time of death, was a registered Indian of a Te'mexw Member First Nation Indian Band.
 2. Before the Effective Date, Canada will take reasonable steps to notify in writing all registered Indians of the Te'mexw Member First Nation Indian Bands who have deposited wills with the Minister that their wills may not be valid after the Effective Date, and that their wills should be reviewed to ensure validity under the laws applicable after the Effective Date.
 3. The Final Agreement will provide that section 51 of the *Indian Act* applies, with any modifications that the circumstances require, to the property and estate of an individual:
 - (a) who was a “mentally incompetent Indian” as defined in the *Indian Act* immediately before the Effective Date;
 - (b) whose property and estate was under the authority of the Minister under section 51 of the *Indian Act* immediately before the Effective Date; and
 - (c) who was a registered Indian of a Te'mexw Member First Nation Indian Band immediately before the Effective Date,until they are no longer a “mentally incompetent Indian.”
 4. The Final Agreement will provide that sections 52, 52.2, 52.3, 52.4 and 52.5 of the *Indian Act* apply, with any modifications that the circumstances require, to the administration of any property to which an individual:
 - (a) who was a registered Indian of a Te'mexw Member First Nation Indian Band immediately before the Effective Date; and
 - (b) who is an infant child of an Indian within the meaning of the *Indian Act*,
is entitled, if the Minister was administering that property under the *Indian Act* immediately before the Effective Date, until the duties of the Minister in respect of the administration have been discharged.
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CONTINUATION OF INDIAN ACT BY-LAWS

5. The Final Agreement will provide that the by-laws and land codes, where applicable, of the Te'mexw Member First Nation Indian Bands that were in effect immediately before the Effective Date, have effect for 12 months after the Effective Date on the Treaty Settlement Lands of the applicable Te'mexw Member First Nation whose Te'mexw Member First Nation Government replaces the band council that made the by-law or land code.
6. The relationship between a by-law and land code, if applicable, referred to in paragraph 5 of this chapter, and Federal and Provincial Law, will be governed by the provisions of the Final Agreement governing the relationship between Te'mexw Member First Nation Law and Federal and Provincial Law in respect of the subject matter of the by-law or land code.
7. The Te'mexw Member First Nation Government replacing the band council that made a by-law or land code, if applicable, referred to in paragraph 5 of this chapter may repeal, but not amend, that by-law or land code.
8. Nothing in the Final Agreement precludes a person from challenging the validity of a by-law or land code, if applicable, referred to in paragraph 5 of this chapter.

STATUS OF BANDS AND TRANSFER OF BAND ASSETS

9. Subject to the Final Agreement, on the Effective Date, all of the rights, titles, interests, assets, obligations, and liabilities of:
 - (a) the Beecher Bay Indian Band vest in the Beecher Bay First Nation;
 - (b) the Malahat First Nation vest in the Malahat First Nation;
 - (c) the Nanoose First Nation vest in the Snaw-Naw-As First Nation;
 - (d) the Songhees First Nation vest in the Songhees First Nation; and
 - (e) the T'Sou-ke First Nation vest in the T'Sou-ke First Nation,and the Te'mexw Member First Nation Indian Bands cease to exist.

TRANSITION TO ELECTED GOVERNMENT

10. The chief and councillors for the Te'mexw Member First Nation Indian Band on the day immediately before the Effective Date are the elected members of the Te'mexw Member First Nation Government from the Effective Date until the office holders elected in the first elections take office.

11. The first elections for the officers of the Te'mexw Member First Nation Government will be held at a date specified in the Final Agreement.

CHAPTER 25 – IMPLEMENTATION

GENERAL

1. Before initialing the Final Agreement, the Parties will conclude an Implementation Plan for each Te'mexw Member First Nation that will take effect on the Effective Date and have a term of 10 years, unless renewed or extended on the recommendation of the applicable Implementation Committee.

IMPLEMENTATION PLAN

2. The Implementation Plan will set out:
 - (a) its purposes;
 - (b) the obligations of the Parties under the Final Agreement;
 - (c) the activities to be undertaken to fulfill those obligations and the responsible Party;
 - (d) the timelines, including when activities will be completed;
 - (e) how the Implementation Plan may be amended;
 - (f) how the Implementation Plan may be renewed or extended; and
 - (g) other matters as the Parties may agree.
 3. The Implementation Plan will not:
 - (a) form part of the Final Agreement;
 - (b) be a treaty or land claims agreement;
 - (c) recognize or affirm aboriginal or treaty rights within the meaning of sections 25 and 35 of the *Constitution Act, 1982*;
 - (d) create legal obligations;
 - (e) alter any rights or obligations set out in the Final Agreement;
 - (f) preclude any Party from asserting that rights or obligations exist under the Final Agreement even though they are not referred to in the Implementation Plan; or
 - (g) be used to interpret the Final Agreement.
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IMPLEMENTATION WORKING GROUP

4. During Final Agreement negotiations, the Parties will establish an implementation working group with representation from each Te'mexw Member First Nation Indian Band, Canada, and British Columbia which will:
 - (a) develop the Implementation Plan referred to in paragraph 2 of this chapter before the initialing of the Final Agreement; and
 - (b) develop a list of activities that the Parties must complete before the Effective Date.
5. During Final Agreement negotiations, the Parties will discuss the funding of implementation activities described in the Implementation Plan as part of the discussion on funding arrangements contemplated by the Fiscal Relations Chapter.

IMPLEMENTATION COMMITTEES

6. On the Effective Date, the Parties will establish tripartite Implementation Committees for each Te'mexw Member First Nation. Each Implementation Committee will have a term of 10 years which may be renewed or extended by agreement of the Parties.
7. Each Implementation Committee will be comprised of one member from Canada, one member from British Columbia, and one member from the Te'mexw Member First Nation, but additional representatives of a Party may participate in meetings to support or assist its members in carrying out that member's responsibilities on the Implementation Committee.
8. Each Implementation Committee will:
 - (a) provide a forum for the Parties to discuss the implementation of the Final Agreement;
 - (b) establish its own procedures and operating guidelines;
 - (c) provide for the periodic review of the Implementation Plan;
 - (d) recommend revisions to the Implementation Plan;
 - (e) develop a communications strategy in respect of the implementation and content of the Final Agreement;
 - (f) provide for the preparation of annual reports on the implementation of

the Final Agreement;

- (g) before the expiry of the Implementation Plan, advise the Parties on further implementation measures required and recommend whether the Implementation Plan should be renewed or extended; and
- (h) undertake other activities as the Parties may agree.

CHAPTER 26 – APPROVAL OF THE AGREEMENT-IN-PRINCIPLE

1. This Agreement-in-Principle will be submitted to the Parties for approval after it has been initialed by the Chief Negotiators for Canada and British Columbia and the Negotiator for each of the Te'mexw Member First Nation Indian Bands.
2. Following a community approval process as established by the chief and council of each Te'mexw Member First Nation Indian Band, each Te'mexw Member First Nation Indian Band will have approved this Agreement-in-Principle when it is signed by its chief, as authorized by a band council resolution.
3. Canada will have approved this Agreement-in-Principle when it is signed by the Minister authorized to do so by the federal Cabinet.
4. British Columbia will have approved this Agreement-in-Principle when it is signed by the Minister authorized to do so by the provincial Cabinet.
5. This Agreement-in-Principle is not legally binding.

CHAPTER 27 – RATIFICATION OF THE FINAL AGREEMENT

GENERAL

1. Each Final Agreement will be legally binding once ratified by all of the Parties to that Final Agreement in accordance with the Ratification Chapter of the Final Agreement.
2. Each Final Agreement will be submitted to the Parties to that Final Agreement for ratification as set out in the Final Agreement after it has been initialed by the Chief Negotiators for Canada and British Columbia and the Negotiator for the Te'mexw Member First Nation.

RATIFICATION COMMITTEE

3. The Parties to each Final Agreement will establish a Ratification Committee, consisting of one representative appointed by each Party to that Final Agreement, to be responsible for the ratification process for the Te'mexw Member First Nation.
4. The Ratification Committee will:
 - (a) prepare and publish a preliminary list of Eligible Voters in accordance with the relevant provisions of the Final Agreement;
 - (b) prepare a list of addresses of Eligible Voters;
 - (c) implement a process to ensure the completeness and accuracy of the preliminary list of Eligible Voters, including providing a means for persons claiming an entitlement to vote to be considered for inclusion, so that the preliminary list of Eligible Voters can become the Official Voters List;
 - (d) prepare and make available the Official Voters List at least 21 days before the first day of general voting based on the information provided by the Enrollment Committee;
 - (e) determine the number and location of on-reserve and off-reserve polling stations and the means by which the polling will be conducted;
 - (f) determine the means by which mail-in and advance polling, if any, will be conducted;
 - (g) prepare and approve official information packages describing:

- (i) the terms of the Final Agreement; and
 - (ii) the ratification process;
- (h) approve the means by which the official information packages will be distributed to Eligible Voters;
- (i) set the question to be posed on the ballot and the form of the ballot;
- (j) hire qualified persons to conduct the polling;
- (k) set the general directions governing the conduct of the polling by the persons designated to conduct the polling;
- (l) set the general directions governing the counting of the ballots, the appointment of scrutineers, the conduct of recounts, and the retention and destruction of ballots;
- (m) set the date of and conduct the ratification vote;
- (n) count the ballots and, if necessary, any recount of the ballots;
- (o) conduct the ratification vote on a day or days determined by the Ratification Committee; and
- (p) perform any other function agreed upon by the Parties related to the ratification of the Final Agreement.
5. The Ratification Committee will make decisions by consensus, provided that where a Ratification Committee is unable to decide a question by consensus, decisions will be made by majority vote.

RATIFICATION BY THE TE'MEXW MEMBER FIRST NATION

6. An Eligible Voter will be a person who:
- (a) is enrolled in accordance with the Eligibility and Enrolment Chapter of the Final Agreement;
 - (b) is 18 years of age or older on the day of the ratification vote; and
 - (c) meets any other criterion set out in the Final Agreement.
7. As part of the Final Agreement negotiations, the Parties will agree on a process that allows potential Eligible Voters who are not on the Official Voters List to enroll and vote during the voting process.

8. Ratification of the Final Agreement by a Te'mexw Member First Nation requires:
- (a) that Eligible Voters have a reasonable opportunity to review the Final Agreement prior to the vote;
 - (b) a vote, by way of secret ballot;
 - (c) that a majority of Eligible Voters vote in favour of the Final Agreement;
 - (d) ratification of a Te'mexw Member First Nation Constitution through the process set out in paragraph 11 of this chapter; and
 - (e) the Final Agreement be signed by the authorized representative of the Te'mexw Member First Nation.

RATIFICATION BY CANADA

9. Ratification of the Final Agreement by Canada requires:
- (a) that the Final Agreement be signed by a Minister authorized by the federal Cabinet; and
 - (b) the coming into force of federal legislation giving effect to the Final Agreement.

RATIFICATION BY BRITISH COLUMBIA

10. Ratification of the Final Agreement by British Columbia requires:
- (a) that the Final Agreement be signed by a Minister authorized to do so; and
 - (b) the coming into force of provincial legislation giving effect to the Final Agreement.

RATIFICATION OF THE TE'MEXW MEMBER FIRST NATION CONSTITUTION

11. Ratification of the Te'mexw Member First Nation Constitution by a Te'mexw Member First Nation requires:
- (a) that Eligible Voters of the Te'mexw Member First Nation have a reasonable opportunity to review their Te'mexw Member First Nation Constitution prior to the vote;
 - (b) a vote, by way of a secret ballot; and

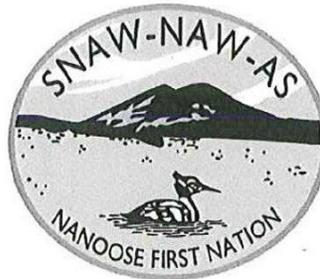
- (c) that a majority of Eligible Voters vote in favour of adopting the Te'mexw Member First Nation Constitution.

TE'MEXW TREATY ASSOCIATION AGREEMENT-IN-PRINCIPLE APPENDICES

Canada 



BEECHER BAY
NATION



SONGHEES NATION



T'Sou-ke Nation

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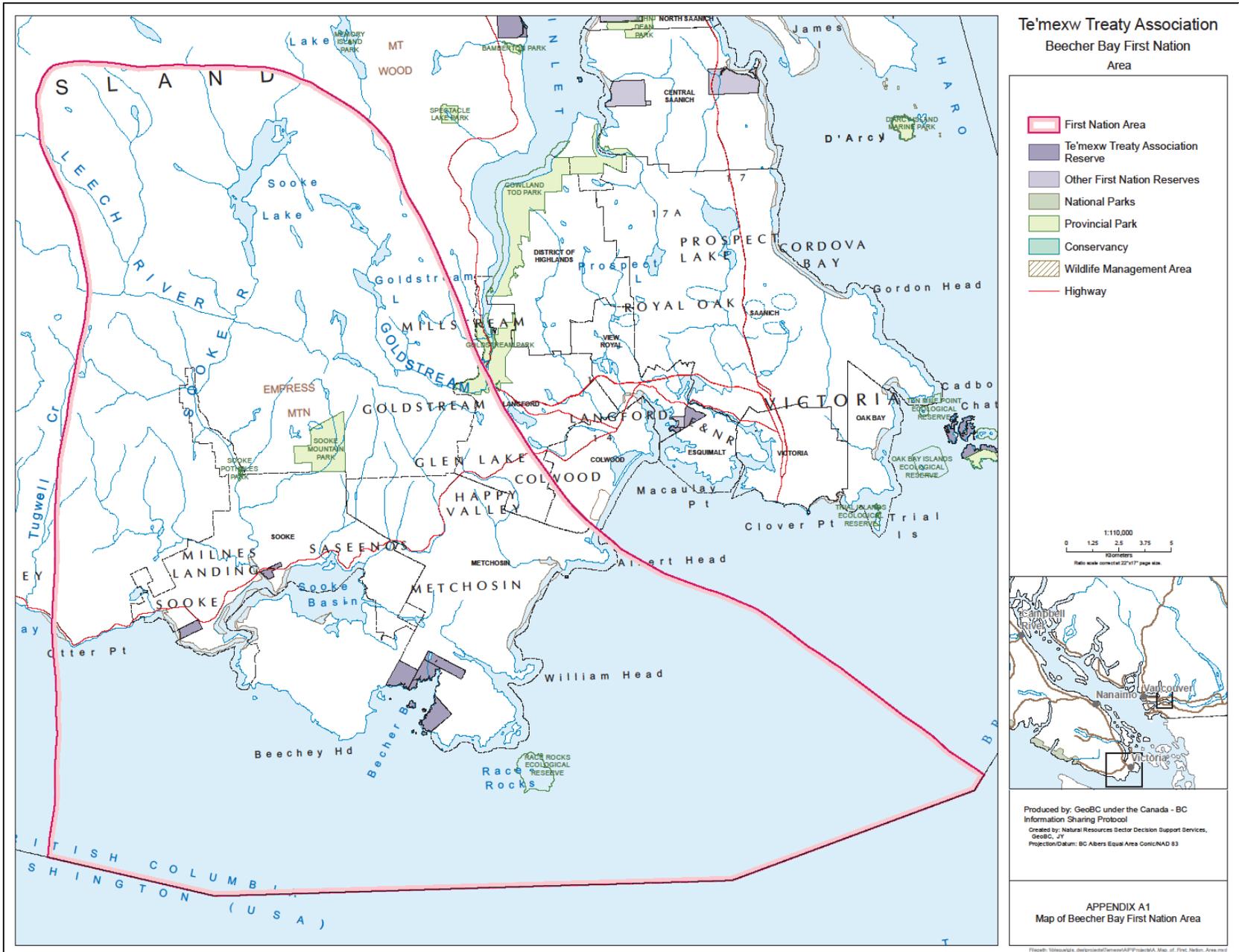
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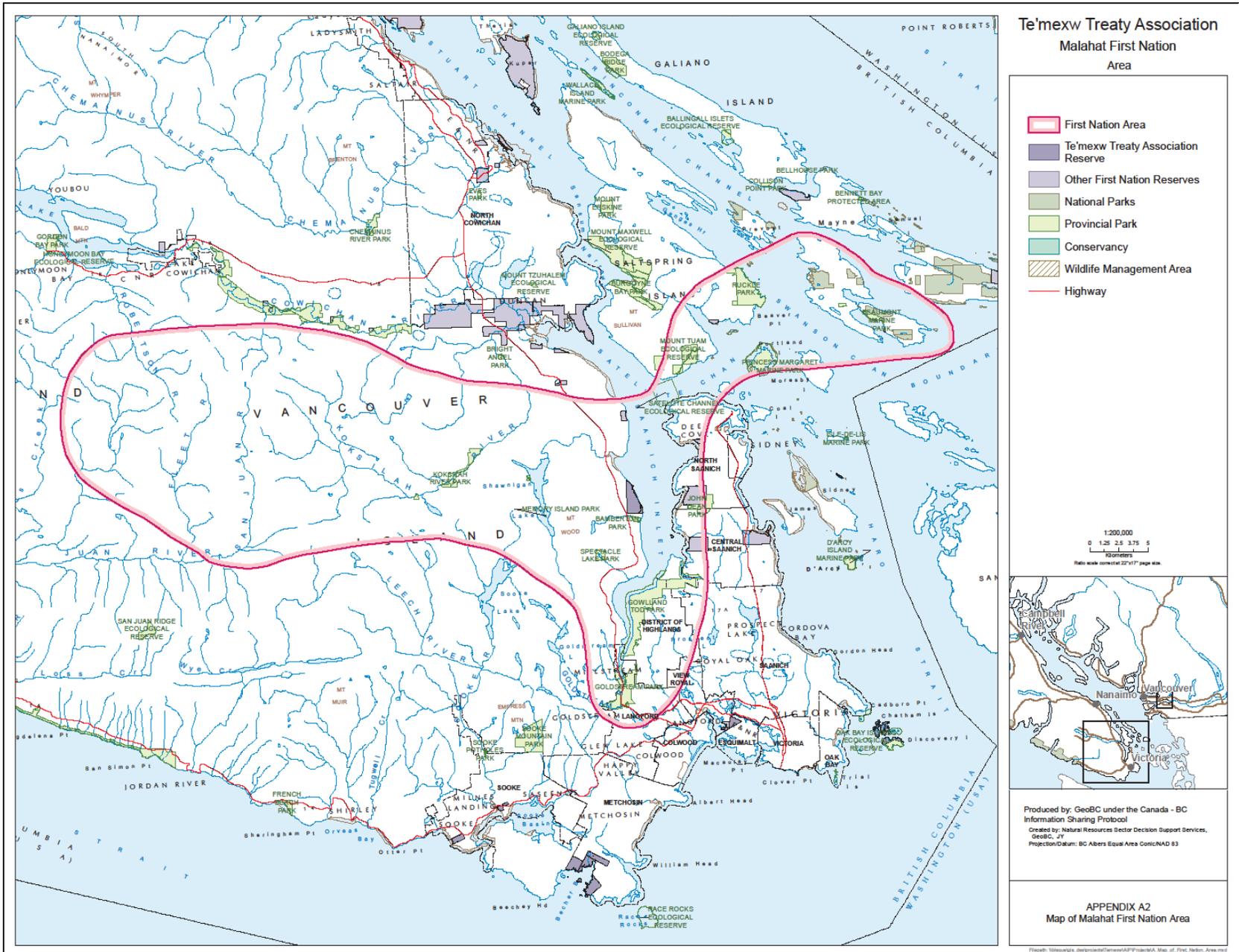
APPENDIX A

MAPS OF TE'MEXW MEMBER FIRST NATION AREAS

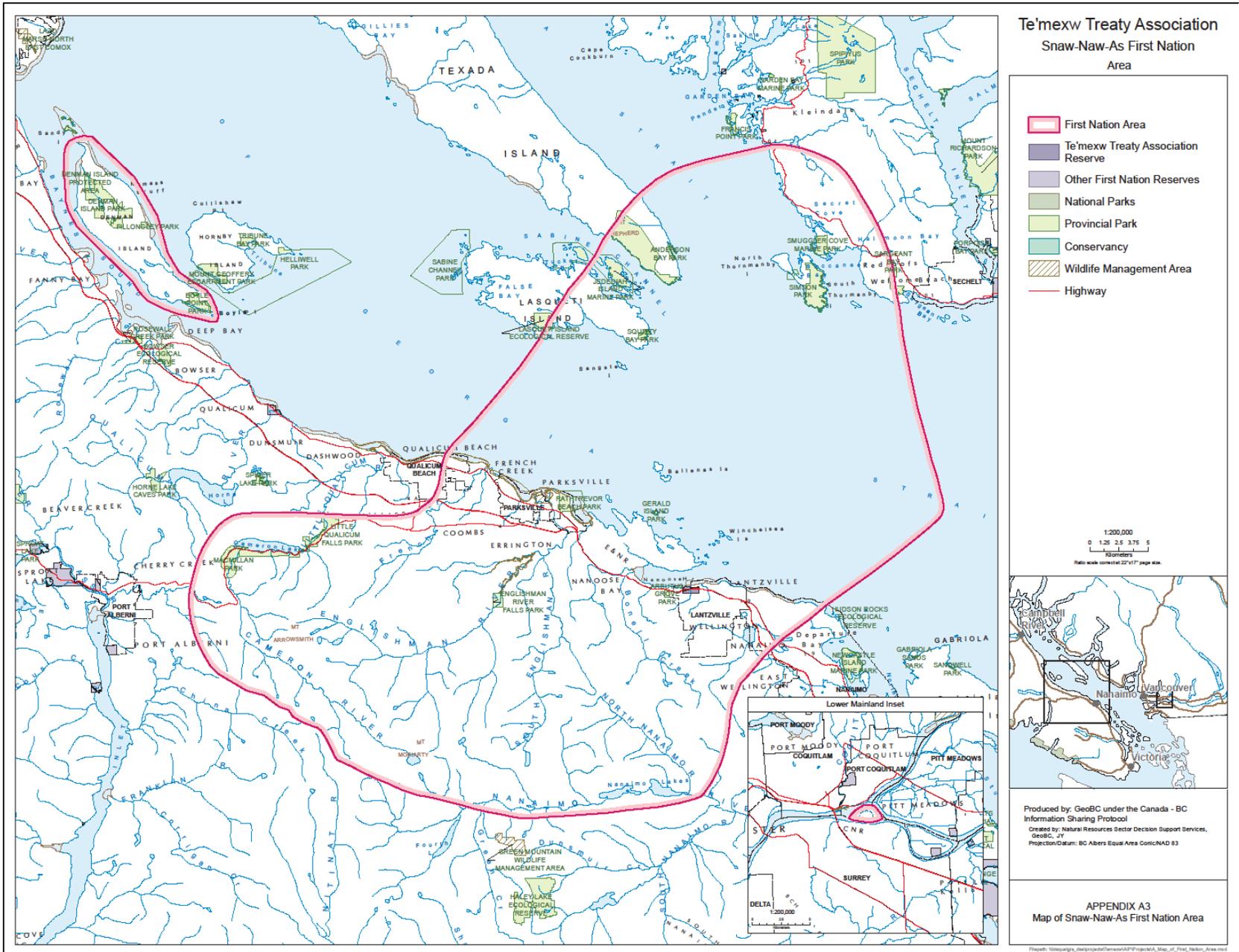
APPENDIX A1: Beecher Bay First Nation Area



