



MEMORANDUM OF UNDERSTANDING
between
THE PROVINCE OF BRITISH COLUMBIA
and
THE UNION OF BRITISH COLUMBIA
MUNICIPALITIES
on
ENGAGEMENT WITH UBCM AND LOCAL
GOVERNMENTS ON TREATY AGREEMENTS, NON-
TREATY AGREEMENTS AND INDIGENOUS
INITIATIVES



This Memorandum of Understanding (MOU) modernizes the relationship between the Province of British Columbia, the Union of BC Municipalities and local governments with respect to reconciliation, treaty agreements, non-treaty agreements and Indigenous initiatives. It updates and replaces previously signed MOUs on local government participation in treaty negotiations and other activities.

THE PARTIES:

The Parties to this MOU are:

- The Province of British Columbia (the Province) as represented by the Ministry of Indigenous Relations and Reconciliation (MIRR); and
- The Union of British Columbia Municipalities (UBCM) representing all municipalities and regional districts of British Columbia, as well as several First Nation members.

WHEREAS:

The Parties acknowledge that the Province wants to renew its relationship with Indigenous peoples in B.C. and commits to the full adoption and implementation of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and the Truth and Reconciliation Commission (TRC) in accordance with the Canadian Constitution. The Parties also acknowledge that UBCM is supportive of advancing reconciliation with Indigenous peoples across the Province at the local level; and that local governments are key partners in achieving true, lasting reconciliation with Indigenous peoples.

The Parties recognize that local government jurisdictions may be affected by the negotiation of land, resource and economic development agreements with First Nations. The Parties accept that local government constitutes a unique and special interest in the negotiation of a range of agreements with First Nations including modern treaties, non-treaty agreements, and other Indigenous initiatives.

The Parties acknowledge that UBCM and individual local governments endeavour to develop positive working relationships with First Nations, fostering relationships built on the principles of honesty and respect, and undertaking reconciliation initiatives at the grass roots level. This MOU encourages local governments to communicate and develop relationships with First Nations and other Indigenous partners.

THEREFORE:

This MOU reflects the continued commitments of the Parties for sincere and honest engagement on a range of Indigenous relationships including:

- continuing a process for local government participation in the negotiation and implementation of treaties;
- consulting and exchanging information with local governments on other agreements and Indigenous Initiatives outside the B.C. treaty process;
- engaging on matters of mutual interest including those matters that will impact local government jurisdiction; and,
- engaging on Indigenous Initiatives and agreements that have the potential to broadly impact local governments.

The Hon. Scott Fraser
Minister of Indigenous Relations and Reconciliation

Wendy Booth, President
Union of British Columbia Municipalities

Murry Krause, Chair Indigenous Relations Committee,
UBCM

Date

TOPICS

The Province will share information, consider local government interests and seek advice on matters including, but not limited to areas of local government jurisdiction that may be affected by agreements made with First Nations or other Indigenous organizations and reconciliation efforts and initiatives such as:

- a) Treaty negotiations;
- b) Non-treaty agreements;
- c) Indigenous Initiatives and
- d) Development of Indigenous related programs and initiatives.

The Province will share the principles and context of this MOU broadly within the BC government to make other agencies aware of UBCM's interest in being engaged on all indigenous initiatives that have the potential to affect local government interests. Areas of interest to local government that may be affected include, but are not limited to:

- Land management and land use planning
- Land selection
- Dispute resolution
- Property taxation
- Environmental assessment and protection
- Local government access to resources for public purposes and access to adjacent lands
- Servicing arrangements
- Regulatory arrangements
- Governmental relations
- Economic development

CONSULTATION AND INFORMATION SHARING PRINCIPLES

The Parties agree to the following principles governing consultation and information sharing:

- flexibility for local governments to identify and represent their interests in a way that they consider appropriate to their local circumstances;
- early notice to UBCM or affected local governments of a matter that may affect local government jurisdiction, including changes to Treaty process;
- sufficient information early on and reasonable time for local governments to document their interests and views and to provide advice to provincial negotiators and provincial representatives;
- due consideration of local government interests, views and advice;
- a response from provincial negotiators/representatives on how local government advice was used; and
- ongoing information exchange between the Province, UBCM and local governments.

DEFINITIONS

The following definitions cover the types of agreements referred to in this MOU:

Treaty: a comprehensive agreement negotiated among B.C., Canada and a First Nation under the B.C. Treaty

Commission process that is a full and formal expression of reconciliation between First Nations and the Crown.

Treaty Related Measure (TRM): a temporary arrangement negotiated by B.C., Canada and a First Nation at a negotiation table that is tied directly to treaty topics under negotiation. They are cost-shared between Canada and the Province.

Incremental Treaty Agreement (ITA): a legally-binding, longer term arrangement negotiated at a treaty negotiation table.

An ITA permits the parties to conclude agreements on topics typically addressed under treaty negotiations and to implement the agreement in advance of a final Treaty.

Non-treaty Agreements: refers to social, land, resource or economic development agreements negotiated between a First Nation and the Province outside the B.C. treaty process that have the potential to impact local government.

Indigenous Initiatives: refers to all other policy and initiatives relating to First Nations and Indigenous peoples, including those focused on reconciliation efforts, that have the potential to affect local government.

