

## Memorandum of Understanding

This Memorandum of Understanding dated for reference May 2, 2013

BETWEEN:

**CITY OF NANAIMO**, an incorporated municipality having an address at 455 Wallace Street, Nanaimo, British Columbia, V9R 5J6 (the "City")

AND:

**REGIONAL DISTRICT OF NANAIMO**, having an address at 6300 Hammond Bay Road, Nanaimo, British Columbia, V9T 6N2 (the "RDN")

WHEREAS the City and the RDN wish to enter into this Memorandum of Understanding to set out the good faith intentions of the parties to proceed in accordance with the understandings set out below with respect to the future development of a multi-modal transportation hub on a portion of the lands legally described as:

PID: 005-851-882, Lot 1 of Section 1 and of the Bed of the Public Harbour of Nanaimo, Nanaimo District, Plan 6675, except those Parts in Plans 19380 and 30712 (the "Parent Parcel"), (the "Parent Lands").

NOW THEREFORE the parties set out the following mutual understandings:

### 1. Transportation Hub

The City acquired the Parent Lands (being 26.72 acres) located at 7 Port Drive on March 27, 2013 from CP Rail. A transportation hub has been identified as a future use in the general location of the Parent Lands by the *Downtown Transit Service and Exchange Report*. A transportation hub would be owned and operated by the RDN. It is anticipated that a transportation hub will occupy up to 3 acres of land. The tentative location of the transportation hub is identified on Attachment A (the "proposed parcel"). The exact size and configuration of

the proposed parcel for the transportation hub will be determined through the concept planning process described in this MOU.

## 2. Concept Planning Process

The final siting of the transportation hub will be determined through a concept planning process. The City intends to commence the concept planning process in May 2013 to study land uses, transportation networks, servicing requirements and other planning and development issues to create a concept plan for the area in and around and comprising the Parent Lands. The City wishes to invite submissions from the RDN on the Concept Plan and permit the RDN to participate in the South Downtown Waterfront Concept Planning process.

## 3. Subdivision Costs & Rezoning

The City shall be responsible for all subdivision costs (including works and services) to create the proposed parcel as a fee simple parcel of up to 3 acres that could be configured and be of a size to accommodate any transportation hub as may be identified through the Concept Planning process. The RDN shall be responsible for all the costs associated with any necessary bylaw amendments or adoptions, including rezoning of the proposed parcel for a transportation hub, should such actions be necessary in the opinion of the City. The City shall be responsible for all costs (if any) that might be associated with the reclamation and remediation of the soils on the proposed parcel to a state that meets all Provincial requirements for use of the proposed parcel as a transportation hub, and the City shall undertake and complete any remediation of the proposed parcel using numerical standards, as necessary to obtain a Certificate of Compliance for the proposed parcel under the *Environmental Management Act* prior to transfer of title to the RDN, except insofar as otherwise agreed in writing by the RDN, in its sole discretion.

## 4. Sale of Land from City to RDN

The legal obligations of the parties with respect to the purchase and sale of the proposed parcel are subject to the negotiation of a definitive agreement of purchase and sale “the “Purchase and Sale Agreement”)

In lieu of a transfer of title in fee simple of the proposed parcel to the RDN, the RDN may agree to enter into a long term lease agreement (the "Lease Agreement). Any long term lease agreement for the acquisition of the proposed parcel for a transportation hub by the RDN may require approval of the electors.

The obligations of the parties are further subject to:

- (a) approval of the Purchase and Sale Agreement (or the Lease Agreement) by the Council and Board of the City and the Regional District respectively;
- (b) approval of the electors of the Regional District to any loan authorization bylaw or agreement in excess of 5 years under which the Regional District would acquire or finance the acquisition of the proposed parcel from the City;
- (c) the City obtaining a Certificate of Compliance in respect of the proposed parcel under the Environmental Management Act;
- (d) the rezoning of the proposed parcel to permit the construction and operation of a transportation hub;
- (e) the parties obtaining any other necessary governmental approvals necessary to the establishment of a transportation hub on the proposed parcel

The City and the RDN acknowledge that the Parent Lands are heavily encumbered and that the proposed parcel created by subdivision for a transportation hub may also be so encumbered, provided that the RDN, acting reasonably, considers that the encumbrances are compatible with the development and use of the proposed parcel as a transportation hub.

The RDN has set aside \$2 million in its Financial Plan for the possible acquisition of the proposed parcel for a transportation hub. If the parties are unable to agree on the purchase price, the actual purchase price for the proposed parcel created for the transportation hub may be determined through an appraisal prepared by a qualified appraiser agreed upon by both parties.

The RDN may wish to stagger the payment of the purchase price over a two-year period. The timing of such payments is subject to agreement of the City and RDN.

Each party will be responsible for its costs associated with the preparation of the Purchase and Sale Agreement and registration costs, fees and taxes associated with the conveyance of title to the proposed parcel

5. Status of this Memorandum of Understanding

This Memorandum of Understanding does not create or result in legally enforceable or legally binding rights or obligations between the City and the RDN, with the exception of section 6. The City and the RDN intend to make a reasonable and *bona-fide* attempt to bring the purchase and sale of the proposed parcel for the transportation hub to fruition as presently contemplated by this MOU, or as modified by the ongoing negotiations contemplated by this MOU. The legal obligations of both parties will be contained solely in the Purchase and Sale Agreement to be negotiated and executed by the parties.

6. Confidentiality Obligations.

The parties shall keep confidential this Memorandum of Understanding until the earlier of:

- a) resolution of the Council and the Regional Board of the City and the RDN respectively approving the disclosure of this Memorandum of Understanding; and
  - b) execution of the Purchase and Sale Agreement
- unless disclosure is otherwise required by law.

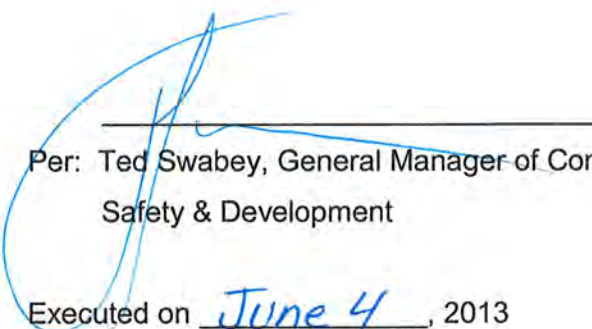
7. Termination of this Memorandum

If the Purchase and Sale Agreement is not executed on or before July 1, 2014, then this Memorandum of Understanding shall terminate, with the exception of the obligations under section 6.

**CITY OF NANAIMO** by its authorized signatories



  
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Per: John Ruttan, Mayor

  
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Per: Ted Swabey, General Manager of Community  
Safety & Development

Executed on June 4, 2013

**REGIONAL DISTRICT OF NANAIMO** by its authorized signatory(ies)

  
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Per: Authorized Signatory  
\_\_\_\_\_  
Per: Authorized Signatory  
Jacqueline R. Hill  
Manager, Administrative Services

Executed on June 10, 2013



Seaspan

Gadd  
Marine

Future  
RDN  
Transit  
Exchange

ICF

Trestle

Future Road

Front St

Esplanade

Port Dr

Irwin St

Halliburton St

Blayson St

Blayson St

Fly