



MEMORANDUM OF UNDERSTANDING

This memorandum of understanding ("Memorandum of Understanding"), dated this 10th day of December, 2018, is made by and among:

Sc'ianew (Beecher Bay) First Nation

4901-B East Sooke Rd.
Sooke, B.C. V9Z 1B6

("Beecher Bay")

-AND-

Lester B. Pearson College of the Pacific and United World Colleges (Canada) Inc.

650 Pearson College Drive
Victoria, BC V9C 4H7

("Pearson College UWC")

-AND-

District of Metchosin

4550 Happy Valley Road
Victoria, BC V9C 3Z3

("Metchosin", and together with Beecher Bay and Pearson College, the "Parties")

WHEREAS

- A. Beecher Bay is a First Nation whose unceded traditional territories include the lands known as Mary Hill ("**Mary Hill**") as well as the approximately 74.13 acres of land on which Pearson College UWC is situated (the "**Pearson Lands**") and Race Rocks island group;
- B. Beecher Bay is negotiating a modern land claim agreement under the British Columbia Treaty Process through the Te'mexw Treaty Association;
- C. Beecher Bay has an interest in identifying and securing lands to be included in Beecher Bay's treaty settlement lands ("**TSL**");
- D. The registered owner of Mary Hill is the Government of Canada, represented by the Department of National Defence ("**DND**") and DND has declared that Mary Hill is surplus to its needs;

Pearson College UWC
650 Pearson College Drive,
Victoria BC, Canada, V9C 4H7
P: +1 250 391 2411
E: info@pearsoncollege.ca
www.pearsoncollege.ca

Beecher Bay First Nation
4901-B East Sooke Rd
Sooke BC, Canada, V9Z 1B6
P: +1 250 478 3535
E: bbfn@telus.net
www.beecherbaybc.com

District of Metchosin
4450 Happy Valley Road
Victoria BC, Canada, V9C 3Z3
P: +1 250 474 3167
E: info@metchosin.ca
www.metchosin.ca



- E. Beecher Bay is currently in negotiations with the Government of Canada concerning the disposition of Mary Hill and its inclusion in Beecher Bay's TSL;
- F. Metchosin is the local government whose lands include Mary Hill and the Pearson Lands;
- G. Metchosin has an interest in preserving the rural character of Metchosin and maintaining affordable service costs;
- H. Pearson College UWC is one of 17 United World Colleges associated with 160 national committees around the world whose collective mission is to "make education a force to unite peoples, nations and cultures for peace and a more sustainable future". Pearson College UWC offers a two-year, pre-university education for Canadian and international students who live, study and learn together on the Pearson Lands as part of an experience centered on experiential learning, including service and outdoor leadership;
- I. Pearson College UWC has volunteered to manage the ecological reserve and facilities on the Race Rocks island group as part of its education and experiential learning mandate;
- J. The Government of Canada, represented by DND, agreed to a sum paid by the College and issued Letters Patent granting to the College the Pearson Lands "for so long as the said lands and every part thereof are used for College purposes";
- K. In addition to the Pearson Lands, Pearson College UWC has an interest in the preservation of an undeveloped area within Mary Hill adjacent to the Pearson Lands (the "**Green Zone**") the area and location of which remains to be determined by agreement, in order to preserve the character of Pearson College UWC as an educational institution set in a rural, wilderness environment as well as the existing undedicated access road Pearson College Drive which traverses the Green Zone; and
- L. The Parties have identified a shared interest in working collaboratively to explore ways in which their respective interests in Mary Hill and the Pearson Lands can be accommodated, protected and realized and the Green Zone preserved and to build a long-term relationship and affiliation that will achieve their shared and respective objectives in relation to Mary Hill, Pearson College UWC and the Green Zone.

IT IS AGREED:

OBJECTIVES

1. The Parties hereby establish an advisory group (the "**Working Group**") to advise the Parties on how to achieve the following objectives (collectively, the "**Objectives**"):

Pearson College UWC
650 Pearson College Drive,
Victoria BC, Canada, V9C 4H7
P: +1 250 391 2411
E: info@pearsoncollege.ca
www.pearsoncollege.ca

Beecher Bay First Nation
4901-B East Sooke Rd
Sooke BC, Canada, V9Z 1B6
P: +1 250 478 3535
E: bbfn@telus.net
www.beecherbaybc.com

District of Metchosin
4450 Happy Valley Road
Victoria BC, Canada, V9C 3Z3
P: +1 250 474 3167
E: info@metchosin.ca
www.metchosin.ca