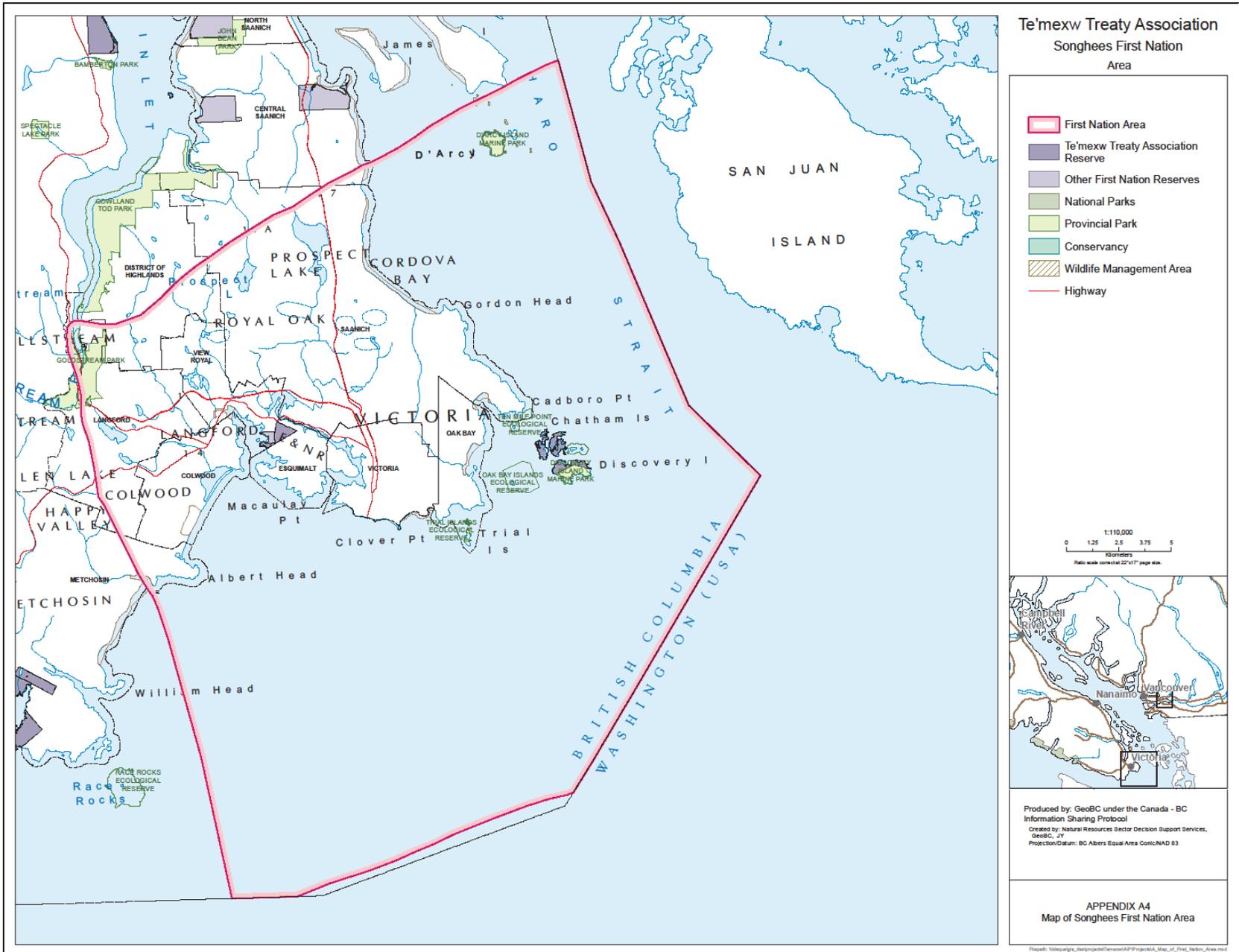
APPENDIX A2: Malahat First Nation Area



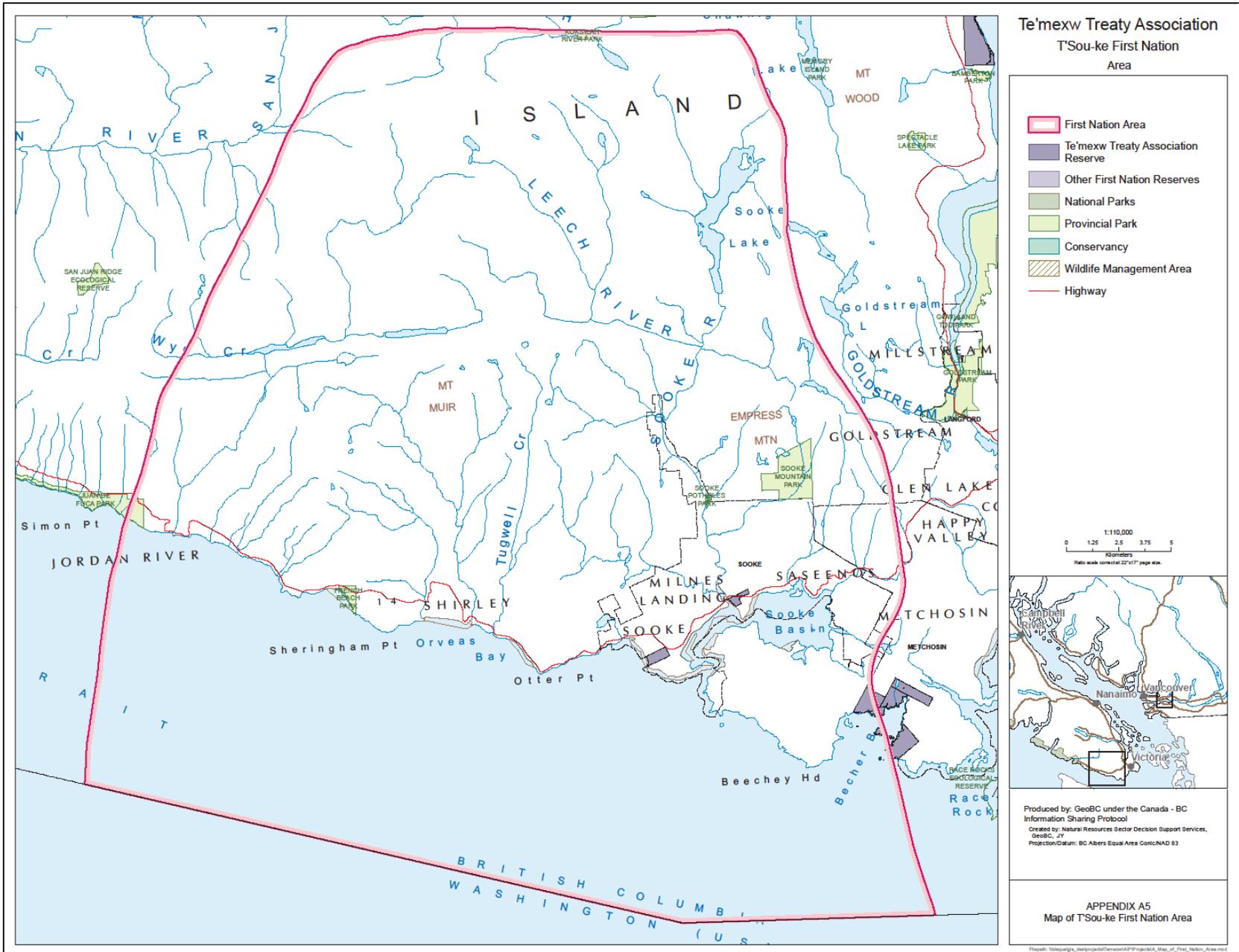
APPENDIX A3: Snaw-Naw-As First Nation Area



APPENDIX A4: Songhees First Nation Area



APPENDIX A5: T'Sou-ke First Nation Area



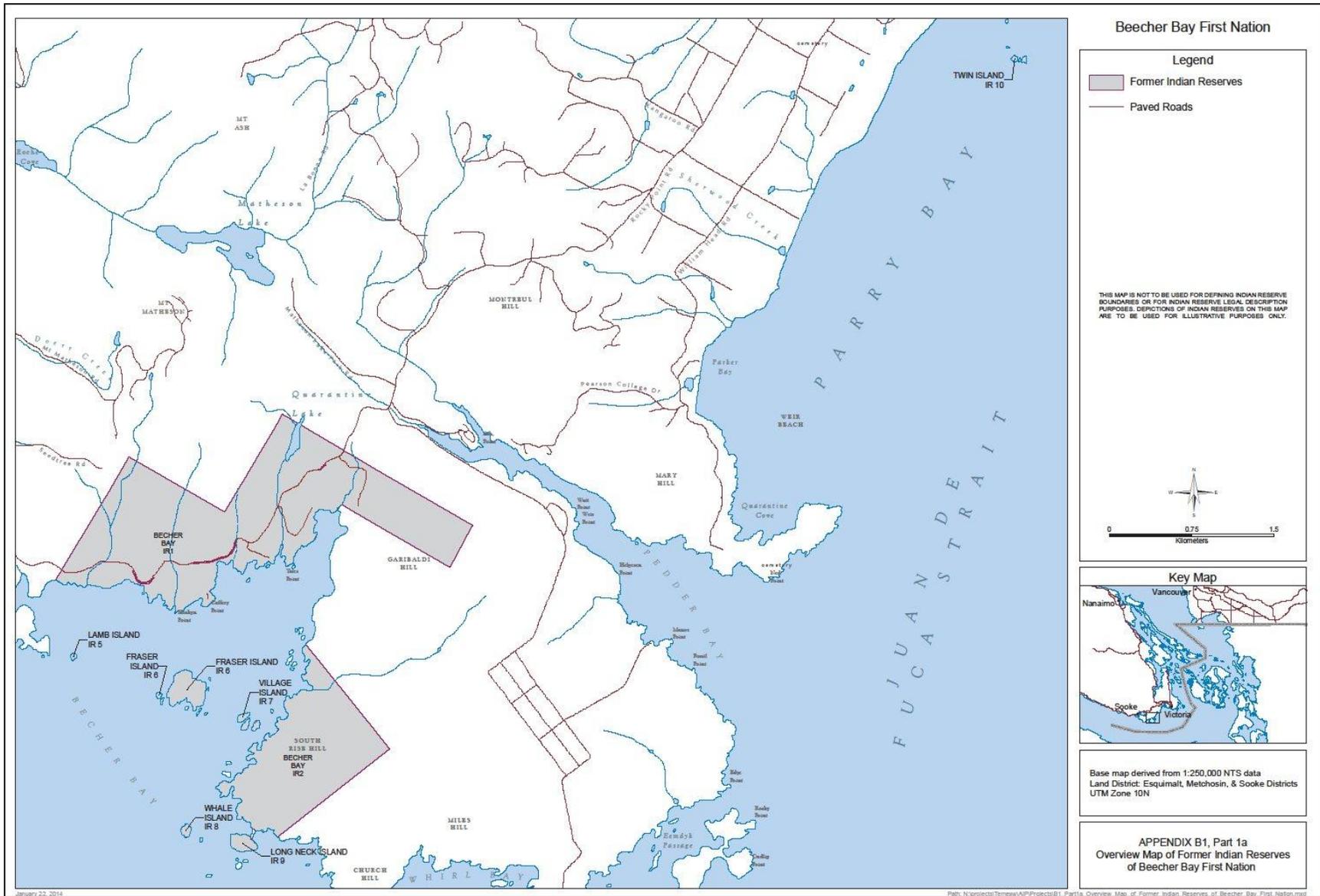
APPENDIX B

TREATY SETTLEMENT LAND

APPENDIX B1: BEECHER BAY FIRST NATION TREATY SETTLEMENT LAND

Note: These maps are for illustrative purposes only. The Parties will update the Appendices before the Final Agreement. These maps do not reflect Additions to Reserve currently in progress, survey and encroachment issues and roads to be reviewed as described in Part 1b.

Part 1a: Overview Map of Beecher Bay First Nation Former Indian Reserves



APPENDIX B: BEECHER BAY FIRST NATION TREATY SETTLEMENT LAND

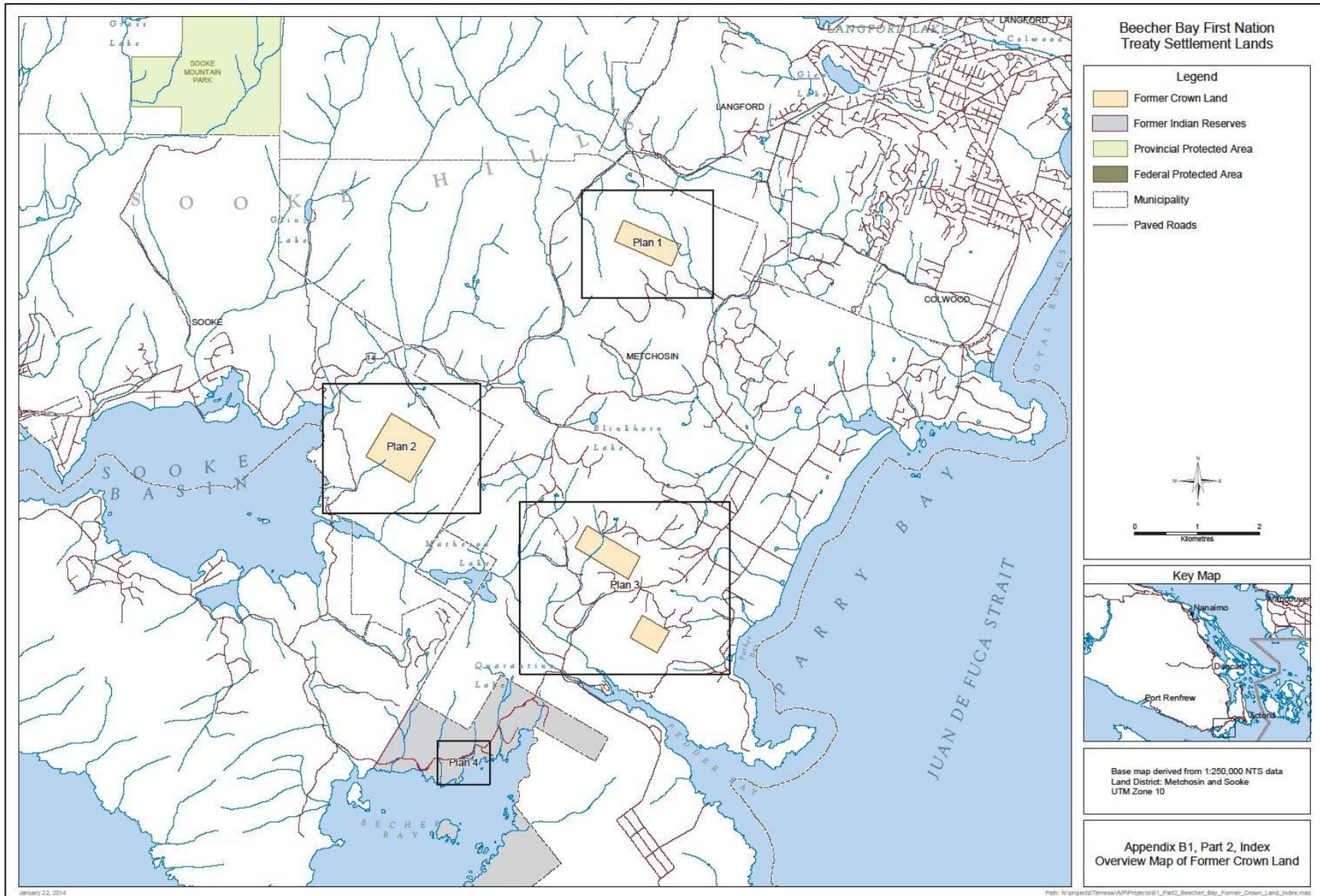
Part 1b: Land Descriptions of Former Beecher Bay First Nation Indian Reserves

Note: The Parties will update the Appendices before the Final Agreement.

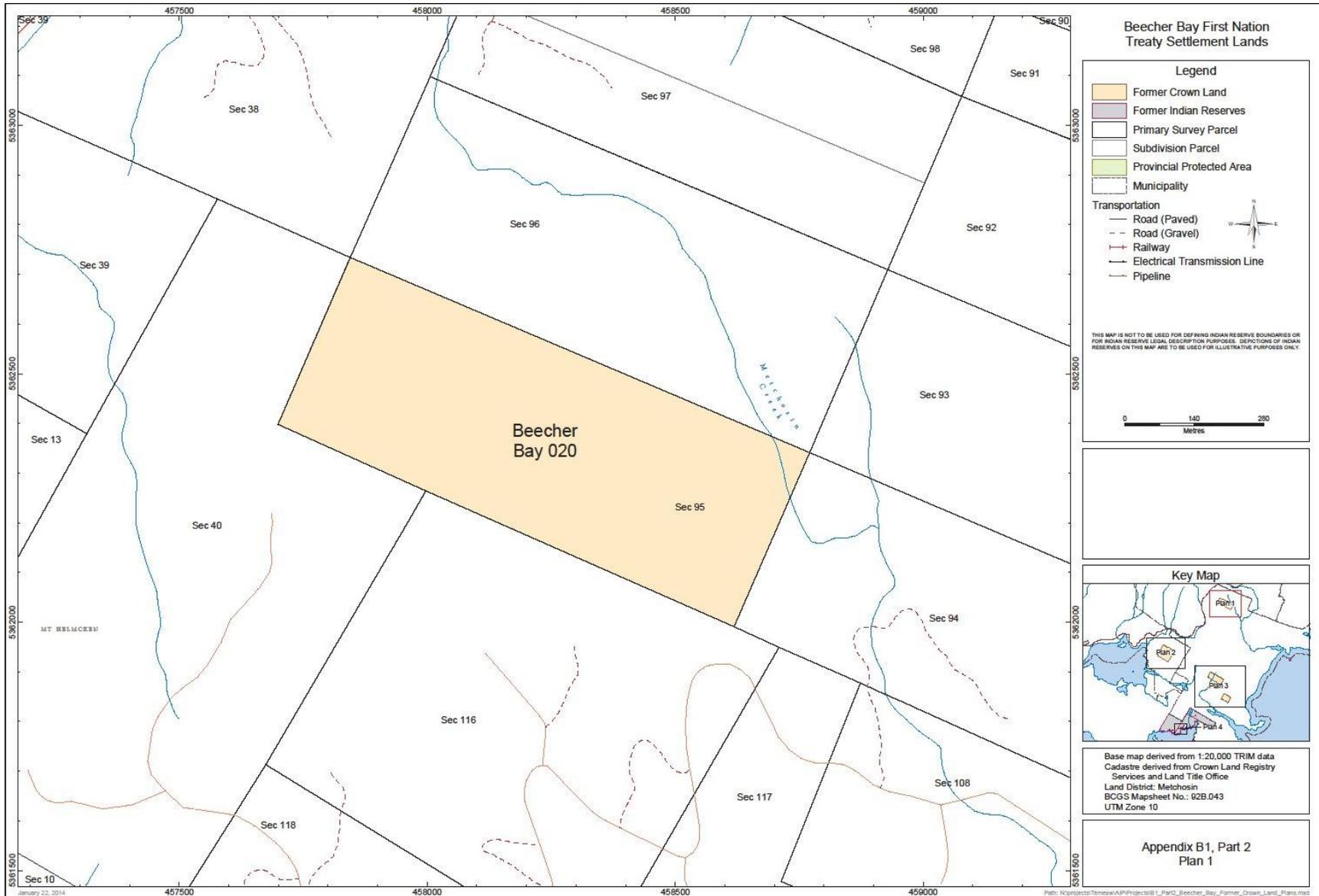
Former Indian Reserve No. and Name	Land Description
No. 1 Becher Bay	Plan BC 236 <ul style="list-style-type: none">• except the 1.74-acre road right of way shown on Plan 1737, and• except the Road on Plan 57744 (see boundary survey Plans 55934 and 89898)
No. 2 Becher Bay	Plan BC 236 (see boundary survey Plans 56227 & 95159)
No. 5 Lamb Island	Plan 91703
No. 6 Fraser Island	Plan 91703
No. 7 Village Island	Plan 91703
No. 8 Whale Island	Plan 91703
No. 9 Long Neck Island	Plan 91703
No. 10 Twin Island	Plan 88542

APPENDIX B1: BEECHER BAY FIRST NATION TREATY SETTLEMENT LAND

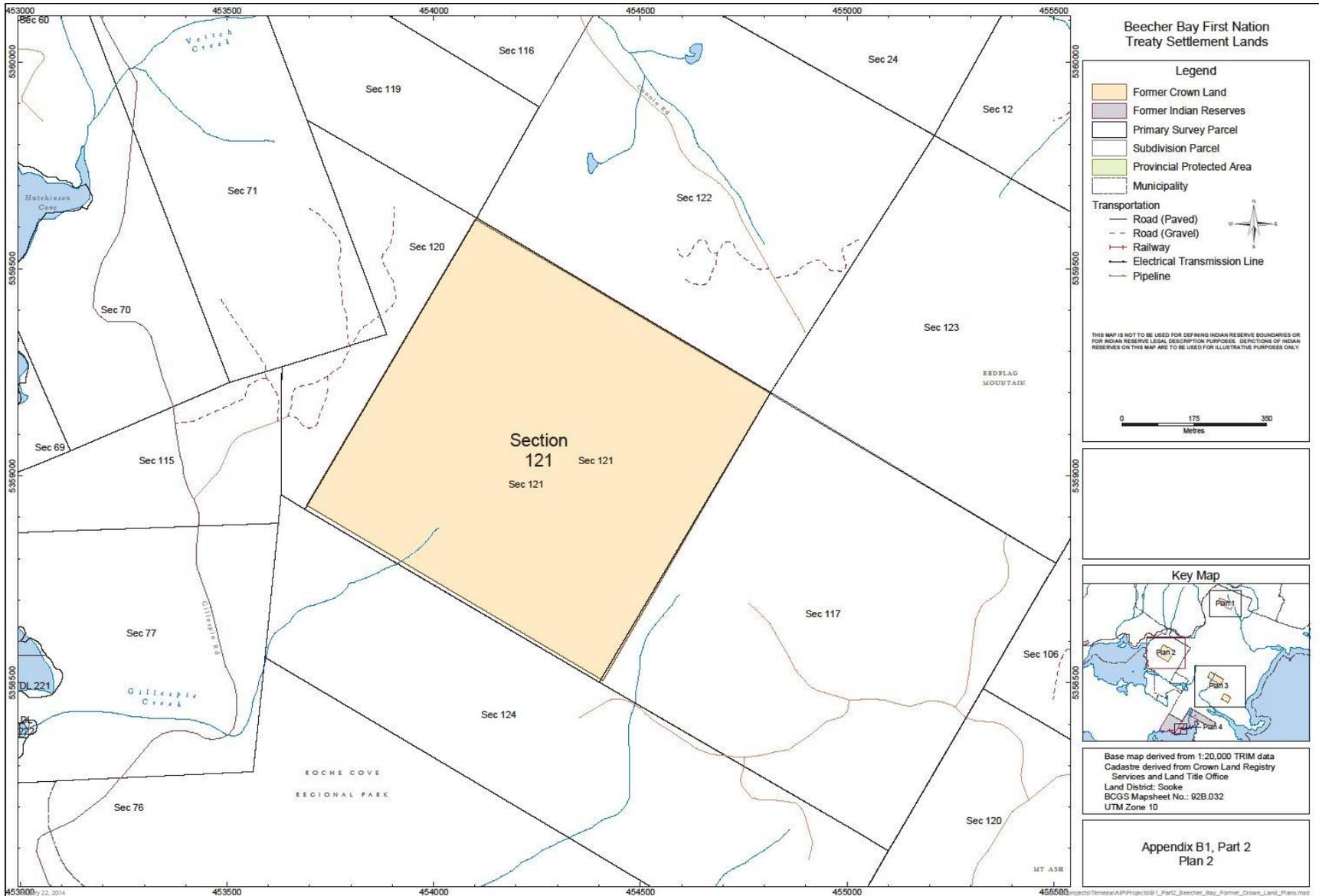
Part 2: Overview Map of Former Crown Land



