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# **UBCM Comparative Analysis of 2006 Final Treaty Agreements (initialled) and Local Government Interests**

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## Executive Summary

This report examines three final agreements (FAs) that were initialled in 2006 in relation to general local government interests as defined in UBCM policy and is intended to provide UBCM members with a summary. It is also intended to identify any inconsistencies between the FAs and UBCM interests.

In 2004 UBCM produced an analysis of five agreements in principle (AiPs) completed in 2003 to determine the degree to which local government interests were met. This analysis included the Lheidli T'enneh (LTN), Maa-Nulth (MN) and Tsawwassen (TFN) AiPs.

There were five areas in the AiPs where LG interests were not met or where there were LG concerns. These issues were: (1) certainty and finality; (2) selection of treaty settlement lands pre-treaty; (3) additions to treaty settlement lands post-treaty; (4) overlapping land claims; and (5) harmonization of property taxation. Issues where the impact on LG interests was uncertain included: (1) treaty adjustment funding; (2) resource allocations and impacts on community stability; and (3) First Nation (FN) law-making authorities and conflict of laws provisions, particularly in relation to land.

Most of the issues that were outstanding in the AiPs continue to be outstanding in the final agreements. These are noted below.

- **Certainty** – Certainty clauses are offset by amendment provisions as well as provisions for reviewing the agreements periodically. While these provisions may be considered reasonable it does create uncertainty for local governments.
- **Additions to treaty settlement lands** – All three FAs include a variation of the specified lands approach to their additions to treaty settlement land.
- **Overlapping land claims** – The provisions in the FAs relating to overlapping land claims are not sufficient to ensure resolution of overlapping claims.
- **Agricultural Land Reserve** – Both LTN and TFN treaty settlement lands include parcels that will be removed from the Agricultural Land Reserve.
- **Harmonization of Property Taxation** – LTN agreement does require the FN to negotiate a comprehensive master agreement with LGs to harmonize taxation. Tsawwassen and MN FAs are silent; however for TFN this matter is addressed in the Real Property Tax Coordination side-agreement.
- **Selections of treaty settlement lands pre-treaty** - Individual local governments are likely best to assess this interest. It is important to involve local government early on when lands are being selected within municipal boundaries.
- **Treaty Adjustment Funding** – BC is currently developing a program to assist local governments and third parties who are affected by the implementation of treaties. A fair, transparent, and timely process and funding formula is needed.
- **Resource allocations and impacts on community stability** - Individual local governments are best to assess this interest.
- **First Nation (FN) law-making authorities and conflict of laws provisions, particularly in relation to land** – FN land management laws prevail to the extent of a conflict with federal or provincial law. How will this affect FN participation in regional governance structures?

# **UBCM Comparative Analysis 2006 Final Treaty Agreements (initialled)**

## **Introduction**

Final agreements (FAs) were initialled with three First Nations in the Fall 2006: Lheidli T'enneh (LTN) in Prince George area, Tsawwassen (TFN) in the Lower Mainland, and Maa-nulth (MN) on the central and west coast of Vancouver Island. This is significant because these tables are the first three under the BC Treaty process to reach this stage since the process started in December 1993.

Before the BC Legislature and federal Parliament give their assent for each treaty settlement to take effect the three First Nations (FNs) must vote to ratify their respective final agreement (FA).

UBCM has been defining local government interests and advising provincial and federal governments since the early 1990's. These interests have been defined in several policy papers endorsed by the membership and at policy-making forums.

As well, in October 2003, UBCM produced a comparative analysis of five Agreements in Principles (AiPs) which included the AiPs from Lheidli T'enneh, Tsawwassen and Maa-nulth. That analysis examined the degree to which general local government (LG) interests were addressed in the AiPs. There were five areas where LG interests were not met or where there were LG concerns. These issues were: certainty and finality; selection of treaty settlement lands pre-treaty; additions to treaty settlement lands post-treaty; overlapping land claims; and harmonization of property taxation. Issues where the impact on LG interests was uncertain included: treaty adjustment funding; resource allocations and impacts on community stability; and FNs law-making authorities and conflict of laws provisions, particular in relation to land.

## **Purpose of Analysis**

Now with FAs initialled for the three tables, the purpose of the present analysis is to:

1. Provide UBCM members with a summary of FAs with a focus on local government interests;
2. Compare the content of FAs with UBCM interests and identify inconsistencies that are of concern; and
3. Identify differences in approaches on issues of interest to local governments among the three FAs.

The analysis does not cover all chapters of the FAs or all provisions in each chapter. Instead the focus is on topics of key interest to LGs. The topics are as follows:

1. Constitution and Charter of Rights
2. Application of federal and provincial laws and standards
3. Certainty
4. Consultation
5. Overlapping land claims
6. Agricultural land

7. Law Making authorities pertaining to land
8. Additions to treaty settlement lands
9. Environmental assessment and protection
10. Continued access
11. Non-member representation
12. First Nation representation on regional district board
13. Servicing arrangement
14. Land use planning process
15. Dispute resolution
16. Property taxation issues
17. Existing interests – maintaining community stability
18. Selection of fee simple lands

For each topic, the analysis describes UBCM's interests, followed by a short discussion of the FAs in relation to the topic. For additional information, there is an Appendix with a chart organized by UBCM interest that summarizes the wording in each FA for those particular issues/interests.

This analysis builds on the *UBCM Comparative Analysis of 2003 Agreements in Principle and Local Government Interests* (2004). In addition, UBCM has prepared the following policy papers that define local government interests as they relate to treaty negotiations:

- Local Government and Aboriginal Treaty Negotiations: Defining the Municipal Interest (1994)
- Achieving Certainty in Treaty Negotiations (1995)
- UBCM's Response to Provincial Government Treaty Mandates: "BC's Approach to Treaty Settlements" (1997)
- Land Use Coordination, Servicing and Dispute Resolution: Toward Certainty for Local Government through Treaty Negotiations

Before moving onto the analysis, a brief summary of each of the three FAs is provided.

### **Lheidli T'enneh Final Agreement Summary**

The Lheidli T'enneh FA was initialled October 29, 2006. This was the first FA to be initialled under the BC Treaty Process. Lheidli T'enneh consists of approximately 320 members.

The agreement includes a land package that consists of approximately 4,330 hectares, including 3,653 hectares of provincial and federal Crown land and 677 hectares of Indian reserves. Of this, 643 hectares will be removed from the Agricultural Land Reserve. The TSL will be located within the geographic boundaries of the City of Prince George, the RD of Fraser-Fort George and the Cariboo RD. When the treaty comes into effect, Lheidli T'enneh will own their lands in fee simple and will have jurisdiction over them; there will be no more Indian reserves.

The FA will set out law-making authorities that Lheidli T'enneh may exercise on their lands. It will also allow the Lheidli T'enneh government to participate on the board of the RD of Fraser-Fort George on an equal basis with municipal governments and to

enter into service agreements with local governments. The language is permissive in that the FN may participate on the RD board.

Financial components include a one-time capital transfer of \$13.2 million dollars over ten years less outstanding negotiation loans. As well Lheidli T'enneh will receive resource revenue payments of \$400,000 per year for 50 years.

### **Tsawwassen Final Agreement Summary**

The Tsawwassen FA was initialled on December 8, 2006. This was the second FA to be initialled under the BC Treaty Process. Tsawwassen has approximately 328 members.

The final agreement includes a land package that consists of approximately 724 hectares, including 372 hectares of provincial Crown land and 290 hectares of Indian reserves over which Tsawwassen First Nation will have jurisdiction and 62 hectares of additional lands that will remain under the jurisdiction of the Corporation of Delta. Similar to the LT FA, 207 hectares of the provincial Crown land will be removed from the ALR through settlement legislation. When the treaty comes into effect, Tsawwassen will own their lands in fee simple and there will be no more Indian reserves.

