First Nation Property Tax, Services and Economic Development in British Columbia

Presented to:
the First Nations Tax Commission and the Union of BC Municipalities

This paper reflects the views of the authors only and not necessarily those of the First Nations Tax Commission or the Union of BC Municipalities.

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First Nations in British Columbia have made more progress toward becoming part of the Canadian federal system in the 26 years since the introduction of First Nation taxation in 1988 than they did in the more than one hundred previous years, dating back to the passage of the *Indian Act* in 1876. In this short policy analysis we will briefly review the problems that led to the 1988 *Indian Act* amendments, the progress since that time, and the kinds of policies that will contribute most toward continued benefits for First Nations, other governments, and all citizens of Canada.

II. First Nation Taxation and Service Issues before First Nation Property Tax (pre-1988)

Before 1988, forty five reserves were considered within the boundaries of municipalities and the remaining reserves within regional districts, school districts, and other kinds of local governments. These local governments all levied property taxes on leaseholds held by non-Aboriginals on reserves, as did the provincial government on reserves outside of municipal boundaries. None of these governments had any legal requirement to provide services to the lease-paying taxpayers.[1] The levying of taxes by the local and provincial government on reserve lands, a practice abandoned in other provinces, while generating significant revenues for a few local governments, also resulted in problems for both First Nations and local governments, especially municipalities.

Complaints about the levying of property taxes on reserves by non-Aboriginal governments had been voiced by First Nations since the 1970's. The complaints from First Nations included that such taxation lowered the market value of leaseholds because leaseholders had to pay taxes but did not receive service benefits in return. First Nations also objected to their lack of political control over taxation levied on their territories.

The findings of a study of taxation and service relationships in 1987 concluded[2]:

- Overall tax revenues from reserve lands for all governments in BC were $7.6 million, less than 1% of all provincial property tax revenues.
- Some municipalities obtained significant revenues (Vancouver, West Vancouver, District of North Vancouver) and others derived a significant share of their property tax revenue (Burns Lake 28.9%, Duncan 15%) from reserve leaseholds.

[1] In a technical sense these BC governments were not levying a "property tax" on reserve lands, but rather were levying a tax on the non-Aboriginal leaseholder with the amount calculated as if it were a property tax.

[2] Robert L. Bish, Property Taxation and the Provision of Government Services on Indian Reserves in British Columbia. Center for Public Sector Studies, University of Victoria, March 1987. (53pp).

- On average, only 25% of the on-site services provided to other municipal tax payers were provided to leaseholders without additional contractual relationships and payment, but some municipalities provided full services while others provided none (on-site services include fire protection, water, sewers, roads, etc).

The most important problem for local governments was that there was no way to enforce the collection of delinquent taxes, but as collectors for the provincial government (school taxes), regional districts and other local governments, they had to pass on the amounts levied by those governments whether or not they actually collected the taxes from leaseholders. With no way to enforce collection, and the lack of cooperation from First Nations who objected to the taxation in the first place, delinquency rates were very high. While delinquency data for individual municipalities was not available, the Provincial Surveyor of Taxes reported that delinquencies on current and back taxes were 59.8% of the 1986 levy on reserve.

Complicating the tax-service-delinquency issues were several other issues in the relationship between First Nations and other governments. While provincial legislation required municipalities to tax leaseholders on reserves, there was no obligation to provide services, and municipal regulatory by-laws such as zoning, noise, and animal control were not applicable to reserve lands. Further complicating matters for both First Nations and municipalities was the uncertain status of legal contracts between First Nations and municipalities, and subsequently, regional districts. While the *BC Municipal Act* provided that municipalities had the authority to contract with First Nations and court decisions concluded that First Nations had the power to contract without Indian and Northern Affairs Canada (INAC) involvement, some British Columbia lawyers advised their clients that contracts with First Nations had to be signed by the Minister. Earlier research indicated that the Minister was historically involved in contracts for capital projects between First Nations and municipalities, but that INAC also was a very poor contract manager, a problem that was complicating First Nation-local government relationships in several communities. In spite of these difficulties there were many contracts for services between First Nations and municipalities that were working well and did not have the involvement of INAC.

Provincial government property taxes in rural areas are used to provide partial funding for policing and roads. Policing was always provided to reserves under the subsidized provincial contract with the RCMP, but because roads on First Nation reserves were not owned by the Provincial government, they provided no roads or road maintenance to the tax-paying leaseholders on reserve. Throughout the province, the provincial and municipal governments collected property taxes for schools. Because these taxes are submitted to the provincial government, which in turn provides financing to school districts on a formula basis, there is no relationship between school property taxes and school services. All children in the province are entitled to attend public schools and this included children residing on reserve leaseholds. The federal government also finances public schooling for Aboriginal children with transfer payments to the province.

III. Clarifying Property Taxation and Service Responsibility on Reserves: Bills C-115 and 64 (post-1988)

While the 1987 study of tax-services relationships was underway, Kamloops Indian Band Chief Manny Jules and INAC developed Bill C-115, the 1988 amendment to the *Indian Act*. The amendment clarified that conditionally surrendered reserve lands (land leased to non-Aboriginals and called "designated lands" in the legislation) remained under jurisdiction of the First Nation and that all First Nations were authorized to levy property taxation. The Bill did not exclude provincial and local government taxation of leasehold land on reserves, but legal opinions held that if a First Nation introduced property tax that was specifically for the benefit of the First Nation, courts would rule to exclude provincially sponsored taxation. A consequence of the legislation was the creation of the Indian Taxation Advisory Board (ITAB) to regulate First Nation property tax. Following the passage of the legislation, ITAB proceeded to sponsor information workshops, provide informative publications, conduct research, and provide training in implementing property tax to representatives of interested First Nations.

As part of INAC funded research, a very detailed analysis of the implications of Bill C-115 was published in 1991[3]. Because of its use of specific case studies, it revealed an additional problem in the relationship between local property taxes and service provision that was not revealed by the previous province-wide study. This study analyzed taxes, service arrangements, service costs, and the revenue-service cost balance for the Cowichan, Musqueam, Westbank, Burns Lake, and Lake Babine First Nations and all BC governments within whose tax jurisdiction they were located. The leaseholds on these reserves accounted for approximately 30% of all leasehold property taxes in the province and represented a variety of situations.

[3] Robert L Bish, Eric G. Clemens, and Hector G. Topham. Study of the Tax and Service Implications of Bill C-115 (Taxation amendments to the Indian Act). Center for Public Sector Studies, University of Victoria, October 1991. (134pp).

The study concluded that where leaseholds were primarily commercial (Cowichan, Burns Lake) or very high-value residential (Musqueam), property tax revenues exceeded the average share of service costs funded by property taxes in the respective local governments. However, where leaseholds were primarily residential (Westbank), especially if low-valued, property tax revenues did not cover the average share of service costs financed from property tax revenues.[4] It was also recognized that by selecting case studies where revenues were significant, most service delivery issues had been resolved by local agreements in the past. Such agreements were not as common for First Nations where lesser revenues were involved. The mismatch between property tax revenue and service costs continues to be a problem for some First Nations just as it is for small municipalities that lack a balanced tax base.

The initial provincial government response to Bill C-115 (the taxation amendments to the *Indian Act*), the *Indian Land Tax Co-operation Act* (Bill 77), authorized the British Columbia Assessment Authority, the Surveyor of Taxes and local governments to provide tax administration services to First Nations. It did not, however, end the main issues under dispute: the taxation of First Nation lands without the permission of the First Nation and without the provision of services.

Bill 77 was replaced in 1990 by Bill 64, the *Indian Self Government Enabling Act*. This act provided three options for First Nations:

1. **Concurrent property tax jurisdiction:** This would be an arrangement where both BC local governments and the First Nation would levy taxes on leasehold lands, with an agreement on tax sharing and service responsibility worked out between them.