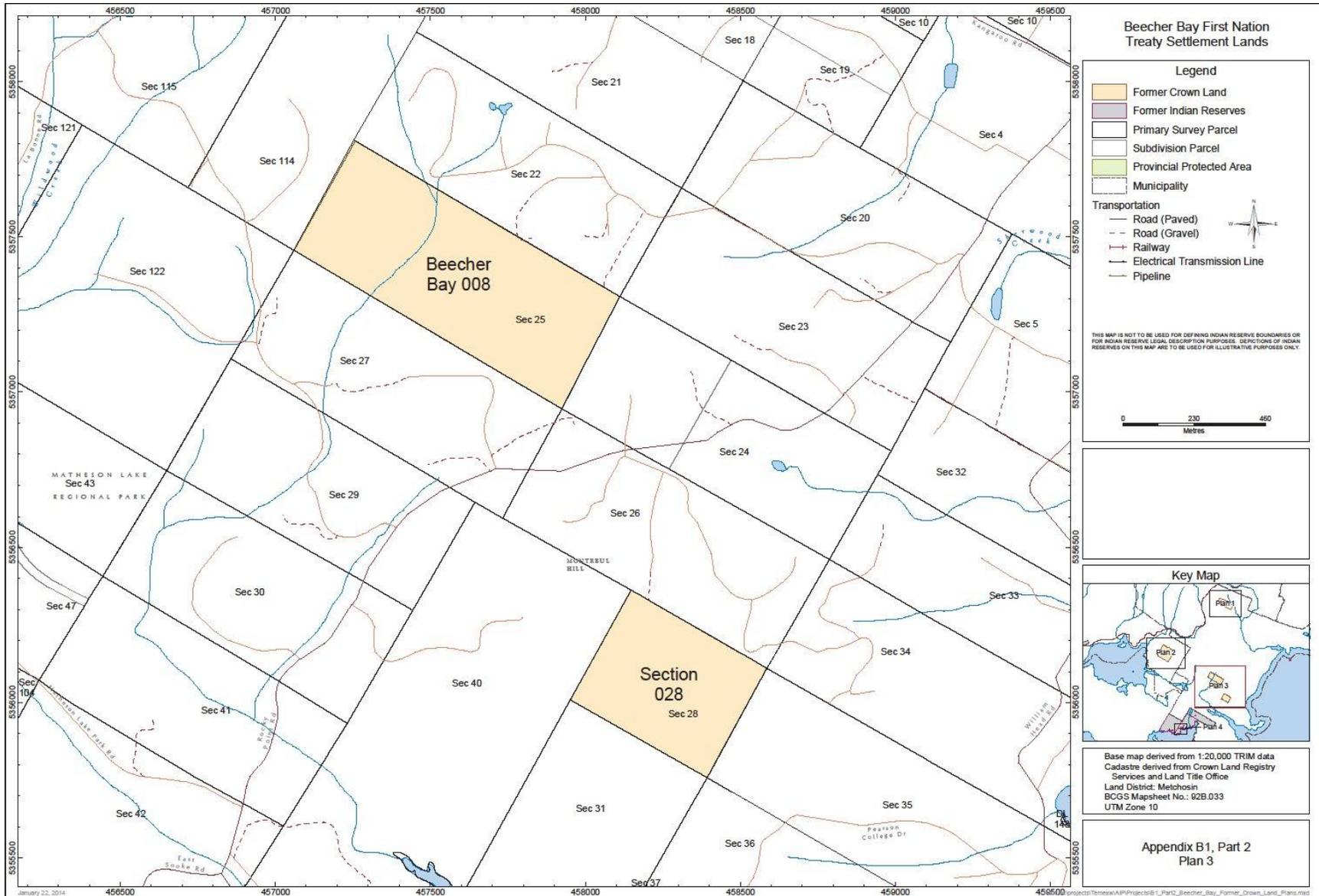
Plan 1 – Former Crown Land



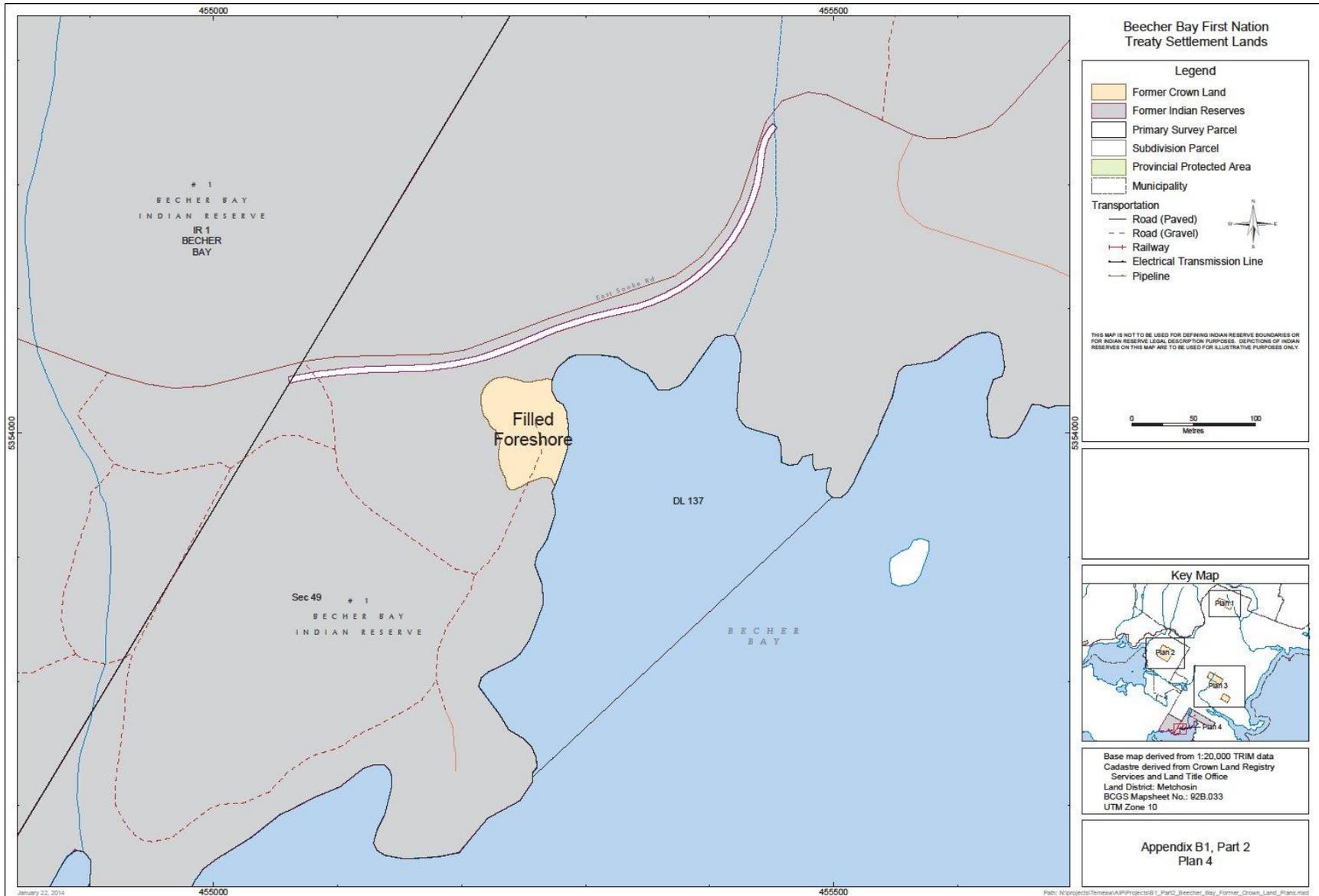
Plan 2 – Former Crown Land



Plan 3 – Former Crown Land



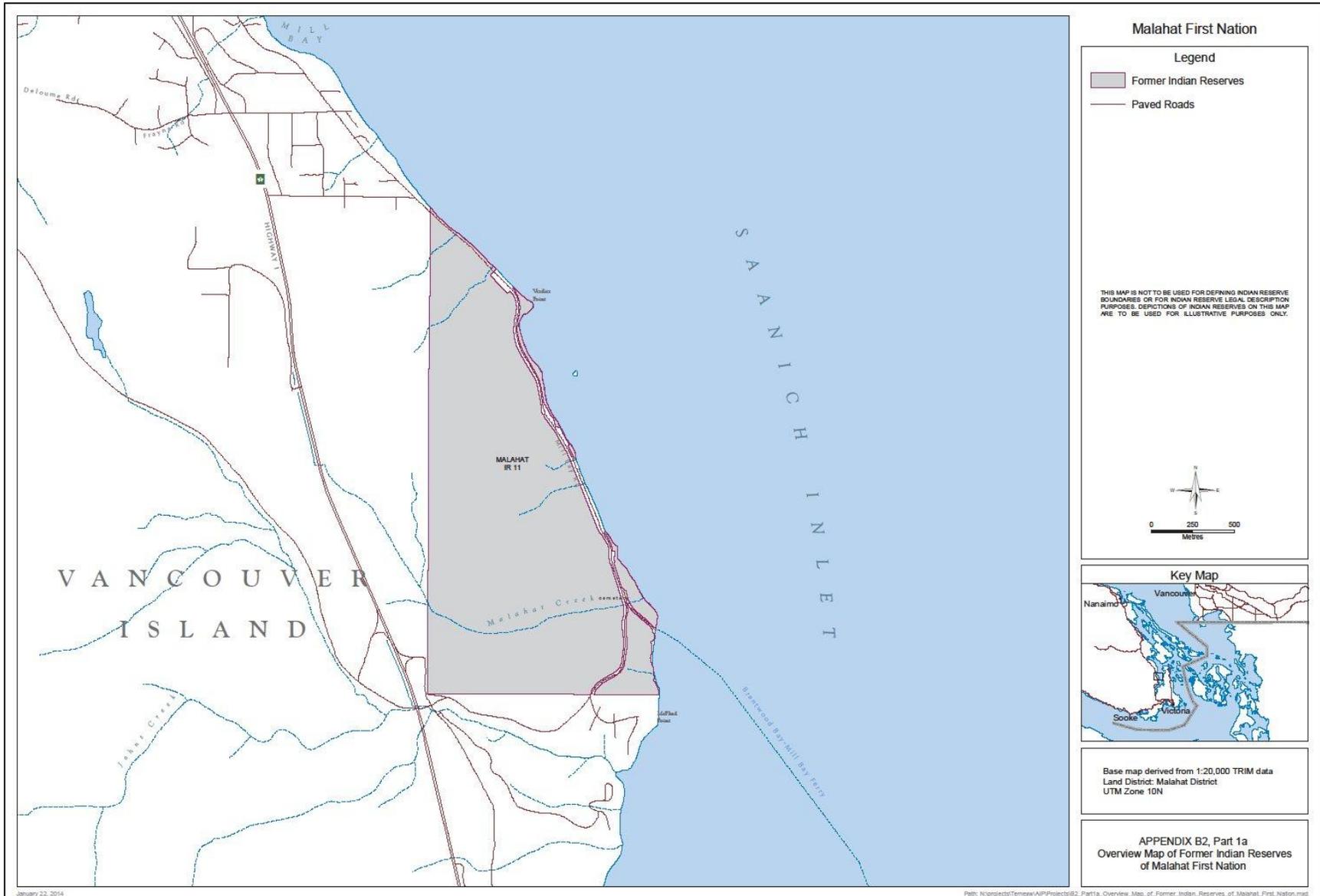
Plan 4 – Former Crown Land



APPENDIX B2: MALAHAT FIRST NATION TREATY SETTLEMENT LAND

Note: These maps are for illustrative purposes only. The Parties will update the Appendices before the Final Agreement. These maps do not reflect Additions to Reserve currently in progress, survey and encroachment issues and roads to be reviewed as described in Part 1b.

Part 1a: Overview Map of Malahat First Nation Former Indian Reserves



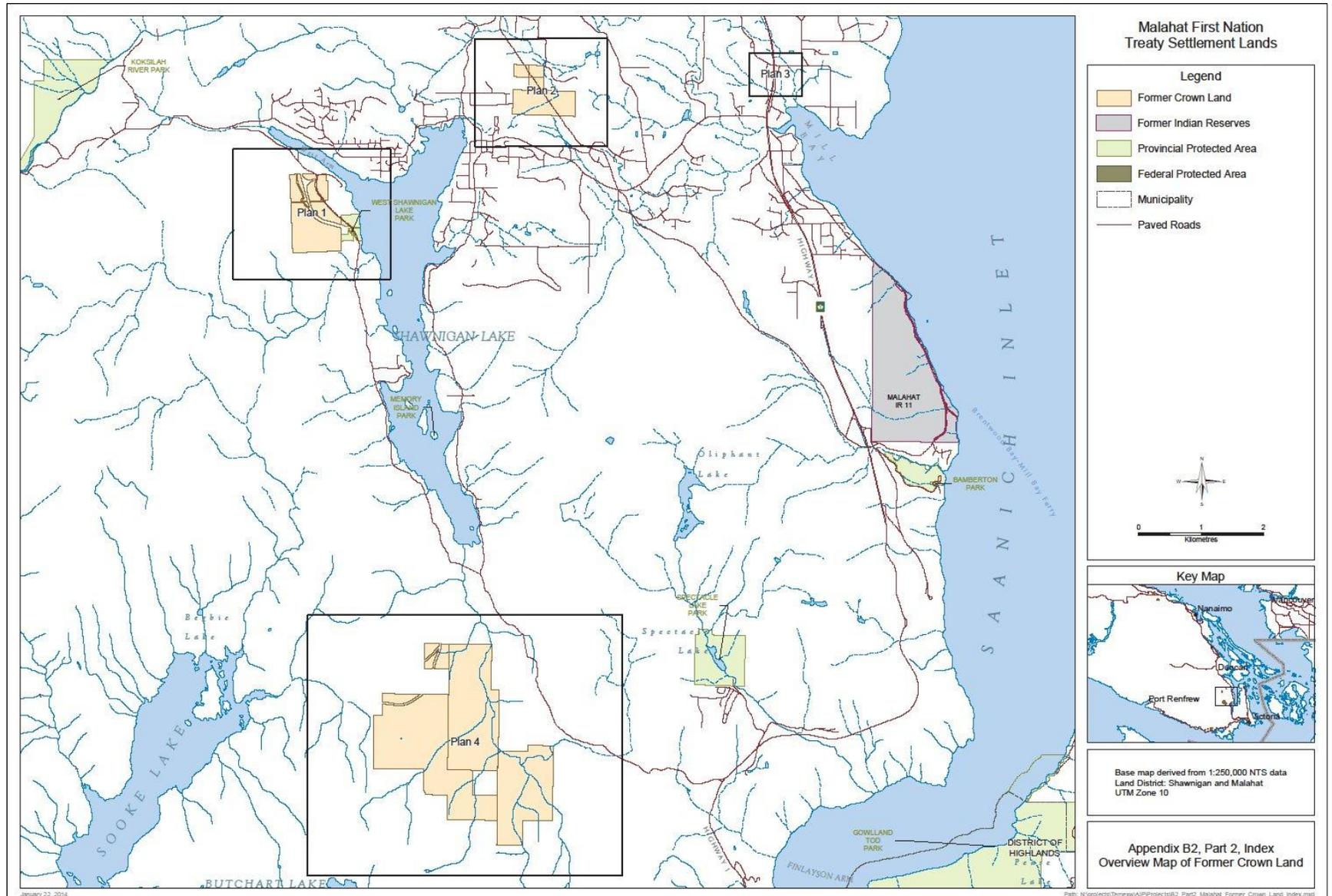
APPENDIX B2: MALAHAT FIRST NATION TREATY SETTLEMENT LAND

Part 1b: Land Descriptions of Former Malahat First Nation Indian Reserves

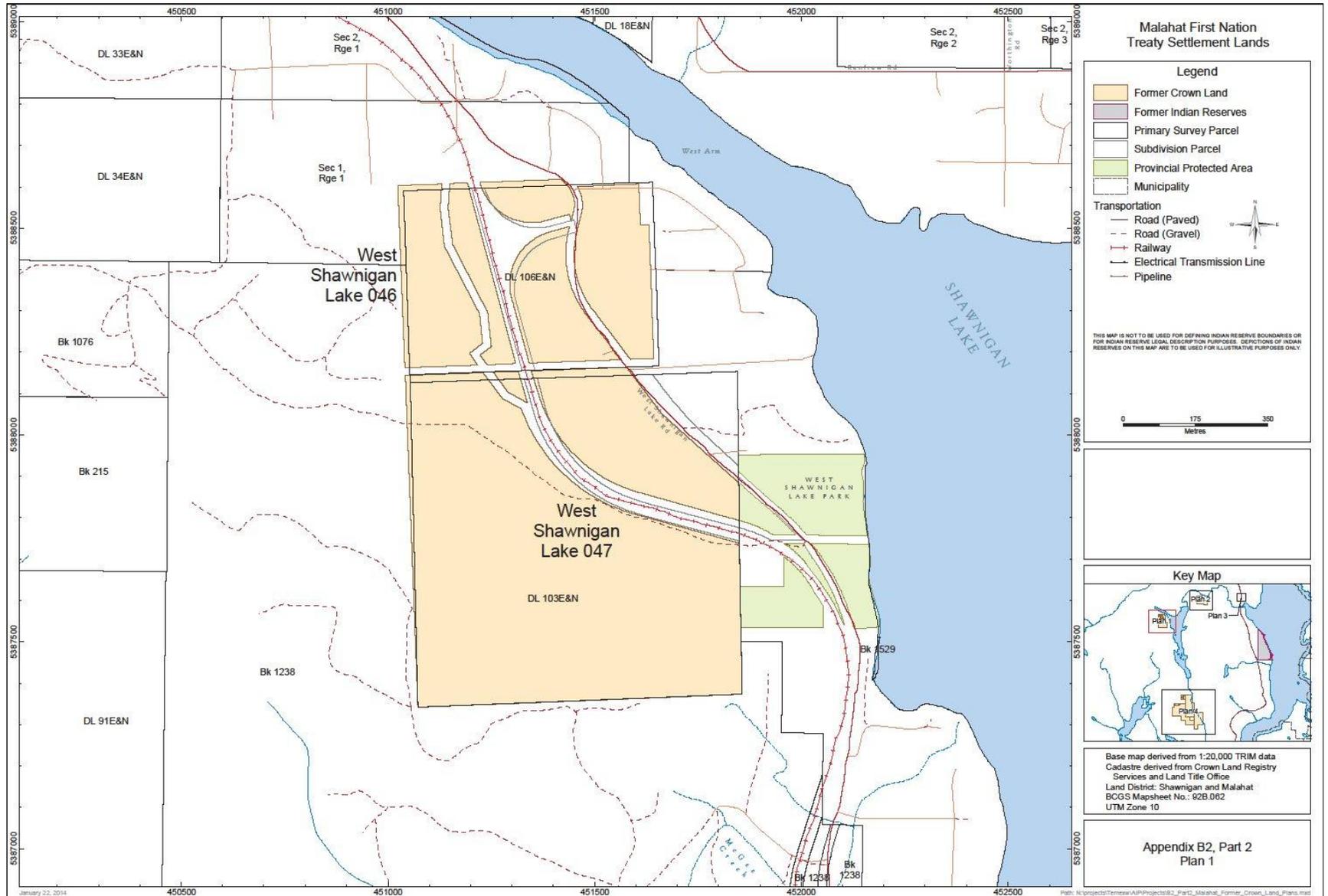
Note: The Parties will update the Appendices before the Final Agreement.

Former Indian Reserve No. and Name	Land Description
No. 11 Malahat	Plan 56166, which excludes Mill Bay Road and the road shown on Plan RD2332
No. 13 Goldstream	Plan BC237 The Goldstream Indian Reserve is held jointly by the Malahat First Nation and four other First Nations. In Final Agreement negotiations, the Parties will address the status under the Final Agreement of the Malahat First Nation's interest in the Goldstream Indian Reserve.

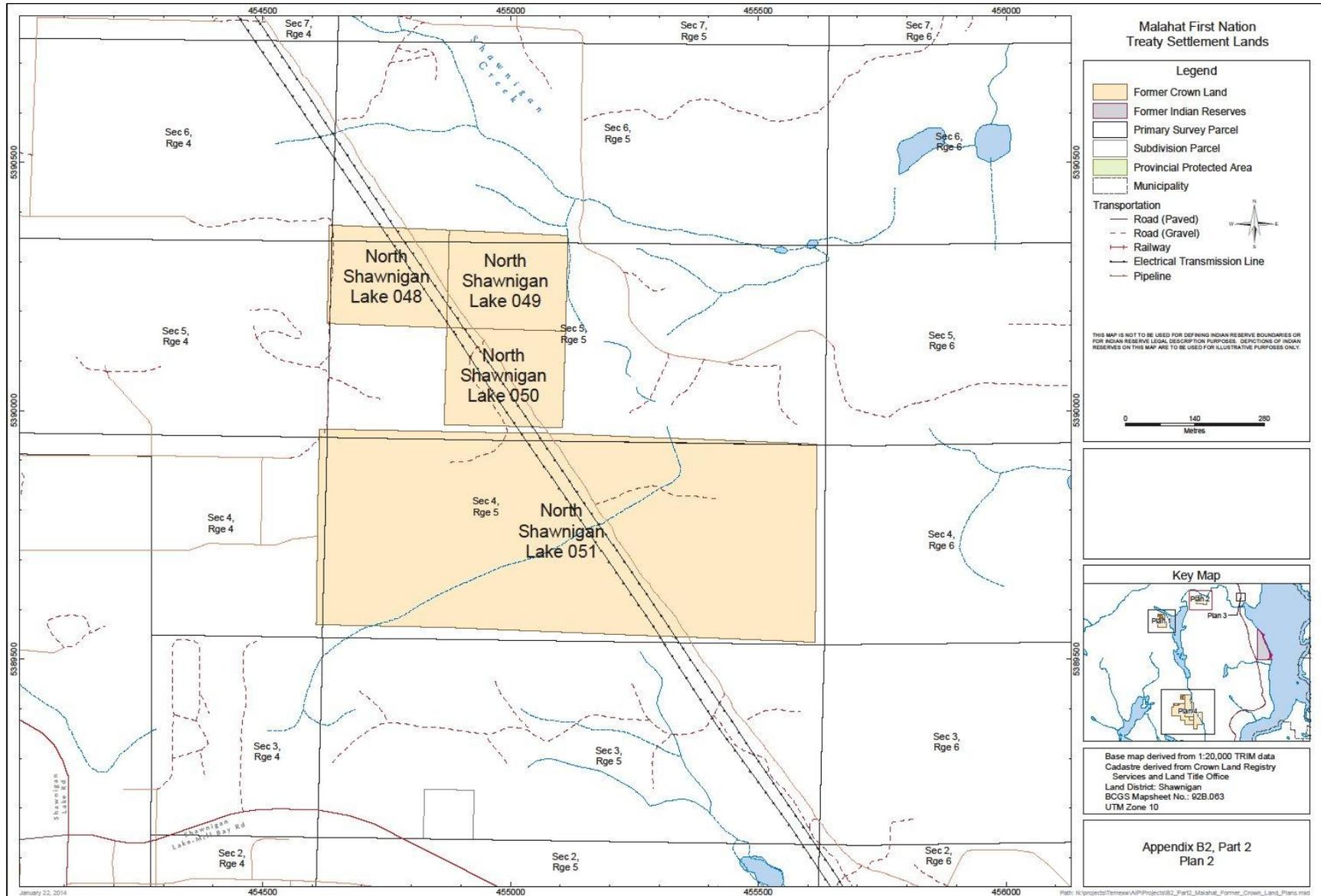
APPENDIX B2: MALAHAT FIRST NATION TREATY SETTLEMENT LAND Part 2: Overview Map of Former Crown Land



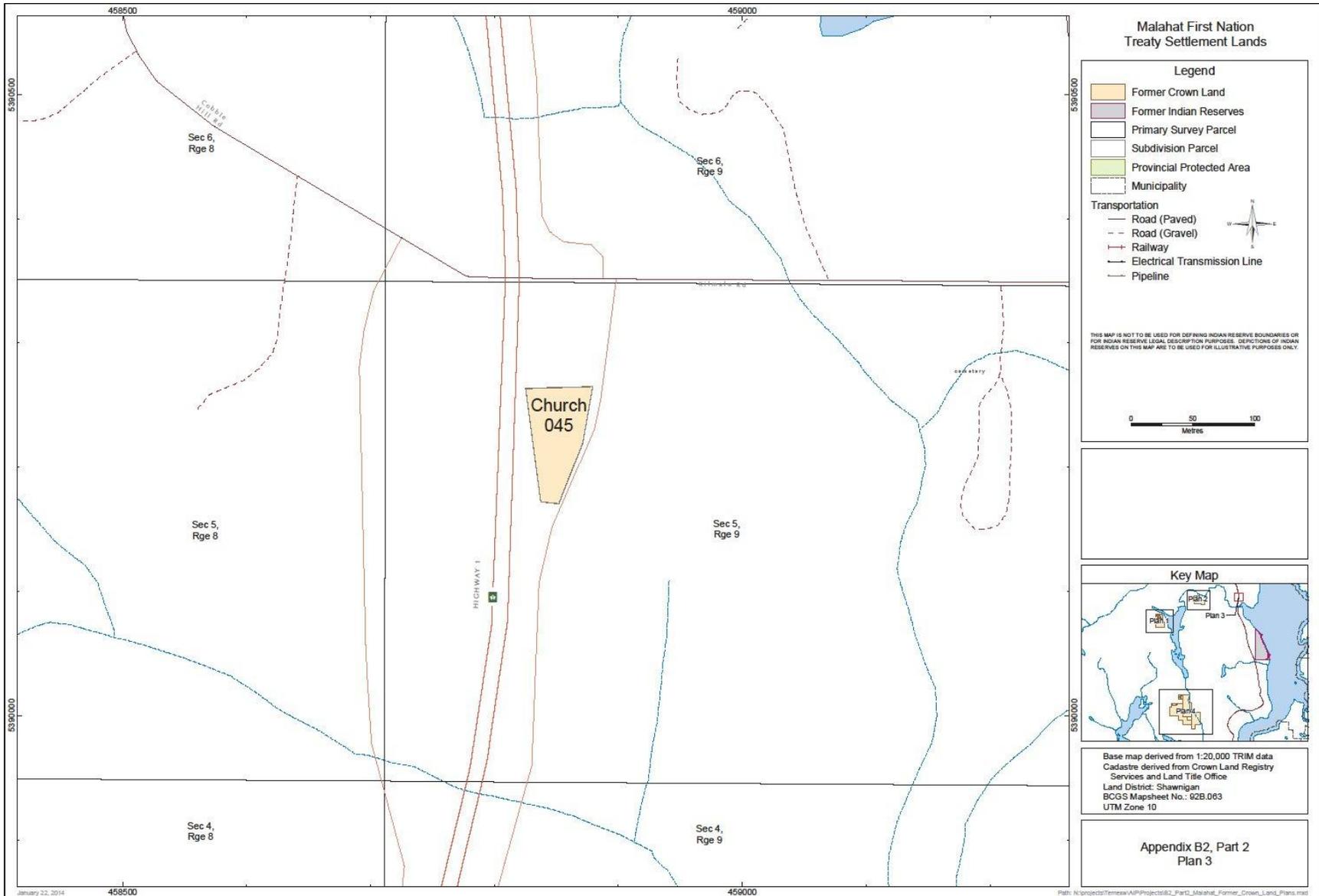
Plan 1 – Former Crown Land



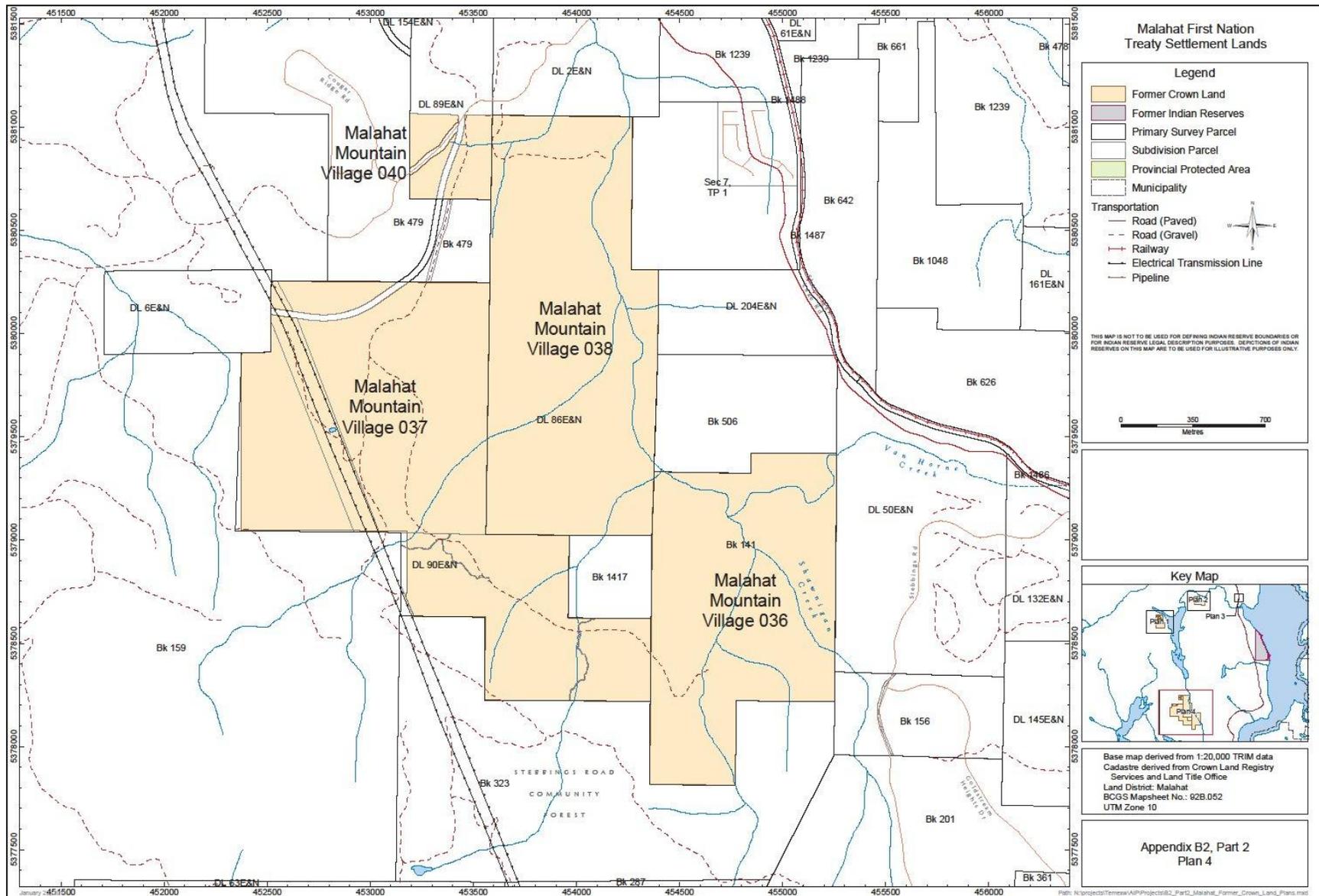
Plan 2 – Former Crown Land



Plan 3 – Former Crown Land



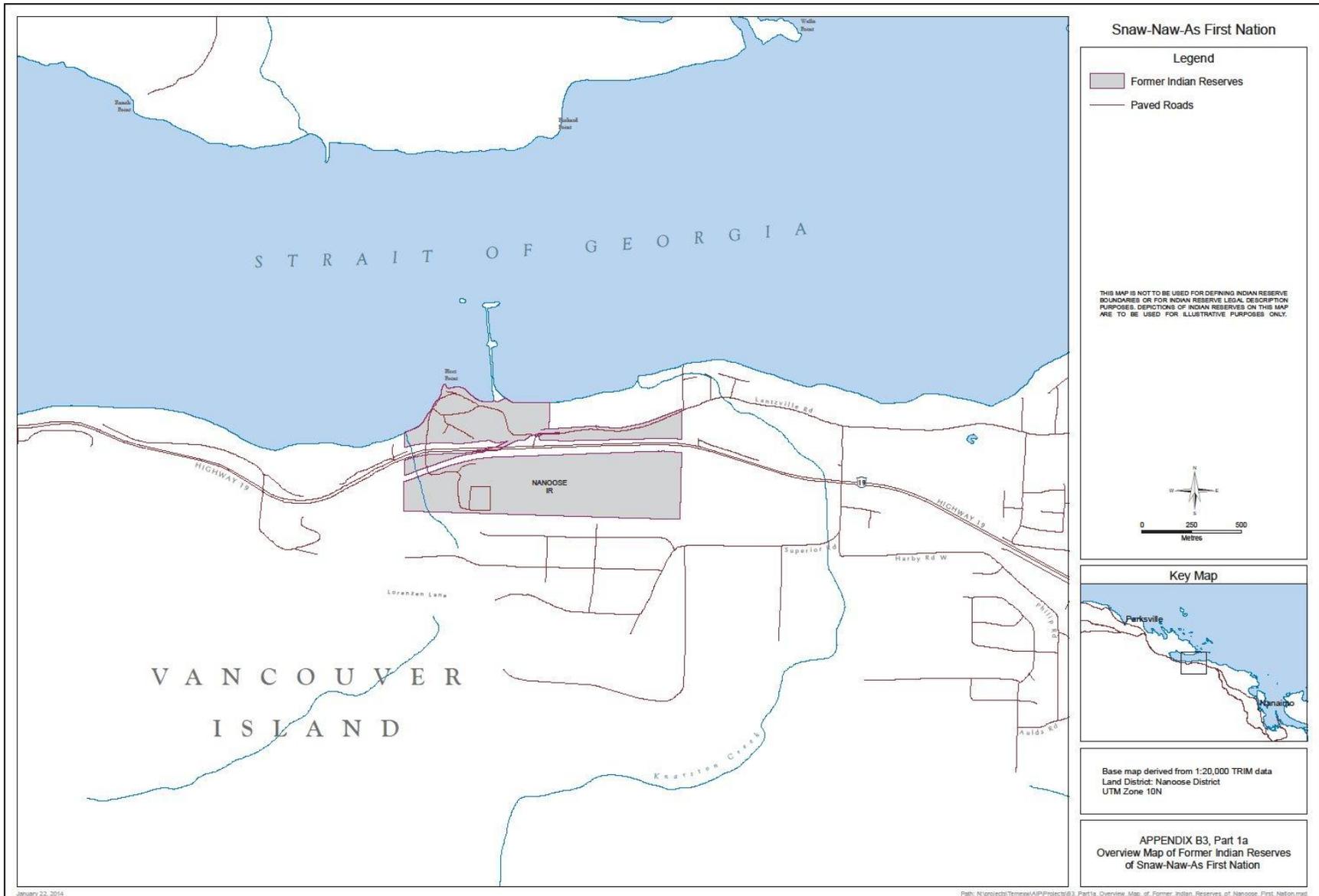
Plan 4 – Former Crown Land



APPENDIX B3: SNAW-NAW-AS FIRST NATION TREATY SETTLEMENT LAND

Note: These maps are for illustrative purposes only. The Parties will update the Appendices before the Final Agreement. These maps do not reflect Additions to Reserve currently in progress, survey and encroachment issues and roads to be reviewed as described in Part 1b.

