



**MEMORANDUM OF UNDERSTANDING  
FOR THE PROTECTION AND CONSERVATION  
OF CULTURAL HERITAGE SITES  
IN REGIONAL PARKS**

**20170609 FINAL**

## **Preamble**

The land throughout the Central Okanagan has been used by the Syilx (Okanagan) People since time immemorial. This traditional and continuing use has created a history that is synonymous with the land. The history is tied to the land and cannot be removed regardless of past, present or future land use or ownership.

Some of that history is very obvious with physical evidence of past use (e.g. pictographs and culturally modified trees), but some is non-physical, less tangible or ongoing (e.g. spiritual and food gathering sites). While the cultural or spiritual significance of some sites may be more highly regarded over other sites by Westbank First Nation and the Syilx (Okanagan) People, all sites work together to build the history of the land and contribute to the Westbank First Nation culture. Recognizing the significance of this history is an important step towards shared goals in protection, conservation and education of First Nation cultural sites within regional parks.

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**MEMORANDUM OF UNDERSTANDING**

**FOR THE PROTECTION AND CONSERVATION**

**OF CULTURAL HERITAGE SITES**

**IN REGIONAL PARKS**

**Between Westbank First Nation  
(herein the "Westbank First Nation")**

**and**

**Regional District of Central Okanagan  
(herein the "RDCO")**

**(each a "Party" and collectively the "Parties")**

**WHEREAS:**

- (a) Westbank First Nation, as part of the Syilx (Okanagan) People, has occupied and benefitted from their traditional territory since time immemorial and asserts its interests and exercises its Aboriginal Rights and Title over its territory;
- (b) Westbank First Nation represents its members and has a significant non-member population living on its lands;
- (c) The Regional District of Central Okanagan is a regional district under the laws of British Columbia;
- (d) The RDCO represents the two electoral areas of the Regional District: Central Okanagan East and Central Okanagan West as well as the member municipalities of the City of Kelowna, the City of West Kelowna, the District of Peachland and the District of Lake Country.
- (e) The Parties wish to establish a co-operative relationship based upon mutual respect, honour and recognition;

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- (f) The Parties affirm and acknowledge their government to government relationship and a mutual commitment to communication and collaboration to guide decision-making on the planning and development of regional parks within the Westbank First Nation Area of Responsibility, as shown on the map in Appendix E, that respects the interests of both Parties;
- (g) The Parties acknowledge that the Regional District of Central Okanagan is situated within Westbank First Nation and the Syilx (Okanagan) People traditional territory and that Westbank First Nation requires protective measures to safeguard their natural, spiritual, cultural, language and heritage values and to continue to exercise their Aboriginal Rights;
- (h) The Parties acknowledge that Westbank First Nation is the recognized custodian of knowledge for their traditional use and cultural information;
- (i) The Parties acknowledge their responsibility in managing and protecting the natural ecological systems and archaeological areas within regional parks and in maintaining and making use of these in a way that is respectful of the Syilx (Okanagan) People's culture, traditions, language and history in their territory, while also protecting the regional parks for the benefit, education and recreational enjoyment of all residents of the RDCO, Westbank First Nation and other members of the public;
- (j) The Parties acknowledge that regional parks are acquired for the benefit of all residents of the Central Okanagan and are places of historical, cultural, ecological and recreational significance to both Parties;
- (k) The Parties wish to work together collaboratively on the protection and conservation of cultural, heritage and archaeological values found within regional parks in a manner that respects the interests of both Westbank First Nation and the RDCO;
- (l) The Parties wish to protect and enhance the natural and cultural environment in regional parks for the enjoyment of present and future generations.