2. **Independent property taxation:** First Nations could exclude all other taxing jurisdictions, levy their own property taxes, and make their own purchase of service agreements with other governments.

[4] The most important reason for this result is that in BC it is common for property tax rates to be much higher on commercial and industrial property than on residential. Thus commercial and industrial property taxes tend to be much higher than the costs of services to those properties while residential property taxes do not cover the costs of servicing residential property.

3. **Indian Districts:** If the federal government granted corporate status (similar to Sechelt) the First Nation could use either property tax option and participate in provincial programs for municipalities including provincial revenue sharing, the Municipal Finance Authority, and other grant programs.

With all of the options, the First Nation could contract with the BC Assessment Authority, other BC government agencies, or local governments, for tax administration and services. Bill 64 clearly recognized that First Nation governments had both tax and service responsibility for reserve lands. However, for any First Nation that did not implement property taxation, the provincial government and local governments would continue to tax the leaseholds on those lands. There are still some First Nation lands in BC (such as the Okanagan First Nation) where the provincial and regional district governments continue to collect taxes from First Nation lessees.

IV. The Implementation of First Nation Property Tax

There were four very important changes with the passage of Bills C-115 and 64. They were:

1. The legislation clarified jurisdiction on First Nation reserves. It was now clear that the First Nation government had regulatory control and exclusive jurisdiction for taxation of leasehold lands on reserves.

2. The legislation changed bargaining power between local governments and the First Nations. Local governments lost jurisdiction to impose taxes on leaseholders without providing services. Future relationships would be between equal parties who could make service arrangements for mutual benefit.

3. The legislation provided for First Nations to have an independent revenue base. Such a revenue base could be used to finance infrastructure to promote economic development on reserve lands.

4. The Indian Taxation Advisory Board was established in 1989 to regulate and make recommendations to the federal Minister of Indian and Northern Affairs Canada on the approval of property tax by-laws enacted pursuant to the Indian Act. The Board included both First Nation and non-First Nation members. All of the non-First Nation members were experts in property taxation and some of whom also represented taxpayers.

ITAB proceeded to develop an extensive body of policy and assisted First Nations with the development and implementation of their property tax systems. It also maintained a policy that First Nation property tax systems should be compatible with their respective provincial systems to ensure a smooth transition to First Nation jurisdiction. This policy meant that First Nations would use compatible assessment practices and classifications as those used by other property taxing governments in the province.

The implementation of First Nation property tax and renegotiation of existing contracts went reasonably well, although some local governments, who wanted a veto over First Nation property tax within their area until service revenue sharing contracts were in place, objected to the implementation of property tax by First Nations[5]. ITAB played a major role in providing research, consulting, training, and dispute resolution services. The provincial Ministries of Aboriginal Affairs, Finance, and Municipal Affairs all facilitated implementation of the Bill 64 legislation. The BC Assessment Authority provided the First Nations with initial assessment rolls at no cost and entered into contracts to continue the assessment function for most First Nations entering into taxation. The Ministry of Finance also agreed to withdraw from school taxation[6] with no reduction in education services. This freed up tax revenues for First Nation use that were often in excess of the costs of providing other local government services. The Ministry also agreed that if a First Nation submitted school taxes to the province, it would rebate the funds for homeowner grants.

Because there was considerable variety in First Nation-municipal tax-service relationships, there was less uniformity in the response by local governments to a First Nation's implementation of taxation on a reserve within municipal boundaries where the municipality had previously received tax revenue—whether or not it provided services to leaseholders or the entire reserve. It was also becoming clear that some First Nations outside of municipal boundaries could potentially benefit from either contracting with the regional district or participating directly in regional district functions to obtain services in the most efficient manner.

[5] See for example UBCM Resolutions 1993:B22, 1995:LR4, and 1995:A16. Online at http://www.ubcm.ca/resolutions/default.aspx

[6] School taxes are collected under that designation by the provincial government and go into provincial general revenue. School district funding is through a formula by the provincial government and has no relationship to the "school taxes" collected. Provincial "school taxes" cover only one-third of school expenditures with the remainder coming from other provincial revenue sources. However, if the deduction of the Home owner Grants are taken into account school tax revenues are even less, perhaps no more than 10% of the cost of schools. School districts themselves do not levy property taxes.

Tzeachten and Chilliwack – A Model Service Agreement

In 1991, Tzeachten signed a service agreement with Chilliwack. The negotiations were acrimonious and neither party was particularly satisfied with the agreement because the First Nation felt they were paying too much for the services they received and the local government felt uncertainty about future development on Tzeachten lands. In 2006, the parties renegotiated their service agreement. It included a comprehensive land use planning process, an agreement about development cost charges and a new pricing approach for services provided on First Nation lands. As a second generation service agreement it not only represents a model that has been used by other First Nations in the Chilliwack area and Fraser Valley, but it demonstrates how both parties can realize mutual benefits when they focus on their common interest – regional economic growth.

Many of the early service contracts have been renegotiated and renewed. There were also mediations and some arbitrations where disputes arose. There are now many contracts between First Nations, municipalities and regional districts.[7] In general, contracts provide for the provision of on-site services to reserve lands (in some cases just leaseholds; in others the entire reserve). The common services negotiated within these agreements are fire protection, water provision, sanitary sewage collection and disposal, and 911 emergency dispatch. In some cases, they can also include such services as building inspection, transit, storm water management, dog control, noxious weed control, parks and recreation, and libraries. Payment approaches vary with the two most common being a negotiated price for the service package or a payment equal to the municipal taxes that would have otherwise been collected from the leaseholders. Different approaches are taken because reserve lands vary considerably both in their land use and in the relationship between taxes that would be raised at municipal rates and the costs of services. In general, reserves with commercial or high valued residential properties would raise more tax revenue than service costs while reserve lands that are residential, especially if occupied by low-valued mobile homes, do not generate sufficient taxes revenues to cover service costs. Some municipalities have entered into contracts to provide services at a tax-equivalent price to residential reserves because they recognize that the reserve leaseholders are part of their community and that everyone will benefit if reserves maintain higher service quality and have future economic development.

[7] Appendices A and B contain examples of many of these agreements in British Columbia.

The creation of an independent revenue source has also provided First Nations with the resources and greater incentive to promote economic development. The development of property tax powers allowed several First Nations to either finance capital improvements necessary to attract further investment or to provide investors with the certainty that services would be available through the life of their investment. The former was more often the case where property tax room was assumed from a local government. In some cases, such as Osoyoos, the assumption of tax authority also provided an impetus for the courts to clarify the status of land over which the adjacent jurisdiction had claimed a right of way.

The Squiala First Nation is a more recent success story. The enactment of tax laws in this case allowed the First Nation to ensure services for Walmart. This resulted in an increase in annual tax revenues from roughly $9,000 per annum to $800,000. There are many other examples throughout the province where the implementation of taxation has led to revenues to finance infrastructure, which in turn led to additional economic development on the reserve. Other First Nations that have used tax revenues to finance major economic development on their reserve include the Tsawout, Squamish, Shuswap, Tk'emlups and Skeetchestn First Nations.

Education and Training

ITAB

When the amendments to the *Indian Act* permitting property taxation on reserve were passed, followed shortly by Bill 64 in BC, there was virtually no experience with property taxation in First Nation communities or within INAC. One of the first education and training priorities for ITAB was to provide the opportunity for First Nation administrators to become knowledgeable about the steps in property taxation, including assessment policies and practices, assessment appeals, budgeting and rate setting, collection systems and enforcement.

To achieve this end, ITAB contracted with experienced professionals to prepare and teach courses. These included a course in setting budget-based property tax rates, a course in establishing a financial management by-law, and a course in using ITAB's proprietary tax administration software at that time: CLASS. Over 60 students, representing 32 tax collecting First Nations, took these courses.

In addition to these courses, ITAB also developed spreadsheet applications to help First Nations and local governments establish pricing arrangements for service agreements and to help First Nations conduct a preliminary property tax revenue potential estimate. The service agreement application was used in 12 service agreement negotiations and the revenue potential application was used by 15 First Nations who eventually passed property tax by-laws.