- a. Exchange technical and other information concerning Mary Hill and the Pearson Lands;
- b. Exchange information concerning the interests of each Party in Mary Hill and the Pearson Lands and Race Rocks island group;
- c. Exchange information concerning the use, development and management of Mary Hill and the Pearson Lands;
- d. Identify areas of Mary Hill that may be protected from future development as the Green Zone for limited use by Pearson College UWC and others;
- e. Discuss what parts of Mary Hill and the Pearson Lands, if any, will be included in or excluded from TSL and the legal status of those lands;
- f. Discuss financial matters related to Mary Hill and Pearson Lands, including costs associated with the protection of the Green Zone and any other parts of Mary Hill that are protected from future development;
- g. Discuss co-management and/or co-planning mechanisms for the Green Zone and any other parts of Mary Hill that are protected from future development.;
- h. Negotiate legally binding agreements and registered covenants and other instruments (the "**Binding Agreements**") to give effect to any understandings reached in the course of the Working Group's discussions regarding the Objectives;
- i. Establish appropriate arrangements for the dedication of Pearson College Drive as a Metchosin public highway, including standards and cost sharing arrangements for the construction and maintenance of highway improvements that are appropriate in view of the function of the road in providing access to the Pearson Lands, and including in particular the use of the Capital Assistance Program of the Department of National Defence;
- j. Discuss land use management objectives for Mary Hill including the Green Zone, in relation to Metchosin's land use management regime;
- k. Discuss measures for the permanent protection of land at Mary Hill that has high environmental value or significance, including sensitive wildlife habitat; and
- l. Discuss opportunities for the establishment and operation at Mary Hill of tribal parks, cultural centres and similar facilities that provide opportunities for learning about the history and culture of Beecher Bay, and facilitate reconciliation between the members of Beecher Bay and the residents of Metchosin.



2. The Working Group will consist of individuals appointed from time to time by each of the Parties to represent such Parties (each, a “**Representative**”).
3. Each Party will appoint one Representative. The Representatives of each Party for the time being are:
 - a. Beecher Bay – Robert Janes
 - b. Metchosin – Lisa Urlacher
 - c. Pearson College UWC– Lori Sterling or alternate designated by her

When a Representative is unavailable, he or she may appoint an alternate to fulfil such aspects of the role of such Representative as may be specified in the terms of such alternate’s appointment.

4. The Working Group will have no authority to enter into any Binding Agreements or other legally binding commitment on behalf of any of the Parties.
5. The Working Group will meet regularly and will endeavor to make sufficient progress in its work to enable the Representatives to properly inform the Parties and recommend appropriate Binding Agreements (if any).
6. Any Binding Agreements recommended by the Working Group will only become binding if agreed to in writing by the Parties in accordance with any applicable law, by-law or governing instrument in respect of the each of the Parties.
7. Each Party will bear its own costs for the implementation of initiatives agreed to under this Memorandum of Understanding.

LEGAL STATUS

8. This Memorandum of Understanding is not intended to create legally binding obligations or affect the rights, interests, duties or obligations of the Parties except as set out in paragraphs 9 and 10 and paragraphs 14 through 19 and, in particular, without limitation, this Memorandum of Understanding:
 - (a) Is a not a treaty or lands claim agreement within the meaning of s. 35 of the *Constitution Act, 1982*;
 - (b) Does not abrogate or derogate from the rights of Beecher Bay or any other First Nation or Aboriginal group under Section 35 of the *Constitution Act, 1982*;
 - (c) Does not affect or discharge any aspect of the duty to consult that may be owed by the Crown in respect of the Pearson Lands to Beecher Bay or any other First Nation or aboriginal group;



- (d) Does not constitute a disposition by Pearson College UWC of an interest in land; and
- (e) Does not fetter the discretion or actions of the Council of Beecher Bay, the Board of Directors of Pearson College UWC or the Council of Metchosin in exercising any governance power, including the exercise of any power under the *Indian Act* or the *First Nations Land Management Act* or any other enactment that governs any of them.

WITHOUT PREJUDICE

- 9. All discussions carried out pursuant to this Memorandum of Understanding will be without prejudice.

CONFIDENTIALITY

- 10. Any information exchanged by the Parties will be kept confidential, except:
 - (a) As may be required by law;
 - (b) As may be required by a Party to this Memorandum of Understanding to obtain professional advice from its legal counsel or other advisors who are bound to keep such information confidential;
 - (c) As may be disclosed by third parties who acquired such information through no fault of the Parties; or
 - (d) As the Parties may agree in writing.