Part 1a: Overview Map of Snaw-Naw-As First Nation Former Indian Reserves



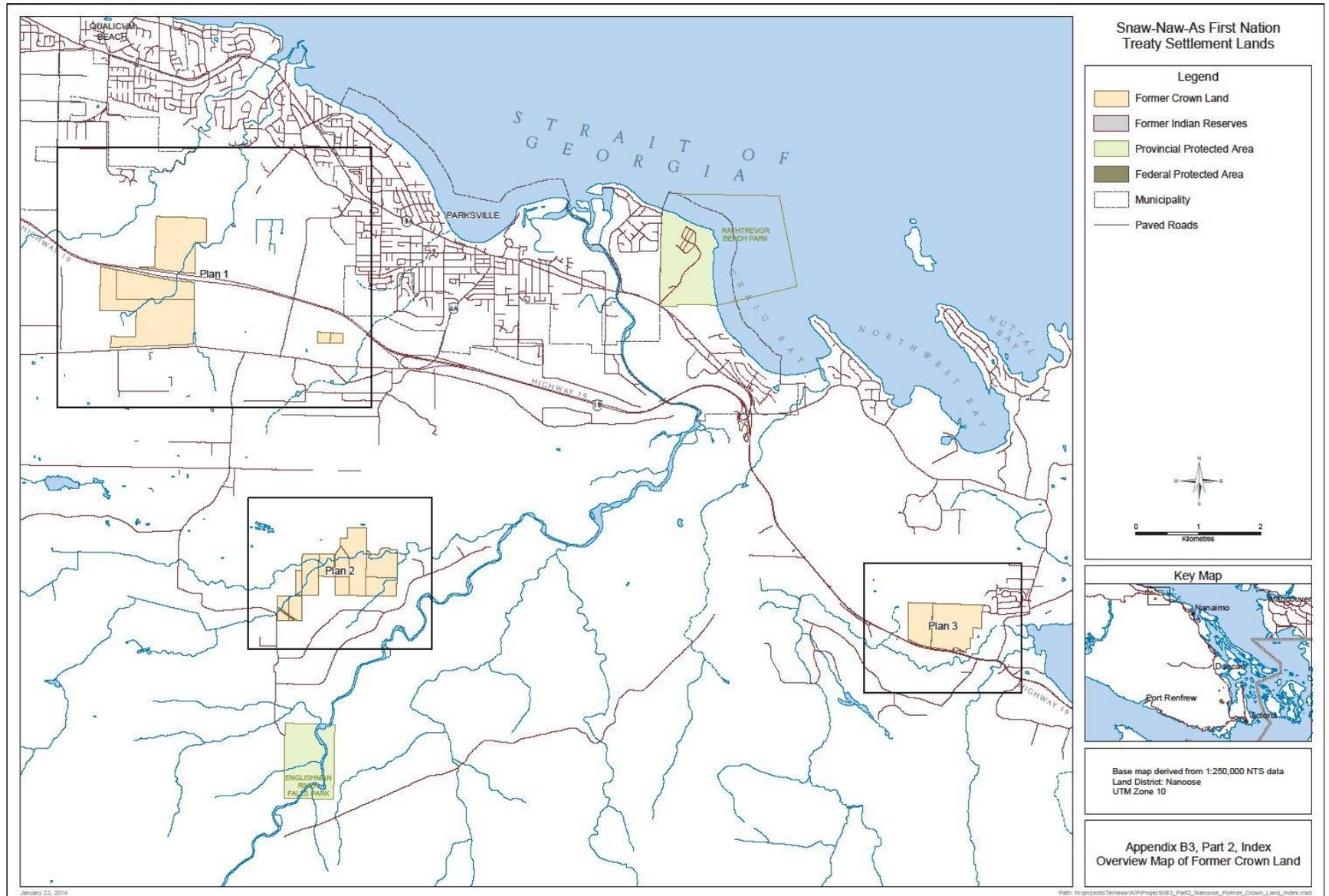
APPENDIX B3: SNAW-NAW-AS FIRST NATION TREATY SETTLEMENT LAND

Part 1b: Land Descriptions of Former Snaw-Naw-As First Nation Indian Reserves

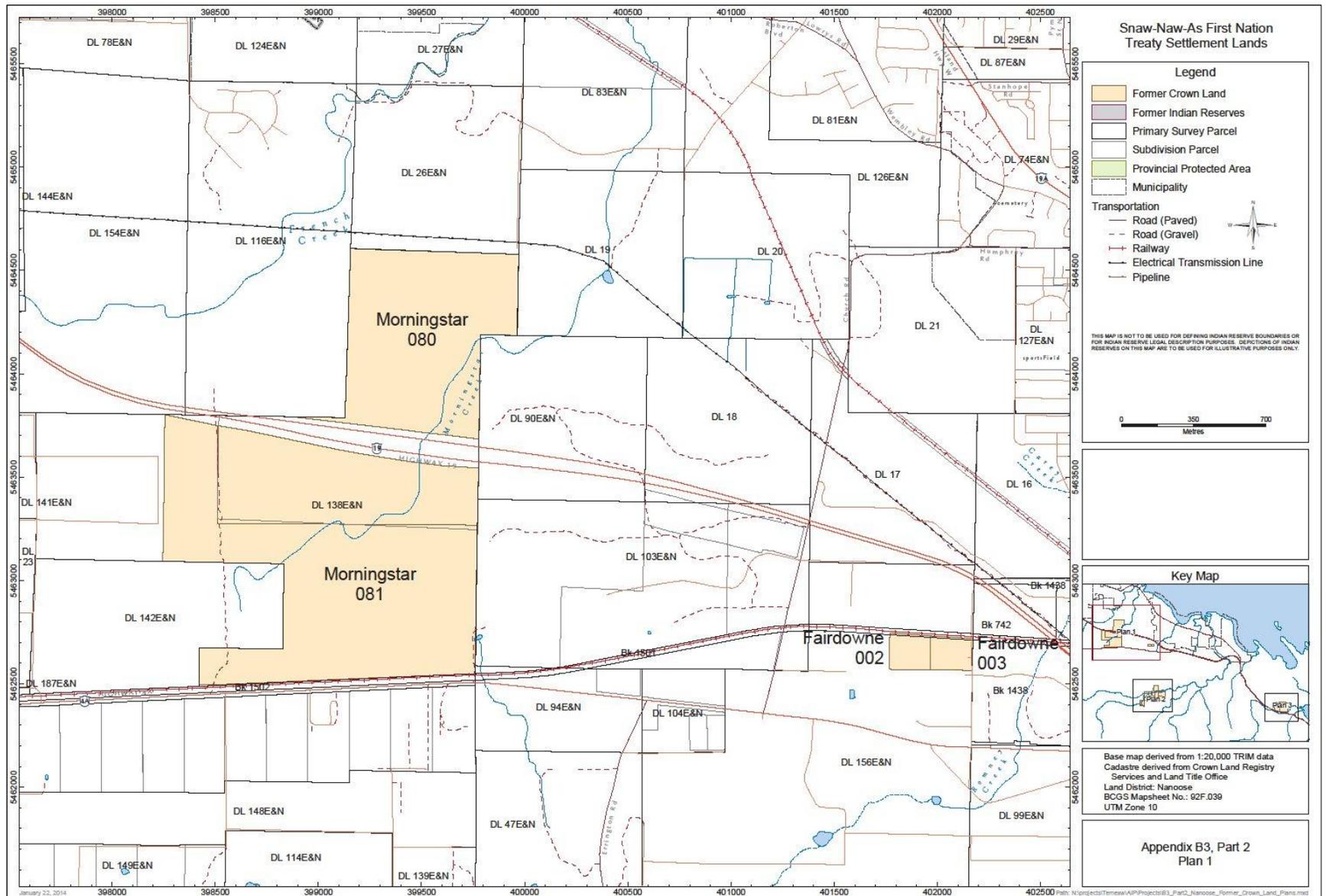
Note: The Parties will update the Appendices before the Final Agreement.

Former Indian Reserve Name	Land Description
Nanoose	Plan BC 225 <ul style="list-style-type: none">• except the railway on Plan 796A as resurveyed on Plan 96160• except the 30.3-acre parcel shown on Plan BC 911• except the Island Highway shown outlined in red on Plan RD3473, and• except the widening of the Island Highway shown on Plans 67275, and 71104 (see boundary surveys Plans 88167, 96084, and 96160)

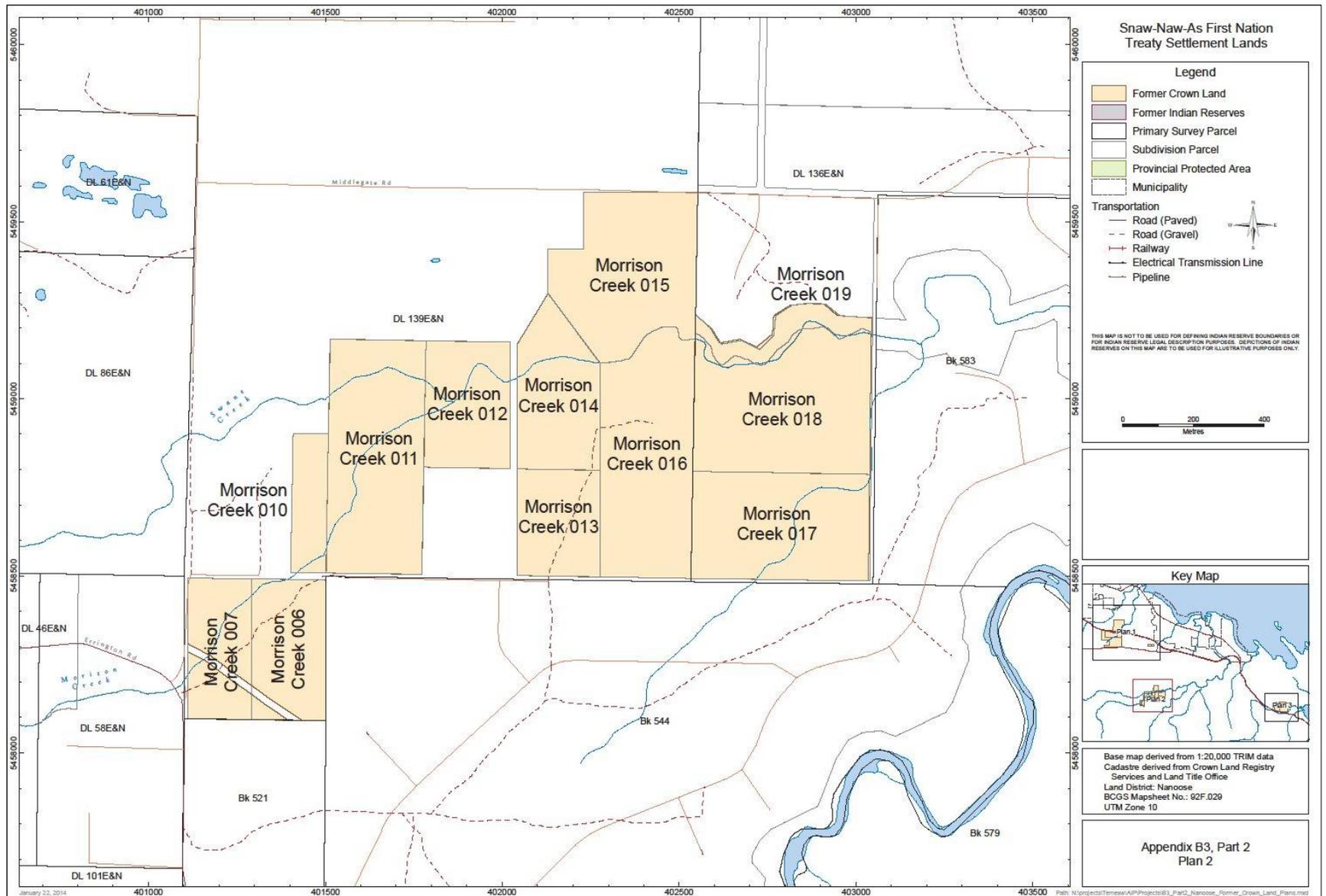
APPENDIX B3: SNAW-NAW-AS FIRST NATION TREATY SETTLEMENT LAND Part 2: Overview Map of Former Crown Land



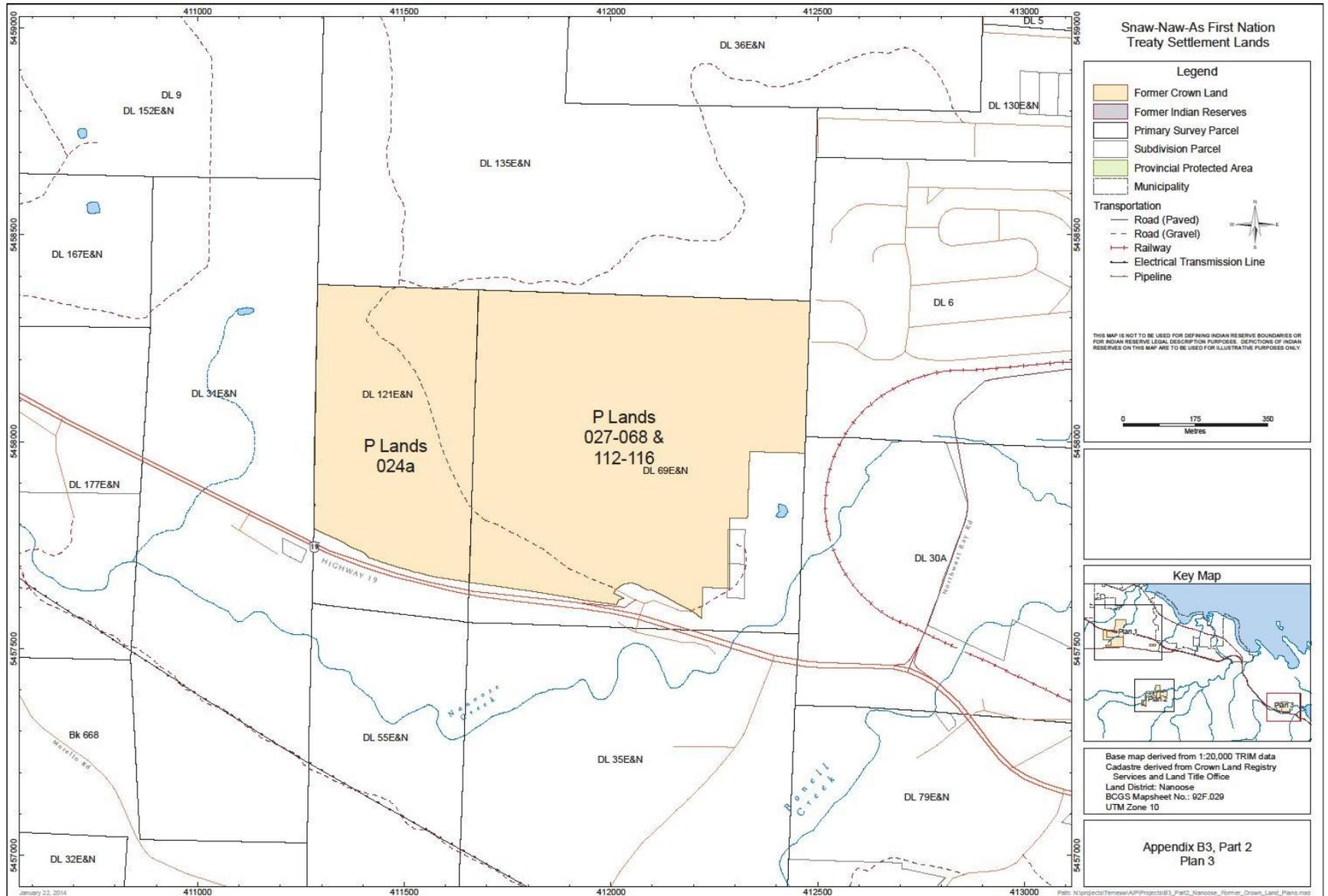
Plan 1 – Former Crown Land



Plan 2 – Former Crown Land



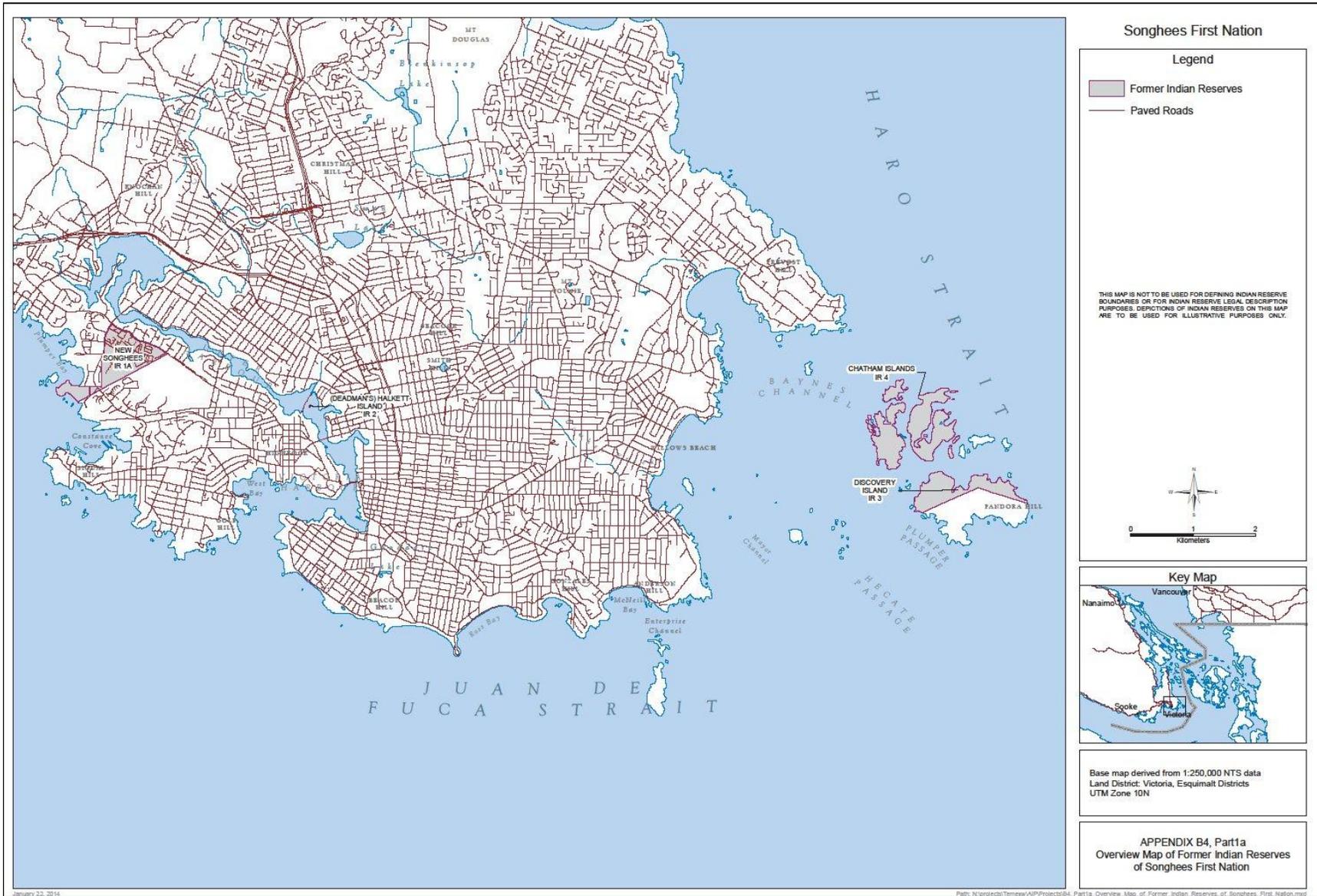
Plan 3 – Former Crown Land



APPENDIX B4: SONGHEES FIRST NATION TREATY SETTLEMENT LAND

Note: These maps are for illustrative purposes only. The Parties will update the Appendices before the Final Agreement. These maps do not reflect Additions to Reserve currently in progress, survey and encroachment issues and roads to be reviewed as described in Part 1b.

Part 1a: Overview Map of Songhees First Nation Former Indian Reserves



APPENDIX B4: SONGHEES FIRST NATION TREATY SETTLEMENT LAND

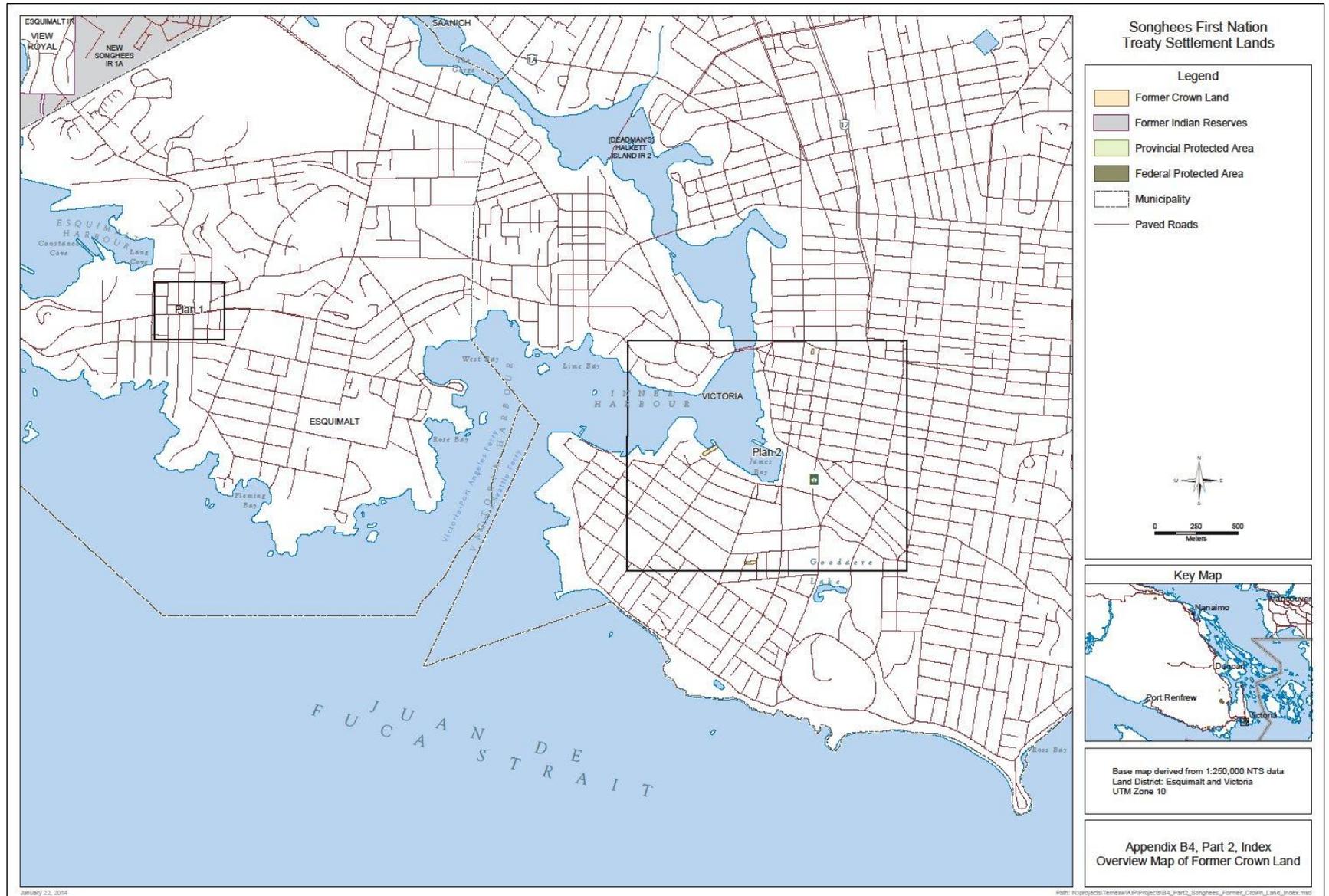
Part 1b: Land Descriptions of Former Songhees First Nation Indian Reserves

Note: The Parties will update the Appendices before the Final Agreement.

