

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING made the 3rd day of October 2013.

BETWEEN:

GREATER VICTORIA HARBOUR AUTHORITY

OF THE FIRST PART

AND:

JAMES BAY NEIGHBOURHOOD ASSOCIATION



OF THE SECOND PART

BACKGROUND:

Greater Victoria Harbour Authority ("GVHA")

GVHA was incorporated in 2002 under the *Society Act of the Province of British Columbia*.

- GVHA has a Board comprised of Directors representing its member agencies and organizations (Capital Regional District, City of Victoria, Esquimalt Nation, Greater Victoria Chamber of Commerce, Provincial Capital Commission, Victoria/Esquimalt Harbour Society, Songhees Nation, Tourism Victoria, and the Township of Esquimalt) and up to four independent directors.
- GVHA owns, operates and manages port facilities in Victoria Harbour including Fisherman's Wharf in Victoria Harbour.
- GVHA is an advocate for Victoria Harbour as a working harbour and marine transportation centre with a strong focus on tourism.


1 

James Bay Neighbourhood Association ("JBNA")

JBNA was incorporated in 1993 under the *Society Act of the Province of British Columbia*. JBNA's purposes as a society, include the following:

- To enable the community to be actively involved in the preservation, rehabilitation and planned development of James Bay so as to preserve and enhance the quality of the environment and life therein.
- To insure that all development proposals reflect the James Bay Community Plan and accurately reflect the values, issues and concerns of James Bay residents.
- To hear, research and assess through consistent procedures all proposals for land use development in James Bay.
- To advise the City government on proposals for land use development in James Bay.
- To actively represent James Bay at all levels of government with respect to issues affecting James Bay.
- To provide an open forum for discussion with a view to promoting input into the decision-making processes that concern James Bay.
- To preserve the heritage character of the neighborhood.

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is intended to establish a co-operative framework between the parties regarding the following Fisherman's Wharf matters: commercial operating hours; the consultation process regarding operating hours; noise complaints; and new commercial developments. It is not intended to result in any legal obligations on the part of either party and does not create any right or benefit enforceable by law or equity.

NOW THEREFORE GVHA and JBNA confirm their commitment to work cooperatively regarding the commercial hours of operation at Fisherman's Wharf and:

1. For the purpose of addressing noise, GVHA is committed to restricting commercial operations to the hours of 7:00 am to 10:00 pm daily, subject to clause 2 below.
2. For adjustments that extend or increase commercial operating hours (including seasonal variations of operating hours), GVHA will first engage in meaningful consultation with JBNA and nearby neighbours and will give due regard to:
 - (a) structural design and location of operations of the operator requesting extended or increased operating hours; and
 - (b) past performance of the operator with respect to operations and operating hours.



3. Subject to clause 4, before GVHA approves any development proposal for any new developments or buildings, including replacement buildings, at Fisherman's Wharf, GVHA will:
 - (a) consult with JBNA through the established Development Review Committee (DRC) process and if requested by JBNA, a public review at the earliest available JBNA general monthly meeting; and
 - (b) solicit input from nearby neighbours; and
 - (c) include all such input in GVHA's reporting and applications to the City of Victoria with respect to the development proposal and the parties understand that these inputs may, or may not, result in an amendment of the development proposal.
4. GVHA will determine the degree of consultation, if any, with respect to the replacement or reconfiguration of any existing essential marine facilities (floats, fuel barge, wharves, and piers) with like facilities.
5. If a dispute arises relating to this MOU, the parties will use good-faith efforts to resolve the dispute through face-to-face meetings, which shall at all times be conducted in good faith toward a practical negotiated outcome.
6. With regard to complaints, including noise complaints, relating to Fisherman's Wharf, from the general public (collectively, "Complaints"):
 - (a) GVHA will address by amicable communication, at the operational level where possible, any and all Complaints with Complainants through its Feedback Management System at the email address, phone number, or web address as set out on GVHA's website within 5 working days of receipt; and,
 - (b) GVHA will provide summary detail on Complaints to JBNA, from time-to-time, as may be reasonably requested, with the express understanding that such detail shall not compromise Complainant confidentiality unless otherwise expressly waived by Complainant.
7. JBNA's initial point of contact for specific alleged non-conformity with Fisherman's Wharf operating hours, and generally for this MOU, shall be GVHA's Chief Operating Officer (COO).
8. For purposes of clarity, this MOU is without prejudice to the current and future position of either party regarding the siting, ownership, management or operation of Victoria Harbour Airport.
9. This MOU may be amended from time to time by mutual agreement of the parties.

A handwritten signature in black ink, consisting of a stylized 'E' followed by a superscript '3' and a flourish.

This MOU is subject to approval by GVHA's and JBNA's Boards of Directors.

This MOU is in effect as of the date first set out above and shall remain in effect until such time as either party gives written notice to the other party of its termination.



For Greater Victoria Harbour Authority

PICEO

Title



For James Bay Neighbourhood Association

President

Title