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**SCOPE OF THIS MEMORANDUM OF UNDERSTANDING:**

- (a) This Memorandum of Understanding applies to the planning and development of existing and proposed regional parks that fall within the Westbank First Nation Area of Responsibility listed in Appendix E.
- (b) This Memorandum of Understanding is intended to establish a working relationship and to improve communications between the Parties. It is not intended to be a legally binding contract.
- (c) This Memorandum of Understanding does not abrogate or derogate from any Aboriginal Rights or Aboriginal Title of Westbank First Nation or the Syilx (Okanagan) People and does not constitute admissions of fact or liability by either Party.
- (d) Nothing in this Memorandum of Understanding is intended to, or shall be interpreted to; affect any Aboriginal or Treaty Right of any other Aboriginal group.
- (e) Nothing in the Memorandum of Understanding will be construed so as to prejudice or affect any statutory power of decision or discretion of Westbank First Nation or the RDCO or any other officer or official of Westbank First Nation or the RDCO.
- (f) This Memorandum of Understanding will not limit any position either Party may take in any present or future legal proceedings or negotiations, including reconciliation.

**OBJECTIVES:**

The objectives of this Memorandum of Understanding are as follows:

- (a) To identify and document all known archaeological sites located within regional parks in a manner that respects the Westbank First Nation right to retain and limit access to confidential cultural information;

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- (b) To complete archaeological assessments and record new archaeological sites within regional parks as guided by the Heritage Conservation Act and other applicable law;
- (c) To protect the integrity of all archaeological sites within regional parks;
- (d) To educate the public in regards to Westbank First Nation traditional use, language and culture;
- (e) To emphasize the importance of archaeological sites and manage their conservation in a manner that is consistent with this MOU, the Heritage Conservation Act and Westbank First Nation cultural interests;
- (f) To continue to make regional parks available for the use, recreation and enjoyment of all residents of the RDCO, Westbank First Nation and other members of the public.

**IMPLEMENTATION:**

- (a) The Parties agree to meet on an "as required" basis to discuss RDCO's park development, management and operation as relates to archaeological features in existing parks as well as in future park land acquisitions.
- (b) Westbank First Nation has completed Traditional Use Studies (TUS), Archaeological Overview Assessments (AOA) and Archaeological Impact Assessments (AIA) for their traditional territory and these studies/assessments may contain site specific information of a sensitive nature that is retained and controlled by the First Nation which completed the study/assessments. Information that is shared will be held in strictest confidence by the RDCO and will not be shared with any other party without the express written permission of Westbank First Nation.
- (c) As funding and resources permit, the RDCO will prepare management plans for existing and future regional parks. The Parties will establish a committee that will provide joint recommendations on management planning priorities as relates to archaeological features within the regional parks. This committee will consist of



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designated staff from both Parties and will meet prior to commencement of the development of the management plan to afford Westbank First Nation the opportunity to provide information on their Traditional Use or other confidential cultural information. This would allow the information to be incorporated into the management plan in a way that respects Westbank First Nation right to confidentiality and protect culturally sensitive areas.

- (d) The committee will also discuss whether there is a need to complete an Archaeological Overview Assessment (AOA) for each park as part of the management planning process or as part of implementing major capital projects (>\$75,000). This does not apply to on-going maintenance operations, ancillary tree removal or emergency operations.
- (e) The RDCO will design park projects, which reflect the information provided by Westbank First Nation as well as information collected from the provincial archaeological data record, that are consistent with the objective of this Memorandum of Understanding; to protect the integrity of all archaeological sites within regional parks as per the steps outlined in Appendix A: Archaeological Key – Steps to Heritage Protection.
- (f) The Westbank First Nation review of management plans, operational plans, development plans, AOA, AIA or other RDCO requested input will take place in a timely manner so as not to unnecessarily delay any projects within regional parks.
- (g) The Parties will support and encourage positive communication and cooperation by delegated representatives of both parties. In addition to annual budget plans reviewed by the RDCO Board (which includes a WFN Council representative), the parties will communicate at the staff level, RDCO regional park interests in future investment into capital or operational projects that may affect Westbank First Nation or the Syilx (Okanagan) People archaeological or cultural site features.
- (h) The staff members designated by each party for overseeing this MOU are detailed in Appendix C – Staff Communication. Additional staff may be assigned

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by these designated representatives to work together on specific components of identified projects. (Ex: park signage).