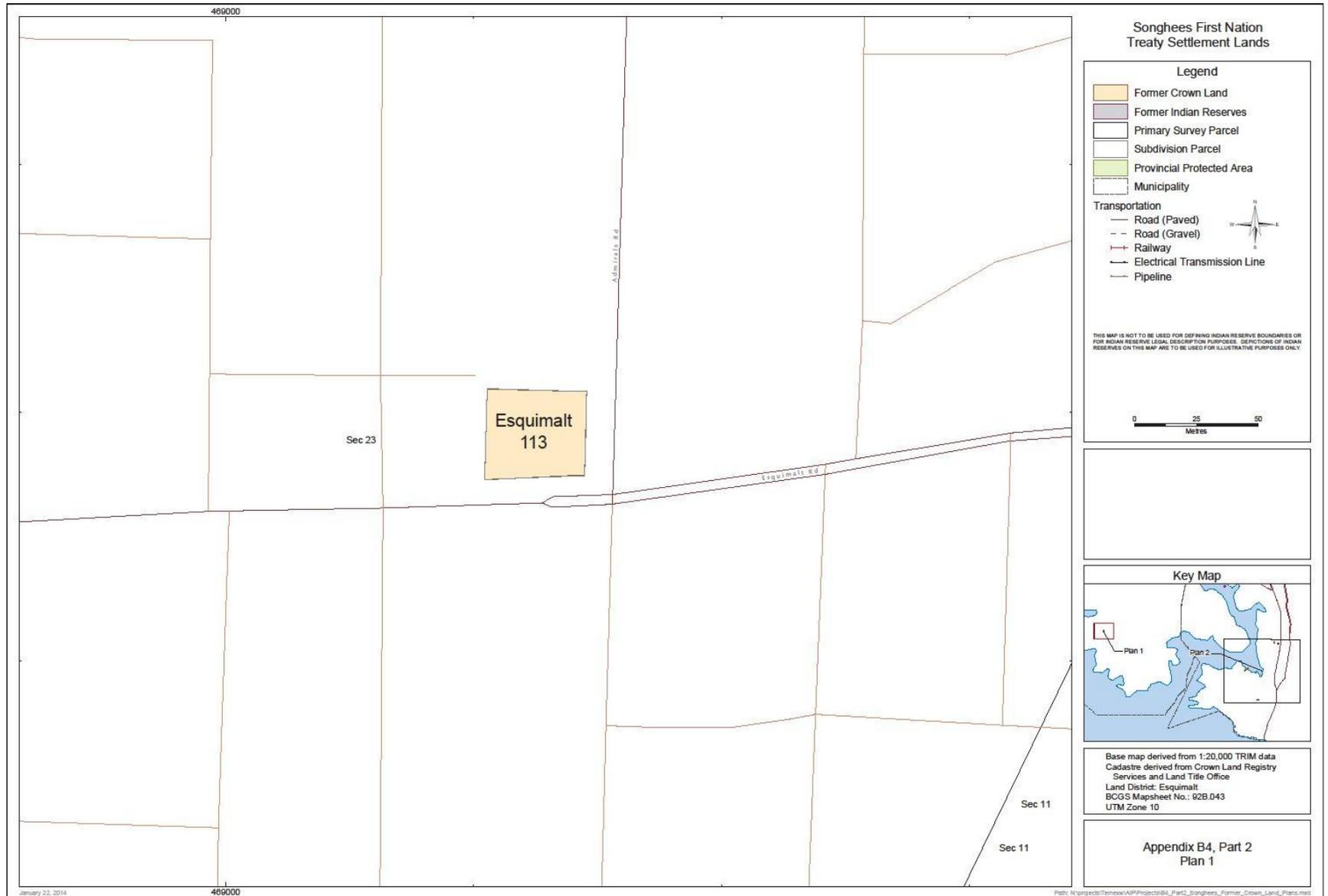
Former Indian Reserve No. and Name	Land Description
No. 1A New Songhees	Plan TBC263 <ul style="list-style-type: none">• except Admirals Road as shown on Plan 52632, and• except the railway right of way shown on Plan 90817 (see boundary survey Plans 90819 & 90202)
No. 2 (Deadman's) Halkett Island	Plan 89753
No. 4 Chatham Island	Plans 89796 & 76661
No. 3 Discovery Island	Plan BC224 (see Boundary survey Plans 56496 and 89684)

APPENDIX B4: SONGHEES FIRST NATION TREATY SETTLEMENT LAND

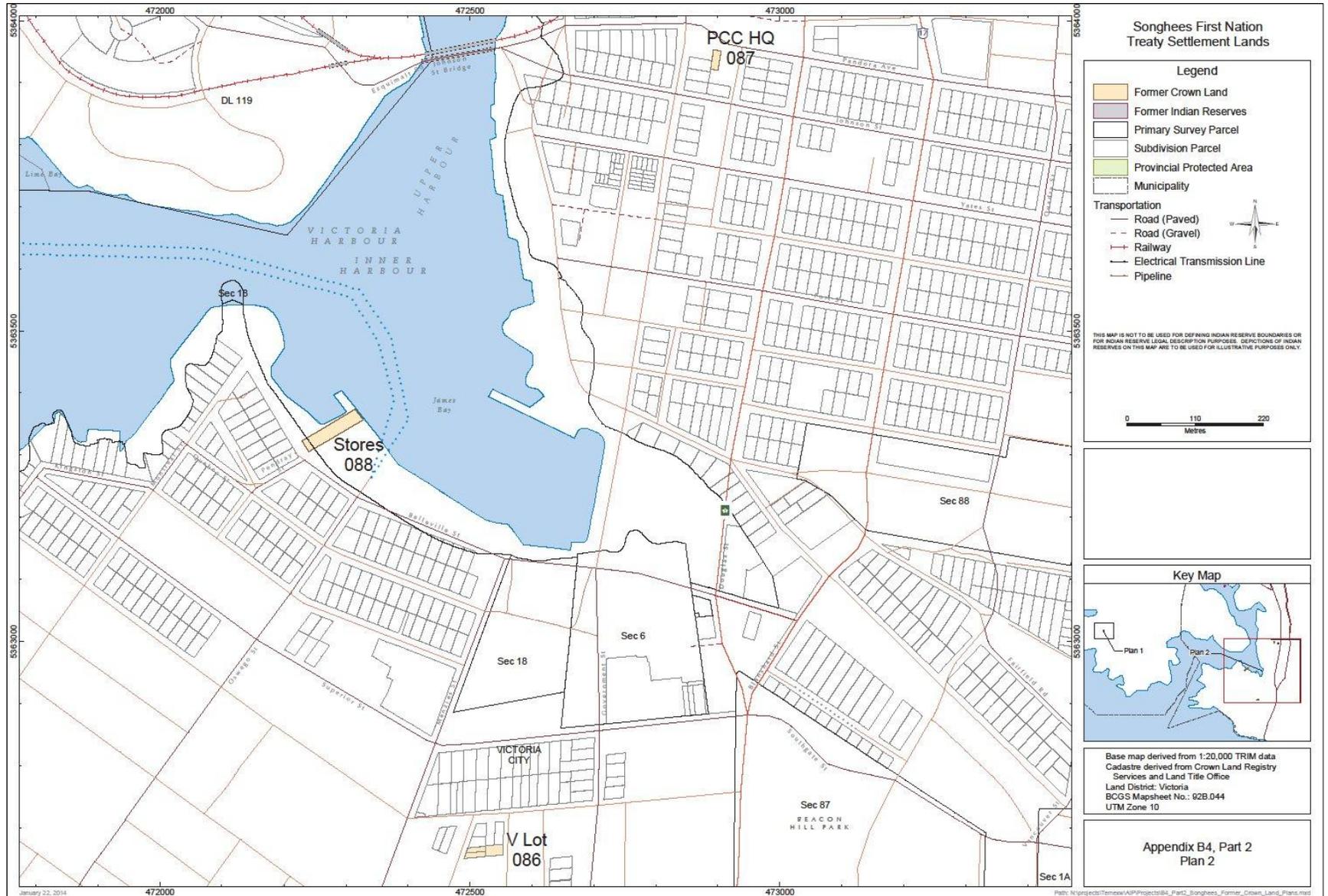
Part 2: Overview Map of Former Crown Land



Plan 1 – Former Crown Land



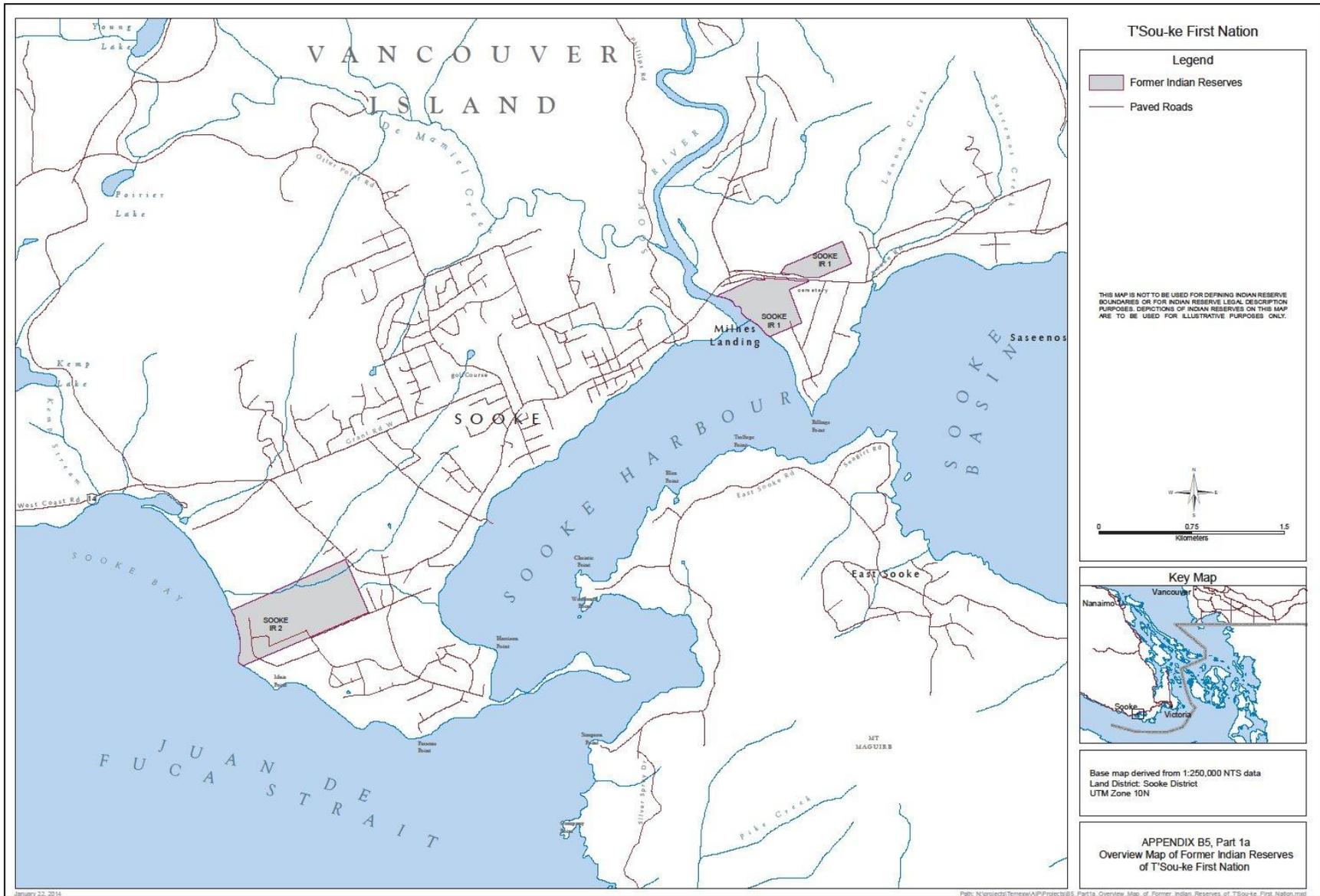
Plan 2 – Former Crown Land



APPENDIX B5: T'SOU-KE FIRST NATION TREATY SETTLEMENT LAND

Note: These maps are for illustrative purposes only. The Parties will update the Appendices before the Final Agreement. These maps do not reflect Additions to Reserve currently in progress, survey and encroachment issues and roads to be reviewed as described in Part 1b.

Part 1a: Overview Map of T'Sou-ke First Nation Former Indian Reserves



APPENDIX B5: T'SOU-KE FIRST NATION TREATY SETTLEMENT LAND

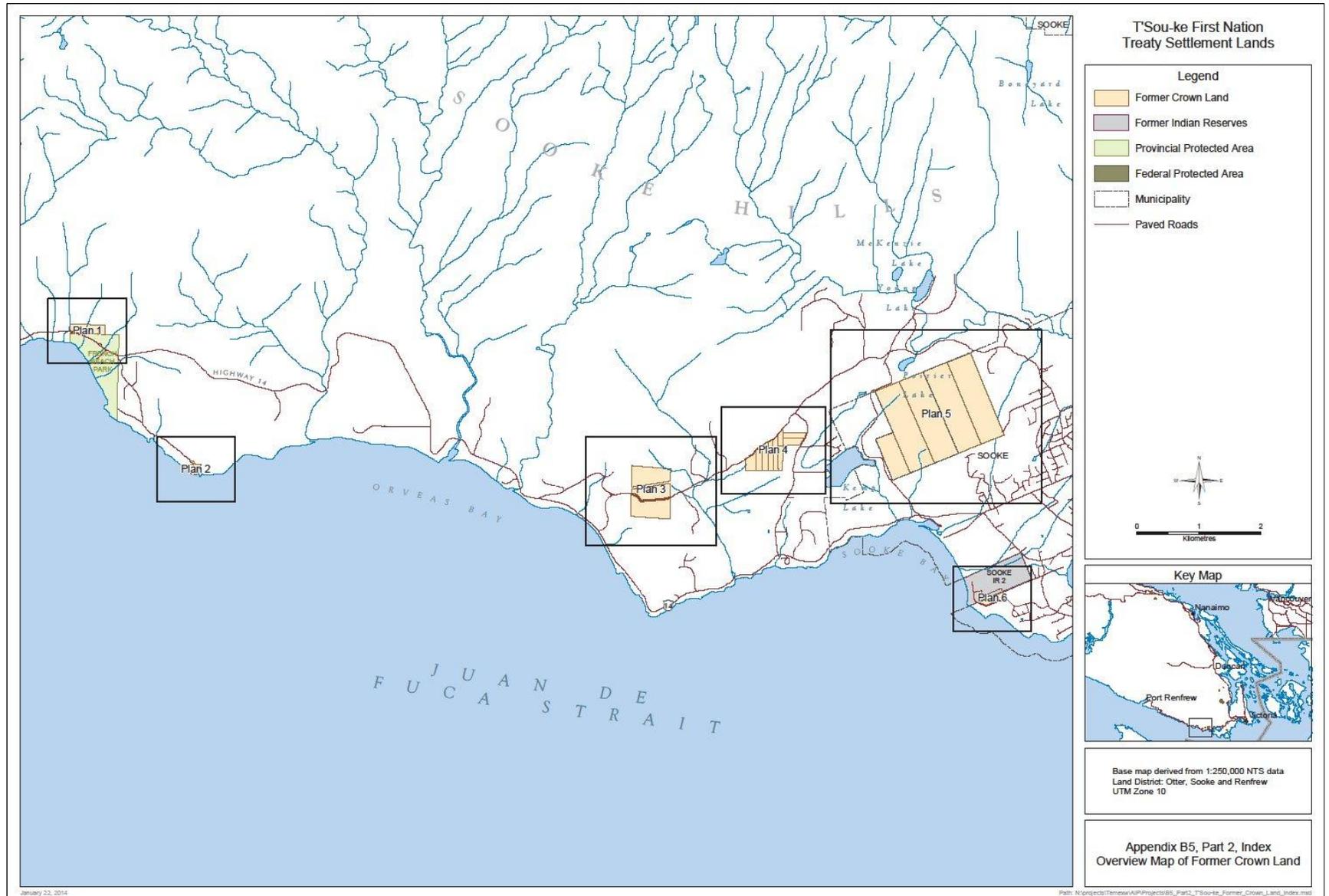
Part 1b: Land Descriptions of Former T'Sou-ke First Nation Indian Reserves

Note: The Parties will update the Appendices before the Final Agreement.

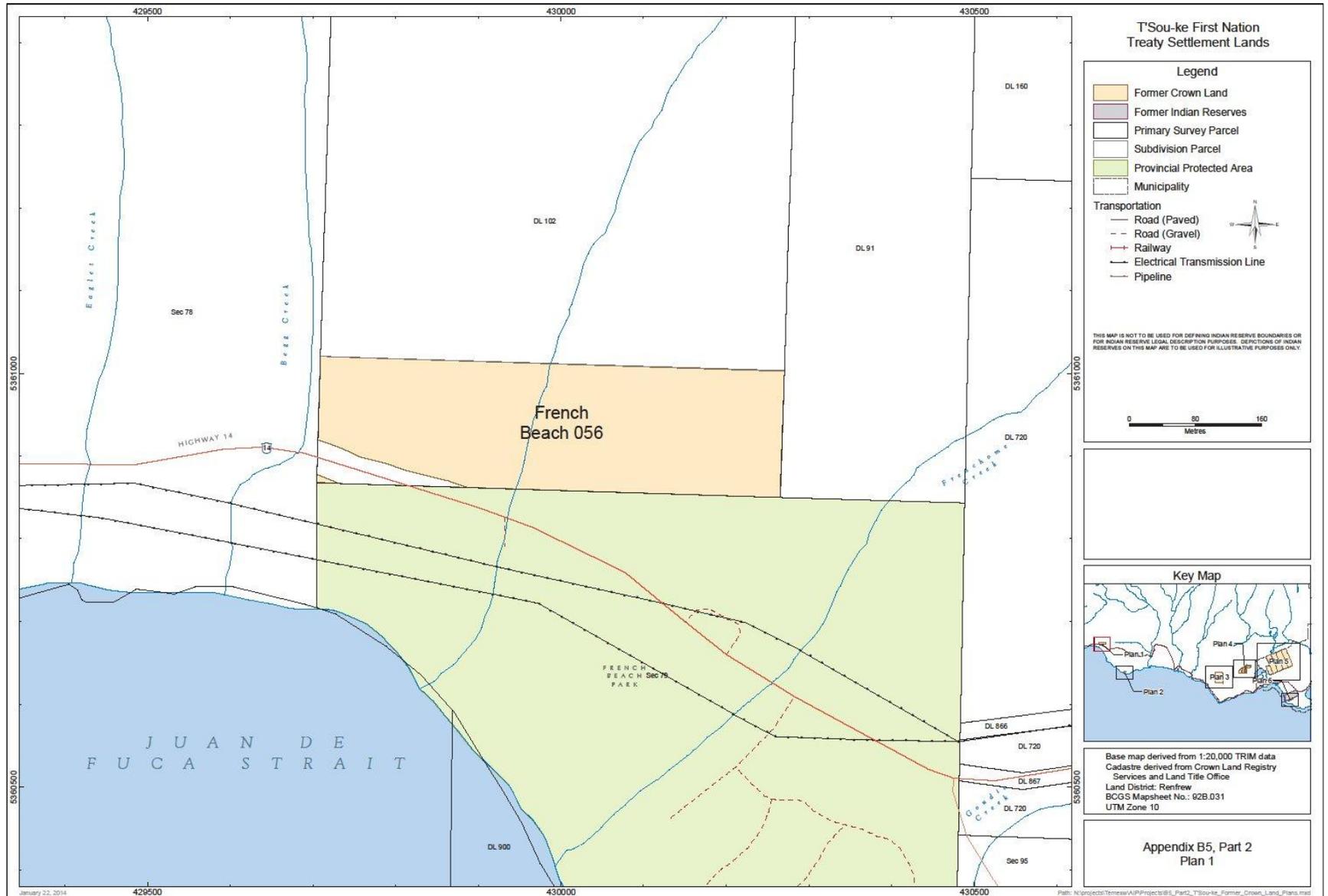
Former Indian Reserve No. and Name	Land Description
No. 1 T'Sou-ke	Plan BC267 <ul style="list-style-type: none">• except the road allowance shown on Plan RD3192• except the highway right of way shown on Plan 56085, and• except the 1.40-acre parcel shown on Plan 52859 (see boundary survey Plans 65247 and 90509)
No. 2 T'Sou-ke	Plan 90510

APPENDIX B5: T'SOU-KE FIRST NATION TREATY SETTLEMENT LAND

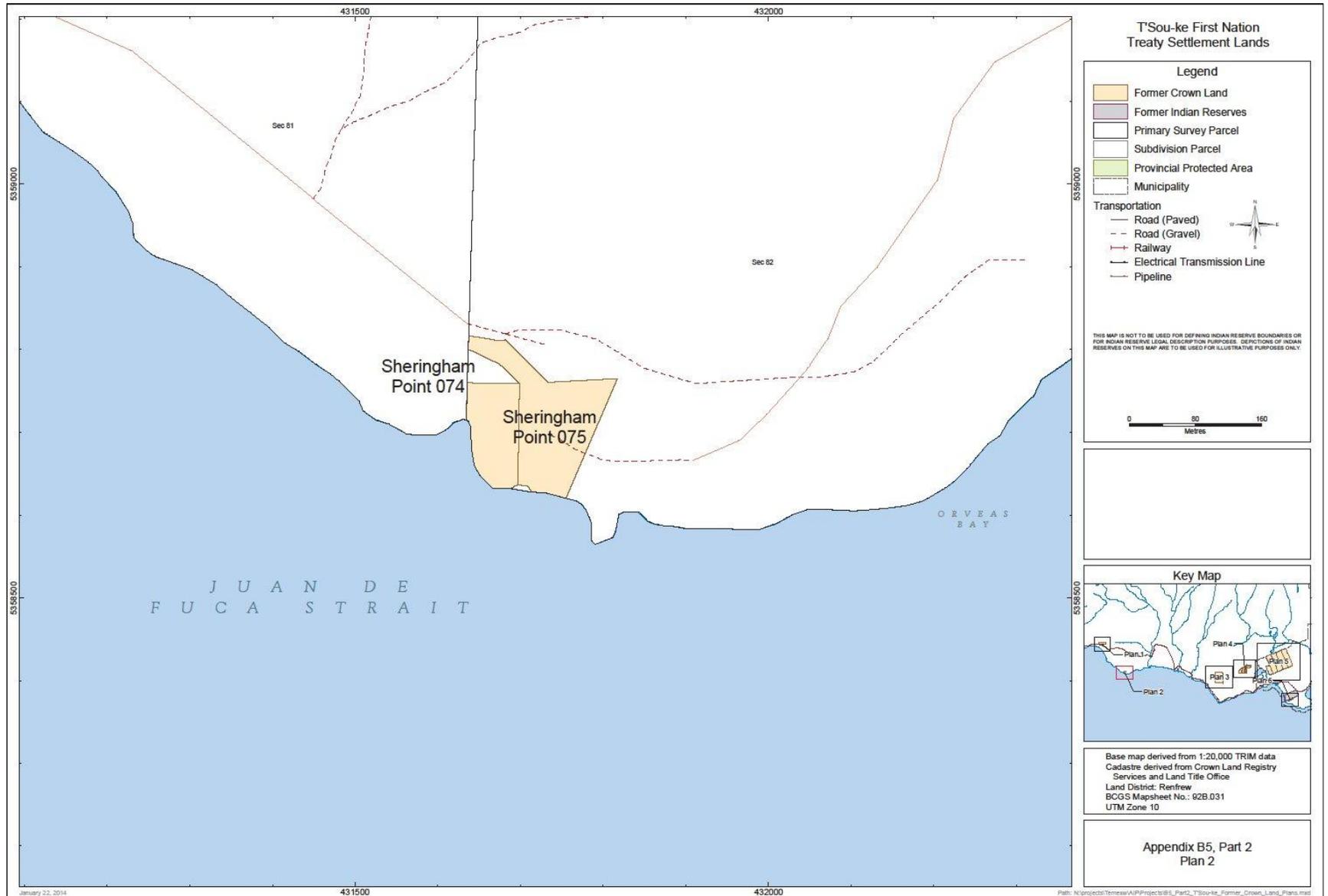
Part 2: Overview Map of Former Crown Land