The Final Agreement will set out law-making authorities that Tsawwassen may exercise on their lands. In regard to regional governance structures, Tsawwassen First Nation will become a "First Nation" member of the Greater Vancouver Regional District (GVRD) and appoint a director to sit on the GVRD board.

Financial components include a one-time capital transfer of \$13.9 million dollars over ten years less outstanding negotiation loans. The agreement provides for one-time funding of \$15.8 million to support start-up and transition costs. Ongoing funding in the first fiscal financing agreement will be \$2.8 million for programs and services, and incremental implementation and governance activities. This fiscal agreement will be negotiated every five years. As well, Canada will provide TFN with \$2 million in consideration of the release by TFN of the rights to the mines and minerals under previously-surrendered reserve lands.

### **Maa-nulth Final Agreement**

The Maa-nulth FA was initialled, December 9, 2006, marking the third Final Agreement to be initialled under the *BC Treaty Process*. The Maa-nulth First Nations represent 5 Indian Bands, with a combined population of over 2000 members.

The agreement includes a land package that consists of approximately 24,498 hectares, including 22,342 hectares of provincial Crown land, 2,064 hectares of Indian reserve land and 92 hectares of private land purchased from willing sellers. When the treaty comes into effect, Maa-nulth will own their land in fee simple and there will be no more Indian reserves.

The Final Agreement will set out law-making authorities that Maa-nulth may exercise on their lands. It will also allow each Maa-nulth First Nation to enter into land use planning protocols with local governments to coordinate and harmonize land use planning processes and land use decisions. After a ten year transition period each Maa-nulth FN will be required to participate on the applicable regional district.

Financial components include capital transfers \$73.1 million over ten years less outstanding negotiation loans. Over a 25 year period Maa-nulth will receive annual resource revenue sharing payments which will vary depending on provincial stumpage revenue. Huu-ay-aht First Nations will receive an additional \$900,000 over five years. Under the fiscal financing agreements, Maa-nulth First Nations will receive \$9.86 million for delivering agreed upon programs and services and \$47.3 million to support treaty implementation activities. These fiscal agreements will be negotiated every eight years.

## **1. Constitution and Charter of Rights**

### ***UBCM Interests***

- Treaty settlements be within framework of Canadian Constitution
- Charter of Rights apply to all citizens

### ***Discussion***

The three FAs have the same wording regarding the Constitution and Charter of Rights. The agreements do not alter the Constitution of Canada, and the *Canadian Charter of Rights and Freedoms* applies to the FN governments with respect to all matters within their authority.

## **2. Application of Federal and Provincial Laws and Standards**

### ***UBCM Interests***

- Application of provincial laws and standards on settlement lands within or adjacent to local government boundaries (e.g. environmental protection, land and resource planning, water quality, etc.)

### ***Discussion***

All three final agreements explicitly state that federal and provincial laws will be concurrent with FN laws on TSL. This means senior government laws apply and take precedent except for issues internal to the community (e.g. adoption) and those that deal with culture. The final agreements do provide clarity for each law-making authority of the FN by stating which laws are paramount in the event of a conflict.

For laws and standards regarding land and land use planning please see subheadings, 'Law Making Authorities Pertaining to Land', and 'Land Use Planning'.

In all three agreements the First Nation can make laws relating to the protection, preservation and conservation of the environment. However, federal or provincial laws prevail to the extent of a conflict with the FN law.

Regarding FN law-making authorities relating to resources the concept is similar in all three final agreements. That is, generally the FNs can make laws regarding the harvesting of resources, such as designation of harvesters in their community and distribution of the harvest. In the event of a conflict with a federal or provincial law, the FN law prevails. These resources include fish, wildlife, and migratory birds, and for TFN and MN it includes renewable resources in federal parks and protected areas (e.g.

national marine conservation areas), and plants in provincial parks and/or protected areas. Lheidli T'enneh does not have any law-making authorities relating to the harvesting of plants on provincial crown land or of renewable resources in federal parks and protected areas.

The FNs can also make laws regarding management of resources, and licencing requirements or documentation of harvesters, however for these authorities federal or provincial laws will prevail to the extent of a conflict. There is one anomaly in this regard and it is with MN FNs. In that agreement a MN FN may make laws regarding documentation of a member who has been designated to harvest under their right to harvest renewable resources in federal parks and protected areas, and in the event of a conflict with federal or provincial law the MN FN law prevails.

All three FAs allow the FN to make laws regarding management of forest resources. In the TFN and MN agreements the wording is explicit that federal or provincial law will prevail to the extent of a conflict. The wording in the LTN agreement is different and a more complex but seems to ensure that provincial forestry laws and standards apply to TSL. It reads that forest standards under LTN laws will meet or exceed provincial forest standards applicable to private lands under provincial law. In addition, LTN law will prevail in the event of a conflict with a federal or provincial law. However, this is subject to provincial law relating to wildfire and forest health, which is to prevail to the extent of a conflict with a LTN law.

The following are two other authorities that may be of interest to local governments. In all three FAs, the FN government can make laws relating buildings and structures to the same extent as municipal governments. First Nations can also make laws relating to public works and related services. However, for both authorities federal or provincial law prevails to the extent of a conflict and the British Columbia Building Code applies on TSL.

### **3. Certainty**

#### ***UBCM Interests***

- Achieving treaties that provide the greatest certainty and finality possible with respect to a First Nation's rights and title
- Interested in other provisions that address certainty regarding issues such as amendment provisions, the rights of other Aboriginal people (e.g. overlaps) and consultation

#### ***Discussion***

The provisions relating to certainty are similar for all three FAs. They state clearly that the Final Agreement (FA) will set out section 35 rights, modify aboriginal rights and title, and be full and final settlement. The three agreements also state that the FN will release and indemnify Canada and BC from any other claims relating to past infringements of aboriginal rights.

The certainty clauses referred to above are offset by amendment provisions found in all three agreements as well as provisions for reviewing the agreement periodically. In

addition, the LTN and MN agreements have provisions that allow the FN to pursue a claim against Canada under the federal Specific Claims Policy. A specific claim refers to the grievances of a First Nation that relate to Canada's obligation under historical treaties or the way it managed First Nations funds, land or other assets. Canada negotiates financial settlements to resolve the claims.

## 4. Consultation

### *UBCM Interests*

- Treaties should provide certainty through clear definition of consultation obligations to First Nations

### *Discussion*

The wording in the three FAs regarding consultation is similar. Each provides a list of consultation obligations that Canada and BC must follow. That is, Canada and BC must consult: (a) as set out in FA; (b) as provided for in federal or provincial legislation; (c) as may be provided for in a separate agreement with the FN; and (d) as common law requires in relation to an infringement of a section 35 Right.

All three FAs include a similar definition for the terms "consult" or "consultation".

## 5. Overlapping Land Claims

### *UBCM Interests*

- First Nations should resolve issues of overlap or shared territory between themselves
- The Province not agree to a treaty settlement that includes land subject to an overlap dispute unless an agreement has been reached among the First Nations concerned
- The Province may agree to non-exclusive arrangements, such as provisions for hunting or fishing, in the area of an overlap dispute

### *Discussion*

The overlap provisions in all three FAs are similar. Generally, if a court finds that other Aboriginal people have rights under section 35 of the Constitution that are affected by a provision of the FA the provision will operate to the extent that it does not affect those rights; or if the provision cannot operate then the Parties will amend the FA. Conversely, if Canada and BC enter into a treaty or land claims agreement with other Aboriginal people that adversely affects the FN treaty rights, Canada and/or BC will provide the FN with additional or replacement rights.