- (i) The designated staff members may also discuss, or direct staff to discuss, the following issues:
  - 1. Management planning and priorities for the regional parks
  - 2. Operational issues;
  - 3. Economic opportunities that are not incompatible with the management of regional parks;
  - 4. Research projects;
  - 5. Major changes to regional parks and major boundary amendments;
  - 6. Naming protocols and the use of the Westbank First Nation and Syilx (Okanagan) People place names;
  - 7. Permanent or fixed structures;
  - 8. Trail placement; and
  - 9. Other areas of mutual interest to the Parties.
- (j) The RDCO will seek input and approval from Westbank First Nation on the use of the Syilx (Okanagan) language before finalizing:
  - 1. any Westbank First Nation/Syilx place Names;
  - 2. language in park signage and interpretation materials; and
  - 3. any use of Westbank First Nation history.

**FUNDING:**

The Parties acknowledge that the successful implementation of this Memorandum of Understanding depends upon adequate human and financial resources and agree to seek funding and resources that can be devoted to implementation.

In a spirit of cooperation, each party will bear their own costs associated with carrying out their respective portions of this Memorandum of Understanding including staff commitments to attend committee meetings, review plans, incorporation of Syilx (Okanagan) language, culture or history into park signage as well as the staff training, interpretive programs and cultural management plans referenced in Appendix B – Park Interpretation Plans.



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In respect to Archaeological Assessments the parties will work together to address funding and appropriate cost sharing issues as they arise. All projects and initiatives identified in this Memorandum of Understanding are subject to funding being available.


The Parties may also work together to apply for funding from external sources to support this Memorandum of Understanding as well as projects being developed under this Memorandum of Understanding, and may agree to share costs of certain projects from time to time.

**TERM:**

This MOU shall take effect on the date that it has been executed and delivered by the Parties and shall remain in effect until it is terminated by either Party on thirty (30) days' notice to the other Party in writing, stating the reasons for termination.

**IN WITNESS WHEREOF** the parties execute this Memorandum of Understanding as of the 23 day of June, 2017.

  
\_\_\_\_\_  
Chief Roxanne Lindley  
Westbank First Nation

  
\_\_\_\_\_  
Chair Gaif Given  
Regional District of Central Okanagan

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**Appendix A**

**Archaeological Key - Steps to Heritage Protection**

The Westbank First Nation Land Use Law No. 2007-01 outlines their approach to archaeology on Westbank Lands in section 3.5 Archaeology. This approach is as follows:

"Archaeological sites are important links to the past for the Westbank First Nation and as such WFN will:

- Conduct inventory and impact studies prior to any proposed ground disturbance.
- Protect and commemorate places of cultural and archaeological heritage.
- Avoidance is considered the preferred option for archaeological site protection.
- Document and sample the cultural information contained in an archaeological site.
- Emphasize the importance of archaeological sites and manage their conservation."

It is appropriate to follow the same guiding principles for archaeological sites located within regional parks. For this reason, as resources are made available, and as the RDCO/WFN committee determines necessary, RDCO Parks Services will complete an Archaeological Overview Assessment (AOA) of all identified existing and future Regional Parks to determine all known sites within the parks system. The AOA will provide the baseline inventory of archaeological sites within regional parks and will guide management planning and future development projects.

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## **Appendix B**

### **Park Interpretation Plans**

The Parties will work together to create park interpretation plans.

Considerations for developing Park Interpretation plans

#### **1. Staff Training & First Nation Knowledge Enhancement:**

Training of park staff, both formal and informal, including on and off site training and opportunities to work with Westbank First Nation archaeologists and consulting archaeologists to help plan interpretive programs

An example of formalized training for Parks staff is the course: *"Care of Artifacts in Aboriginal Cultural Centres"* This workshop is a Canadian Conservation Institute (CCI) Regional program that looks at the preservation of material culture for staff or volunteers with little to no experience in the care of collections. The workshop is designed as an introduction to the care of collections for staff working in Aboriginal cultural centres, although others are welcome. The workshop covers how various types of materials deteriorate, how best to minimize this deterioration, how to identify problems of storage and display of various kinds of artifacts, and how to make informed choices relating to the long-term preservation of collections.