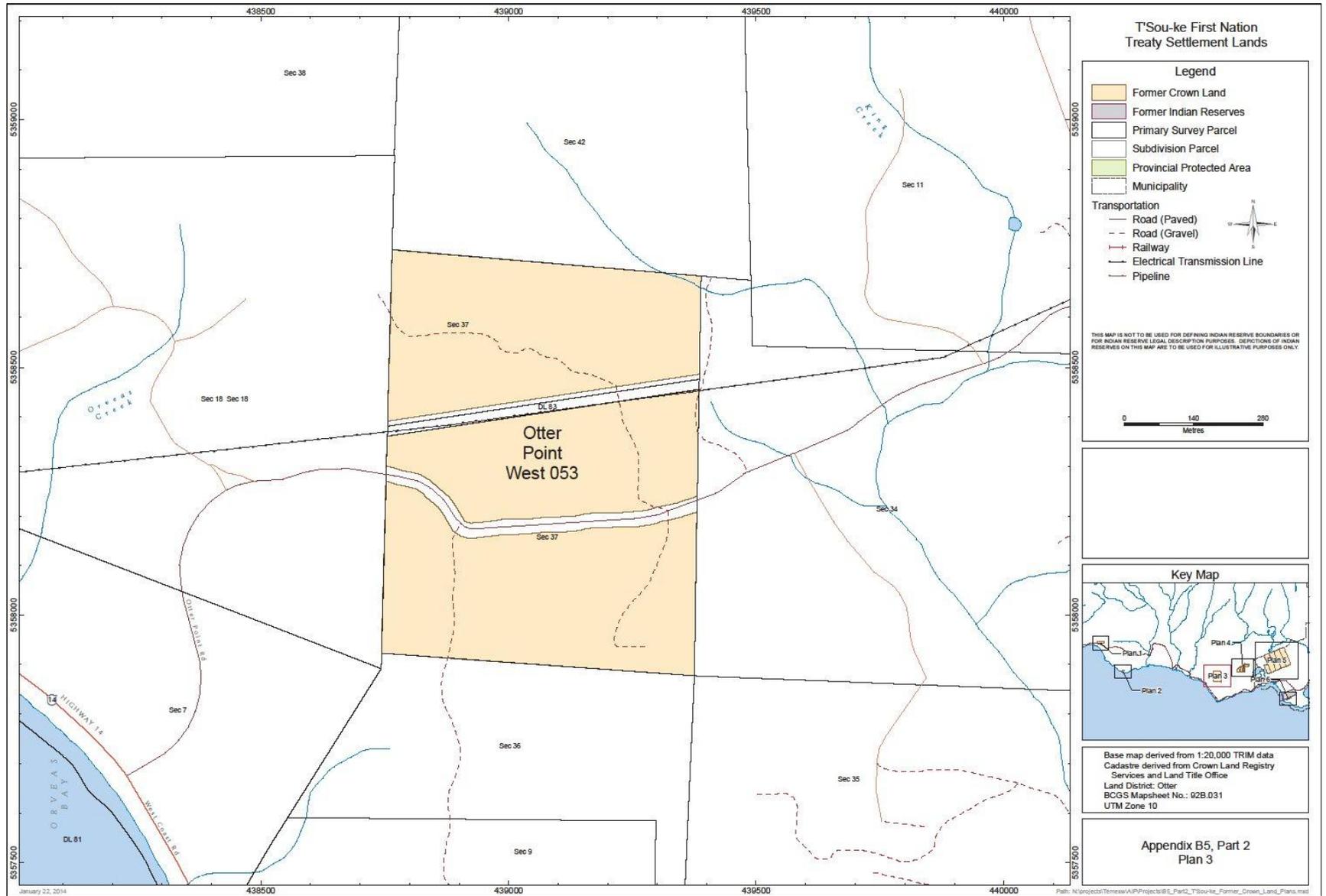
Plan 1 – Former Crown Land



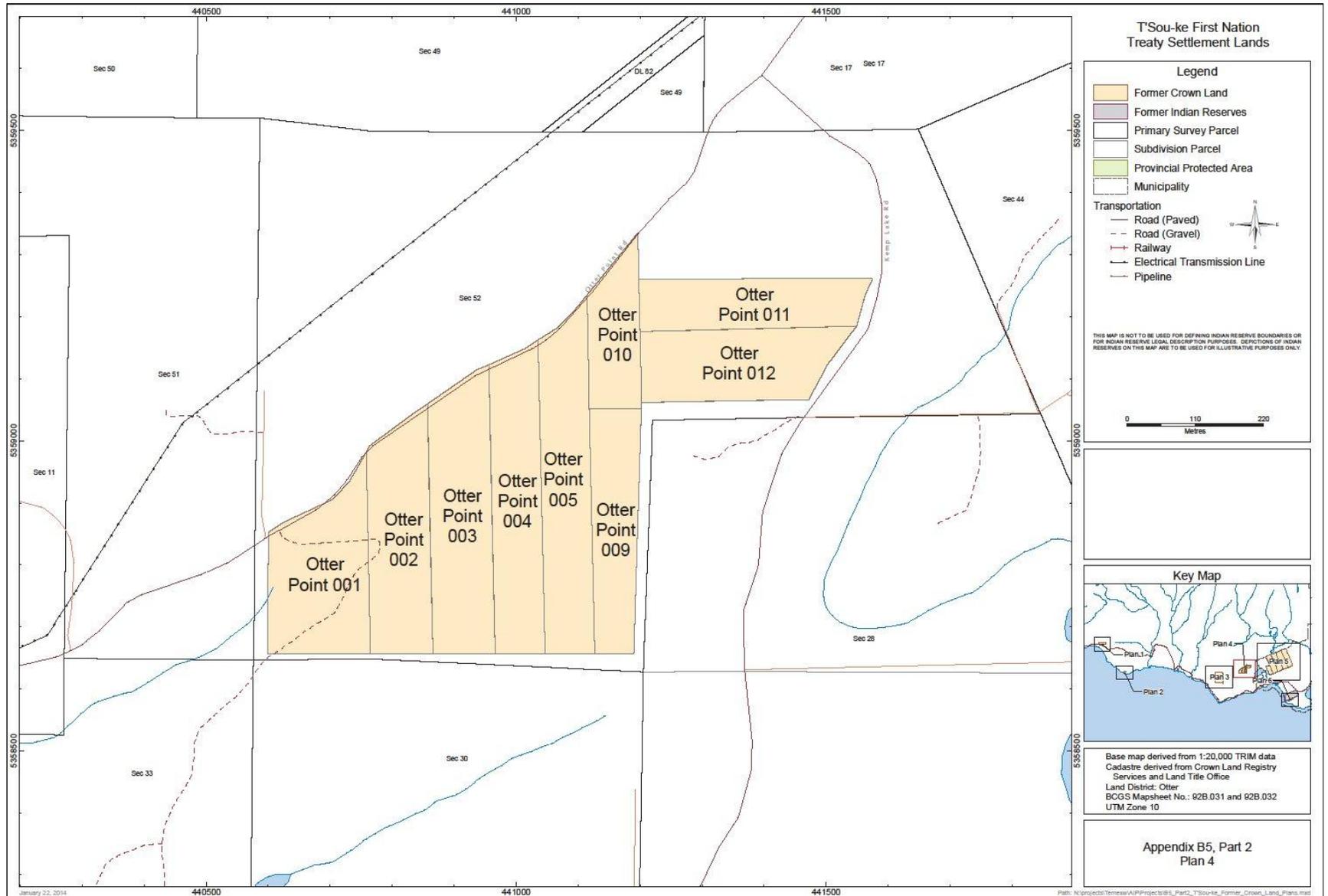
Plan 2 – Former Crown Land



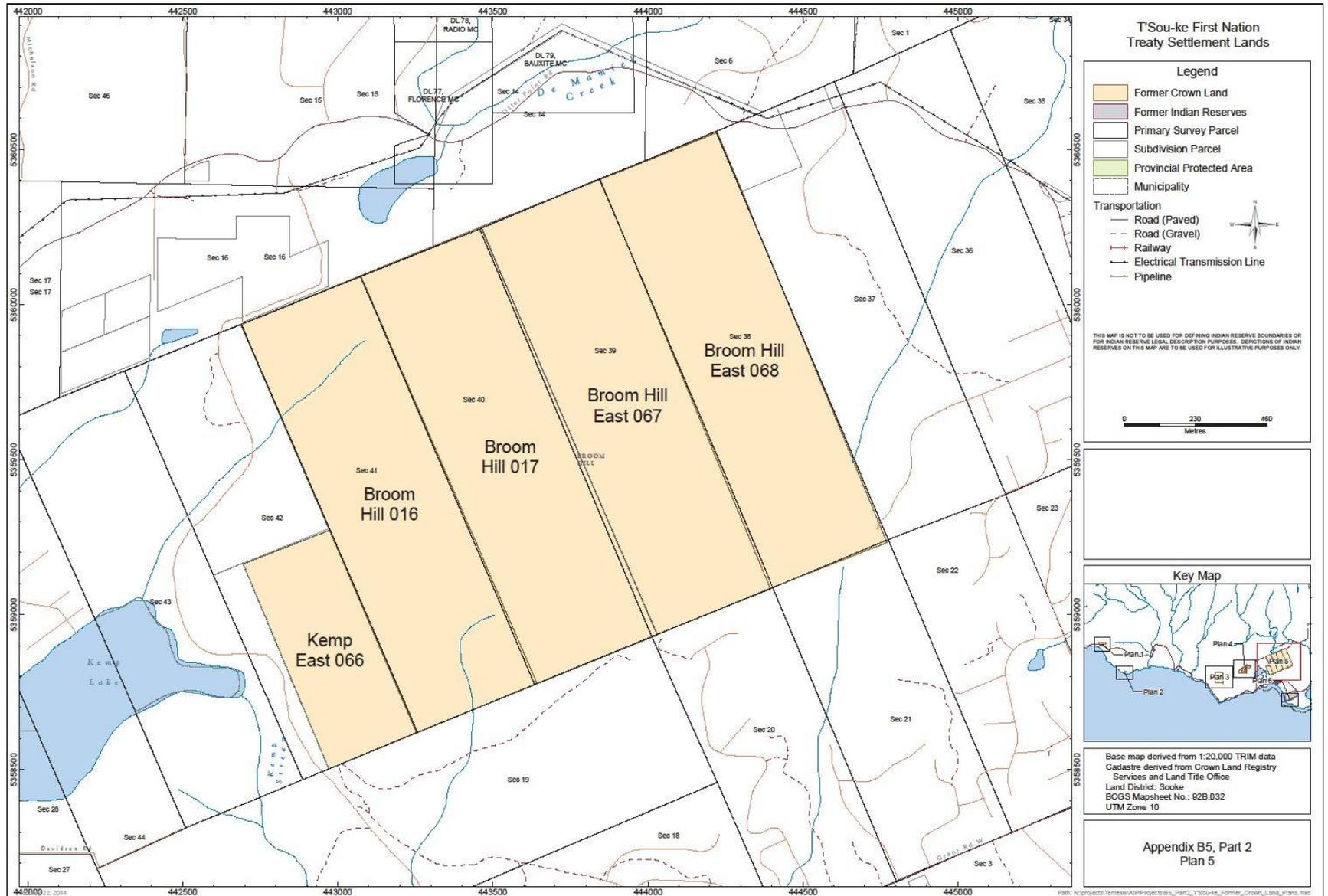
Plan 3 – Former Crown Land



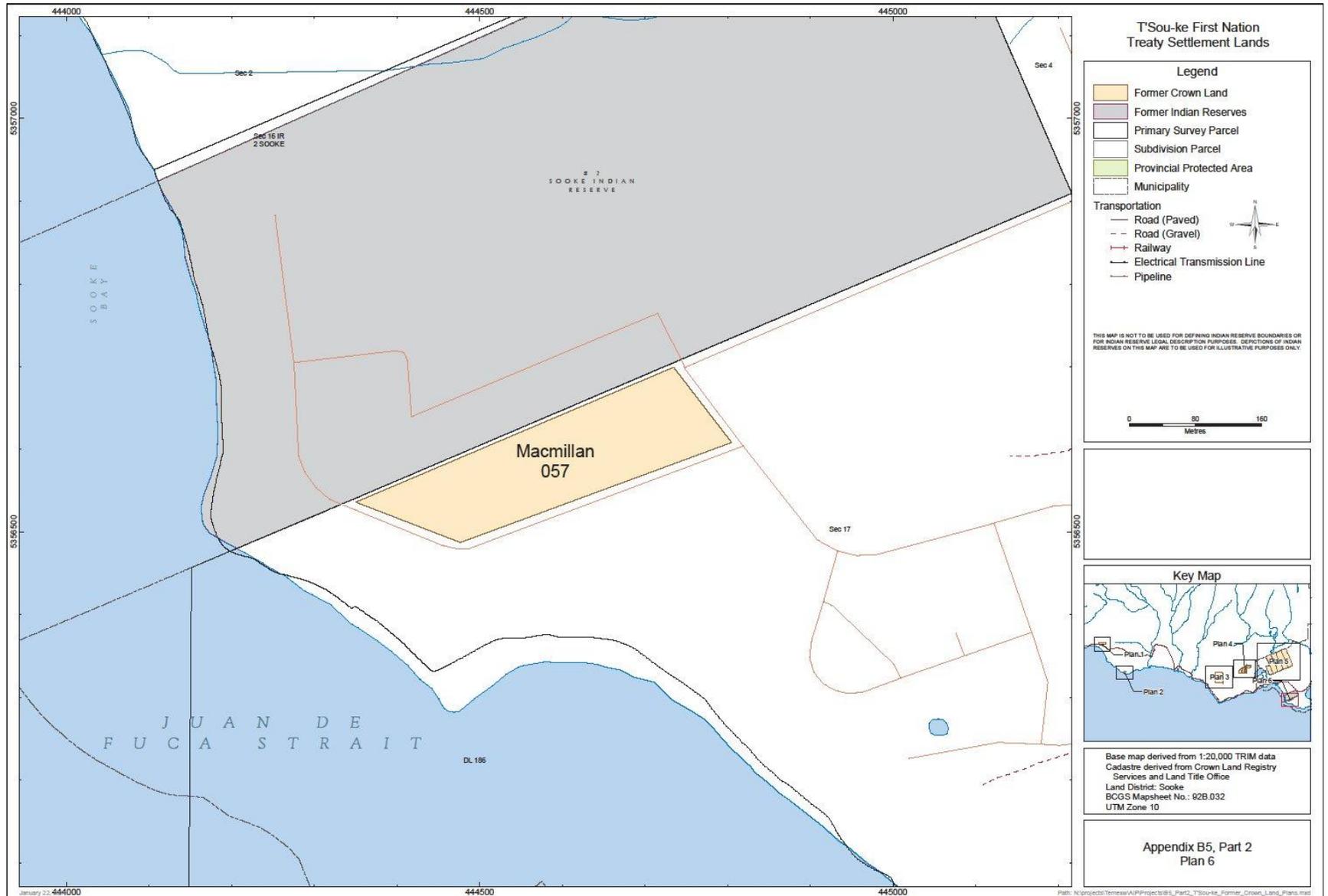
Plan 4 – Former Crown Land



Plan 5 – Former Crown Land



Plan 6 – Former Crown Land



APPENDIX C

INTERESTS ON TREATY SETTLEMENT LAND

Part 1: Interests on Former Indian Reserves to be Replaced on the Effective Date

These are interests to be replaced on the Effective Date such as Certificates of Possession (CPs), No Evidence of Title (NETIs), easements, rights of way, public utilities and other interests under the *Indian Act*. These interests will be identified during Final Agreement negotiations.

APPENDIX C

INTERESTS ON TREATY SETTLEMENT LAND

Part 2: Interests on Former Crown Land to be Replaced on the Effective Date

These are interests on former Crown land that will be replaced on the Effective Date, such as public utilities, distribution works, permits to occupy Crown land associated with water licences. These interests will be identified during Final Agreement negotiations.

APPENDIX C

INTERESTS ON TREATY SETTLEMENT LAND

Part 3: Interests to Continue After the Effective Date under Their Existing Terms and Conditions

Interests to continue under existing terms and conditions such as water licences, Subsurface Tenures, traplines and guide outfitter territories will be identified during Final Agreement negotiations.

APPENDIX C

INTERESTS ON TREATY SETTLEMENT LAND

Part 4: Applicable Forms of Documents for Granting Interests on the Effective Date

To be completed during Final Agreement negotiations. To include documents such as BC Hydro template agreement for distribution rights of way.

APPENDIX D
DISPUTE RESOLUTION PROCEDURES

Part 1: Definitions

1. In this appendix:

“Applicant” means:

- (a) in an arbitration commenced under section 28 of the Dispute Resolution Chapter, the Party that delivered the notice of arbitration; and
- (b) in an arbitration commenced under section 29 of the Dispute Resolution Chapter, the Party that the Parties have agreed will be the applicant in the agreement to arbitrate;

“Arbitral Award” means any decision of the Arbitral Tribunal on the substance of the Disagreement submitted to it, and includes:

- (a) an interim Arbitral Award, including an interim award made for the preservation of property; and
- (b) an award of interest or costs;

“Arbitral Tribunal” means a single arbitrator or a panel of arbitrators appointed under Part 7 of this appendix;

“Arbitration Agreement” includes:

- (a) the requirement to refer to arbitration Disagreements described in section 28 of the Dispute Resolution Chapter; and
- (b) an agreement to arbitrate a Disagreement as described in section 29 of the Dispute Resolution Chapter;

“Council” means the community advisory council appointed under Part 6 of this appendix;

“Community Advisor” means a member of the Council;

“Member” means a member of the Panel;

“Panel” means a technical advisory panel appointed under Part 4 of this appendix;

“Reference” means a reference of a Disagreement to the Panel pursuant to Part 4 of this appendix or to the Council pursuant to Part 6 of this appendix.

“Respondent” means a Party other than the Applicant; and

“Supreme Court” means the Supreme Court of British Columbia.

APPENDIX D
Part 1: Definitions

APPENDIX D
DISPUTE RESOLUTION PROCEDURES

Part 2: Collaborative Negotiations

GENERAL

1. Collaborative negotiations commence:
 - (a) on the date of delivery of a written notice requiring the commencement of collaborative negotiations; or
 - (b) in the case of negotiations in the circumstances described in subparagraph 6(c) of the Dispute Resolution Chapter, on the date of the first negotiation meeting.

NOTICE

2. A notice under paragraph 14 of the Dispute Resolution Chapter requiring the commencement of collaborative negotiations will include the following:
 - (a) the names of the Parties directly engaged in the Disagreement;
 - (b) a brief summary of the particulars of the Disagreement;
 - (c) a description of the efforts made to date to resolve the Disagreement;
 - (d) the names of the individuals involved in those efforts; and
 - (e) any other information that will help the Parties.

REPRESENTATION

3. A Participant may attend collaborative negotiations with or without legal counsel.
4. At the commencement of the first negotiation meeting, each Participant will advise the other Participants of any limitations on the authority of its representatives.

NEGOTIATION PROCESS

5. The Participants will convene their first negotiation meeting in collaborative negotiations, other than those described in subparagraph 6(c) of the Dispute Resolution Chapter, within 21 days after the commencement of the collaborative negotiations.
6. Before the first scheduled negotiation meeting, the Participants will discuss and attempt to reach agreement on any procedural issues that will facilitate the collaborative negotiations, including the requirements of paragraph 26 of the Dispute Resolution Chapter.
7. For purposes of subparagraph 26(a) of the Dispute Resolution Chapter, "timely disclosure" means disclosure made within 15 days after a request for disclosure by a Participant.
8. The Participants will make a serious attempt to resolve the Disagreement by:

- (a) identifying underlying interests;
 - (b) isolating points of agreement and disagreement;
 - (c) exploring alternative solutions;
 - (d) considering compromises or accommodations; and
 - (e) taking any other measures that will assist in resolution of the Disagreement.
9. No transcript or recording will be kept of collaborative negotiations, but this does not prevent an individual from keeping notes of the negotiations.

CONFIDENTIALITY

10. In order to assist in the resolution of a Disagreement, collaborative negotiations will not be open to the public.
11. The Participants, and all persons, will keep confidential:
- (a) all oral and written information disclosed in the collaborative negotiations; and
 - (b) the fact that this information has been disclosed.
12. The Participants will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the collaborative negotiations, any oral or written information disclosed in or arising from the collaborative negotiations, including:
- (a) any documents of other Participants produced in the course of the collaborative negotiations that are not otherwise produced or producible in that proceeding;
 - (b) any views expressed, or suggestions made, by any Participant in respect of a possible settlement of the Disagreement;
 - (c) any admissions made by any Participant in the course of the collaborative negotiations, unless otherwise stipulated by the admitting party; and
 - (d) the fact that any Participant has indicated a willingness to make or accept a proposal for settlement.
13. Sections 11 and 12 of this Part do not apply:
- (a) in any proceeding for the enforcement or setting aside of an agreement resolving the Disagreement that was the subject of the collaborative negotiation;
 - (b) if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
 - (c) if the oral or written information referred to in these sections is in the public forum.

RIGHT TO WITHDRAW

14. A Participant may withdraw from collaborative negotiations at any time.

TERMINATION OF COLLABORATIVE NEGOTIATIONS

15. Collaborative negotiations are terminated when any of the following occurs:

- (a) the expiration of:
 - (i) 30 days; or
 - (ii) in the case of collaborative negotiations in the circumstances described in subparagraph 6(c) of the Dispute Resolution Chapter, 120 days after the first scheduled negotiation meeting, or any longer period agreed to by the Participants in writing;
- (b) a Participant withdraws from the collaborative negotiations under section 14 of this Part;
- (c) the Participants agree in writing to terminate the collaborative negotiations; or
- (d) the Participants sign a written agreement resolving the Disagreement.

APPENDIX D
Part 2: Collaborative Negotiations

APPENDIX D
DISPUTE RESOLUTION PROCEDURES

Part 3: Mediation

GENERAL

1. A mediation commences on the date the Participants have agreed in writing to use mediation, or are deemed to have agreed to use mediation, under paragraph 24 of the Dispute Resolution Chapter.

APPOINTMENT OF MEDIATOR

2. A mediation will be conducted by one mediator jointly appointed by the Parties.
3. A mediator will be:
 - (a) an experienced and skilled mediator, preferably with unique qualities or specialized knowledge that would be of assistance in the circumstances of the Disagreement; and
 - (b) independent and impartial.
4. If the Participants fail to agree on a mediator within 15 days after commencement of a mediation, the appointment will be made by the Neutral Appointing Authority on the written request of a Participant that is copied to the other Participants.
5. Subject to any limitations agreed to by the Participants, a mediator may employ reasonable and necessary administrative or other support services.

REQUIREMENT TO WITHDRAW

6. At any time a Participant may give the mediator and the other Participants a written notice, with or without reasons, requiring the mediator to withdraw from the mediation on the grounds that the Participant has justifiable doubts as to the mediator's independence or impartiality.
7. On receipt of a written notice under section 6 of this Part, the mediator must immediately withdraw from the mediation.
8. An individual who is a Te'mexw Member First Nation Citizen, or related to a Te'mexw Member First Nation Citizen, must not be required to withdraw under section 6 of this Part solely on the grounds of that citizenship or relationship.

END OF APPOINTMENT

9. A mediator's appointment terminates if:
 - (a) the mediator is required to withdraw under section 7 of this Part;
 - (b) the mediator withdraws from office for any reason; or

- (c) the Participants agree to the termination.
- 10. If a mediator's appointment terminates, a replacement mediator will be appointed using the procedure in sections 2 to 4 of this Part and the required time period commences from the date of termination of the appointment.

REPRESENTATION

- 11. A Participant may attend a mediation with or without legal counsel.
- 12. If a mediator is a lawyer, the mediator must not act as legal counsel for any Participant.
- 13. At the commencement of the first meeting of a mediation, each Participant will advise the mediator and the other Participants of any limitations on the authority of its representatives.

CONDUCT OF MEDIATION

- 14. The Participants will:
 - (a) make a serious attempt to resolve the Disagreement by:
 - (i) identifying underlying interests;
 - (ii) isolating points of agreement and disagreement;
 - (iii) exploring alternative solutions; and
 - (iv) considering compromises or accommodations; and
 - (b) cooperate fully with the mediator and give prompt attention to, and respond to, all communications from the mediator.
- 15. A mediator may conduct a mediation in any manner the mediator considers necessary and appropriate to assist the Participants to resolve the Disagreement in a fair, efficient, and cost-effective manner.
- 16. Within seven days of appointment of a mediator, each Participant will deliver a brief written summary to the mediator of the relevant facts, the issues in the Disagreement, and its viewpoint in respect of them and the mediator will deliver copies of the summaries to each Participant at the end of the seven day period.
- 17. A mediator may conduct a mediation in joint meetings or private caucus convened at locations the mediator designates after consulting the Participants.
- 18. Disclosures made by any Participant to a mediator in private caucus must not be disclosed by the mediator to any other Participant without the consent of the disclosing Participant.
- 19. No transcript or recording will be kept of a mediation meeting but this does not prevent an individual from keeping notes of the negotiations.

CONFIDENTIALITY

20. In order to assist in the resolution of a Disagreement, a mediation will not be open to the public.
21. The Participants, and all persons, will keep confidential:
 - (a) all oral and written information disclosed in the mediation; and
 - (b) the fact that this information has been disclosed.
22. The Participants will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the mediation, any oral or written information disclosed in or arising from the mediation, including:
 - (a) any documents of other Participants produced in the course of the mediation that are not otherwise produced or producible in that proceeding;
 - (b) any views expressed, or suggestions, or proposals made in respect of a possible settlement of the Disagreement;
 - (c) any admissions made by any Participant in the course of the mediation, unless otherwise stipulated by the admitting Participant;
 - (d) any recommendations for settlement made by the mediator; and
 - (e) the fact that any Participant has indicated a willingness to make or accept a proposal or recommendation for settlement.
23. Sections 21 and 22 of this Part do not apply:
 - (a) in any proceeding for the enforcement or setting aside of an agreement resolving the Disagreement that was the subject of a mediation;
 - (b) if the adjudicator in any proceeding determines that the interests of public or the administration of justice outweigh the need for confidentiality; or
 - (c) if the oral or written information referred to in those sections is in the public forum.
24. A mediator, or anyone retained or employed by the mediator, is not compellable in any proceeding to give evidence about any oral and written information acquired or opinion formed by that person as a result of the mediation, and all Parties will oppose any effort to have that person or that information subpoenaed.
25. A mediator, or anyone retained or employed by the mediator, is disqualified as a consultant or expert in any proceeding relating to the Disagreement, including any proceeding that involves persons not a Participant to the mediation.

REFERRAL OF ISSUES TO OTHER PROCESSES

26. During a mediation the Participants may agree to refer particular issues in the Disagreement to independent fact-finders, expert panels or other processes for opinions or findings that may assist them in the resolution of the Disagreement, and in that event, the Participants must specify:
- (a) the terms of reference for the process;
 - (b) the time within which the process must be concluded; and
 - (c) how the costs of the process are to be allocated to the Participants.
27. The time specified for concluding a mediation will be extended for 15 days following receipt of the findings or opinions rendered in a process described under section 26 of this Part.

RIGHT TO WITHDRAW

28. A Participant may withdraw from a mediation at any time by giving written notice of its intent to the mediator.
29. Before a withdrawal is effective, the withdrawing Participant will:
- (a) speak with the mediator;
 - (b) disclose its reasons for withdrawing; and
 - (c) give the mediator the opportunity to discuss the consequences of withdrawal.

TERMINATION OF MEDIATION

30. A mediation is terminated when any of the following occurs:
- (a) subject to section 27 of this Part, the expiration of 30 days after the appointment of the mediator, or any longer period agreed by the Participants in writing;
 - (b) the Participants have agreed in writing to terminate the mediation or not to appoint a replacement mediator under section 10 of this Part;
 - (c) a Participant withdraws from the mediation under section 28 of this Part; or
 - (d) the Participants sign a written agreement resolving the Disagreement.

MEDIATOR RECOMMENDATION

31. If a mediation is terminated without the Participants reaching agreement, the Participants may agree to request the mediator to give a written non-binding recommendation for settlement, but the mediator may decline the request without reasons.
32. Within 15 days after delivery of a mediator's recommendation under section 31 of this Part, the Participants will meet with the mediator to attempt to resolve the Disagreement.

COSTS

33. A Participant withdrawing from a mediation under section 28 of this Part is not responsible for any costs of the mediation that are incurred after the date that Participant's withdrawal takes effect.

APPENDIX D

DISPUTE RESOLUTION PROCEDURES

Part 4: Reference to Technical Advisory Panel

GENERAL

1. A question of law may not be referred to a Panel.
2. A Reference commences on the date the Participants have agreed in writing to use a technical advisory panel under paragraph 24 of the Dispute Resolution Chapter.

APPOINTMENT OF PANEL MEMBERS

3. A Panel will have three Members unless the Participants agree on a Panel of five Members.
4. A Member will be skilled and knowledgeable in the technical or scientific subject matter or issues of the Disagreement.
5. If there are two Participants the Panel will have:
 - (a) three Members, each Participant will appoint one Member and the two appointed Members will jointly appoint the third Member; or
 - (b) five Members, each Participant will appoint two Members and the four appointed Members will jointly appoint the fifth Member.
6. If there are three Participants the Panel will have:
 - (a) three Members, each Participant will appoint one Member; or
 - (b) five Members, each Participant will appoint one Member and the three appointed Members will jointly appoint the fourth and fifth Members.
7. In the appointment procedures under sections 5 and 6 of this Part, if:
 - (a) a Participant fails to appoint the required number of Members within 30 days after commencement of the Reference; or
 - (b) the appointing Members fail to appoint the required number of additional Members within 15 days after the last appointing Member was appointed,the required appointments will be made by the Neutral Appointing Authority on the written request of a Participant that is copied to the other Participants.