All of the early ITAB software, spreadsheet applications and courses were updated or replaced and are still in use by the First Nations Tax Commission (FNTC), the successor to ITAB. For example, the CLASS software was replaced by the Tax Administrator's Software (TAS), the service agreement application was updated to include the latest formulas, and all of the early courses were updated and rewritten for use in the accredited First Nation Tax Administration Certificate offered by the Tulo Centre of Indigenous Economics (Tulo) and Thompson Rivers University (TRU).

University of Victoria

The School of Public Administration at the University of Victoria had the most developed courses for local government officials among the universities in the province. Courses in Local Government were offered as a Certificate Program, as part of a Diploma in Public Sector Management and as part of the MPA. The courses also met requirements for provincial government issued certificates in Local Government Administration. In 1994, the School received a grant from the Donner Canadian Foundation to begin a course in Property Tax Policy and Administration with a First Nation focus and to create the First Nations Tax Administrators Institute. The property tax course covered the components of property tax administration plus the issues of service delivery contracting from local governments. This course was offered in Victoria and Vancouver and enrolled both First Nation and non-First Nation students beginning in 1995. With Professor Bish's retirement in 1998, the course evolved into a course in local government finance and finally into a focus on local government financial management (its title was changed to Local Government Finance). The course continues to be offered as part of the Local Government Administration Certificate, Diploma in Public Sector Management, and is available as part of the MPA program. However, it no longer has either a property tax or First Nation emphasis. The University also offered a Certificate in the Administration of Aboriginal Governments for several years but, following Professor Frank Cassidy's death, Professor Robert Bish's retirement, and the administrator moving to Camosun College, it has been discontinued due to lack of interest among other faculty. More recently Capilano University and Northwest College have been enrolling First Nation students in their local government courses and representatives from the Tulo Centre of Indigenous Economics have been participating in discussions about local government education opportunities with the local government community.

The First Nations Tax Administrators Institute (FNTAI) began in 1994. The Institute was modeled on the Municipal Officers Association of British Columbia (now the Local Government Management Association) and its purpose was to bring together First Nation tax administrators annually to provide continuing education in taxation. Annual meetings included updates on assessment appeals, ITAB policies, and other issues related to First Nation taxation. The Institute also included sessions for new Tax Administrators. The FNTAI was run for its first 5 years by the Local Government Institute at the University of Victoria, and then its operation was turned over to a committee of First Nation tax administrators who incorporated it as the First Nations Tax Administrators Association (FNTAA). The FNTAA continues to hold annual conferences and provides advice to the FNTC on tax policy issues. Its 21st annual conference will be held in Songhees in September 2014.

The education and training provided during produced a large number of First Nation tax administrators who are knowledgeable in property taxation. By 2013, 183 First Nations across Canada collected over $70 million in property taxes.

V. The Evolution of First Nation Institutions

The development of First Nation taxation after the passage of Bill C-115 created a need for an agency to support First Nations in implementing taxation. There was also a need to provide a regulatory framework that would ensure the integrity and fairness of the system and supported its evolution in a way that would eventually allow low administration costs and participation in regional systems. However, at the time that Bill C-115 passed there was virtually no familiarity with property taxes, limited experience with municipal type services and very limited experience with relationships between First Nations and local governments. To fill this gap, the Indian Taxation Advisory Board (ITAB) was created to advise the Minister of Indian Affairs and Northern Development Canada on the approval of by-laws passed pursuant to s.83 of the *Indian Act*.

The establishment of ITAB to support the implementation of First Nation property tax led to the development of a considerable body of expertise within ITAB and the establishment of a fully specified regulatory framework. It was successful beyond expectations in terms of the growth of revenues and the number of participating First Nations. However, taxation-supported developments on First Nation lands led to a new type of challenge: integrating First Nation economies more fully into the economic union of Canada. Related to this was the challenge of integrating First Nation governments into more fully specified fiscal and service relationships, particularly at the local and regional level.

Several new pieces of legislation were passed to address this new challenge, including, most importantly, the *First Nations Fiscal Management Act* (FMA) in 2005, which established the First Nations Tax Commission (FNTC), as well as the *First Nations Commercial and Industrial Development Act* (FNCIDA), the *First Nations Land Management Act* (FNLMA) and the proposed *First Nation Property Ownership Act* (FNPOA). These acts are designed to increase the capacity of First Nations to become part of the Canadian market economy. The FNTC has also created the Tulo Centre of Indigenous Economics to provide education and research to support the FNTC objectives, including greater coordination with other governments and creating the statutory and regulatory environment for First Nations to become full participants in the Canadian economy.

First Nations Fiscal Management Act (FMA)

The *First Nations Fiscal Management Act* (FMA) was enacted in 2005. The FMA transferred Ministerial authority over First Nation property taxation from the former ITAB to the First Nations Tax Commission (FNTC), a shared-governance institution with federal law-approval powers. The reassignment of law-approval powers was intended partly to improve the efficiency of the First Nations tax system. When Ministerial approval was required, laws would take two months to be approved. The same laws can now be approved in one to four weeks. First Nations are now much more responsive to opportunity as a result. In addition, the FMA also allowed First Nations to address the issues of economic development, services, and fiscal integration. It provided First Nations with important new revenue authorities and also created a regulatory regime which will better support First Nations accessing financing and attracting investment. It is also intended to serve as a better platform for developing partnerships with other governments. This legislation was designed to raise First Nations local revenue powers to the same level as local governments in Canada, improve First Nations access to capital markets for infrastructure financing, and enhance the First Nations investment climate. However, it should be noted that First Nations still have the option to collect property tax using the *Indian Act*.

The FMA established three institutions[8] to support participating First Nations in the implementation of their local revenue, financial management, and long term financing powers. These three institutions create a regulatory framework for First Nations equivalent to the provincial regulatory framework for local governments.

First Nations Tax Commission (FNTC) – The FNTC creates the regulatory framework for First Nation local revenue and expenditure systems and provides supportive services to help First Nations implement their local revenue and expenditure powers, including debenture financing. The regulatory system includes ensuring First Nation laws comply with the FMA, FMA regulations, and FNTC standards. It includes resolving taxpayer or First Nation complaints about the local revenue system through an administrative tribunal process and establishing the criteria for First Nations local revenue borrowing laws. The regulatory system is intended to provide investor and taxpayer confidence and certainty. FNTC services include sample laws, law development, and review, university accredited education and training, tax administration software, the *First Nations Gazette*, service agreement negotiations support and dispute management. Nine members of the Commission are appointed by Canada and one by the Native Law Centre and include both First Nation and non-First Nation members. In sum, the FNTC provides many functions and services similar to provincial ministries responsible for regulating local governments. Through a memorandum of understanding with the Minister of Aboriginal Affairs and Northern Development Canada, the FNTC provides advice to the Minister on the approval of by-laws enacted pursuant to the *Indian Act*.

[8] Originally, the FMA included a First Nations Statistical Institute as well as the other three institutions. However, FNSI never became operational. The sections of the FSMA, as it was then, pertaining to FNSI were removed and the legislation became the FMA.

First Nations Financial Management Board (FMB) – The FMB provides First Nations with a regulatory framework for financial management. This includes review and approval of financial administration laws, creating and certifying First Nation financial management standards, education and training, creating and reviewing First Nation local and other revenue auditing and financial reporting standards and, if required, providing intervention services to rectify issues related to improper application of local revenue laws or debenture non-payment. The FMB provides confidence in First Nation financial management systems to taxpayers, investors, and First Nation members. Six members of the FMB are appointed by Canada, three members by the Aboriginal Financial Officer Association, and include both First Nation and non-First Nation members. Together with the FNTC, the FMB provides regulatory functions that are similar to the inspector of municipalities within provincial governments.