Additionally, many consulting archaeology firms provide training catered to the client.

#### **2. Interpretive Programs:**

Interpretive programs have proven to be an effective mechanism for increasing public awareness of archaeological conservation. Public displays may include artefact replicas and photographs to generate public interest and support as well as natural history and ethno-botany guided walks. Where sites have been vandalized, photos should show photos of the site prior to vandalism (Beram, 1990).

Refer to the following document: *The Capital Regional District Parks: a case study in archaeological resource management* by Luisa Beram <http://summit.sfu.ca/item/4639>



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**3. Cultural Management Plans**

Where appropriate, cultural heritage management plans should be considered in select regional parks to help guide future park management actions and public education / interpretation programs. Archaeological resource information is integral to planning, management, research, and interpretation. Responsible decision-making in archaeological resource management practice depends on four elements:

1. Inventory of resources
2. Evaluation of resources to determine cultural resources and their historic value
3. Consideration of historic value in actions affecting cultural resources; and
4. Monitoring and review of on-going activities.

Given the variable, elusive, and sometimes endangered nature of the archaeological resources in areas under RDCO Regional Parks' administration, it will be important for both Parties to be proactive in seeking opportunities to inventory, evaluate and monitor these archaeological and/or cultural resources.

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**Appendix C**

**Staff Communication**

The following staff members are identified as the primary contacts for communicating the intents of this MOU. Westbank First Nation and the RDCO may delegate different staff at any time without changing the intent of this MOU.

For the Westbank First Nation:

Manager, Intergovernmental Affairs/Title and Rights

Or

Director of Operations

For the Regional District of Central Okanagan:

Director – Parks Services

Or

Chief Administrative Officer

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**Appendix D**

**Glossary of Terms**

**Archaeological Artifact** means any portable, physical evidence, such as: tools, beads, pottery, used, modified or made by humans.

**Archaeological Feature** means any non-portable artifact such as cultural depressions, roasting platforms, or culturally modified trees found in association with confirmed archaeology sites.

**Archaeological Impact Assessment (AIA)** means an assessment that is undertaken when potential impacts to archaeological resources are identified in the archaeological overview study (AOA). The impact assessment is designed to gain the fullest possible understanding of archaeological resources which would be affected by the project. The information provided by the AIA is intended to assist in choosing a suitable approach to designing, planning and implementing the proposed project while giving consideration to archaeological resources.

**Archaeological Overview Assessment (AOA)** means an office review of all relevant documents related to the proposed activity to determine the potential impact on archaeological sites, archaeological features or archaeological artifacts.

**Archaeological Site** means any geographically defined site (on land or water) that contains archaeological artifacts, archaeological features or has been identified as a Traditional Use Study Site.

**Archaeology Resource** means an archaeological artifact or archaeological feature.

**Culturally Modified Tree** means a tree that has been altered by aboriginal people as part of their traditional use of the forest.

**Culturally Sensitive Area** means a site of cultural or archaeological importance. Such sites are usually sensitive to human presence, activities and land development and may include burial grounds or locations of religious or ceremonial importance.

**Preliminary Field Reconnaissance (PFR)** means a field inspection of the area of the proposed activity.



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**Traditional Ecological Knowledge (TEK)** is a body of knowledge and beliefs built up by a group of people through generations of living in close contact with nature. Traditional Ecological Knowledge is learned through the relationship of living beings (including humans) with one another and with their environment. It is cumulative and dynamic. It builds upon the historic experiences of a people and adapts to social, economic, environmental, spiritual and political change.

**Traditional Use Study (TUS)** refers to projects that were undertaken between First Nations and the Province to collect, store, maintain and map Traditional Use Sites within First Nations' specific study areas.

**Traditional Use Study Information** refers to aboriginal cultural data that has been compiled by various First Nations in British Columbia.

**Traditional Use Study Site** is any geographically defined site (on land or water) used traditionally by one or more groups of people for some type of activity. This data not only includes physical sites (i.e. archaeological sites) but also non-physical sites (i.e. spiritual sites).

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**Appendix E**

**Westbank First Nation  
Area of Responsibility Map**

