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**TO:** CITY MANAGER **DATE:** 2006 July 18

**FROM:** DIRECTOR PLANNING AND BUILDING **FILE:** PL 1400 20  
*Reference: LMTAC*

**SUBJECT: SERVICE AGREEMENTS WITH FIRST NATIONS**

**PURPOSE:** To provide comment on the LMTAC draft discussion paper *Towards a Model Local Government Service Agreement with Lower Mainland First Nations*.

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**RECOMMENDATIONS:**

1. **THAT** Council endorse the draft discussion paper *Towards a Model Local Government Service Agreement with Lower Mainland First Nations*.
2. **THAT** a copy of this report be forwarded to the Lower Mainland Treaty Advisory Committee, 4<sup>th</sup> Floor, 4330 Kingsway, Burnaby, B.C. V5H 4G8.

**REPORT****1. BACKGROUND**

In its correspondence package of 2006 June 16, Council received a draft discussion paper from the Lower Mainland Treaty Advisory Committee (LMTAC) entitled *Towards a Model Local Government Service Agreement with Lower Mainland First Nations*. As First Nations have been increasingly exploring land development opportunities, there is a concurrent demand for additional municipal services, and thus for servicing agreements. The draft discussion paper arose from a special meeting and workshop between LMTAC and the Regional Administrative Advisory Committee (RAAC) in 2005, and was subsequently considered by RAAC at its meetings in April and May 2006. The draft discussion paper was then endorsed, in principle, by the LMTAC Board at its meeting of 2006 May 24, for distribution to the LMTAC membership, requesting comments by 2006 July 28. This report addresses that request.

**2. DISCUSSION**

Service agreements are contractual arrangements between First Nations and local governments for the provision of services. The focus of most service agreements is on hard services (e.g. water and sewer), rather than “soft” services such as libraries or recreation centres. Several GVRD municipalities which include reserve lands have

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servicing agreements in place. Burnaby has neither reserve lands nor servicing agreements with First Nations.

The issue of servicing agreements has taken prominence as recent legislation permits greater numbers of First Nations to explore development on reserve lands, which can entail greater demands on adjacent local governments to provide servicing. In addition, a 2005 report commissioned by the Province and the UBCM concluded that service agreements are the best way for local governments to build positive relations with First Nations regarding final treaty agreements.

As such, LMTAC endeavoured to create a model servicing agreement that would provide certainty and consistency across the region. A number of principles were developed which reflect local government interests, as previously identified through both LMTAC and GVRD principles on treaty negotiations and service provision. For example, the principles include no taxation of local government property or assets, the preference for global servicing agreements and the need for coordinated land use and planning. Servicing agreements from across the province were then identified which reflect those principles. The resulting paper thus provides guiding principles and sample provisions for the negotiation of a service agreement, with the intent of encouraging a consistent approach to service agreements across the Lower Mainland.

A workshop on servicing agreements held on 2006 June 28 was well attended by municipalities and regional districts from across the Lower Mainland, Fraser Valley, Sunshine Coast and Vancouver Island, further demonstrating the level of interest in this topic. Speakers from the City of Vancouver and the Districts of North Vancouver and West Vancouver consistently highlighted the importance of relationship building in negotiating a satisfactory servicing agreement. Donald Lidstone, a lawyer with particular expertise in servicing agreements, aptly summarized the local government concerns captured in the draft discussion paper, including full cost recovery, elimination of potential tax base and development cost charges, and planning and land use considerations. Lidstone's presentation stressed that while municipal zoning bylaws aren't applicable on reserve lands, contract law is applicable. As such, servicing agreements can help ensure that local government has some influence in land use considerations on reserve lands. The workshop discussion reinforced the message contained in the draft discussion paper, that certainty and consistency in servicing agreements across the Lower Mainland was highly desirable and in the best interest of local governments.

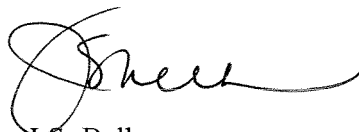
The one point missing in the draft discussion paper is consideration of servicing arrangements in a post-treaty environment. Once treaties are signed and Treaty Settlement Lands are removed from municipal boundaries, First Nations will have the opportunity to negotiate and obtain services directly from the regional district. However, the role of First Nations within the regional governance structure post-treaty is still a matter of much discussion, and there are no comparable urban examples on which to draw. As such, this matter remains unresolved at this time.

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Finally, the draft discussion paper states that legal counsel is strongly advised in the negotiation of a servicing agreement, and this point was reinforced by Lidstone's presentation at the servicing agreement workshop in June. A good servicing agreement can go a long way to address local government concern's pertaining to land use and planning, while a bad agreement can create inequity, financial burden and provide undue assistance to business (which is prohibited by the Community Charter). While the draft discussion paper provides an excellent overview of important issues and sample provisions, it cannot replace experienced legal counsel.

### 3.0 CONCLUSION

The draft discussion paper entitled *Towards a Model Local Government Service Agreement with Lower Mainland First Nations* was distributed by LMTAC to member jurisdictions for review and comment by 2006 July 28. The draft discussion paper arose from a special meeting and workshop between LMTAC and RAAC in 2005. The resulting paper provides guiding principles and sample provisions for the negotiation of service agreements, with the intent of encouraging a consistent approach to service agreements across the Lower Mainland. The draft discussion paper aptly summarizes local government concerns, and provides a good starting point for a local government faced with the need to draft a servicing agreement. As such, it is recommended that Council endorse the draft discussion paper, and that a copy of this report be forwarded to LMTAC.



J.S. Belhouse  
DIRECTOR PLANNING AND BUILDING

KSF:

cc. Director Engineering