First Nations Finance Authority (FNFA) – The FNFA is similar to the Municipal Finance Authority of BC except it is based on voluntary participation. It helps to create First Nation borrowing pools and then markets and issues debentures on behalf of that pool. It secures these debentures with local or other (non-local) revenues.

The legislation and institutions created by the FMA changed the fiscal framework within which First Nations entering into property taxation can operate. The most important features include:

- First, and most important, the FMA created a system of regulatory oversight and enforcement to support First Nations in improving accountability and transparency beyond that possible through the commitment of a Chief and Council alone. One important feature was the development of an enforcement regime that can impose 3rd party management (the FMB) in the event of non-compliance with regulation. The regulatory system is supported by training and templates that encourage more transparency in financial management and reporting. It is working to ensure that both expenditures and revenues made out of the local revenue account are consistent with local purposes. This allows First Nations to replicate, in many important respects, the system used by other governments.

- Second, the FMA expanded the range of revenue options available to First Nations. Some of the most important expansions were to allow for Development Cost Charges (DCCs) similar to those used by municipalities; hotel taxes to encourage the development of tourism on First Nation lands; taxation for the provision of services, business activity taxes and long term debentures. All of these new revenue options will help First Nations overcome the challenge of needing to finance initial infrastructure improvements in order to realize the potential of land development.

- Third, First Nations may now create laws that specify that, in the event of property tax non-payment or a violation of land-use rules, individual's property rights can revert or be appropriated back to the First Nation. This resolves one of the most difficult aspects of property taxation: clear enforcement powers.

- And finally, the FMA provides for a voice by taxpayers in tax decisions accompanied by provisions to reconcile conflicts of interests and provide measures for facilitating solutions, including mediation.

It is important to note that the initiative for the FMA came from First Nations and was passed by Parliament with all party support.

First Nations Commercial and Industrial Development Act (FNCIDA)

First Nations are increasingly advancing major on-reserve projects that are: (1) large in scale, (2) long term, (3) complex (i.e. involve First Nations, industry, provinces, and multiple federal departments), and/or (4) have revealed regulatory gaps.

Accordingly, FNCIDA was introduced in the House of Commons on November 2, 2005 and came into force on April 1, 2006. It came about as an initiative led by the Squamish Nation (British Columbia), Fort McKay First Nation (Alberta), Tsuu T'ina Nation (Alberta), Carry the Kettle First Nation (Saskatchewan) and Fort William First Nation (Ontario). FNCIDA was intended to develop First Nation economies, provide additional tools for management of reserves, increase quality of life and allow First Nations to become more self-sufficient.

This optional, First-Nation-led legislation also received all-party support in Parliament. It is an innovative piece of legislation designed to fill the regulatory gaps[9] on First Nation lands. In particular, it enables the federal government to develop regulations that allow provincial legislation and regulations to apply on First Nation lands, with the concurrence of the relevant province. These regulations would also allow First Nations to contract with provincial regulatory bodies as required.[10]

It is important to note that the FNCIDA deals only with provincial regulatory legislation and not local government regulation. The UBCM has expressed concerns regarding regulatory and liability issues related to servicing reserve land and has requested federal and provincial assistance in resolving these issues.[11] There are likely to be cases where First Nations will want to contract with local governments to extend local government regulations to First Nation leasehold lands. Those kinds of agreements are already in some service agreements and are done through contracts with the respective parties.

[9] A regulatory gap creates uncertainty with respect to the process, time and costs associated with a project, and can divert potential investors from First Nation reserve lands to off-reserve jurisdictions where an established and familiar regulatory framework exists. Off-reserve commercial and industrial activities are governed by comprehensive provincial statutes and regulations that the province updates periodically. However, the elements of provincial regulatory regimes that relate to land use do not apply to reserve lands. Source: Indian and Northern Affairs Canada, 2008, "Frequently Asked Questions - First Nations Commercial And Industrial Development Act," Online at http://www.ainc-inac.gc.ca/ecd/cid/faq-eng.asp.

[10] Alcantara, C., Flanagan, T., & LeDressay, A., "Beyond The Indian Act: Restoring Aboriginal Property Rights," McGill-Queen's University Press, 2010.

[11] See UBCM Resolution 2012:SR1 "Service Agreements with First Nations and the Regulatory Gap" online at http://www.ubcm.ca/resolutions/

First Nations Land Management Act (FNLMA)

The *Framework Agreement on First Nation Land Management* was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations in 1996, and was ratified and implemented by Canada in the *First Nations Land Management Act*, in 1999. A First Nation signatory to the Framework Agreement can exercise land management powers outside of the *Indian Act* by creating its own Land Code, approved through a community ratification process and entering into a further Individual Transfer Agreement with Canada. Participation is voluntary, and the Framework Agreement creates an indigenous institution, the Lands Advisory Board, to help implement the jurisdiction. 36 First Nations have operational land codes and a further 58 are in development [12].

First Nations under the FNLMA can assume authority over many land management jurisdictions. This means First Nations using the FNLMA can provide certainty to investors with respect to a number of land management responsibilities including land use planning, zoning, development processes, leasing and rules associated with land usage. In particular, First Nations have the power to make laws in respect of the development, conservation, protection, management, use, and possession of their First Nation land.

The FNLMA also has the potential to significantly reduce the costs of doing business on First Nation lands. Well crafted and administered land laws can provide transparency and certainty to investors. The FNLMA can also allow First Nations to establish more secure and tradable land tenure. Local administrations can provide these services and reduce investor transaction costs.

The powers provided for in the FNLMA are common to all local governments in Canada and are essential for First Nation governments that want to cooperate with adjacent local governments and participate in regional district growth strategies.

[12] Department of Aboriginal Affairs and Northern Development, First Nations Land Management - Operational and Developmental First Nations), on line at www.aadnc-aandc.gc.ca

First Nation Property Ownership Act (FNPOA)

FNPOA is a proposed piece of legislation for First Nations who want to opt out of the *Indian Act* reserve land system, and have greater jurisdiction and title to their lands:

- First Nations would have the option (requiring majority support of members) to hold the legal title to the land currently held by the Crown as "reserves" under the Indian Act;
- Individual First Nations would have the power to transfer title in fee simple (with any restrictions they would deem fit) to individuals without any loss of their jurisdiction over the land despite any possible change in ownership;
- First Nation jurisdiction over First Nation Land would be substantially expanded;
- A number of important safeguards should be included to preserve the First Nation character of the land; and
- The new First Nation Land would be registered in a "Torrens" style land registry

Recognizing the work and commitment of the proponent First Nations and the FNTC, in January 2014, the House of Commons Standing Committee on Finance recommended that the FNPO legislation be developed and passed in the near future. They recommended that the federal government should "*Move forward with a First Nations property ownership act in order to provide Aboriginal Canadians with the same property rights as other Canadians.*"

The FNTC is pleased that it has received support for this initiative from the Minister of Aboriginal Relations and Reconciliation. There are now twelve First Nations that have indicated their support for FNPOA and ten of them are from BC. The FNTC believes that this initiative, by providing First Nations with greater certainty over their own lands and jurisdictions, will create economic benefit for First Nations, increase their stake in the economic success of the province as a whole, and thus create better conditions for the conclusion of Treaties and the resolution of other outstanding issues.

Tulo Centre of Indigenous Economics

The Tulo Centre of Indigenous Economics (Tulo) was created by the First Nations Tax Commission to operate as an independent non-for-profit educational and research institution. It is governed by a three person board of Directors. The chair is Chief Mike Lebourdais of Whispering Pines First Nations, the Academic Chair is University of Victoria Professor Emeritus Robert Bish, and the Vice Chair is Bud Smith, the former Attorney General of BC.