The BC Claims Task Force report (1991) recommended that First Nations resolve issues related to overlapping territories among themselves and that a process for resolution be in place before finalizing a treaty. Despite the three Principals accepting this recommendation, the overlap provisions of the three-initialled FAs are not sufficient to ensure resolution of overlapping claims. There is a possibility that conflicts arising from unresolved overlapping claims may impact local government.

For example, the Lheidli T'enneh Final Agreement ratification vote was challenged by a Shuswap Nation Tribal Council (SNTC) court injunction; stating that the encroachment

into its traditional territory by this proposed Lheidli T'enneh treaty directly affects Simpcw's traditional territory. Also, since the initialing of the TFN agreement, the Province confirmed that 49 First Nation groups identified unresolved shared territory issues with the Tsawwassen First Nation, including the Sencot'en Alliance (a society of Tsawout, Tsartlip, Pauquachin and Semiahmoo First Nations). The Sencot'en Alliance has stated its opposition to the TFN final agreement as it may infringe on their Aboriginal Rights and Title, particularly those of the Semiahmoo, as well as Douglas Treaty Rights.

## 6. Agricultural Land

### *UBCM Interests*

- Treaties preserve agricultural lands and the Agricultural Land Reserve (ALR)
- The process of identifying and dealing with agricultural and range leases and licenses needs to be dealt with in an equitable manner so no economic hardship results for the holders of those interests

### *Discussion*

The FAs for both LTN and TFN preserve some existing agricultural lands by including provisions that allow certain parcels of TSL that are designated ALR to retain that designation. However, there is also a provision in each of these agreements that allows other parcels designated ALR to be excluded from ALR through settlement legislation rather than through the *Agricultural Land Commission* (ALC). In future, LTN and TFN must apply to the ALC and engage in processes set out in the *ALC Act* to have additional land removed from the ALR. There is no provision in the MN FA relating to agricultural land, as there is no ALR land within TSL.

Bypassing the ALC process is of concern to local government because it removes the opportunity for neighbouring jurisdictions to comment on proposed changes to ALR lands and establishes unparallel processes for First Nation and local governments to pursue exclusions. There is also concern that the approach taken in these final agreements will set a precedent for removing ALR land in future treaties resulting in further losses to the ALR province-wide.

With respect to agricultural and range leases and licenses, LTN FA provides that any permit under the *Forest and Range Practices Act* will cease to exist on TSL. The FA does not reveal the process for how this is done. TFN and MN have no provision relating to this issue.

Related to the ALR issue is the value of treaty settlement lands and the implications a change in designation may have for the future value of those lands (should residential, commercial or industrial uses be permitted) and the overall value of the treaty settlement. For example, the TFN FA confirms that, as of the effective date, half of the proposed TSL will be excluded from the ALR and available for alternate land use to be determined by Tsawwassen government. The result is an increase in the overall value of the Tsawwassen FA. This has the potential to raise expectations for future settlements with other urban First Nations.

## 7. Law Making Authorities Pertaining to Land

### *UBCM Interests*

- Law making authorities relate to coordination and harmonization of land use planning and development with adjacent lands
- Interested in compatibility between local standards of FN's and those of LG's (determined in part by conflict of law rules)

### *Discussion*

All three FAs include provisions for the FN to make laws regarding land use including management, planning, zoning and development. And, in all three FAs the FN law prevails in the event of a conflict with a provincial or federal law except with respect to the provincial *Agricultural Land Commission Act*. This may result in inconsistent standards between LG and FN with respect to land use planning and development particularly since local governments are required to follow provincial legislation, in this regard. However, it must be noted that each of the FAs do attempt to bring compatibility of land use planning standards between that of the LG and FN.

The issue of harmonizing land use planning is partially addressed here and under the subheading 'Land Use Planning'. For LTN, the FN and LGs will develop a process to consult each other with respect to any proposed significant amendments to land use, land development, environmental, financial and regulatory laws, and bylaws. Harmonization of land use is a major component of the comprehensive master agreement that LTN is negotiating with the City of Prince George. TFN is required to consult with affected LG before making a planning or zoning law and MN is required to consult with other authorities on its community plans similar to the manner required of municipalities.

Compatibility between standards is partially addressed in the TFN agreement by a provision in the Intergovernmental Relations and Services Chapter, which requires a land use plan prepared by TFN after the effective date to include a statement equivalent to a regional context statement in its community plan, identifying how its land use plan is consistent with the regional growth strategy. However it is important to note provincial settlement legislation will provide that TFN's land use plan in place at the effective date be deemed consistent with the GVRD's Regional Growth Strategy. As TFN's land use plan is not yet available to the public, it is uncertain how compatible TFN's land use plan will be with regional land use objectives.

Similarly, for the MN FA, each FN is required to develop a community plan with content similar to an official community plan (OCP). Each of the five FNs may develop community plans on an incremental basis until 10 years after the effective date at which time there must be plans for all of the TSL. Before developing a parcel of land a FN must ensure the development and use of land is consistent with its community plan (or development plan in place at effective date).

Regarding LTN, presumably similar standards will be addressed in the comprehensive master agreement being negotiated between LTN and local government (see 'Land Use Planning').

## 8. Additions to Treaty Settlement Lands

### *UBCM Interests*

- There is an interest that fee simple lands not be converted to TSL post-treaty
- Where there is scarcity of crown land and adding to TSL post-treaty is the only way to ensure an equitable land package, time and quantity limits are recommended
- Conversions of land to TSL are dealt with on a case-by-case basis
- When the addition is within municipal boundaries, municipal consent should be required otherwise notification and consultation with the affected regional district (RD) should be required

### *Discussion*

All three FAs have provisions for adding land to TSL. Criteria include the FN owning the land in fee simple, municipal consent if the land is within municipal boundaries, and for TFN and MN the land must be free from overlap. The LTN agreement is silent on this last criterion.

In addition, all three FAs have a variation of the specified lands approach commonly associated with the TFN treaty table where specific parcels of land are identified pre-treaty and if the FN acquires that land in fee-simple it can apply to BC and Canada to have those lands added to TSL. The TFN has 50 years (post-effective date) to acquire, in fee simple, specified parcels of land to be added to TSL. It is interesting to note that these specified lands includes 62 hectares of additional lands that TFN will own in fee-simple at the effective date of treaty but will remain under the jurisdiction of the Corporation of Delta. This means after the effective date of the treaty these parcels can be added to lands under TFN jurisdiction. Periodic additions of specified lands to TSL over a 50-year period, when those lands are currently within municipal boundaries, do not provide certainty for the local government affected.

Similarly, LTN has five years to acquire specified parcels of land to be added to TSL. The difference with LTN is that these lands are not within a municipal boundary.

It is significant to note that the TFN FA specified lands approach is premised on an AiP provision that municipal consent must not be unreasonably withheld. The TFN AiP was the only agreement to place a condition upon municipal consent. The Corporation of Delta did not provide consent to this approach and outlined its concerns within a position paper. Another unique provision to the TFN agreement that is not replicated in the other two FAs is a provision that provides TFN with a right of first refusal to purchase certain parcels of lands commonly known as the Brunswick Point Lands.

Following 50 years after the Effective Date, TFN can apply for additions to TSL for any land it acquires in fee-simple located within its traditional territory. BC and Canada would assess these requests based on a set of criteria outlined within the FA, which

includes a requirement for municipal consent if those lands are within municipal boundaries.