END OF APPOINTMENT

8. The appointment of a Member who is jointly appointed by the Participants, by the appointing Members, or by the Neutral Appointing Authority, terminates if:
 - (a) the Member withdraws from office for any reason; or

Part 4: Reference to Technical Advisory Panel

- (b) the Participants agree to the termination.
9. The appointment of a Member appointed by one Participant, or by the Neutral Appointing Authority in place of the Participant, terminates if:
- (a) the Member withdraws from office for any reason; or
 - (b) the appointing Participant terminates the appointment.
10. If the appointment of a Member jointly appointed by the Participants, by the appointing Members, or by the Neutral Appointing Authority in place of the Participants or Members, terminates, a replacement Member will be appointed under section 5 or 6 of this Part, as applicable, within the required time commencing from the termination of the former Member's appointment.
11. Subject to section 12 of this Part, if the appointment of a Member appointed by one Participant or by the Neutral Appointing Authority in place of the Participant terminates, a replacement member will be appointed under section 5 or 6 of this Part, as applicable, within the required time commencing from the termination of the former Member's appointment.
12. A Participant may elect not to replace a Member it had appointed but the Participant may not withdraw from the Reference except as permitted under sections 30 to 34 of this Part.

TERMS OF REFERENCE

13. Not more than 15 days after the appointment of the last Member of a Panel, the Participants must provide the Panel with written terms of reference that set out at least the following:
- (a) the Participants to the Disagreement;
 - (b) the subject matter or issues of the Disagreement;
 - (c) the kind of assistance that the Participants request from the Panel, including giving advice, making determinations, finding facts, conducting, evaluating and reporting on studies and making recommendations;
 - (d) the time period within which the Participants request the assistance to be provided;
 - (e) the time periods or stages of the Reference at the conclusion of which the Panel must provide the Participants with written interim reports on the Panel's progress on the Reference and on expenditures under the budget described in section 15 of this Part as they relate to that progress;
 - (f) the time within which the Panel must provide the Participants with the budget described in section 15 of this Part; and

APPENDIX D
Part 4: Reference to Technical Advisory Panel

- (g) any limitations on the application of sections 35 to 41 of this Part to the Reference.
- 14. The Participants may discuss the proposed terms of reference with the Panel before they are finally settled.
- 15. Within the time referred to in subsection 13(f) of this Part, the Panel will provide the Participants with a budget for the costs of conducting the Reference, including:
 - (a) fees to be paid to the Members who have been jointly appointed by the Participants, or by appointing Members;
 - (b) costs of required travel, food and accommodation of Members who have been jointly appointed by the Participants, or by appointing Members;
 - (c) costs of any required administrative assistance; and
 - (d) costs of any studies.
- 16. The Participants will consider the budget submitted by the Panel and approve that budget with any amendments agreed by the Participants before the Panel undertakes any activities under the Reference.
- 17. The Participants are not responsible for any costs incurred by the Panel that are in excess of those approved under section 16 of this Part, and the Panel is not authorized to incur any costs beyond that amount without obtaining prior written approval from all the Participants.
- 18. The Participants may amend the written terms of reference or the budget from time to time as they consider necessary, or on recommendation of the Panel.

CONDUCT OF REFERENCE TO PANEL

- 19. The Participants will:
 - (a) cooperate fully with the Panel;
 - (b) comply with any requests made by the Panel as permitted or required under this Part; and
 - (c) give prompt attention to and respond to all communications from the Panel.
- 20. Subject to any limitations or requirements in the terms of reference given and the limits of the budget approved under sections 16 to 18 of this Part, the Panel may conduct its Reference using any procedure it considers necessary or appropriate, including holding a hearing.
- 21. If a hearing is held, the hearing must be conducted as efficiently as possible and in the manner the Panel specifies, after consultation with the Participants.

Part 4: Reference to Technical Advisory Panel

22. If a hearing is held, the Panel must give the Participants reasonable written notice of the hearing date, which notice must, in any event, be not less than seven days.
23. No transcript or recording will be kept of a hearing, but this does not prevent an individual attending the hearing from keeping notes of the hearing.
24. The legal rules of evidence do not apply to a hearing before the Panel.
25. The Panel will give the Participants the interim and final written reports specified in its terms of reference within the required times.
26. A report of the Panel is not binding on the Participants.

PANEL BUSINESS

27. A Panel will appoint one of its Members to act as chair of the Panel.
28. The chair of a Panel is responsible for all communications between the Panel, the Participants and any other person to whom the Panel wishes to communicate, but this does not preclude a Member from communicating informally with a Party.
29. A Panel will make every reasonable effort to conduct its business, and fulfill its obligations under its terms of reference, by consensus, but:
 - (a) if consensus is not possible, by actions approved by a majority of its Members; or
 - (b) if a majority is not possible, by actions approved by the chair of the Panel.

RIGHT TO WITHDRAW

30. If one of two Participants to a Reference, or two of three Participants to a Reference, are not satisfied with the progress of the Reference:
 - (a) after receipt of an interim report; or
 - (b) as a result of the Panel's failure to submit an interim report within the required time,

the dissatisfied Participant or Participants, as the case may be, may give written notice to the Panel and the other Participant that the Participant or Participants are withdrawing from the Reference and that the Reference is terminated.

31. If one of three Participants to a Reference is not satisfied with the progress of the Reference:
 - (a) after receipt of an interim report; or
 - (b) as a result of the Panel's failure to submit an interim report within the required time,

the dissatisfied Participant may give written notice to the Panel and the other Participants that it is withdrawing from the Reference.

APPENDIX D
Part 4: Reference to Technical Advisory Panel

32. Two Participants who receive a notice under section 31 of this Part will advise the Panel in writing that they have agreed:
 - (a) to terminate the Reference; or
 - (b) to continue the Reference.
33. If no Participant gives a notice under sections 30 or 31 of this Part within 10 days after:
 - (a) receipt of an interim report; or
 - (b) the time required to submit an interim report,all Participants will be deemed to be satisfied with the progress of the Reference until submission of the next required interim report.
34. No Participant may withdraw from a Reference except as permitted under sections 30 to 33 of this Part.

CONFIDENTIALITY

35. The Participants may, by agreement recorded in the terms of reference of the Panel in section 13 of this Part, limit the application of all or any part of sections 36 to 41 of this Part in a Reference.
36. In order to assist in the resolution of the Disagreement, a Reference will not be open to the public.
37. The Participants, and all persons, will keep confidential:
 - (a) all oral and written information disclosed in the Reference; and
 - (b) the fact that this information has been disclosed.
38. The Participants will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the Reference, any oral or written information disclosed in or arising from the Reference, including:
 - (a) any documents of other Participants produced in the course of the Reference that are not otherwise produced or producible in that proceeding;
 - (b) any views expressed, or suggestions made, in respect of a possible settlement of the Disagreement;
 - (c) any admissions made by any Participant in the course of the Reference, unless otherwise stipulated by the admitting Participant;
 - (d) the fact that any Participant has indicated a willingness to make or accept a proposal or recommendation for settlement; and
 - (e) any reports of the Panel.
39. Sections 37 and 38 of this Part do not apply:

Part 4: Reference to Technical Advisory Panel

- (a) in any proceeding for the enforcement or setting aside of an agreement resolving the Disagreement that was the subject of the Reference;
 - (b) if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
 - (c) if the oral or written information referred to in those sections is in the public forum.
40. A Member, or anyone retained or employed by the Member, is not compellable in any proceeding to give evidence about any oral or written information acquired or opinion formed by that person as a result of the Reference, and all Parties will oppose any effort to have that person or that information subpoenaed.
41. A Member, or anyone retained or employed by the Member, is disqualified as a consultant or expert in any proceeding relating to the Disagreement, including any proceeding that involves persons not a Participant to the Reference.

ATTEMPT TO RESOLVE AFTER REPORT

42. Within 21 days after receipt of the final written report of a Panel, the Participants will meet and make an effort to resolve the Disagreement taking into account the report of the Panel or any other considerations.
43. If the Participants and the Panel agree, the Members of a Panel may attend the meeting under section 42 of this Part, and provide any necessary assistance to the Participants.

TERMINATION OF REFERENCE TO PANEL

44. A Reference is terminated when any of the following occurs:
- (a) the Reference has been terminated as permitted under section 30 or 32 of this Part;
 - (b) the expiration of 30 days after receipt of the final report of the Panel, or any longer period agreed by the Participants in writing; or
 - (c) the Participants sign a written agreement resolving the Disagreement.

COSTS

45. A Participant is not responsible for sharing any costs of the Reference that were incurred after the date that Participant notified the other Participant or Participants, under section 31 of this Part, of its withdrawal from the reference.

APPENDIX D
DISPUTE RESOLUTION PROCEDURES

Part 5: Neutral Evaluation

GENERAL

1. A neutral evaluation commences on the date that the Participants have agreed in writing to use neutral evaluation under paragraph 24 of the Dispute Resolution Chapter.

APPOINTMENT OF NEUTRAL EVALUATOR

2. A neutral evaluation will be conducted by one person jointly appointed by the Participants.
3. A neutral evaluator will be:
 - (a) experienced or skilled in the subject matter or issues of the Disagreement; and
 - (b) independent and impartial.
4. If the Participants fail to agree on a neutral evaluator within 21 days after commencement of a neutral evaluation, the appointment will be made by the Neutral Appointing Authority on the written request of a Participant that is copied to the other Participants.
5. Subject to any limitations agreed to by the Participants, a neutral evaluator may employ reasonable and necessary administrative or other support services.

REQUIREMENT TO WITHDRAW

6. At any time a Participant may give a neutral evaluator and the other Participants a written notice, with or without reasons, requiring the neutral evaluator to withdraw from the neutral evaluation on the grounds that the Participant has justifiable doubts as to the neutral evaluator's independence or impartiality.
7. On receipt of a written notice under section 6 of this Part, the neutral evaluator must immediately withdraw from the neutral evaluation.
8. An individual who is a Te'mexw Member First Nation Citizen, or related to a Te'mexw Member First Nation Citizen, must not be required to withdraw under section 6 of this Part solely on the grounds of that citizenship or relationship.

END OF APPOINTMENT

9. A neutral evaluator's appointment terminates if:
 - (a) the neutral evaluator is required to withdraw under section 7 of this Part;
 - (b) the neutral evaluator withdraws from office for any reason; or
 - (c) the Participants agree to the termination.

10. Unless the Participants agree otherwise, if a neutral evaluator's appointment terminates, a replacement will be appointed under section 4 of this Part within the required time commencing from the date of the termination of the appointment.

COMMUNICATIONS

11. Except with respect to administrative details or a meeting under section 31 of this Part, the Participants will not communicate with the neutral evaluator:
 - (a) orally except in the presence of all Participants; or
 - (b) in writing without immediately sending a copy of that communication to all Participants.
12. Section 11 of this Part also applies to any communication by a neutral evaluator to the Participants.

CONDUCT OF NEUTRAL EVALUATION

13. The Participants will:
 - (a) cooperate fully with the neutral evaluator;
 - (b) comply with any requests made by the neutral evaluator as permitted or required under this Part; and
 - (c) give prompt attention to and respond to all communications from the neutral evaluator.
14. A neutral evaluation will be conducted only on the basis of documents submitted by the Participants under section 19 of this Part unless the Participants agree to, or the neutral evaluator requires, additional submissions or other forms of evidence.
15. If a hearing is held, the hearing must be conducted as efficiently as possible and in the manner the neutral evaluator specifies, after consultation with the Parties.
16. If a hearing is held, the neutral evaluator must give the Participants reasonable written notice of the hearing date, which notice must, in any event, be not less than seven days.
17. No transcript or recording will be kept of a hearing, but this does not prevent an individual attending the hearing from keeping notes of the hearing.
18. The legal rules of evidence do not apply to a neutral evaluation.
19. Within 15 days after the appointment of a neutral evaluator, each Participant must deliver to the other Participants and to the neutral evaluator a written submission respecting the Disagreement, including facts upon which the Participants agree or disagree, and copies of any documents, affidavits and exhibits on which the Participant relies.

20. Within 21 days after the appointment of a neutral evaluator, a Participant may submit a reply to the submission of any other Participant and, in that event, will provide copies of the reply to the Participant and the neutral evaluator.
21. Where the matter referred to the neutral evaluator is an objection to a proposed expropriation of an interest in Treaty Settlement Lands under paragraph 84 of the Treaty Settlement Lands Chapter, the following time limits apply to the neutral evaluation process set out in this Part, unless the Participants agree otherwise in writing:
 - (a) under section 19 of this Part, written submissions must be delivered within 28 days after the commencement of a neutral evaluation;
 - (b) under section 20 of this Part, replies must be delivered within 35 days after the commencement of a neutral evaluation;
 - (c) under section 15 of this Part, if a hearing is held it must be held within 45 days after the commencement of a neutral evaluation; and
 - (d) under section 29 of this Part, the neutral evaluator will deliver a written opinion within 60 days after the commencement of a neutral evaluation.

CONFIDENTIALITY

22. In order to assist in the resolution of the Disagreement, a neutral evaluation will not be open to the public.
23. The Participants, and all persons, will keep confidential:
 - (a) all oral and written information disclosed in the neutral evaluation; and
 - (b) the fact that this information has been disclosed.
24. The Participants will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the neutral evaluation, any oral or written information disclosed in or arising from the neutral evaluation, including:
 - (a) any documents of other Participants produced in the course of the neutral evaluation which are not otherwise produced or producible in that proceeding;
 - (b) any views expressed, or suggestions made, in respect of a possible settlement of the Disagreement;
 - (c) any admissions made by any Participant in the course of the neutral evaluation, unless otherwise stipulated by the admitting Participant;
 - (d) the fact that any Participant has indicated a willingness to make or accept a proposal for settlement; and
 - (e) subject to section 28 of this Part, the opinion of the neutral evaluator.
25. Sections 23 and 24 of this Part do not apply:

- (a) in any proceedings for the enforcement or setting aside of an agreement resolving the Disagreement that was the subject of a neutral evaluation;
 - (b) if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
 - (c) if the oral or written information is in the public forum.
26. A neutral evaluator, or anyone retained or employed by the neutral evaluator, is not compellable in any proceedings to give evidence about any oral and written information acquired or opinion formed by that person as a result of a neutral evaluation under this Part, and all Parties will oppose any effort to have that person or that information subpoenaed.
27. A neutral evaluator and anyone retained or employed by the neutral evaluator is disqualified as a consultant or expert in any proceeding relating to the Disagreement, including any proceeding that involves persons not a Participant to the neutral evaluation.
28. Despite sections 23 to 26 of this Part, after an Arbitral Tribunal has delivered its final Arbitral Award, or a court has referred its decision, in respect of a Disagreement, a Participant, for the purpose only of making a submission on the allocation of costs of that arbitral or judicial proceeding, may give to the Arbitral Tribunal or the court a copy of:
- (a) the neutral evaluator's opinion respecting that agreement; or
 - (b) the neutral evaluator's notice of termination under section 6 of this Part.

NON-BINDING OPINION

29. Within 21 days after the later of:
- (a) delivery of the last submission required or permitted in a neutral evaluation under this Part; or
 - (b) completion of a hearing, the neutral evaluator will deliver to the Participants a written opinion with reasons in respect of the probable disposition of the Disagreement should it be submitted to arbitral or judicial proceedings, as the case may be, under the Dispute Resolution Chapter.
30. An opinion under section 29 of this Part is not binding.

ATTEMPT TO RESOLVE AFTER OPINION

31. Within 21 days after delivery of an opinion under section 29 of this Part, the Participants will meet and make an effort to resolve the Disagreement, taking into account the opinion of the neutral evaluator or any other considerations.
32. If the Participants and the neutral evaluator agree, the neutral evaluator may attend a meeting under section 31 of this Part, and provide any necessary assistance to the Participants.

FAILURE TO COMPLY

33. If a Participant fails to participate in the neutral evaluation as contemplated in sections 13 to 21 of this Part, the neutral evaluator may:
- (a) provide an opinion based solely upon the information and submissions they have obtained; or
 - (b) give a written notice of termination of the neutral evaluation, and, in either event, the neutral evaluator must record that Participant's failure.

TERMINATION OF NEUTRAL EVALUATION

34. A neutral evaluation is terminated when any of the following occurs:
- (a) the neutral evaluator gives a notice of termination under subsection 33(b) of this Part;
 - (b) the expiration of 30 days after receipt of an opinion under section 29 or 33 of this Part, as the case may be, or any longer period agreed by the Participants;
 - (c) all the Participants agree in writing to terminate the neutral evaluation; or
 - (d) all the Participants sign a written agreement resolving the Disagreement.

COSTS

35. A Participant that has failed to participate in a neutral evaluation as contemplated in sections 13 to 21 of this Part is responsible for its share of the costs of the neutral evaluation, despite its failure to participate.

APPENDIX D

DISPUTE RESOLUTION PROCEDURES

Part 6: Reference to Community Advisory Council

GENERAL

1. A Reference commences on the date the Participants have agreed in writing to use a Council under paragraph 24 of the Dispute Resolution Chapter.

APPOINTMENT OF COMMUNITY ADVISORY COUNCIL

2. Within 30 days after a Reference has commenced, each Participant will appoint at least one, but not more than three, Community Advisors to the Council.
3. Preferably, the Community Advisors will be individuals who:
 - (a) are recognized in their respective communities as wise, tolerant, personable and articulate, and who:
 - (i) are often sought out for counsel or advice; or
 - (ii) have a record of distinguished public service; and
 - (b) are available to devote the time and energy as required to provide the assistance described in this Part.

END OF APPOINTMENT

4. Unless a Community Advisor:
 - (a) has requested to be relieved of their appointment due to a conflict of interest or otherwise; or
 - (b) is not able to fulfill their duties, due to incapacity or otherwise,the Community Advisor's appointment to the Council may not be terminated until termination of the Reference in which the Community Advisor is involved.
5. If a Community Advisor's appointment is terminated in the circumstances described in subsection 4(a) or 4(b) of this Part and that Community Advisor was the only Community Advisor of the Council appointed by a Participant to the Reference, that Participant must replace the Community Advisor within seven days.
6. If a Community Advisor's appointment is terminated in the circumstances described in subsection 4(a) or 4(b) of this Part and that Community Advisor was not the only Community Advisor of the Council appointed by a Participant to the Reference, that Participant may replace the Community Advisor but the replacement must be made within seven days.

CONDUCT OF REFERENCE

7. In a Reference, the Participants will cooperate fully with the Council, and give prompt attention to, and respond to, all communications from the Council.
8. Notwithstanding section 7 of this Part, a Participant is not required to disclose to the Council or provide it with any information that the Participant would not be required to disclose in any arbitral or judicial proceedings in respect of the Disagreement.
9. The Council is expected to conduct itself informally in order that the Participants may take full advantage of the Council's good offices to resolve the Disagreement.
10. The Council may establish its own process to suit the particular circumstances of a Reference including meeting with the Participants together or separately, conducting informal interviews or inquiries and facilitating settlement negotiations.
11. The Council will give the Participants its final advice or recommendations on a Disagreement referred to it within 120 days after the commencement of the Reference.
12. The Council may, at its option, provide its advice to the Participants:
 - (a) orally on the same occasion; or
 - (b) in writing.
13. The Council may, by unanimous decision, extend the time for giving advice or recommendations under section 11 of this Part, on one occasion only, to a maximum of 60 additional days.
14. The advice or recommendations of the Council are not binding.
15. Subject to any limitations agreed to by the Participants, the Council may employ reasonable and necessary administrative or other support services.

RIGHT TO WITHDRAW

16. A Participant may not withdraw from a Reference until its conclusion unless all the Participants agree in writing.

CONFIDENTIALITY

17. In order to assist in the resolution of the Disagreement, a Reference will not be open to the public.
18. The Participants, and all persons, will keep confidential:
 - (a) all oral and written information disclosed in the Reference; and
 - (b) the fact that this information has been disclosed.

Part 6: Reference to Community Advisory Council

19. The Participants will not rely on or introduce as evidence in any proceeding, whether or not that proceeding relates to the subject matter of the Reference, any oral or written information disclosed in or arising from the Reference, including:
- (a) any documents of other Participants produced in the course of the Reference that are not otherwise produced or producible in that proceeding;
 - (b) any views expressed, or suggestions made, in respect of a possible settlement of the Disagreement;
 - (c) any admissions made by any Participant in the course of the Reference, unless otherwise stipulated by the admitting Participant;
 - (d) any advice or recommendations made by a Community Advisor or the Council; and
 - (e) the fact that any Participant has indicated a willingness to make or accept any advice or recommendation for settlement.
20. Sections 18 and 19 of this Part do not apply:
- (a) in any proceedings for the enforcement or setting aside of an agreement resolving the Disagreement that was the subject of the Reference;
 - (b) if the adjudicator in any proceeding determines that the interests of the public or the administration of justice outweigh the need for confidentiality; or
 - (c) if the oral or written information referred to in those sections is in the public forum.
21. A Community Advisor, or anyone retained or employed by the Council, is not compellable in any proceeding to give evidence about any oral and written information acquired or opinion formed by that person as a result of the Reference and all Parties will oppose any effort to have that person or that information subpoenaed.
22. A Community Advisor, or anyone retained or employed by the Council, is disqualified as a consultant or expert in any proceeding relating to the Disagreement, including any proceeding that involves persons not a party to the Reference.

DECISION-MAKING

23. The Council must make its best efforts to reach consensus among the Community Advisors before taking any action or giving any advice under the Reference.
24. The Council may not take any action under section 11 of this Part unless at least one Community Advisor appointed by each Participant expressly agrees with the action taken.

TERMINATION OF REFERENCE

25. A Reference is terminated when any of the following occurs:
- (a) the Council gives the Participants its advice under section 11 of this Part;
 - (b) the expiration of the applicable time period in section 11 or 13 of this Part; or
 - (c) the Participants sign a written agreement resolving the Disagreement.

APPENDIX D
DISPUTE RESOLUTION PROCEDURES

Part 7: Arbitration

GENERAL

1. A reference in this Part, other than in section 86 or subsection 116(a) of this Part, to a claim, applies to a counterclaim, and a reference in this Part to a defence, applies to a defence to a counterclaim.
2. Despite paragraph 4 of the Dispute Resolution Chapter, the Participants may not vary section 52 or 96 of this Part.

COMMUNICATIONS

3. Except in respect of administrative details, the Participants will not communicate with the Arbitral Tribunal:
 - (a) orally, except in the presence of all other Participants; or
 - (b) in writing, without immediately sending a copy of that communication to all other Participants.
4. Section 3 of this Part also applies to any communication by the Arbitral Tribunal to the Participants.

WAIVER OF RIGHT TO OBJECT

5. A Participant that knows that:
 - (a) any provision of this Part; or
 - (b) any requirement under the Final Agreement or Arbitration Agreement,has not been complied with, and yet proceeds with the arbitration without stating its objection to noncompliance without undue delay or, if a time limit is provided for stating that objection, within that period of time, will be deemed to have waived its right to object.
6. In subsection 5(a) of this Part "any provision of this Part" means any provision of this Part in respect of which the Participants may otherwise agree.

EXTENT OF JUDICIAL INTERVENTION

7. In matters governed by this Part:
 - (a) no court shall intervene except as provided in this Part; and
 - (b) no arbitral proceedings of an Arbitral Tribunal, or an order, ruling or Arbitral Award made by an Arbitral Tribunal shall be questioned, reviewed or

restrained by a proceeding under any legislation or other law that permits judicial review except to the extent provided in this Part.

CONSTRUCTION OF THIS PART

8. In construing a provision of this Part, a court or Arbitral Tribunal may refer to the documents of the United Nations Commission on International Trade Law and its working group respecting the preparation of the UNCITRAL Model Arbitration Law and must give those documents the weight that is appropriate in the circumstances.

STAY OF LEGAL PROCEEDINGS

9. If a Participant commences legal proceedings in a court against another Participant in respect of a matter required or agreed to be submitted to arbitration, a Participant to the legal proceedings may, before or after entering an appearance, and before delivery of any pleadings or taking any other step in the proceedings, apply to that court to stay the proceedings.
10. In an application under section 9 of this Part, the court must make an order staying the legal proceedings unless it determines that:
 - (a) the Arbitration Agreement is null and void, inoperative or incapable of being performed; or
 - (b) the legal proceedings are permitted under the Dispute Resolution Chapter.
11. An arbitration may be commenced or continued, and an Arbitral Award made, even if an application has been brought under section 9 of this Part, and the issue is pending before the court.

INTERIM MEASURES BY COURT

12. It is not incompatible with an Arbitration Agreement for a Participant to request from a court, before or during arbitral proceedings, an interim measure of protection as provided in paragraph 13 of the Dispute Resolution Chapter, and for a court to grant that measure.

COMMENCEMENT OF ARBITRAL PROCEEDINGS

13. The arbitral proceedings in respect of a Disagreement:
 - (a) required to be arbitrated as set out in paragraph 28 of the Dispute Resolution Chapter, commences on delivery of the notice of arbitration to the Participants; or
 - (b) agreed to be arbitrated as set out in paragraph 29 of the Dispute Resolution Chapter, commences on the date of the Arbitration Agreement.

NOTICE OF ARBITRATION

14. A notice of arbitration under paragraph 28 of the Dispute Resolution Chapter must be in writing and contain the following information:
 - (a) a statement of the subject matter or issues of the Disagreement;
 - (b) a requirement that the Disagreement be referred to arbitration;
 - (c) the remedy sought;
 - (d) the suggested number of arbitrators; and
 - (e) any preferred qualifications of the arbitrators.
15. A notice of arbitration under section 14 of this Part may contain the names of any proposed arbitrators, including the information specified in section 16 of this Part.

ARBITRATORS

16. In an arbitration:
 - (a) required to be arbitrated as set out in paragraph 28 of the Dispute Resolution Chapter, there will be three arbitrators; and
 - (b) agreed to be arbitrated as set out in paragraph 29 of the Dispute Resolution Chapter, there will be one arbitrator.
17. An individual eligible for appointment as:
 - (a) a single arbitrator or as chair of an Arbitral Tribunal will be an experienced arbitrator or arbitration counsel or have had training in arbitral procedure; and
 - (b) a single arbitrator or member of an arbitral panel:
 - (i) will be independent and impartial; and
 - (ii) preferably, will have knowledge of, or experience in, the subject matter or issues of the Disagreement.

APPOINTMENT OF ARBITRATORS

18. A Participant proposing the name of an arbitrator to another Participant under section 19 of this Part will also submit a copy of that person's resume and the statement that person is required to make under section 25 of this Part.
19. In an arbitration with a single arbitrator, if the Participants fail to agree on the arbitrator within 30 days after the commencement of the arbitration, the appointment will be made by the Neutral Appointing Authority, on the written request of a Participant that is copied to the other Participants.
20. In an arbitration with three arbitrators and two Participants:

- (a) each Participant will appoint one arbitrator, and the two appointed arbitrators will jointly appoint the third arbitrator; and
 - (b) the three arbitrators will select a chair from among themselves.
21. In the appointment procedure under section 20 of this Part, if:
- (a) a Participant fails to appoint an arbitrator within 30 days after receipt of a request to do so from the other Participant;
 - (b) the two appointed arbitrators fail to agree on the third arbitrator within 30 days after the last of them was appointed; or
 - (c) the three arbitrators fail to select a chair within 15 days after the last of them was appointed,

the applicable appointment will be made by the Neutral Appointing Authority, on the written request of a Participant that is copied to the other Participants.