Tulo's mission is to continue the education and training formerly provided by ITAB and the University of Victoria and to expand its efforts to include a broader range of activities to assist First Nations and their members to participate in the Canadian governance and market systems. One specific objective is to help interested First Nations build the legal, administrative and infrastructure frameworks to support markets on their lands. Tulo currently delivers two certificate programs in partnership with Thompson Rivers University and the First Nations Tax Commission – an eight course - 17 credit certificate in First Nation Tax Administration, and a six course - 18 credit certificate in First Nation Applied Economics. Each course in these certificate programs has the applied economics (APEC) designation within the Business School. Twelve of the courses involve original curriculum only offered by Tulo-TRU that focus on specific First Nation legal, administrative, infrastructure or communications requirements to reduce the high costs of doing business on First Nation lands.

Tulo Centre of Indigenous Economics Courses

First Nation Tax Administration	First Nation Applied Economics
APEC 1610: Introduction to First Nation Taxation	ENGL 1810: Business, Professional, and Academic Composition
APEC 1620: Establishing First Nations Tax Rates & Expenditures	ECON 1220: Introduction to Basic Economics
APEC 1630: Assessment and Assessment Appeals	ECON 2630: Issues in Aboriginal Economics
APEC 1640: Administration – Tax Notices, Collecting and Enforcement	ECON 2640: Residential and Commercial Development on First Nation Lands
APEC 1650: Communications and Taxpayer Relations	ECON 2650: Investment Facilitation on First Nation Lands
APEC 1660: Service Agreements and Joint Contracts	ECON 2700: Economic Feasibility and Impact Analysis on First Nation Lands
APEC 1670: Development Cost Charges	
APEC 1680: Capital Infrastructure & Debenture	

Courses are delivered in either an online or intensive format. Online courses are taught online in a paced, cohort, tutor-led model over the space of eight to twelve weeks. They are offered through Thompson Rivers University Open Learning. Intensive courses are delivered in a classroom format. This format condenses the content from the full 8-12 week course into an intensive one-week session. Students attend the classes on the Thompson Rivers University campus.[13]

The courses developed by Tulo and Thompson Rivers University offer a wide range of course work in tax administration and economic development for First Nations. They are the most comprehensive on these topics available and the most extensive in the province.

Other Colleges and Universities

While Tulo-TRU courses serve First Nation students directly, a variety of courses in local government administration and finance are also available to First Nation students, with Northwest College and Capilano University specifically including First Nation content in their local government courses. Other universities and colleges with courses directly focussed on local government administration and service delivery for entering students include Camosun College, College of the Rockies, and the University of Northern BC. Their courses meet the requirements for the beginning certificate for local government administrators from the provincial government Board of Examiners. Local government courses for the more advanced certificates are offered by the University of Victoria, School of Public Administration. Tulo is currently working with UVIC and possibly Capilano to ensure transferability of courses and programs and to encourage more students to register in these programs.

[13] Tulo Centre of Indigenous Economics. (2011). Online at http://www.tulo.ca/default.htm.

VI. Emerging Policy Issues: Where do First Nations go from here?

Institutions necessary for First Nations to take their place among Canadian governments and participate in the market economy have been created over the past two decades. The task is not complete, however, and both opportunities and problems remain. Some of these are described below.

Implementing New Revenue Options

The FMA is providing First Nations with revenue raising options similar to other local governments. In 2013/14, the first FMA development cost charges law (Tk'emlups te Secwepemc), and the first FMA property transfer tax law (Tzeachten First Nation) were approved by the FNTC.

FMA Development Cost Charges (DCCs) are similar to municipal DCCs and charge a one-time tax on new developments to help finance infrastructure. The revenue is used for specific projects identified in the community's long term capital plan. Tk'emlups te Secwepemc's capital projects include a highway traffic interchange and a water reservoir, and the DCC law will play an important part in funding their capital infrastructure enhancements over the long term Having the capacity to impose DCC's will also facilitate service contracts with adjacent local governments where similar treatment of new developments is desired.

Another revenue option for First Nations under the FMA is Business Activity Taxes which includes collecting hotel taxes on reserve. Some First Nations in BC are interested in developing a hotel tax that would duplicate the hotel tax collected elsewhere in the Province. This tax would provide First Nations with needed revenues and also give them a greater stake in the successful development of the recreational potential of British Columbia. It would provide them with improved opportunities to participate in resort development by ensuring that more of the resultant tax benefits are made available to them.

First Nations in BC are currently exploring other FMA revenue options including taxation for the provision of services, and other business activity taxes.

In 2013, the first FMA long term capital borrowing law (Tsawout First Nation) was approved. This law enabled the Tsawout First Nation to borrow $2.15 million through the First Nations Finance Authority (FNFA)'s pooled debentures for the completion of much needed upgrades to Tsawout's sewage treatment plant. This means that Tsawout will be able to access capital at costs similar to those for BC municipalities, over a longer amortization period, and without requirements for collateral.

These new revenue options mean that First Nations have similar revenue raising powers to local governments in BC and will hopefully begin to close the substantial infrastructure gap that exists on First Nation lands compared to local governments.

Pricing Contracts for Services

An extensive range of service contracts between First Nations, municipalities and regional districts is listed in Appendix A and Appendix B. Because of the variable rate property tax system used in British Columbia those reserves with significant commercial property may generate property tax revenue in excess of service costs. Those First Nations with residential lands often do not generate sufficient revenue to cover service costs when the First Nation uses the same tax rates as adjacent jurisdictions, which most First Nations do.

One result of equivalent tax rates is that those First Nations with commercial property are reluctant to enter into service contracts based on tax revenues instead of actual costs. At the same time, municipalities are reluctant to sell services on a tax revenue equivalent basis when those revenues do not cover the costs of the services, as is the case for reserves that are substantially residential unless that residential is of very high value. The provincial government policy to exit the collection of school taxes on First Nation lands has left many First Nations with additional resources to improve infrastructure and obtain services beyond what could be provided with only the tax equivalent of municipal or regional district and provincial rural taxes. At the same time commercial reserves may generate large surpluses. The mismatch between property tax revenues and service costs caused by the use of variable tax rates the same as those used in adjacent jurisdictions is the root cause of these problems. They need to be understood during the service contract process.[14]

The alternative to First Nations using the same variable tax rates as adjacent jurisdictions is for First Nations to go to budget-based tax rate setting the same as is done by municipalities. This would result in property tax rates being either higher or lower than those in adjacent jurisdictions—the same as occurs between adjacent municipalities. Because municipalities must add provincially determined school tax rates to their municipal rates, this could mean that municipal rates may be higher than the rates on reserves and many would regard this tax competition as unfair. However, it must be recognized that for residences the Provincial Home Owner Grant (especially where the carbon tax abatement program applies) off-sets most of the "school tax" and for low-valued residences offsets part of their municipal taxes as well. There is no obvious reason to make a change in the existing situation, especially as earlier research also called into question whether the Federal government was paying the province too much per student for the education of First Nation students.

[14] Not everyone understands that when equivalent tax rates are used by a First Nation, the First Nation residential taxpayers may actually pay higher property taxes than residents in the municipality because in some cases the First Nation may not implement the provincial Home Owner grant program or, more recently, the provincial carbon tax abatement program that uses the Home Owner grant program. Tax equivalency only results for non-residential properties unless the First Nation has implemented an equivalent Home Owner grant program that includes carbon tax abatement.

Political Representation

Prior to First Nation taxation municipalities taxed reserve lands without being required to provide services to those lands. At the same time the leaseholders occupying those lands, as well as First Nation members, were allowed to vote in municipal elections. Now that First Nations exercise jurisdiction over First Nation lands for both taxes and services the issue of political representation needs to be revisited.

Two problems exist. First, in the past, First Nation leaseholders have had no voice in First Nation policies on taxes and services on leasehold lands. However, it is in the direct financial interest of the First Nation to maximize the value of leasehold lands and that is done by providing the mix of services at reasonable tax prices to satisfy leaseholders. In addition, the FMA provides First Nations with the jurisdiction to provide a voice in decisions over leasehold lands. To fulfil this responsibility, the FNTC has worked with taxpayers and interested First Nations to develop the legal and administrative framework for greater participation of taxpayers in decisions that impact them. In particular, the FNTC has developed a sample taxpayer representation law that ensures that taxpayers have a forum for their input and a local mechanism to resolve any disputes that arise. This model system is comparable and perhaps more inclusive than the system developed to support treaties.