MN FA includes a comprehensive list of specified lands, both provincial crown land and fee simple land, that have been identified pre-treaty and which can be added to TSL if acquired by a MN FN within 15 years. The agreement also provides for the addition of potential surplus provincial crown land to TSL if MN acquires the land. There is no time restriction on this addition. Furthermore, there is one provision that allows two MN FNs to negotiate with BC within 15 years a transfer of land, which was formerly an Indian reserve, to BC in exchange for a parcel of provincial crown land that has been pre-identified. None of these pre-identified lands are within a municipal boundary.

## **9. Environmental Assessment and Protection**

### *UBCM Interests*

UBCM supports provincial government mandate that:

- Ensures environmental assessment requirements are consistent with provincial requirements;
- Participation by affected public and stakeholders is guaranteed;
- Province retain the ability to prevent a project or stop an operation that could have significant adverse impacts; and
- Regional environmental standards or requirements are consistently applied across a region.

### *Discussion*

The approach taken in the three FAs regarding environmental assessment is different in each case. Local government interests in having consistent laws and standards for environmental assessment and protection are addressed.

In the MN FA there is no law making provision in relation to environmental assessment. The agreement simply states that federal and provincial laws apply. The LTN agreement is silent on environmental assessment. Like MN, LTN does not have law making authority for environmental assessment.

In the TFN agreement, TFN can make laws regarding the approval of proposed developments and may establish administrative procedures for evaluating proposed developments including the environmental effects. TFN laws in this regard must not be in conflict with federal or provincial laws in relation to environmental assessment (see chapter 6).

With respect to environmental protection, in all three FAs, the FN may make laws to protect, preserve and conserve the environment but federal or provincial laws prevail to the extent of conflict. In addition, for TFN any laws relating to local air quality must meet or exceed GVRD bylaws. The comprehensive master agreement to be negotiated between LTN and LGs will set out principles, procedures and guidelines for environmental protection, and harmonize LTN law regulating land use and development with LG law.

## 10. Continued Access

### *UBCM Interests*

- Preservation of existing local government access to resources for public purposes (e.g. water license), and consideration of future needs, are of key interest to all local governments

### *Discussion*

The three FAs protect existing interests or tenures on TSL and allow access to these interests. As well, the LTN and MN agreements allow access to tenures or interests on land adjacent to or in close proximity to TSL including estates in fee simple.

Also, all three FAs allow representatives from the federal and provincial governments to access TSL for various reasons including law enforcement and delivery of programs and services. In addition, the TFN and MN agreements specifically state that local government representatives have access to TSL for the same reasons. The LTN agreement is silent on this access for local governments.

The TFN agreement also includes access provisions across TSL for representatives from Canada, BC, public utilities and local governments who need to access adjacent lands.

The FAs do not comment on the future needs of local governments with respect to accessing resources (e.g. water) for public purposes.

While the issue of access to and maintenance of existing local government infrastructure has been noted within the FAs, concerns regarding potential taxation on infrastructure within treaty settlement lands needs to be highlighted. This includes regional district owned assets that are located under roads that will be transferred (to the mid-point) to the First Nation. As FNs will be provided with discretionary taxation power through treaty, this has been identified as a key issue by the GVRD.

## 11. Non-member Representation

### *UBCM Interests*

- Treaties provide non-members living on TSL with mechanisms to participate in elections and in decision-making that affects their interests
- Non-members not be subject to FN government taxation unless they have the opportunity for meaningful participation in that government

### *Discussion*

All three FAs include provisions that provide non-members with the opportunity to participate in decision-making processes of a public institution if its activities directly and significantly affect non-members. The LTN FA is unique in that it provides for a guaranteed seat for a non-member on the LTN government. The legislative branch will include at least one elected representative from non-members residing on TSL.

The issue of taxation is dealt with under 'Property Taxations Issues'.

## 12. First Nation Representation on Regional District Boards

### *UBCM Interests*

UBCM's interests primarily relate to coordination of activities such as land use planning and servicing between neighbouring jurisdictions. UBCM advocates direct participation of FNs and LGs in discussions and negotiations related to their post-treaty relationship, including the key issues of planning, servicing and dispute resolution, and provision of funding support to enable local government participation in these side tables or working groups. UBCM has therefore not taken a position on RD membership.

### *Discussion*

The three FAs provide for the FN to be represented on their respective regional boards on the same basis as municipalities. However, they all take a different approach to this representation. For example, the language in the LTN FA is permissive in that the FN **may participate** on the RD board. In the other two FAs, TFN and MN **will become members** of the RD. That is, TFN will become a "First Nation member" of the GVRD and each MN FN will become a "member" of the applicable RD. It is also important to note that once a FN becomes a member, there is no provision to enable 'opting out'. The TFN and MN FAs also state that the FN representative on the RD must be an elected FN member. LTN is silent on this issue.

In addition, MN provides for a 10-year transition period where each FN may participate on the RD on a non-voting basis. There is no similar provision in the other two FAs.

## 13. Servicing Arrangements

### *UBCM Interests*

- Issues regarding future provision of services should be resolved before final treaty
- Current services to both communities should be maintained at existing levels and costs
- Fees and charges related to providing services (included infrastructure costs) should be equal on and off TSL
- Standards for infrastructure and services on TSL should be compatible with the neighbouring LG's standards, where they exist

### *Discussion*

In the TFN and MN FAs current servicing agreements in effect between the FN and a LG are not to be affected (until renegotiated or terminated under the terms of the agreement). LTN is silent on this topic. There are no servicing agreements currently in effect between the City of Prince George and LTN.

All three FAs allow for the FN to enter into service agreements for the provision of local government services on TSL or for services provided by the FN to the local government. This essentially allows the status quo to continue. The LTN agreement states that the FN may enter into agreements with LG for services if LTN does not participate on the RD board. When services are delivered to TSL there is a requirement that the FN purchase all services currently offered by the LG unless otherwise agreed.

For both TFN and MN FAs, the FNs agree to participate in 'core' services of the RD in the same manner as other member local governments and contribute to the cost according to provincial law. The term 'core services' refers to those services of a RD that municipalities and electoral areas are required to participate in.

Both FAs also allow the FN and the RD to enter into agreements for the provision of optional services. The MN agreement states that the FN will have the same opportunity to participate in these services as member municipalities do as set out in the *Local Government Act*. TFN FA states that the FN and the GVRD or associated entities may enter into agreement for the provision of services other than core services. It refers to water specifically and provides for the Greater Vancouver Water District to supply water services to the FN on the same terms as it would when servicing a municipality of similar size.

The LTN agreement is silent on the issue of service provision to TSL for when the FN participates on the RD board.

In TFN FA, RD standards and authorities for core and optional services will apply to the FN and its TSL. MN does not address standards for infrastructure and services on TSL. For LTN, this issue will likely be addressed in the comprehensive master agreement with LGs.

## **14. Land Use Planning Process**

### ***UBCM Interests***

- Coordination of land use planning and servicing as neighbouring jurisdictions
- Land uses on TSL are compatible and harmonized with those of the neighbouring LG

### ***Discussion***

All three agreements include provisions for the coordination of land use planning with neighbouring jurisdictions. For example, in the LTN agreement coordination of land use planning will be addressed in the comprehensive master agreement that the FN is required to negotiate with LGs. There is also a provision for developing a process between the FN and LGs to consult each other with respect to any proposed significant amendments to land use, land development, environmental, financial and regulatory laws, and bylaws.

TFN agreement is explicit in its requirement for the FN to develop a community plan that is consistent with the Regional Growth Strategy (RGS) for its area and that meets the requirements of the *Local Government Act*. However, this will not be the case on the effective date. Provincial settlement legislation will provide that, on the effective date, the TFN land use plan will be deemed to be consistent with the RGS (i.e. it meets the requirements of *Local Government Act*). TFN is not obligated to comply because it did not participate in the development of the RGS. After the effective date TFN will, as a member of the RD, develop land use plans consistent with a revised RGS that TFN will participate in reviewing. Any land use plan prepared by the FN will include a

statement equivalent to a regional context statement and before making a planning or zoning law, the FN will consult with any LG that may be affected in a way that is similar in principle to that required of a municipality.