22. In an arbitration with three arbitrators and three Participants:
- (a) the three Participants will jointly appoint the three arbitrators; and
 - (b) the three arbitrators will select a chair from among themselves.
23. In the appointment procedure under section 22 of this Part, if:
- (a) the three Participants fail to agree on the three arbitrators within 60 days after the commencement of the arbitration; or
 - (b) the three arbitrators fail to select a chair within 15 days after the last of them was appointed,

the applicable appointments will be made by the Neutral Appointing Authority, on the written request of a Participant copied to the other Participants.

24. The Neutral Appointing Authority, in appointing an arbitrator or chair, must have due regard to:
- (a) any qualifications set out in section 17 of this Part or as otherwise agreed in writing by the Participants; and
 - (b) other considerations as are likely to secure the appointment of an independent and impartial arbitrator or chair.

GROUNDINGS FOR CHALLENGE

25. When an individual is approached in connection with possible appointment as an arbitrator, that person must provide a written statement:
- (a) disclosing any circumstances likely to give rise to justifiable doubts as to their independence or impartiality; or

- (b) advising that the person is not aware of any circumstances of that nature and committing to disclose them if they arise or become known at a later date.
26. An arbitrator, from the time of appointment and throughout the arbitral proceedings, must, without delay, disclose to the Participants any circumstances referred to in section 25 of this Part unless the Participants have already been informed of them.
27. An arbitrator may be challenged only if:
- (a) circumstances exist that give rise to justifiable doubts as to the arbitrator's independence or impartiality; or
 - (b) the arbitrator does not possess the qualifications set out in this Part or as otherwise agreed in writing by the Participants.
28. A Participant may only challenge an arbitrator appointed by that Party, or in whose appointment that Participant has participated, for reasons of which that Participant becomes aware after the appointment has been made.
29. An individual who is a Te'mexw Member First Nation Citizen, or related to a Te'mexw Member First Nation Citizen, may not be challenged under section 27 of this Part solely on the grounds of that citizenship or relationship.

CHALLENGE PROCEDURE

30. A Participant who intends to challenge an arbitrator will send to the Arbitral Tribunal a written statement of the reasons for the challenge within 15 days after becoming aware of the constitution of the Arbitral Tribunal, or after becoming aware of any circumstances referred to in section 28 of this Part.
31. Unless the arbitrator challenged under section 30 of this Part withdraws from office, or the other Participants agree to the challenge, the Arbitral Tribunal must decide on the challenge.
32. If a challenge under any procedure agreed upon by the Participants or under the procedure under section 30 of this Part is not successful, the challenging Participant, within 30 days after having received notice of the decision rejecting the challenge, may request the Neutral Appointing Authority to decide on the challenge.
33. The decision of the Neutral Appointing Authority under section 32 of this Part is final and is not subject to appeal.
34. While a request under section 32 of this Part is pending, the Arbitral Tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an Arbitral Award unless:
- (a) the costs occasioned by proceeding before the decision of the Neutral Appointing Authority is made would unduly prejudice the Participants; or

- (b) the Participants agree otherwise.

FAILURE OR IMPOSSIBILITY TO ACT

35. The mandate of an arbitrator terminates if the arbitrator becomes unable at law, or as a practical matter, to perform the arbitrator's functions, or for other reasons fails to act without undue delay.
36. If a controversy remains concerning any of the grounds referred to in section 36 of this Part, a Participant may request the Neutral Appointing Authority to decide on the termination of the mandate of the arbitrator.

TERMINATION OF MANDATE AND SUBSTITUTION OF ARBITRATOR

37. In addition to the circumstances referred to under sections 30 to 32, and 35 of this Part, the mandate of an arbitrator terminates:
- (a) if the arbitrator withdraws from office for any reason; or
 - (b) by, or pursuant to, agreement of the Participants.
38. If the mandate of an arbitrator terminates, a replacement arbitrator must be appointed under sections 18 to 24 of this Part, as applicable.
39. If a single or chairing arbitrator is replaced, any hearings previously held must be repeated.
40. If an arbitrator other than a single or chairing arbitrator is replaced, any hearings previously held may be repeated at the discretion of the Arbitral Tribunal.
41. An order or ruling of the Arbitral Tribunal made before the replacement of an arbitrator under section 38 of this Part is not invalid solely because there has been a change in the composition of the Arbitral Tribunal.

COMPETENCE OF ARBITRAL TRIBUNAL TO RULE ON ITS JURISDICTION

42. An Arbitral Tribunal may rule on its own jurisdiction.
43. A plea that an Arbitral Tribunal does not have jurisdiction must be raised not later than the submission of the statement of defence; but a Participant is not precluded from raising that plea by the fact that the Participant has appointed, or participated in the appointment of, an arbitrator.
44. A plea that an Arbitral Tribunal is exceeding the scope of its authority must be made as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.
45. An Arbitral Tribunal may, in either of the cases referred to in section 43 or 44 of this Part, admit a later plea if it considers the delay justified.

46. An Arbitral Tribunal may rule on a plea referred to in section 43 or 44 of this Part either as a preliminary question or in the Arbitral Award.
47. If an Arbitral Tribunal rules as a preliminary question that it has jurisdiction, any Participant, within 15 days after having received notice of that ruling, may request the Supreme Court to decide the matter.
48. A decision of the Supreme Court under section 47 of this Part is final and is not subject to appeal.
49. While a request under section 47 of this Part is pending, an Arbitral Tribunal may continue the arbitral proceedings and make an Arbitral Award unless:
 - (a) the costs occasioned by proceeding before the decision of the Supreme Court is made would unduly prejudice the Participants; or
 - (b) the Participants agree otherwise.

INTERIM MEASURES ORDERED BY ARBITRAL TRIBUNAL

50. Unless otherwise agreed by the Participants, the Arbitral Tribunal may, at the request of a Participant, order a Participant to take any interim measure of protection as the Arbitral Tribunal may consider necessary in respect of the subject matter of the Disagreement.
51. The Arbitral Tribunal may require a Participant to provide appropriate security in connection with a measure ordered under section 50 of this Part.

EQUAL TREATMENT OF PARTICIPANTS

52. The Participants must be treated with equality and each Participant must be given a full opportunity to present its case.

DETERMINATION OF RULES OF PROCEDURE

53. Subject to this Part, the Participants may agree on the procedure to be followed by the Arbitral Tribunal in conducting the arbitral proceedings.
54. Failing any agreement under section 53 of this Part, the Arbitral Tribunal, subject to this Part, may conduct the arbitration in the manner it considers appropriate.
55. The Arbitral Tribunal is not required to apply the legal rules of evidence, and may determine the admissibility, relevance, materiality and weight of any evidence.
56. The Arbitral Tribunal must make all reasonable efforts to conduct the arbitral proceedings in the most efficient, expeditious and cost effective manner as is appropriate in all the circumstances of the case.
57. The Arbitral Tribunal may extend or abridge a period of time:
 - (a) set in this Part, except the period specified in section 106 of this Part; or

- (b) established by the Arbitral Tribunal.

PRE-HEARING MEETING

- 58. Within 10 days after the chair of the Arbitral Tribunal is selected, the Arbitral Tribunal must convene a pre-hearing meeting of the Participants to reach agreement and to make any necessary orders on:
 - (a) any procedural issues arising under this Part;
 - (b) the procedure to be followed in the arbitration;
 - (c) the time periods for taking steps in the arbitration;
 - (d) the scheduling of hearings or meetings, if any;
 - (e) any preliminary applications or objections; and
 - (f) any other matter which will assist the arbitration to proceed in an efficient and expeditious manner.
- 59. The Arbitral Tribunal must prepare and distribute promptly to the Participants a written record of all the business transacted, and decisions and orders made, at the pre-hearing meeting.
- 60. The pre-hearing meeting may be conducted by conference call.

PLACE OF ARBITRATION

- 61. The arbitration will take place in the Province of British Columbia.
- 62. Despite section 61 of this Part, an Arbitral Tribunal may meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the Participants, or for inspection of documents, goods or other personal property, or for viewing physical locations.

LANGUAGE

- 63. If the Arbitral Tribunal determines that it was necessary or reasonable for a Participant to incur the costs of translation of documents and oral presentations in the circumstances of a particular disagreement, the Arbitral Tribunal, on application of a Participant, may order that any of the costs of that translation be deemed to be costs of the arbitration under paragraph 44 of the Dispute Resolution Chapter.

STATEMENTS OF CLAIM AND DEFENCE

- 64. Within 21 days after the Arbitral Tribunal is constituted, the Applicant will deliver a written statement to all the Participants stating the facts supporting its claim or position, the points at issue and the relief or remedy sought.

65. Within 15 days after receipt of the Applicant's statement, each Respondent will deliver a written statement to all the Participants stating its defence or position in respect of those particulars.
66. Each Participant must attach to its statement a list of documents:
 - (a) upon which the Participant intends to rely; and
 - (b) which describes each document by kind, date, author, addressee and subject matter.
67. The Participants may amend or supplement their statements, including the list of documents, and deliver counter-claims and defences to counter-claims during the course of the arbitral proceedings, unless the Arbitral Tribunal considers it inappropriate to allow the amendment, supplement or additional pleadings having regard to:
 - (a) the delay in making it; and
 - (b) any prejudice suffered by the other Participants.
68. The Participants will deliver copies of all amended, supplemented or new documents delivered under section 67 of this Part to all the Participants.

DISCLOSURE

69. The Arbitral Tribunal may order a Participant to produce, within a specified time, any documents that:
 - (a) have not been listed under section 66 of this Part;
 - (b) the Participant has in its care, custody or control; and
 - (c) the Arbitral Tribunal considers to be relevant.
70. Each Participant will allow the other Participant or Participants the necessary access at reasonable times to inspect and take copies of all documents that the former Participant has listed under section 66 of this Part, or that the Arbitral Tribunal has ordered to be produced under section 69 of this Part.
71. The Participants will prepare and send to the Arbitral Tribunal an agreed statement of facts within the time specified by the Arbitral Tribunal.
72. Not later than 21 days before a hearing commences, each Participant will give the other Participant or Participants:
 - (a) the name and address of any witness and a written summary of the witness's evidence; and
 - (b) in the case of an expert witness, a written statement or report prepared by the expert witness.

73. Not later than 15 days before a hearing commences, each Participant will give to the other Participant or Participants and the Arbitral Tribunal an assembly of all documents to be introduced at the hearing.

HEARINGS AND WRITTEN PROCEEDINGS

74. The Arbitral Tribunal must decide whether to hold hearings for the presentation of evidence or for oral argument, or whether the proceedings will be conducted on the basis of documents and other materials.
75. Unless the Participants have agreed that no hearings will be held, the Arbitral Tribunal must hold hearings at an appropriate stage of the proceedings, if so requested by a Participant.
76. The Arbitral Tribunal must give the Participants sufficient advance notice of any hearing and of any meeting of the Arbitral Tribunal for the purpose of inspection of documents, goods or other property or viewing any physical location.
77. All statements, documents or other information supplied to, or applications made to, the Arbitral Tribunal by one Party will be communicated to the other Participant or Participants, and any expert report or evidentiary document on which the Arbitral Tribunal may rely in making its decision must be communicated to the Parties.
78. Unless ordered by the Arbitral Tribunal, all hearings and meetings in arbitral proceedings, other than meetings of the Arbitral Tribunal, are open to the public.
79. The Arbitral Tribunal must schedule hearings to be held on consecutive days until completion.
80. All oral evidence must be taken in the presence of the Arbitral Tribunal and all the Participants unless a Participant is absent by default or has waived the right to be present.
81. The Arbitral Tribunal may order any individual to be examined by the Arbitral Tribunal under oath or on affirmation in relation to the Disagreement and to produce before the Arbitral Tribunal all relevant documents within the individual's care, custody or control.
82. The document assemblies delivered under section 73 of this Part will be deemed to have been entered into evidence at the hearing without further proof and without being read out at the hearing, but a Participant may challenge the admissibility of any document so introduced.
83. If the Arbitral Tribunal considers it just and reasonable to do so, the Arbitral Tribunal may permit a document that was not previously listed under section 66 of this Part, or produced as required under section 69 or 73 of this Part, to be introduced at the

- hearing, but the Arbitral Tribunal may take that failure into account when fixing the costs to be awarded in the arbitration.
84. If the Arbitral Tribunal permits the evidence of a witness to be presented as a written statement, the other Participant or Participants may require that witness to be made available for cross examination at the hearing.
85. The Arbitral Tribunal may order a witness to appear and give evidence, and, in that event, the Participants may cross examine that witness and call evidence in rebuttal.

DEFAULT OF A PARTICIPANT

86. If, without showing sufficient cause, the Applicant fails to communicate its statement of claim in accordance with section 64 of this Part, the Arbitral Tribunal may terminate the proceedings.
87. If, without showing sufficient cause, a Respondent fails to communicate its statement of defence in accordance with section 65 of this Part, the Arbitral Tribunal must continue the proceedings without treating that failure in itself as an admission of the Applicant's allegations.
88. If, without showing sufficient cause, a Participant fails to appear at the hearing or to produce documentary evidence, the Arbitral Tribunal may continue the proceedings and make the Arbitral Award on the evidence before it.
89. Before terminating the proceedings under section 86 of this Part, the Arbitral Tribunal must give all respondents written notice providing an opportunity to file a statement of claim in respect of the Disagreement within a specified period of time.

EXPERT APPOINTED BY ARBITRAL TRIBUNAL

90. After consulting the Participants, the Arbitral Tribunal may:
- (a) appoint one or more experts to report to it on specific issues to be determined by the Arbitral Tribunal; and
 - (b) for that purpose, require a Participant to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods or other personal property or land for inspection or viewing.
91. The Arbitral Tribunal must give a copy of the expert's report to the Participants who must have an opportunity to reply to it.
92. If a Participant so requests, or if the Arbitral Tribunal considers it necessary, the expert must, after delivery of a written or oral report, participate in a hearing where the Participants must have the opportunity to cross examine the expert and to call any evidence in rebuttal.
93. The expert must, on the request of a Participant:

- (a) make available to that Participant for examination all documents, goods or other property in the expert's possession, and provided to the expert in order to prepare a report; and
- (b) provide that Participant with a list of all documents, goods or other personal property or land not in the expert's possession but which were provided to or given access to the expert, and a description of the location of those documents, goods or other personal property or land.

LAW APPLICABLE TO SUBSTANCE OF DISPUTE

- 94. An Arbitral Tribunal must decide the Disagreement in accordance with the law.
- 95. If the Participants have expressly authorized it to do so, an Arbitral Tribunal may decide the Disagreement based upon equitable considerations.
- 96. In all cases, an Arbitral Tribunal must make its decisions in accordance with the spirit and intent of the Final Agreement.
- 97. Before a final Arbitral Award is made, an Arbitral Tribunal or a Participant, with the agreement of the other Participants, may refer a question of law to the Supreme Court for a ruling.
- 98. A Participant may appeal a decision in the Supreme Court under section 98 of this Part to the British Columbia Court of Appeal with leave of the British Columbia Court of Appeal.
- 99. If the British Columbia Court of Appeal:
 - (a) refuses to grant leave to a Participant to appeal a ruling of the Supreme Court under section 97 of this Part; or
 - (b) hears an appeal from a ruling of the Supreme Court under section 97 of this Part,the decision of the British Columbia Court of Appeal may not be appealed to the Supreme Court of Canada.
- 100. While a request under section 97 of this Part is pending, the Arbitral Tribunal may continue the arbitral proceedings and make an Arbitral Award unless:
 - (a) the costs occasioned by proceeding before the ruling of the Supreme Court is made would unduly prejudice the Participants; or
 - (b) the Participants agree otherwise.

DECISION MAKING BY PANEL OF ARBITRATORS

- 101. In arbitral proceedings with more than one arbitrator, any decision of the Arbitral Tribunal must be made by a majority of all its members.

102. If there is no majority decision on a matter to be decided, the decision of the chair of the Arbitral Tribunal is the decision of the Arbitral Tribunal.
103. Notwithstanding section 101 of this Part, if authorized by the Participants or all the members of the Arbitral Tribunal, questions of procedure may be decided by the chair of the Arbitral Tribunal.

SETTLEMENT

104. If, during arbitral proceedings, the Participants settle the Disagreement, the Arbitral Tribunal must terminate the proceedings and, if requested by the Participants, must record the settlement in the form of an Arbitral Award on agreed terms.
105. An Arbitral Award on agreed terms:
 - (a) must be made in accordance with sections 107 to 109 of this Part;
 - (b) must state that it is an Arbitral Award; and
 - (c) has the same status and effect as any other Arbitral Award on the substance of the Disagreement.

FORM AND CONTENT OF ARBITRAL AWARD

106. An Arbitral Tribunal must make its final award as soon as possible and, in any event, not later than 60 days after:
 - (a) the hearings have been closed; or
 - (b) the final submission has been made, whichever is the later date.
107. An Arbitral Award must be made in writing, and be signed by the members of the Arbitral Tribunal.
108. An Arbitral Award must state the reasons upon which it is based, unless:
 - (a) the Participants have agreed that no reasons are to be given; or
 - (b) the award is an Arbitral Award on agreed terms under sections 104 and 105 of this Part.
109. A signed copy of an Arbitral Award must be delivered to all the Participants by the Arbitral Tribunal.
110. At any time during the arbitral proceedings, an Arbitral Tribunal may make an interim Arbitral Award on any matter with respect to which it may make a final Arbitral Award.
111. An Arbitral Tribunal may award interest.
112. The costs of an arbitration are in the discretion of the Arbitral Tribunal which, in making an order for costs, may:

- (a) include as costs:
 - (i) the fees and expenses of the arbitrators and expert witnesses;
 - (ii) legal fees and expenses of the Participants;
 - (iii) any administration fees of a Neutral Appointing Authority; or
 - (iv) any other expenses incurred in connection with the arbitral proceedings; and
 - (b) specify:
 - (i) the Participant entitled to costs;
 - (ii) the Participant who will pay the costs;
 - (iii) subject to section 113 of this Part, the amount of costs or method of determining that amount; and
 - (iv) the manner in which the costs will be paid.
113. For purposes of section 112 of this Part, an Arbitral Tribunal may award up to 50% of the reasonable and necessary legal fees and expenses that were actually incurred by a Participant, and if the legal services were provided by an employee or employees of that Participant, the Arbitral Tribunal may fix an amount or determine an hourly rate to be used in the calculation of the cost of those employee legal fees.

TERMINATION OF PROCEEDINGS

114. An Arbitral Tribunal must close any hearings if:
- (a) the Participants advise they have no further evidence to give or submissions to make; or
 - (b) the Arbitral Tribunal considers further hearings to be unnecessary or inappropriate.
115. A final Arbitral Award, or an order of the Arbitral Tribunal under section 116 of this Part, terminates arbitral proceedings.
116. An Arbitral Tribunal must issue an order for the termination of the arbitral proceedings if:
- (a) the Applicant withdraws its claim, unless the Respondent objects to the order and the Arbitral Tribunal recognizes a legitimate interest in obtaining a final settlement of the Disagreement;
 - (b) the Participants agree on the termination of the proceedings; or
 - (c) the Arbitral Tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

117. Subject to sections 118 to 123 and 127 of this Part, the mandate of an Arbitral Tribunal terminates with the termination of the arbitral proceedings.

CORRECTION AND INTERPRETATION OF AWARD; ADDITIONAL AWARD

118. Within 30 days after receipt of an Arbitral Award:
- (a) a Participant may request the Arbitral Tribunal to correct in the Arbitral Award any computation errors, any clerical or typographical errors or any other errors of a similar nature; and
 - (b) a Participant may, if agreed by all the Participants, request the Arbitral Tribunal to give an interpretation of a specific point or part of the Arbitral Award.
119. If an Arbitral Tribunal considers a request made under section 118 of this Part to be justified, it must make the correction or give the interpretation within 30 days after receipt of the request and the interpretation will form part of the Arbitral Award.
120. An Arbitral Tribunal, on its own initiative, may correct any error of the type referred to in subsection 118(a) of this Part within 30 days after the date of the Arbitral Award.
121. A Participant may request, within 30 days after receipt of an Arbitral Award, the Arbitral Tribunal to make an additional Arbitral Award respecting claims presented in the arbitral proceedings but omitted from the Arbitral Award.
122. If the Arbitral Tribunal considers a request made under section 121 of this Part to be justified, it must make an additional Arbitral Award within 60 days.
123. Sections 107 to 109, and 111 to 113 of this Part apply to a correction or interpretation of an Arbitral Award made under section 119 or 120 of this Part, or to an additional Arbitral Award made under section 122 of this Part.

APPLICATION FOR SETTING ASIDE ARBITRAL AWARD

124. Subject to sections 129 and 131 of this Part, an Arbitral Award may be set aside by the Supreme Court, and no other court, only if a Participant making the application establishes that:
- (a) the Participant making the application:
 - (i) was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings; or
 - (ii) was otherwise unable to present its case or respond to the other Participant's case;
 - (b) the Arbitral Award:

- (i) deals with a Disagreement not contemplated by or not falling within the terms of the submission to arbitration; or
 - (ii) contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the Arbitral Award that contains decisions on matters not submitted to arbitration may be set aside;
 - (c) the composition of the Arbitral Tribunal or the arbitral procedure was not in accordance with the agreement of the Participants, unless that agreement was in conflict with a provision of this Part from which the Participants cannot derogate, or, failing any agreement, was not in accordance with this Part;
 - (d) the Arbitral Tribunal or a member of it has committed a corrupt or fraudulent act; or
 - (e) the Arbitral Award was obtained by fraud.
125. An application for setting aside may not be made more than three months:
- (a) after the date on which the Participant making that application received the Arbitral Award; or
 - (b) if a request had been made under section 118 or 121 of this Part, after the date on which that request was disposed of by the Arbitral Tribunal.
126. An application to set aside an Arbitral Award on the ground that the Arbitral Tribunal or a member of it has committed a corrupt or fraudulent act or that the award was obtained by fraud must be commenced:
- (a) within the period referred to in section 125 of this Part; or
 - (b) within 30 days after the applicant discovers or ought to have discovered the fraud or corrupt or fraudulent act,
- whichever is the longer period.
127. When asked to set aside an Arbitral Award, the Supreme Court may, where it is appropriate and it is requested by a Participant, adjourn the proceedings to set aside the Arbitral Award for a period of time determined by it in order to give the Arbitral Tribunal an opportunity:
- (a) to resume the arbitral proceedings; or
 - (b) to take any other action that, in the Arbitral Tribunal's opinion, will eliminate the grounds for setting aside the Arbitral Award.

128. A Party that was not a Participant in an arbitration must be given notice of an application under section 124 of this Part, and is entitled to be a party to, and make representation on, the application.

APPEAL ON QUESTION OF LAW

129. A Participant may appeal an Arbitral Award to the Supreme Court, with leave, on a question of law, which the Supreme Court must grant only if it is satisfied that:
- (a) the importance of the result of the arbitration to the Participants justifies the intervention of the court, and the determination of the point of law may prevent a miscarriage of justice; or
 - (b) the point of law is of general or public importance.
130. An application for leave may not be made more than three months:
- (a) after the date on which the Participant making the application received the Arbitral Award; or
 - (b) if a request had been made under section 118 or 121 of this Part, after the date on which that request was disposed of by the Arbitral Tribunal.
131. The Supreme Court may confirm, vary or set aside the Arbitral Award or may remit the Arbitral Award to the Arbitral Tribunal with directions, including the court's opinion on the question of law.
132. When asked to set aside an Arbitral Award the Supreme Court may, where it is appropriate and it is requested by a Participant, adjourn the proceedings to set aside the Arbitral Award for a period of time determined by it in order to give the Arbitral Tribunal an opportunity:
- (a) to resume the arbitral proceedings; or
 - (b) to take any other action that, in the Arbitral Tribunal's opinion, will eliminate the grounds for setting aside the Arbitral Award.
133. A Party that was not a Participant in an arbitration must be given notice of an application under section 129 of this Part and is entitled to be a party to, and make representation on, the application.
134. A Participant may appeal a decision of the Supreme Court under section 131 of this Part to the British Columbia Court of Appeal with leave of the British Columbia Court of Appeal.
135. If the British Columbia Court of Appeal:
- (a) refuses to grant leave to a Participant to appeal a ruling of the Supreme Court under section 131 of this Part; or

- (b) hears an appeal from a ruling of the Supreme Court under section 131 of this Part,

the decision of the British Columbia Court of Appeal may not be appealed to the Supreme Court of Canada.
136. No application may be made under section 129 of this Part in respect of:
- (a) an Arbitral Award based upon equitable considerations as permitted in section 96 of this Part; or
 - (b) an Arbitral Award made in an arbitration commenced under paragraph 29 of the Dispute Resolution Chapter.
137. No application for leave may be brought under section 129 of this Part in respect of a ruling made by the Supreme Court under section 97 of this Part if the time for appealing that ruling has already expired.

RECOGNITION AND ENFORCEMENT

138. An Arbitral Award must be recognized as binding and, upon application to the Supreme Court, must be enforced subject to paragraphs 21 and 22 of the Governance Chapter.
139. Unless the Supreme Court orders otherwise, the Participant relying on an Arbitral Award or applying for its enforcement must supply the duly authenticated original Arbitral Award or a duly certified copy of it.

GROUND FOR REFUSING ENFORCEMENT

140. Subject to sections 128 and 133 of this Part, a Party that was not a Participant in an arbitration must not bring an application under section 124 or 129 of this Part to set the award aside but may resist enforcement of the Arbitral Award against it by bringing an application under section 141 of this Part.
141. On the application of a Party that was not a Participant in an arbitration, the Supreme Court may make an order refusing to enforce against that Party an Arbitral Award made under this Part if that Party establishes that:
- (a) it was not given copies of:
 - (i) the notice of arbitration or agreement to arbitrate; or
 - (ii) the documents referenced in sections 64, 65 and 68 of this Part;
 - (b) the Arbitral Tribunal refused to add the Party as a Participant to the arbitration under paragraph 32 of the Dispute Resolution Chapter;
 - (c) the Arbitral Award

- (i) deals with a disagreement not contemplated by or not falling within the terms of the submission to arbitration; or
 - (ii) contains decisions on matters beyond the scope of the submission to arbitration,
- (d) provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the Arbitral Award which contains decisions on matters submitted to arbitration may be recognized and enforced;
- (e) the Arbitral Award has not yet become binding on the Participants or has been set aside or suspended by a court;
- (f) the Arbitral Tribunal or a member of it has committed a corrupt or fraudulent act; or
- (g) the Arbitral Award was obtained by fraud.