The second problem is that First Nation members and leaseholders on reserves within municipal boundaries are allowed to vote in municipal elections even though none of the municipality's services, regulations, or taxes are provided to the reserve unless it is through a contract with the First Nation government. [15]

[15] This problem was the topic of a discussion paper by the Lower Mainland Treaty Advisory Committee entitled "*Voting in Local Government Elections and Referenda by Residents Living on Indian Reserves*" online at http://www.metrovancouver.org/region/aboriginal/LMTAC/LMTACDocs/VotingInLocalGovernmentElectionsAndReferendaByResidentsLivingOnIndianReserves%20_22-Sept-2011.pdf

One solution to the voting in municipal elections by voters who do not receive its services or pay its taxes would be to exclude these reserve lands from municipal boundaries. This would be accomplished using an Order in Council to redefine the municipality boundaries to exclude reserve lands. This would make absolutely clear that First Nations are responsible for their residents, both First Nation and non-First Nation, including arrangements for both services and taxes, and that municipalities are governed by their citizens who also receive services and pay taxes. With this clarification, the two governments can proceed to make joint service arrangements for the mutual benefit of their citizens. It should be the policy of the provincial government to respond favourably to requests from a municipal council that requests removal of a reserve from within its legal boundaries. This leaves this as a local option where the local council knows the relationship with the First Nation and makes the decision[16].

While relations between First Nations and municipalities need the most clarification, especially in regard to voting and representation, there are other situations where First Nation members and leaseholders vote in general local government elections for an electoral area director of a regional district outside of municipal boundaries. While this issue has not been as prominent as the mismatch between representation and taxation in reserves within municipal boundaries, the uncertainty of the relationship between First Nations and regional districts poses some problems.

[16] Removing a population from a municipality will also require adjustments within regional districts, where the population may need to be assigned to an electoral area if the First Nation itself is not becoming a member of the regional district. Such new arrangements will need to be worked out between the regional district and the Ministry of Community, Sport and Cultural Development—the current incarnation of Municipal Affairs.

Some Regional Districts provide services that are available to all residents within the area. These include recreation facilities and libraries that both First Nation members and leaseholders can make use of. One of the benefits of having First Nations as participating members within regional districts would be that First Nations could participate in the decisions and make financial contributions, including financial contributions based on the assessed value of all lands on the reserve instead of only on leasehold lands[17].

One solution for service cooperation is for a First Nation representative to sit on the Regional District committee that supervises that particular service and makes payments for that service as if it were a member municipality. This provides for more flexibility in service decisions, especially when capital investments are involved, than simple service contracts. As most Regional District Committee decisions are simply ratified by the Board, this would provide a useful approach to integrating First Nations into the governmental system without going immediately to full Board membership (although this option should be considered). This approach is especially relevant because First Nations are unlikely to enter into full membership where regional growth strategies are involved because they were not part of the regional growth strategy planning process. However, the prospect of full regional district participation would be an incentive for both First Nation and non-First Nation consideration of First Nation lands in future growth strategy planning.

Other Tax-Service Relationships

In addition to matching representation to taxation, there are other tax-service relationships that would benefit from resolution. The relationship of First Nations to Hospital Districts is one example. Hospital Districts levy small property taxes to provide for hospital planning and capital construction. Their governing board is usually the same members as the directors of the regional district.

[17] For First Nations to become full members of a regional district the aboriginal residents need to be included. This could include having a member on the regional district. Regional districts do not levy property taxes on individual properties; they send a requisition to the member municipality with the price based on their tax rate applied to the tax roll.

All First Nation members and leaseholders have access to hospitals across the province and it would appear appropriate that First Nations collect and submit equivalent hospital taxes to the hospital boards. First Nation members themselves are covered by transfers from the federal to provincial government on their behalf, although it is uncertain what is actually passed through to individual Hospital Boards.

One special issue in the lower mainland is TRANSLINK. Translink is essentially a provincial government body that levies significant property taxes to provide transportation throughout the Greater Vancouver Regional District and adjacent areas that wish to become members. All residents benefit from their services. We are unaware that any First Nations have been included in either the planning or governance of TRANSLINK. Our recommendation would be that, if TRANSLINK would like to obtain tax equivalent revenues from First Nations, their governing system would need to be revised to include First Nation participation in governance at the same time. At present, such participation is a decision to be made by each individual First Nation.

Planning and Mutual Boundary Coordination

Forty-five reserves are geographically within municipal boundaries - whether or not they are included in the legal definition of the municipality. Others are adjacent to municipalities. Physical proximity provides opportunities for cooperation for mutual benefit, rivalry to attract business and residents, and the potential for conflict over spillovers from developments within one government to the other. These situations are no different from those of adjacent municipalities with one major exception—the provincial government has created regional districts to deal with most of the boundary issues that arise and many regional districts have growth strategies that have not included First Nation participation.

Regional districts were specifically designed to provide a forum to promote cooperation on services and land use planning among local governments. While some regional planning functions have been abandoned, members still create growth strategies and have access to a provincially designated mediation-arbitration dispute resolution function. First Nations lack these institutions in dealing with municipalities or regional districts and although dispute resolution processes are included in many service contracts, they are specific to that contract.

One of the problems that face First Nations wanting to engage in major economic development is that they were never included in any planning or growth strategy processes at either the municipal or regional level. One approach to boundary problems is simple: First Nations will take impacts on adjacent governments into account to the same degree those governments took First Nation interests into account in their past decisions—a position that is certainly justified by past municipality and regional district decision-making. There would, however, be mutual benefits by having more regular processes for cooperation and dispute resolution. A problem is that no single senior government has the jurisdiction to impose such an institutional arrangement. This is because the provincial government creates the legal structure for municipalities, regional districts and other local governments and it is the federal government and FNTC which creates the legal structures for First Nations.

Because the provincial government has already created institutional arrangements specifically to facilitate cooperation among local governments—regional districts—the obvious solution is for the provincial government to enter into discussions with First Nations and local governments regarding First Nations membership on regional district boards. Presently this option is open only to Treaty First Nations, but many First Nations do not plan on entering into treaty arrangements. To exclude non-treaty First Nations from potential regional district membership is to exclude most First Nations from this option for the foreseeable future, including the largest and most economically developed First Nations, which would benefit most from better coordination with other local governments. The provincial government needs to revisit their policies on how First Nation participate in regional districts to enable First Nations to coordinate their activities with other governments at the local level for the mutual benefit of all parties[18].

[18] The inclusion of First Nations in regional districts will require some participation to be different from municipal members. Most important is that First Nations would use the First Nations Finance Authority for debt finance instead of the Municipal Finance Authority. The regulatory system for First Nations under the FMA is similar in many ways to that for municipalities under Municipal Affairs but there are other differences that result from the FMA applying nationally instead of provincially.

Treaties and FMA

The FMA represents a major step to provide the regulatory framework for First Nations to participate in the Canadian federal-provincial governance system and to promote the inclusion of First Nations and First Nation members in to the Canadian market economy. Without certainty and stability for taxpayers, lenders, and investors, economic development equivalent to that outside of reserves is simply not possible. These are the most likely paths for improving conditions found on many First Nations. These developments are also consistent with the objectives of all governments in treaty negotiations. Many policies the provincial or federal government have requested be included in treaties are also provided by the legislation, policies and regulations that have evolved within the institutions encompassed by the FMA. These institutions are also an appropriate option for First Nations within treaty agreements. It is much better policy to provide treaty First Nations with the option of the FMA regulatory framework, which mainly parallels provincial practices, than it is for each of them to operate their own independent taxation system without a regulatory framework, as seems to be the case after the treaty is signed.