In contrast, while the MN FA requires each FN to develop community plans it does not require that the plans conform to a RGS and it does not require that their land use planning be coordinated with adjacent jurisdictions. However, each MN FN must consult with other authorities on the development and amendment of their community plan in the same way LGs do. The agreement also allows each FN to enter into protocols with LGs to coordinate land use planning processes and decisions. This is permissive wording.

## **15. Dispute Resolution**

### *UBCM Interests*

- Treaties provide for mechanisms for dispute avoidance and that there be a formalized process for dispute resolution following the final settlement

### *Discussion*

All three FAs provide for some mechanisms for dispute resolution between LGs and FNs. In TFN FA, the FN and LG may use a dispute resolution process set out in the Dispute Resolution chapter of FA, the *Local Government Act* or the *Community Charter* and acknowledges that LGs are limited to specific dispute resolution processes. In MN FA, the dispute resolution provisions applicable to the LG and FN are restricted to servicing agreements. Any service agreement negotiated between the FN and LG is to include a dispute resolution process, which may include those found in the *Local Government Act* or the *Community Charter*. For LTN, dispute resolution will be addressed in the comprehensive master agreement.

## **16. Property Taxation Issues**

### *UBCM Interests*

- When land is removed from a municipality, a process must be in place for compensating municipalities for loss of tax revenues
- Equity and fairness in the property tax treatment of land and improvements under First Nations jurisdiction compared to similar property under LG jurisdiction
- Representation on FNs government for non-members if they are expected to pay property tax

### *Discussion*

Final agreements do not address compensation for municipalities due to loss of tax revenues.

All the agreements have similar provisions that allow the FN to enter into agreements with Canada and/or BC to determine the extent to which the FN authority to directly tax citizens on TSL may apply to persons other than FN citizens. All the FAs also allow non-members representation on public institutions if their activities affect non-members (see 'Non-Member Representation').

Harmonization of property tax treatment among adjacent jurisdictions is dealt with outside the FAs for LTN and TFN. In a side agreement on this issue of property tax between BC and TFN, TFN's property tax law will allow for the establishment of a rate of tax for each property class, "on the same basis as the rate or rates a municipality is authorized to establish under Part 7 of the Community Charter. This is a variable rate. The agreement also provides for the BC Assessment Authority to assess Tsawwassen lands in accordance with the *Assessment Act*. TFN may also tax non-members and non-residents as long as its property tax laws do not discriminate against them.

For LTN, the comprehensive master agreement, that LTN is required to negotiate with LGs, is to harmonize the tax structure on TSL such that LTN and LG do not compete with the tax structure on adjacent lands.

## **17. Existing Interests – Maintaining Community Stability**

### ***UBCM Interests***

- LG's are vitally concerned for the future of their communities and want treaty settlements that will not derogate from the social and economic stability of those communities, particularly those which are currently resource-dependent

### ***Discussion***

All three final agreements state that interests in TSL land (e.g. tenures) that existed prior to FA will continue including those interests in lands that become an addition to TSL. Access to these interests is also provided for in the FAs (see Continued Access).

Within the scope of this paper it is difficult to assess the impact of the FAs, including resource allocation, on the stability of affected local government communities and their access to resources for present and future needs. The provincial government is developing a treaty adjustment funding program for third parties, including local governments, who are affected by treaty implementation. However, the program has not been finalized to date and UBCM does not have any information relating to the program. A fair, transparent, and timely process for providing funding support to local governments involved in treaty negotiations should be dealt with as soon as possible.

## **Selection of Fee Simple Lands**

### ***UBCM Interests***

- Include LG in the selection process for the purpose of identifying and considering any of their affected interests
- A process for compensating municipalities for loss of tax revenues

### ***Discussion***

The final agreements do not discuss the process for selecting land for TSL. Provincial principles that guide treaty negotiations with respect to land selection include: (1) private property should not be expropriated for treaty settlements, (2) the terms and

conditions of leases and licenses should be respected; and (3) fair compensation for unavoidable disruption of commercial interests should be insured.

Individual local governments are in the best position to evaluate the extent to which their interests were identified and considered in the selection of fee simple lands for TSL.

The Province is developing a treaty adjustment-funding program, which will include a process for compensating local governments and third parties affected by treaty implementation.

## Appendix

The following chart is organized by UBCM interest and includes a summary of wording in each the three FAs for those particular issues/interests. The chapter and clause numbers are given for each provision. For exact wording please see the final agreements.

### 1. Constitution and Charter of Rights

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
2.8 Agreement does not alter Constitution of Canada 2.9 <i>Canadian Charter of Rights and Freedoms</i> applies to LTN Government	2.8 Agreement does not alter Constitution of Canada 2.9 <i>Canadian Charter of Rights and Freedoms</i> applies to TFN Government	1.3.1 Agreement does not alter Constitution of Canada 1.3.2 <i>Canadian Charter of Rights and Freedoms</i> applies to each MN FN Government

### 2. Application of Federal and Provincial Laws and Standards

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
2.19 Federal, provincial, and Tsawwassen laws apply to LTN and lands 2.26 LTN cannot make laws relating to criminal law, Intellectual Property, official languages, aeronautics, navigation, or labour relations and work conditions 2.27 Federal or provincial law prevails to the extent of a conflict with a LTN law that has a double aspect with or incidental impact on any federal or provincial legislative jurisdiction for which a LTN has no authority or does have authority but federal or provincial law prevails in the event of a conflict 2.28 Federal law relating to peace, order and good government, criminal law, human rights, and protection of health and safety of all Canadians, or other matters of national importance prevail to the extent of a conflict with a LTN law	2.19 Federal, provincial, and Tsawwassen laws apply to TFN and lands 2.22 TFN cannot make laws relating to criminal law, Intellectual Property, official languages, aeronautics, navigation, or labour relations and work conditions 2.23 Federal law relating to peace, order and good government, criminal law, human rights, and protection of health and safety of all Canadians, or other matters of national importance prevail to the extent of a conflict with TFN law 2.24 Federal or provincial law prevails to the extent of a conflict with a TFN law that has an incidental impact on a subject for which TFN has no authority or does have authority but federal or provincial law prevails in the event of a conflict 2.25 Federal or provincial law prevails to the extent of a conflict with a TFN law that has a double aspect with any federal or provincial legislative jurisdiction for which a MN FN has no authority or does have authority but federal or	1.8.5-1.8.6 Federal or provincial law prevails to the extent of a conflict with a MN FN law that has a double aspect with or an incidental impact on any federal or provincial legislative jurisdiction for which a MN FN has no authority or does have authority but federal or provincial law prevails in the event of a conflict 1.8.7 Federal law relating to peace, order and good government, criminal law, human rights, and protection of health and safety of all Canadians, or other matters of national importance prevail to the extent of a conflict with a MN FN law 1.8.11 MN cannot make laws relating to criminal law, Intellectual Property, official languages, aeronautics, navigation, or labour relations and work conditions

	provincial law prevails in the event of a conflict	
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### 3. Certainty

