

MEMORANDUM OF UNDERSTANDING
between the
PROVINCE OF BRITISH COLUMBIA
and
THE UNION OF BRITISH COLUMBIA MUNICIPALITIES
on
**LOCAL GOVERNMENT PARTICIPATION IN
THE NEGOTIATION OF TREATIES AND
AGREEMENTS**

WHEREAS:

The Province and UBCM agree that fair, open, principled and community based agreements need to be reached through negotiations with Aboriginal people in BC and that the process used must be democratic, efficient, inclusive and acceptable to all those affected;

The parties previously signed a Memorandum of Understanding and Protocol Agreements on Local Government Participation in Aboriginal Treaty Negotiations and through this new agreement will build on and act in the spirit and intent of those earlier commitments;

The treaty process has evolved since those agreements were signed and in future a more strategic and where necessary, incremental approach will be taken to resolving Aboriginal land claims and addressing Aboriginal rights and title;

THEREFORE:

This Agreement defines a renewed commitment by the Parties to a process for local government participation in the negotiation of treaties and agreements with First Nations in B.C.

PRINCIPLES

Unique and Special Interest: Local governments constitute a unique and special government interest in the negotiation of modern day treaties.

Flexible – One Size Does Not Fit All: The process for local government participation must be flexible to allow local governments to identify and represent their interests in a way that they consider appropriate to their local circumstances.

Type of Participation: The type of local government participation, whether it involves receipt of information, definition of interests, exchange of information or on-going consultation, should match the degree of impact and level of activity at a treaty table.

Early and On-Going Participation: The parties recognize the importance of information exchange and consultation occurring as early as possible in a negotiation process and continuing on an on-going basis.

Public Information: The parties recognize the importance of providing timely information to the public related to the treaty negotiation and their respective roles in this regard.

ROLES AND RESPONSIBILITIES RESPECTING TREATY NEGOTIATIONS AND INCREMENTAL AGREEMENTS

Local Government

Respected Advisors: Local government representatives are members and respected advisors on provincial treaty negotiation teams throughout all stages of the treaty process.

Attendance at Meetings: Local government representatives will have the opportunity to attend main table, side table, working group and Treaty Related Measure negotiations. This will include timely receipt of agendas and other relevant information.

Structure – TAC or Alternate: Local governments within the ‘Statement of Intent’ area (identified by a First Nation to the BC Treaty Commission) will decide collectively on the structure for their participation, which may involve continuation of the Treaty Advisory Committee (TAC) or an alternate joint structure. They will advise the appropriate provincial negotiator of their chosen structure including primary contact(s) (e.g. Committee Chair). Local governments are responsible for joint definition and representation of their interests in matters related to negotiations and for sharing these interests and other relevant information with the provincial negotiating team.

Activity Level: Local governments within a Statement of Intent area will choose collectively the extent of their participation in the negotiation of a treaty or incremental agreement, whether it be information sharing only or full consultation, based on their interests and the level of activity at the specific treaty table.

Treaty Negotiation Office

Consultation General: The provincial government through the Treaty Negotiation Office (TNO) will consult, as defined in this agreement, and exchange information on an early and on-going basis with TACs (or alternate joint structure) on issues considered important by either the province or local governments.

Consultation List: In relation to the negotiation of treaties and treaty related measures, provincial government negotiating staff will share information and seek and consider local government interests and advice, including *but not limited to* the following matters:

- land selection
- governance issues
- local government – First Nations relationship, including resolution of disputes
- issues relating to service provision and affecting financing, construction, and maintenance of local government infrastructure
- issues related to land use planning, zoning, regulation and standards and codes
- emergency services
- bylaw enforcement

Local Government – First Nation Side Table: Where the local government and First Nation agree, the provincial government will undertake to establish a side table or working group for local government and the First Nation to negotiate and come to agreement on issues related to the future local government–First Nation relationship. The province will give full and fair consideration to results produced and agreements reached by these tables.

Low Activity Tables: Where the level of activity at a treaty table is low, local government representatives will be kept informed by provincial negotiating staff of any developments at the table through regular information updates and exchanges which if verbally communicated, will also be sent in written form.

Capacity: Where a TAC (or alternate joint structure) identifies a lack of financial capacity to participate in a specific activity related to a treaty negotiation table, TNO will consider its request for funding on a case by case basis.

Public Information and Education: Where the province is undertaking public information and education related to a treaty negotiation table, it will advise local governments of its plans and wherever possible, work collaboratively with local governments on implementation.

ROLES & RESPONSIBILITIES RESPECTING NEGOTIATION OF OTHER AGREEMENTS

Treaty Negotiation Office

Updates: The Treaty Negotiation Office (TNO) will provide local governments, directly or through UBCM, with the following information updated on a regular basis:

- Current list of Agreements with First Nations concluded and under negotiation;
- Current list of TNO and line ministry contacts.

Local Government Contacts: TNO will provide line ministries with a list of local government contacts maintained by UBCM. These individuals, designated by each local government, are the point of first contact by the province for consultation on local government interests affected by the negotiation of interim measures and other non-treaty agreements with First Nations.

Local Government

Notification and Information: Once notified through receipt of the province's list of Agreements concluded and under negotiation with First Nations, a local government may seek more information on a proposed agreement in its area through either direct contact with TNO and/or the appropriate line ministry staff.

Definition of Interests: A local government will determine if and how its interests are affected by the proposed agreement with a First Nation in its area and provide this information directly to TNO and/or line ministry staff and negotiators.

Providing Advice: A local government will advise TNO and/or line ministry staff and negotiators on how local government interests can be addressed or its concerns resolved.

Monitoring: UBCM will monitor the success of notification and consultation with local governments on provincial agreements with First Nations.

CONFIDENTIALITY REQUIREMENTS

Local government representatives will be subject to any and all confidentiality rules and practices that may be agreed to by Canada, the Province and the First Nations for the full duration of each set of negotiations.

DEFINITIONS

“Consultation” means that the province will provide local government with:

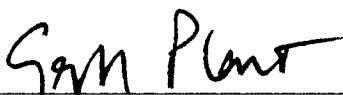
- a. notice of a matter to be discussed/negotiated, and information in sufficient detail to permit local government to prepare its views on the matter;
- b. a reasonable period of time for local government to prepare its views on the matter;
- c. an opportunity for local government to present its views on the matter;
- d. full and fair consideration of any views on the matter presented by local government; and
- e. a report back on how local government input was used.

“Incremental Agreements” mean side agreements to a final agreement, sectoral agreements or regional agreements that may form part of a final agreement or Treaty Related Measure.


“Other Agreements” for the purposes of this document refers to any agreement relating to lands and resources reached between a First Nation and the provincial government (or one of its agencies) prior to a treaty.

REVIEW/RENEWAL DATE


This agreement will be reviewed one year from the date of signing.



The Hon. Geoff Plant
Attorney General and Minister
Responsible for Treaty Negotiations



Patricia Wallace, President
Union of British Columbia Municipalities



Director Aaron Dinwoodie, Chair
Aboriginal Affairs Committee, UBCM

Date January 15, 2003