The FNTC is currently working with interested First Nations, BC and Canada to develop a regulation under the authority of the FMA to ensure that the services and products of the FMA institutions remain available to First Nations with modern treaties.

VII. Conclusions and Suggestions

First Nations continue to be successful in implementing property tax jurisdiction on First Nation lands and providing services to their communities. There are now more than 150 taxing First Nations across Canada collecting a total of over $70 million[19] each year and 62 of those are located in BC. Generally, service agreements are working well for both First Nations and municipalities. Economic development is expanding, and assessment values continue to rise, and in some cases even surpass those in adjacent municipalities. Using local revenues as well as other revenue sources, First Nations are being able to build and finance the infrastructure needed to support continued economic expansion. Regulatory and educational gaps that have been hindering First Nation economic development are being addressed by progressive First Nations institutions. First Nations are increasingly participating in and benefiting from their regional economies. However, there is still more to do that will benefit all governments providing local services and their citizens.

This paper makes these suggestions to build on the recent positive history between First Nations and local governments in BC and to continue the strong working relationship between the UBCM and the FNTC:

1. Promote and support collaboration and cooperation between the Tulo Centre of Indigenous Economics and universities that support the local government officers association such as Capilano, Northwest and UVIC.

2. Develop processes to remove First Nations from municipal boundaries on the request of First Nations to clarify service and representation responsibilities.

3. Consider a pilot project coordinated by the FNTC and UBCM with a non-treaty First Nation to directly participate in regional district governance, planning, services and infrastructure.

4. Consider other First Nation regional participation opportunities such as those associated with hospital districts.

[19] www.fntc.ca

5. The UBCM and the FNTC should work together to encourage the provincial legislative changes necessary to ensure the FMA applies to First Nations in post treaty environment so that they have access to institutional services and long term infrastructure capital.

None of the changes proposed on these issues entail radical change; they all simply continue the evolution of greater participation of First Nations in the British Columbia local government system and Canadian federalism and they provide a base for raising the productivity of First Nation lands and citizens within the Canadian market economy. No one expects these changes to occur quickly. Two suggestions, however, should help. First, the participation of First Nation and local government administrators in the same classrooms at our universities will contribute to greater understanding of how similar administration issues are for all small governments. Second, a renewed strong working relationship between the FNTC and UBCM will provide the institutional support and coordination necessary to implement these possible changes.

VIII. Appendix A – Service Agreement Examples

CivicInfo #	Agreement	Participants	Year	Services	Cost
2	Agreement	RD East Kootenay and Akisqnuk First Nation	2007 2012	▪ Building and plumbing inspection	Actual wages of the building inspector plus 38.5% (for benefits, administration and vehicle costs).
3	Agreement	RD East Kootenay and Columbia Lake Indian Band	2002 2006	▪ Fire Protection services	Annual fee of $1,575.00 for the fire protection services provided by the Fairmont Hot Springs Volunteer Fire Department. Annual fee of $2,625.00 for the fire protection services provided by the Windermere Volunteer Fire Department.
4	Agreement	RD East Kootenay and Tobacco Plains Band	2009 2013	▪ 911 Emergency Dispatch	Annual Operating and capital costs for 911 plus total number of dwellings in RDEK. This is multiplied by the number of dwellings on Reserve including Leased Reserve Land.
20	General Servicing Agreement	Central Saanich and Tsawout First Nation	2007	▪ General Government Services ▪ 911 Emergency Dispatch ▪ Fire Protection ▪ Public Works ▪ Parks and Recreation ▪ Contingency Wages ▪ Reserves and Contingency Funds	$80,251 per year (adjusted slightly every year based on tax levy - 5% max increase per year).
22	Leaseholder Service Agreement	Campbell River and Campbell River Indian Band	2005	▪ "Municipal services that are ordinarily provided to the City's residents." ▪ Maintenance and Repair is taken care of by the city.	72.5% of the property taxes using the city's tax rates. **Water and Sewer:** User fee is charged by the city for water and sewer services.

CivicInfo #	Agreement	Participants	Year	Services	Cost
70	Services Agreement	Campbell River and Homalco Indian Band	1992	▪ Domestic Water (repair and maintenance also) ▪ Sanitary sewage collection and disposal (repair and maintenance also), ▪ Fire protection	**Water and Sewer:** User fee is charged by the city for water and sewer services. **Fire Protection:** $90 per residential unit and $360 for non-residential (CPI increase every year).
71	Services Agreement	Central Okanagan RD and Westbank First Nation	2007	▪ Mt. Boucherie Arena ▪ Johnson-Bentley Aquatic Centre ▪ Westside Seniors Activity Centre ▪ Westside Transit Services ▪ Handi-dart Transit ▪ Regional Parks ▪ Okanagan Basin Water Board ▪ Effluent/Water Disposal ▪ Regional Rescue Service ▪ 911 Emergency Number ▪ Crime Stoppers ▪ Victims/Witness Assistance ▪ Westside Sanitary Landfill	Net taxable values of lands and improvements in the First Nation multiplied by District service annual requisition. **Landfill:** Number of parcels in the First Nation multiplied by parcel tax (cost of district services divided by number of parcels in district electoral areas [Westside and Eastside]).

CivicInfo #	Agreement	Participants	Year	Services	Cost
72	Service Agreement	Campbell River and Cape Mudge Indian Band	2004	▪ Water ▪ Sanitary Waste ▪ Storm Water Management ▪ Fire Protection	**Water:** $10 per year for each building on-reserve. **Collection, Treatment and Disposal of Sanitary Waste:** $39 per year for each building on-reserve and $1700/year for sewer system maintenance (CPI increase per year). **Water and Sewer:** User fee is charged by the city for water and sewer services. **Storm Water Management:** Parcel tax (according to local government bylaw). **Fire Protection:** $80 per year for each residential building (CPI increase per year) and equivalent district property taxes multiplied by % of total district budget to fire services for every other development.
73	Service Agreement	Pitt Meadows and Katzie Indian Band	2007	▪ Water supply ▪ Sanitary sewage disposal ▪ Fire Response	**Water:** $2057 per month. **Disposal of Sanitary Sewage:** Number of buildings on the Reserve Area multiplied by the rate per single-family residential building as the City charges. **Fire Response:** operating costs for previous year plus fire services capital costs from previous year divided by total population of Pitt Meadows plus Katzie Reserve multiplied by the total population of the Katzie reserve

CivicInfo #	Agreement	Participants	Year	Services	Cost
74	Service Agreement	RD East Kootenay and Akisqnuk First Nation	2007 2011	▪ Building and plumbing inspection ▪ Dog control ▪ Emergency 911 ▪ Eddie Mountain Memorial Arena ▪ Parks and Trails ▪ Emergency response and recovery program ▪ Fire protection ▪ Grants in aid ▪ Libraries ▪ Regional hospital district ▪ Regional parks ▪ Septage disposal ▪ Solid waste disposal ▪ Weed control	Sum of the levies made by RDEK for the services for that calendar year multiplied by the assessment of all non-native interests on-Reserve as determined by the First Nation.
75	Service Agreement	RD East Kootenay and Shuswap Indian Band	2007 2011	▪ Dog Control ▪ Emergency 911 ▪ Eddie Mountain Memorial Arena ▪ Parks and Trails ▪ Emergency response and recovery program ▪ Grants in aid ▪ Libraries ▪ Noxious weed control ▪ Regional Hospital District ▪ Regional Parks ▪ Septage Disposal ▪ Solid Waste Disposal	Sum of the levies made by RDEK for the services for that calendar year multiplied by the assessment of all non-native interests on-Reserve as determined by the Band.