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>2.37 FA is full and final settlement of aboriginal rights and title of LTN</p> <p>2.38 FA exhaustively sets out Section 35 Rights of LTN</p> <p>2.39-2.40 Aboriginal rights and title of LTN are modified as set out in FA</p> <p>2.42-2.43 LTN releases and indemnifies Canada and BC from all claims relating to past infringements of aboriginal rights and title</p> <p>2.44 LTN indemnifies Canada and BC from any claims relating to aboriginal rights and title that are different from Section 35 Rights as set out in FA</p> <p>2.46 Nothing in FA precludes LTN from pursuing its claim respecting 1911 surrender of Fort George Indian Reserve according to Canada's specific claim policy or in court</p> <p>2.47 The LTN claim will not result in any land being declared a reserve</p>	<p>2.11 FA is full and final settlement of aboriginal rights and title of TFN</p> <p>2.12 FA exhaustively sets out Section 35 Rights of TFN</p> <p>2.13-2.14 Aboriginal rights and title of TFN are modified as set out in FA</p> <p>2.16-2.17 TFN releases and indemnifies Canada and BC from all claims relating to past infringements of aboriginal rights and title</p> <p>2.17 TFN indemnifies Canada and BC from any claims relating to aboriginal rights and title that are different from Section 35 Rights as set out in FA</p>	<p>1.11.1 FA is full and final settlement of aboriginal rights and title of each MN FN</p> <p>1.11.2 FA exhaustively sets out Section 35 Rights of each MN FN</p> <p>1.11.3 Aboriginal rights and title of each MN FN are modified as set out in FA</p> <p>1.11.6-1.11.7 Each MN FN releases and indemnifies Canada and BC from all claims relating to past infringements of aboriginal rights and title</p> <p>1.11.7 Each MN FN indemnifies Canada and BC from any claims relating to aboriginal rights and title that are different from Section 35 Rights as set out in FA</p> <p>1.11.9 Nothing in FA precludes a MN FN from pursuing claims in accordance with Canada's specific claim policy</p> <p>1.11.10 Claims referred to above will not result in land being declared a reserve</p>

### 4. Consultation

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>2.48 Neither Canada nor BC has an obligation to consult with LTN except: (a) as set out in FA; (b) as provided for in federal or provincial legislation; (c) as may be provided for in a separate agreement with LTN; and (d) as common law requires in relation to an infringement of a section 35 Right</p>	<p>2.45 Regarding a Section 35 Right of TFN, Canada and BC are obligated to consult: (a) as set out in FA; (b) as provided for in federal or provincial legislation; (c) as may be provided for in a separate agreement with the FN; and (d) as common law requires in relation to an infringement of a section 35 Right.</p>	<p>1.16.1 Neither Canada nor BC has an obligation to consult with an MN FN except: (a) as set out in FA; (b) as provided for in federal or provincial legislation; (c) as may be provided for in a separate agreement with a MN FN; and (d) as common law requires in relation to an infringement of a section 35 Right</p>

## 5. Overlapping Land Claims

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>2.52 If a court finds that other Aboriginal people have rights under section 35 of the Constitution that are affected by a provision of this FA:</p> <ul style="list-style-type: none"> <li>• The provision will operate to the extent that it does not affect those rights; and</li> <li>• If the provision cannot operate then the Parties will amend FA</li> </ul> <p>2.53 If Canada and BC enter into a treaty or land claims agreement with other Aboriginal people that adversely affects LTN treaty rights, Canada and/or BC will:</p> <ul style="list-style-type: none"> <li>• Provide LTN with additional or replacement rights or other remedy;</li> <li>• At the request of LTN, the Parties will negotiate the replacement rights; and</li> <li>• If the Parties are unable to come to agreement then the issue will be resolved according to the Dispute Resolution chapter</li> </ul>	<p>2.48 If a court finds that other Aboriginal people have rights under section 35 of the Constitution that are affected by a provision of this FA:</p> <ul style="list-style-type: none"> <li>• The provision will operate to the extent that it does not affect those rights; and</li> <li>• If the provision cannot operate then the Parties will amend FA</li> </ul> <p>2.49 If Canada and BC enter into a treaty or land claims agreement with other Aboriginal people that adversely affects TFN treaty rights, Canada and/or BC will:</p> <ul style="list-style-type: none"> <li>• Provide TFN with additional or replacement rights or other remedy;</li> <li>• At the request of TFN, the Parties will negotiate the replacement rights; and</li> <li>• If the Parties are unable to come to agreement then the issue will be resolved according to the Dispute Resolution chapter</li> </ul>	<p>1.12.2 If a court finds that other Aboriginal people have rights under section 35 of the Constitution that are affected by a provision of this FA:</p> <ul style="list-style-type: none"> <li>• The provision will operate to the extent that it does not affect those rights; and</li> <li>• If the provision cannot operate then the Parties will amend FA</li> </ul> <p>1.12.3 If Canada and BC enter into a treaty or land claims agreement with other Aboriginal people that adversely affects MN treaty rights, Canada and/or BC will:</p> <ul style="list-style-type: none"> <li>• Provide MN with additional or replacement rights or other remedy;</li> <li>• At the request of a MN FN, the Parties will negotiate the replacement rights; and</li> <li>• If the Parties are unable to come to agreement then the issue will be resolved according to the Dispute Resolution chapter</li> </ul>

## 6. Agricultural Land

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>5.21 Some parcels of TSL, as set out in Appendix, that are designated ALR will be excluded from ALR</p> <p>5.22 Some parcels of TSL (see Appendix) that are designated ALR will retain designation</p> <p>5.23 Additions to TSL that are designated ALR will retain the designation</p> <p>5.24 TSL designated ALR may be removed in accordance with the <i>Agricultural Land Commission Act</i></p> <p>9.26 BC will ensure that any agreement under the <i>Forest and Range Practices Act</i> and associated permit will cease to exist on TSL</p>	<p>4.31 Some parcels of TSL, as set out in Appendix, that are designated ALR will retain the designation</p> <p>4.32 Some parcels of TSL that are designated ALR will be excluded from ALR</p> <p>4.33 TSL designated ALR may be removed in accordance with the <i>Agricultural Land Commission Act</i></p>	n/a

## 7. Law Making Authorities Pertaining to Land

Lheidli T'enneh	Tsawwassen	Maa-nulth
<p>5.25 LTN laws regarding TSL designated ALR must not be in conflict with <i>Agricultural Land Commission Act</i></p> <p>5.58 LTN may make laws with respect to the use of lands including management, planning, zoning and development</p> <p>5.59 In the event of a conflict between a LTN law above and a federal or provincial law, the LTN law prevails to the extent of the conflict</p>	<p>6.1(d) TFN may make laws in respect of the management and use of TSL, including planning, zoning and development</p> <p>6.1 (h) TFN may make laws regarding approval of proposed developments on TSL</p> <p>6.5 TFN law in 6.1 prevails in the event of a conflict with a federal or provincial law</p> <p>6.10 Before TFN makes a law under 6.1(d), it will consult residents of TSL who may be affected through a process similar in principle to that required of a municipality</p> <p>17.21 " Before TFN makes a planning or zoning law, it will consult with LG that may be affected through a process similar in principle to that required of a municipality undertaking similar law-making."</p>	<p>13.14.1 Each MN FN may make laws in respect of the use of TSL of the applicable MN FN, including management, planning, zoning and development</p> <p>13.14.2 MN FN law made above prevails to the extent of a conflict with federal law or provincial law</p> <p>13.14.4 On effective date, each MN FN will make laws governing community plans for the applicable TSL</p> <p>13.14.5 A MN FN law regarding community plans will require that the community plan include:</p> <ul style="list-style-type: none"> <li>• a statement of objectives and policies that will guide decisions on land use planning; and</li> <li>• content similar to that required in OCP's of LG</li> </ul> <p>13.14.6 Each MN FN may develop and adopt community plans on an incremental basis for 10 years at which time there must be community plans for all TSL</p> <p>13.14.7 Any development or use of TSL will be in accordance with a community plan or a development plan in place as of effective date</p> <p>13.14.18 Each MN FN will consult with other organizations and authorities on development, amendment and repeal of its community plans similar to the manner that is required by LG</p>