ROLES AND RESPONSIBILITIES RESPECTING CONSULTATION AND INFORMATION SHARING WITH LOCAL GOVERNMENTS FOR TREATY AGREEMENTS, NON-TREATY AGREEMENTS AND INDIGENOUS INITIATIVES

1. GENERAL CONSULTATION AND INFORMATION SHARING PRINCIPLES

The Province

The Province will initiate contact with a local government when:

- an agreement with a First Nation will be negotiated; and
- the outcome of negotiations will affect the local government's jurisdiction, operations or provision of services.

The Province will consult and exchange information in a timely manner with the local government according to the consultation and information sharing principles stated in this MOU.

The Province and the local government will jointly determine the level of the local government's involvement ranging from receiving information to participation at meetings and providing advice.

Local Government

Local governments will serve as respected advisors to the Province in negotiations that affect their interests.

Based on their interests and the level of activity of a negotiation, local governments and the Province will jointly determine the level of involvement ranging from receiving information to participation at meetings and providing advice.

Local governments are responsible for defining and sharing their interests and other relevant information with the Province, and will advise the Province how their interests may be addressed.

Local government representatives are subject to any and all confidentiality rules and practices that apply to a negotiation. They may, after consultation with the Province, share confidential information with their respective councils and regional district boards, other local governments, or local government structures, and with UBCM on an in-camera basis.

2. CONSULTATION AND INFORMATION SHARING PRINCIPLES SPECIFIC TO TREATY AGREEMENTS, TREATY-RELATED MEASURES, INCREMENTAL TREATY AGREEMENTS AND TREATY INTERIM MEASURES

The Province

Structure: The Chief Negotiator leads the provincial negotiating team in all aspects of the negotiations and provides direction to all team members.

Information: Provincial negotiators will, in a timely manner, provide their local government representative with table-specific agendas, work plans, documents for discussion and other relevant information.

Consultation: Provincial negotiators will consult and exchange information in a timely manner with potentially impacted local governments on issues considered important by either the Province or the local government, according to the consultation principles stated in this MOU.

Side Tables: Where the local government and First Nation agree, the provincial negotiators 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 provincial negotiators 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, the provincial negotiators will keep local government representatives informed of any developments at the table through regular information updates and exchanges.

Local Government

Role: Local government representatives are members and respected advisors on provincial treaty negotiation teams until a negotiation is concluded and the treaty takes effect.

Treaty Implementation: Prior to the effective date, local government and the Province will discuss local government involvement in treaty implementation and make every effort to come to an agreement that identifies the significant issues of interest to local government and how local government will be involved/informed during the implementation of these issues.

On the effective date, the First Nation and neighbouring local governments will engage directly with each other and continue to develop and build their relationship.

Attendance: Local government representatives will have the opportunity to attend treaty-related discussions and negotiations including main tables, side tables, working groups and bilateral meetings.

Interests: Local government representatives are responsible for defining and representing their interests in matters related to negotiations and for sharing these interests and other relevant information with the provincial negotiating team.

Providing advice: Local government representatives will engage in discussions and contribute advice on all matters concerning the future local government-First Nation relationship, including engagement on overall treaty process changes.

Structure: Within the area defined by a First Nation's Statement of Intent, local governments will collectively determine how they will be organized to participate in a negotiation – e.g. as an alternate local government structure – and will advise the appropriate provincial negotiator of their chosen structure as well as the primary contact(s).

Involvement: Based on their interests and the level of activity at the specific treaty table, local governments may determine the level to which they wish to be involved ranging from receiving information to participation at meetings and providing advice.

Confidentiality: Participating local government representatives are subject to any and all confidentiality rules and practices that apply to a negotiation. They may, after consultation with the lead provincial negotiator, share confidential information with their respective councils and regional district boards, other local governments, and with UBCM on an in-camera basis.

ENGAGEMENT BETWEEN THE PROVINCE AND UBCM

The Province will share information with UBCM and/or a body designated by the UBCM on the Province's approaches to the development of Indigenous Initiatives, treaty agreements and non-treaty agreements. The Parties will work together on identifying the appropriate avenues for this information sharing to ensure clear and full understanding of the processes and activities underway.

Provincial officials will consult and exchange information in a timely manner with UBCM on issues that have the potential to broadly affect local governments, including, but not limited to:

- changes to treaty process, and
- the adoption and implementation of the United Nations Declaration on the Rights of Indigenous Peoples, the Calls to Action of the Truth and Reconciliation Commission, and the Tsilhqot'in Supreme Court Decision.

The Province will engage and provide information to UBCM on policy related to Indigenous Initiatives and seek feedback.

UBCM will share information in a timely manner with the Province on emerging issues for local governments and initiatives relating to First Nations and Indigenous Peoples.

UBCM will advise local government members of joint initiatives and engagement with the Province addressing First Nations and Indigenous Peoples.

The Parties will work jointly on initiatives to build understanding and awareness and to further support reconciliation.

The Parties may jointly develop an implementation plan to operationalize the MOU, including a schedule of meetings.

UBCM will monitor the progress of provincial notification and consultation with local governments on relevant agreements with First Nations.

REVIEW

This MOU will be reviewed three years from the date of signing unless the Parties jointly agree to an earlier review.