CivicInfo #	Agreement	Participants	Year	Services	Cost
76	Service Agreement & Bylaw	Tofino and Tlaoquiaht First Nation	2009	▪ Water (maintenance and repair also) ▪ Sanitary Sewer Service (maintenance and repair also) ▪ Fire Protection	**Water:** Rates, rents or charges as set forth in the Tofino Water Utility Rates and Regulation by-laws. **Sanitary Sewer:** Rates, rents or charges as set forth in the Tofino Sanitary Sewer Utility Rates and Connection Regulation by-laws. **Fire Protection**: Annual sum based on the assessed value for land and improvements. The parties (re-calculated annually based on assessed value of lands and improvements and fire protection costs).
77	Servicing Agreement	District of North Vancouver and Tsleil-Waututh Nation	2005	▪ Discharge of storm water (maintenance and repair also) ▪ Discharge of Sanitary Sewage (maintenance and repair also) ▪ Provision of water (maintenance and repair also) ▪ Fire fighting protection	$484,852.15 per year and an increase or decrease in the Annual Service Charge equal to % change in total resident tax levy of the District on District ratepayers (single and multifamily residential properties) and a % increase or decrease in the Annual Service Charge equal to the number of additional completed units of any development as a % of the total number of units of any development existing the previous calendar year.
89	General Servicing Agreement	Central Saanich and Tsawout First Nation	2001	▪ General Government Services (related to services) ▪ 911 Emergency dispatch ▪ Fire Protection ▪ Emergency Measures ▪ Public Works ▪ Parks and Recreation ▪ Contingency Wages ▪ Reserves and Contingency Funds	Property tax (rate multiplied by assessment) of all property classes multiplied by (Gross expenditure minus non tax revenue) divided by (General and debt tax levy plus Tsawout First Nation's contribution).

IX. Appendix B – Specific Service Agreements

CivicInfo #	Agreement	Participants	Year	Cost
Fire Protection				
9	Fire Protection Agreement	Central Saanich and Tsawout First Nation	2007	(Number of band buildings/ [Number of band buildings + Total number of buildings within district and reserve]) x Cost
10	Fire Protection Agreement	Enderby and Splatsin First Nation	2009	$11,457/year
11	Fire Protection Agreement	Kamloops and Kamloops Indian Band	2008	Property Tax fee x parcels ($604,890 in 2009)
12	Fire Protection Agreement	Kitimat and Kitamaat Village	1990	***Fee schedule not attached***
13	Fire Protection Agreement	Kitimat Stikine RD Kitselas Band	2004	***Not outlined clearly in agreement.***
14	Fire Protection Agreement	North Cowichan and Chemainus Band	2009	Building fee (per month per building; set out in schedule A till 2014) x Number of buildings
15	Fire Protection Agreement	North Cowichan and Halalt Band	2009	Building fee (per month per building; set out in schedule A till 2014) x Number of buildings
16	Fire Protection Agreement	North Cowichan and Penelakut Band	2009	Building fee (per month per building; set out in schedule A till 2014) x Number of buildings
17	Fire Protection Agreement	Osoyoos Osoyoos Indian Band*	2002	**Native non-residential Structures:** Assessed net taxable value of non-residential improvements for school and hospital purposes x 1000 x appropriate tax rate **Non-native leased properties:** Net taxable assessed value of land and improvements for school and hospital purposes * 1000 x appropriate tax rate **Dwelling structures:** Number of dwelling units x average Osoyoos residential dwelling assessment x appropriate tax rate

CivicInfo #	Agreement	Participants	Year	Cost
19	Fire Services Agreement	Port Coquitlam and Coquitlam Indian Band	1996	Assessed value of land and improvements on-reserve / Assessed value of land and improvements in city (incl. reserve) x Fire Dept. budget for that year.
88	Fire Protection Agreement	Central Saanich and Tsawout First Nation	2001	(Number of band buildings/ [Number of band buildings + Total number of buildings within district and reserve]) x Cost
Sanitary Sewer				
69	Sanitary Sewer Agreement	Kamloops and Kamloops Indian Band	1996	Capital Development Fee (consists of a DCC and ACC) based on a schedule outlined in the agreement. Sanitary sewer user fee equal to a meter rate in the City Sanitary Sewer By-law. Services user fee of $200 per year for each dwelling unit (amended each year by CPI).
79	Sewage Treatment Service Agreement	Penticton and Penticton Indian Band	2008	**Operating Service Fee** Includes all direct and indirect operating costs and relevant admin costs and overhead during period of connection with services plus 10% of the total (recalculated every year). **Capital Costs** Portion of the capital depreciation costs of the annual value of the Advanced Waste Water Treatment Plant over it's life allocated to the band based on contribution to the waste water stream during the period determined by the city (recalculated every year). This equals PIB Sewage Flows/(PIB Sewage Flows + City Sewage Flows) x capital depreciation (as set out in a schedule). **Service Fee** An amount not exceeding 10% of the total costs of the Capital and Operating fees.

CivicInfo #	Agreement	Participants	Year	Cost
80	Sewer Agreement	Enderby and Splatsin First Nation	2009	$747.90/year
82	Sewer Service Agreement	Kitimat Stikine RD Kitselas Band	2003	Annual user fee based on number of Household Equivalent Units on the Reserve connected to the RDKS x annual sanitary sewer user fee prescribed by the board of the RDKS in the Sewer Regulation Bylaw. Connection fee based on charge described in the Sewer Regulation bylaw x number of Household Equivalents (paid on every additional connection of any premises).
Transit				
85	Transit Agreement	Campbell River and Homalco Indian Band	2004	***Not included***
86	Transit Agreement	Kitimat Stikine RD Gitxsan Government Commission	2005	45% of the local share of costs incurred by RDKS for the Hazelton Regional Transit System (apportioned to the four band councils).
87	Transit System Partnership Agreement	Kitimat Stikine RD Kitamaat Kitselas Kitsumkalum Kitimat Terrace	2006	Actual local net share of costs incurred by the RD. It is apportioned as follows: ▪ Kitamaat Village Council (15%) ▪ District of Kitimat (26%) ▪ Kitselas Band Council (11%) ▪ Kitsumlakum Band Council (10%) ▪ City of Terrace (18%) ▪ Regional District of Kitimat-Stikine (20%)
Wastewater Treatment Project				
91	Wastewater Treatment Project Agreement	Capital Regional District and Beecher Bay Nation	2008	***Not Included***
92	Wastewater Treatment Project Agreement	Capital Regional District and Songhees Nation	2008	***Not Included***

CivicInfo #	Agreement	Participants	Year	Cost
Water				
90	Water Servicing Agreement	Central Saanich and Tsawout First Nation	2001	Charge calculated using the metered water rate, excluding any fixed charges set out in the Water Rates by-law.
93	Watershed Accord	Sechelt Indian Band and Sunshine Coast Regional District	2003	***Not Included***
94	Water Agreement Lassertie Subdivision	Enderby and Splatsin First Nation	2009	$231.00/year for each unit connected to the system.
95	Water Agreement Mabel Lake Road	Enderby and Splatsin First Nation	2009	$488.50/year for each unit connected to the system.
96	Water Metered Agreement	Enderby and Splatsin First Nation	2009	$470.25/year for each unit connected to the system and $2.15 per 4,500 litres that consumption exceeds 180,000 litres.
97	Water Servicing Agreement	Central Saanich and Tsawout First Nation	2007	Charge calculated using the metered water rate, excluding any fixed charges set out in the Water Rates By-law.
98	Water Sewer Services Agreement	Ucluelet Yuutluthaht Ucluelet First Nation	2008	One time capital payment of $354,710.36 towards Ucluelet's sewer infrastructure. 50% of the monthly water rate charges to cover sewer treatment and disposal
N/A	Sewer and Water Agreement	City of Chilliwack and Tzeachten Indian Band	2006	Lessee must pay the city all costs incurred to design and construct the connections or an extension to the services system, operating fees (city engineer assesses based on previous year and adjustments), additional off-site costs, and other costs and expenses incurred by the city with respect to extensions. The city and the band agree that the tax sharing formula is 75% city and 25% band.

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