## 8. Additions to Treaty Settlement Lands

Lheidli T'enneh	Tsawwassen	Maa-nulth
<p>5.63 With agreement by Canada and BC, LTN may add to TSL, "land that is: (a) owned in fee simple by LTN; (b) within the LTN area*; and (c) outside municipal boundaries, or within municipal boundaries if the</p>	<p>4.36 TFN may add lands it owns in fee simple no more than every five years according to clauses 4.37 – 4.49</p> <p>4.42 If, within 50 years, TFN owns in fee simple any parcel of specified lands (as set out in Appendix), it will become TSL</p>	<p>2.10.2-2.10.3 BC will consider a request by a MN FN to add land to TSL if, among other things, the land:</p> <ul style="list-style-type: none"> <li>• Is owned in fee simple by MN FN, a MN corporation, public institution or an individual of that MN FN,</li> </ul>

<p>municipality consents.”</p> <p>5.65 When making a decision regarding additions to TSL, Canada and BC may consider, among other things, interests of a RD when land is within RD but not a municipality</p> <p>5.142 If LTN acquires CNR lands identified in Appendix those lands will be added to TSL</p> <p>5.152-5.162 If LTN acquires any parcels of provincial crown land, described in the Appendix, within five years those lands will be added to TSL</p> <p>*traditional territory</p>	<p>after completion of process in 4.43 - 4.44</p> <p>4.43 Before adding a parcel of specified lands to TSL, TFN will, (among other things):</p> <ul style="list-style-type: none"> <li>• Hold discussions with any resident of, or interest holder in, the parcel and with Delta; and</li> <li>• Consider the compatibility of any land use plan of TFN with any LG land use plan applying to that parcel; and</li> </ul> <p>4.45 After 50 years, BC will consider a request by TFN to add land to TSL if, “(a) TFN owns land in fee simple; (b) land is within TFN territory; and (c) the land is outside municipal boundaries and a change in jurisdiction to that land will not unreasonably restrict the expansion or development of a municipality, or within municipal boundaries and the municipality consents.”</p> <p>4.46, 4.48 When considering the addition to TSL, BC will take into account, among other matters, interests of a RD when land is within RD but not a municipality</p> <p>4.47, 4.48 After 50 years, Canada will consider, among other things, a request by TFN to add land to TSL if: (a) TFN owns the land in fee simple; (b) land is within TFN territory; and (c) land is free from overlap unless the other FN consents</p>	<p>and the owner provides written consent;</p> <ul style="list-style-type: none"> <li>• Is within the MN FN area;</li> <li>• Is outside municipal boundaries, or within municipal boundaries and the municipality consents; and</li> <li>• Becoming TSL will not unreasonably restrict the expansion or development of a municipality or the community of Bamfield</li> </ul> <p>2.10.4-2.10.5 Canada will consider, among other things, a request by a MN FN to add land to TSL if: (a) the MN FN owns the land in fee simple; (b) land is within the MN FN area; and (c) land is free from overlap unless the other FN consents</p> <p>2.10.7-2.10.10 If a MN FN acquires certain parcels of provincial crown land, described in Appendix F-1, within 15 years those lands will be added to TSL</p> <p>2.10.14 two MN FNs can negotiate with BC within 15 years a transfer of land, which was formerly an Indian reserve, to BC in exchange for a parcel of provincial crown land set out in Appendix F-1</p> <p>2.10.17-2.10.18 If BC determines that a parcel of provincial crown land described in Appendix F-2 is surplus, it will offer to sell the parcel to applicable MN FN</p> <p>2.10.19 If the MN FN acquires the parcel, then the parcel will be added to TSL</p> <p>2.10.23 If a MN FN, MN corporation, public institution or citizen of MN becomes acquires a parcel of fee simple land described in Appendix F-3 or F-4, and the owner and the registered holder of any financial charge or encumbrance provides written consent, then that parcel of land is to be added to TSL</p>
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## 9. Environmental Assessment and Protection

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>14.1 "Canada and LTN may enter into an agreement concerning the performance of specified federal environmental protection function by LTN within an area defined in agreement"</p> <p>14.2 "BC and LTN may enter into an agreement concerning the performance of specified provincial environmental protection function by LTN within an area defined in agreement"</p> <p>14.4 LTN may make laws for the purpose of protecting, preserving and conserving the Environment with respect to: (a) prevention, mitigation and remediation of pollution and degradation of Environment; (b) waste management; (c) protection of air quality; and (d) environmental emergency response.</p> <p>14.5 In the event of a conflict between a LTN law in 14.4 and a federal or provincial law, the federal or provincial law prevails to the extent of the conflict</p>	<p>6.1 (h) TFN may make laws regarding approval of proposed developments on TSL</p> <p>6.8 "A federal or provincial law in relation to Environmental Assessment prevails to the extent of a conflict with a TFN law made under 6.1(h)"</p> <p>6.11 Despite any approval of a proposed development made by TFN, no federal or provincial project on TSL will proceed unless there is compliance with applicable federal or provincial law respecting environmental assessment</p> <p>6.12 TFN may establish administrative procedures for evaluating proposed developments including the environmental effects</p>	<p>22.1.0 Federal and provincial law in relation to environmental assessment apply on TSL</p> <p>22.1.2 No federal or provincial project will proceed on TSL without the consent of the applicable MN FN</p> <p>22.2.1-22.2.2 For federal projects on TSL Canada will give the applicable MN FN the opportunity to participate in an environmental assessment</p> <p>22.3.1 For provincial projects on TSL BC will give the applicable MN FN the opportunity to participate in an environmental assessment</p> <p>22.4.1 Each MN FN may make laws for the purpose of protecting, preserving and conserving the Environment with respect to: (a) prevention, mitigation and remediation of pollution and degradation of Environment; (b) waste management; (c) protection of air quality; and (d) environmental emergency response.</p> <p>22.4.2 Federal or provincial law prevails to the extent of a conflict with a MN law above</p>

## 10. Continued Access

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>7.2 LTN will allow reasonable public access to TSL for temporary recreational and non-commercial uses that does not include harvesting resources</p> <p>7.3 LTN will allow reasonable public access to hunt and fish</p> <p>7.5 Public access will be in accordance with LTN land use plans which will include provisions for harmonization with LG land use plans</p> <p>7.6 A LTN land use planning process will have opportunities for public participation</p>	<p>7.5 TFN roads are open to public unless designated otherwise</p> <p>7.9 Public will have same right of access to local roads on TSL as they have on comparable roads in adjoining municipality</p> <p>7.25 Residents of TSL and other interest holders on TSL will have access to their property and ancillary interests</p> <p>7.27 Representatives from federal, provincial and local governments will have access to TSL, in accordance to</p>	<p>5.2.1 Lands described in Appendix H are designated as MN private lands</p> <p>5.2.2-5.2.6 Each MN FN may designate portions of its TSL as private lands under certain circumstances</p> <p>5.4.1 Each MN FN will allow reasonable public access to its public lands for temporary recreational uses and non-commercial purposes</p> <p>5.7.1-5.7.3 Each MN FN will allow reasonable access across its lands to the Interests listed in Appendix E and estates in fee simple listed in Appendix J</p>