MEETINGS

- 11. The Representatives will establish a schedule of meetings at which the Working Group will negotiate the implementation of the Objectives. The Representatives will work together cooperatively, respectfully, reasonably and in good faith and will establish such procedures as will ensure that their meetings are conducted efficiently and effectively. The Representatives will report back to their respective Parties on a regular basis. To this end, each of the Parties will ensure that their respective Representatives have sufficient time available to perform their duties as Representatives and are sufficiently informed to properly represent their respective Parties and to communicate the positions of such Parties.
- 12. The Working Group will meet regularly on a schedule determined by the Working Group. Meetings will alternately be hosted by the Parties. The hosting Party will be responsible for providing meeting rooms. Each Party will be responsible for its own meeting costs.



13. Where desirable, meetings may be conducted by telephone or video conference.

RELATIONSHIP NOT EXCLUSIVE

14. Nothing in this Memorandum of Understanding will be construed as preventing any of the Parties from entering into other memoranda or relationships with other universities, educational institutions, municipalities, First Nations or aboriginal group.

INTELLECTUAL PROPERTY

15. The Parties acknowledge that each of them has a proprietary interest in its respective names as well as any of its trademarks, crests and logos ("**Trademarks**") and each Party agrees not to use another Party's Trademarks without prior written consent of that Party for each and every example of usage.

DISPUTES

16. If a dispute arises between any of the Parties to this Memorandum of Understanding with respect to this Memorandum of Understanding:

- (a) The Representatives will meet and attempt to resolve the dispute;
- (b) If the Representatives are unable to resolve the dispute, the Chief of Beecher Bay will meet with Pearson College's Board Chair and Metchosin's Mayor and attempt to resolve the dispute.

TERMINATION

17. Any Party may terminate this Memorandum of Understanding by providing 60 days' written notice to the other Parties.

18. Upon termination of this Memorandum of Understanding, the documents and information the Parties have delivered to each other in connection herewith will, on request of the party who provided such documents or information, be returned to the requesting party or destroyed.

GENERAL PROVISIONS

19. Nothing contained in this Memorandum of Understanding will be construed or deemed to authorize one Party to act as agent for any other Party and no Party will contract, agree or make any commitment, representation or warranty which binds or purports to bind the other Parties or otherwise do any act in the name of, or purport to act on behalf of, any of the other Parties.

20. Any modification to this Memorandum of Understanding must be made in writing by the authorized signatories of the Parties.



21. The headings appearing in this Memorandum of Understanding have been inserted for reference and as a matter of convenience and in no way define, limit or enlarge the scope of any provision of this Memorandum of Understanding.

22. Each of the Parties warrants to the others that it has the authority to enter into this Memorandum of Understanding.

This Memorandum of Understanding may be executed in counterparts and if so executed such counterparts will be read and construed together as if they formed one document. A counterpart signed by a Party and delivered electronically will have the same effect as a counterpart originally signed and delivered by such Party.

IN WITNESS WHEREOF this Memorandum of Understanding has been signed by the Parties with effect as of the date first above written.

SCIA'NEW (BEECHER BAY) FIRST NATION

by its authorized signatory:

Per: _____
Arthur Russell Chipps, Chief of Beecher Bay

**LESTER B. PEARSON COLLEGE OF THE PACIFIC AND
UNITED WORLD COLLEGES (CANADA) INC.**

by its authorized signatory:

Per: _____

THE DISTRICT OF METCHOSIN

by its authorized signatory:

Per: _____
Mayor John Ranns

Pearson College UWC
650 Pearson College Drive,
Victoria BC, Canada, V9C 4H7
P: +1 250 391 2411
E: info@pearsoncollege.ca
www.pearsoncollege.ca

Beecher Bay First Nation
4901-B East Sooke Rd
Sooke BC, Canada, V9Z 1B6
P: +1 250 478 3535
E: bbfntel@telus.net
www.beecherbaybc.com

District of Metchosis
4450 Happy Valley Road
Victoria BC, Canada, V9C 3Z3
P: +1 250 474 3167
E: info@metchosis.ca
www.metchosis.ca

**PEARSON
COLLEGE**



Pearson College UWC
650 Pearson College Drive,
Victoria BC, Canada, V9C 4H7
P: +1 250 391 2411
E: info@pearsoncollege.ca
www.pearsoncollege.ca

Beecher Bay First Nation
4901-B East Sooke Rd
Sooke BC, Canada, V9Z 1B6
P: +1 250 478 3535
E: bbfn@telus.net
www.beecherbaybc.com

District of Metchosin
4450 Happy Valley Road
Victoria BC, Canada, V9C 3Z3
P: +1 250 474 3167
E: info@metchosin.ca
www.metchosin.ca