<p>7.10 Representatives from federal and provincial government will have access to TSL, in accordance to federal and provincial law, in order to deliver programs, carry out inspections, enforce law, carry out terms of FA, respond to emergencies and carry out duties under federal or provincial law</p> <p>7.15-7.16 LTN will allow access to tenures on, adjacent to or in close proximity to TSL</p> <p>7.18 LTN will allow access to an estate in fee simple listed in Appendix I and E-2</p>	<p>federal and provincial law, in order to enforce laws, carry out duties under federal or provincial law, respond to emergencies and deliver programs and services</p>	
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### 11. Non-member Representation

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>17.10 The legislative branch will include at least one elected representative from non-members residing on TSL</p> <p>17.16 LTN will provide non-members with the opportunity to participate in decision-making processes of a public institution if its activities affect non-members</p> <p>17.18 LTN may appoint non-citizens as members of public institutions</p>	<p>16.17 TFN will provide non-members with the opportunity to participate in decision-making processes of a public institution if its activities affect non-members</p> <p>16.19 If members of public institution are elected then non-members can vote and stand for election or if members of the institution are not elected then at least one member will be a non-member selected by non-members</p>	<p>13.6.1-13.6.2 Each MN FN and public institution will consult with non-members concerning decisions that affect those non-members</p> <p>13.6.3 Each MN FN government will ensure that non-members have ability to participate in discussions and vote on the decisions of a public institution that affect non-members</p>

### 12. First Nation Representation on Regional District Boards

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>18.4 "LTN may participate on RDFFG board in same capacity as a municipality participates on the board."</p>	<p>17.1 On effective date and in accordance with FA, "TFN is a FN member of the Greater Vancouver Regional District (GVRD)"</p> <p>17.2 TFN may participate in Associated Entities and in the board of the Greater Vancouver Water District</p> <p>17.4 TFN, "will be deemed to have powers of a municipality," if needed for purposes of carrying out its functions as a member of GVRD</p> <p>17.8-17.9 "TFN will appoint a</p>	<p>14.2.1 There will be a 10-year transition period where a RD may invite an applicable MN FN to participate on RD on a non-voting basis</p> <p>14.2.3-14.2.4 During the transition period a MN FN may give written notice to BC and applicable RD of its intention to become a RD member</p> <p>14.2.6 Unless otherwise agreed to, the transition period will end within four months of the MN FN giving notice to end the transition</p>

	<p>director to the board of the GVRD," who must be an elected member of the Tsawwassen Government</p>	<p>14.3.1; 14.3.4 After transition period, each MN FN will become a member of the applicable RD and appoint at least one director who must be an elected member  14.3.2 The number of directors appointed by applicable MN FN is determined as if the TSL for that MN FN and its residents constitute a municipality  14.3.3 A MN FN that becomes a member of RD, "has function, powers, duties and obligations of a municipal member..."</p>
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### 13. Servicing Arrangements

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>18.5 LTN and LGs may enter into agreements for provision of LG services to TSL or for LTN services to LG lands  18.7 When services are delivered to TSL by Prince George or RDFFG, the costs will be equivalent to the costs of servicing fee simple lands and will include all services currently offered by the City or RD unless otherwise agreed</p>	<p>17.11 "TFN will receive and pay for Core Mandatory Regional Services delivered by GVRD."  17.12 TFN will pay GVRD for core services as set out in section 805 of <i>Local Government Act</i>  17.13 GVRD bylaws in respect of core services will apply to TFN, TSL and TFN water lots  17.16-17 TFN and LG may enter into agreements for provision of services, other than core services, to TSL or for TFN services to LG  17.18 A service agreement in effect on the effective date will remain in effect  17.22-23 Before effective date, BC will ensure that Greater Vancouver Water District has the authority to supply water to TFN and that it will do so on reasonable terms  17.24 TFN will negotiate with GVRD on capital costs for infrastructure connection to the source of water supply  17.25 Water services provided by Greater Vancouver Water District will be on same terms as other member municipalities of similar size  17.27 Minister has absolute power to settle terms on which</p>	<p>14.1.7 Each MN FN and applicable LG may enter into agreements for provision of services by LG to MN FN or for services by MN FN to LG, or for any services that the MN FN and LG agree upon  14.1.9 Final Agreement does not affect a service contract in effect on the effective date  14.4.1 After transition date, each MN FN will participate in services that member municipalities and electoral areas are required to participate in and contribute to the cost, "based on the same cost apportionment method identified in section 804(2) of the <i>Local Government Act</i>  14.4.2 Subject to agreement between a MN FN and applicable RD, the MN FN will participate in following services: library; regional planning; E-911; solid waste management; airport; landfill; and other agreed upon services  14.4.5- 14.4.6 Each MN FN will have same opportunity to participate and exit in other RD services as member municipalities</p>

	TFN is added to Greater Vancouver Water District	
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#### 14. Land Use Planning Process

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>18.8 LTN, City of Prince George, and RDFFG will establish a comprehensive master agreement to assist implementing Local Government Relations chapter including: coordination of planning and land use; harmonization of tax structure; payment for services to TSL, environmental protection and other matters as may be agreed upon</p> <p>18.9 "LTN, City of Prince George and RDFFG will develop a process to consult each other with respect to any proposed significant amendments to land use, land development, environmental, financial and regulatory laws, and bylaws."</p>	<p>17.19 Provincial settlement legislation will provide that TFN's land use plan on the effective date, "will be deemed to meet statutory requirements of the <i>Local Government Act</i> for consistency with RGS of the GVRD."</p> <p>17.20 "A land use plan prepared by TFN after effective date will include a statement equivalent to a regional context statement as defined in the <i>Local Government Act</i>, identifying how its land use plan is consistent with a RGS approved by GVRD with participation of TFN as a member."</p>	<p>14.1.6 "Each MN FN may enter into a land use planning protocol with any applicable LG to coordinate and harmonize land use planning processes and land use decisions."</p>

#### 15. Dispute Resolution

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>18.10 "LTN, City of Prince George and RDFFG will agree on a dispute resolution process..."</p>	<p>17.28 "TFN and LG may use a dispute resolution process set out in the Dispute Resolution chapter, the <i>Local Government Agreement</i> or the <i>Community Charter</i> or another process agreed to by the parties"</p>	<p>14.1.8 Any service agreement between a MN FN and a LG will include a dispute resolution process which may include those described in the <i>Local Government Act</i> or <i>Community Charter</i></p>

#### 16. Property Taxation Issues

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
<p>18.8 LTN, City of Prince George, and RDFFG will establish a comprehensive master agreement to assist implementing Local Government Relations chapter including among other things, harmonization of tax structure on TSL such that LTN and LG do not compete with the tax structure on adjacent lands</p> <p>23.4 LTN may negotiate with Canada and/or BC the extent</p>	<p>20.4. TFN may negotiate with Canada and/or BC the extent to which TFN authority to tax citizens on TSL may apply to persons other than TFN citizens</p>	<p>19.2.1 Each MN FN may negotiate with Canada and/or BC the extent to which the MN FN authority to tax citizens on TSL may apply to persons other than citizens from that MN FN</p>

to which LTN authority to tax citizens on TSL may apply to persons other than LTN citizens		
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### 17. Existing Interests – Maintaining Community Stability

<b>Lheidli T'enneh</b>	<b>Tsawwassen</b>	<b>Maa-nulth</b>
5.47-48 LTN title to TSL is free of interests except as set out in Appendices 5.67 Any interest in land that is added to TSL, "will remain unless LTN and person holding interest agree to a replacement tenure."	4.10 TFN title to TSL is free of interests except as set out in Appendices 4.39 Any interests on land to be added to TSL will continue unless owner of the interest agrees otherwise	2.7.1 MN FN lands is free of interests except as set out in Appendices 2.10.26 Land added to TSL is subject to any interest existing before parcel was added unless holder of the interest agrees otherwise