



**MEMORANDUM OF UNDERSTANDING**  
**ON**  
**COLUMBIA BASIN TRUST AND PROVINCE OF BRITISH COLUMBIA**  
**ACCOUNTABILITY**

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This Memorandum of Understanding (“**MOU**”) executed this 24 day of October 2016.

Between:

**HER MAJESTY THE QUEEN IN THE RIGHT OF THE PROVINCE OF  
BRITISH COLUMBIA as represented by the Minister of Energy and Mines  
 (“PROVINCE”)**

and

**COLUMBIA BASIN TRUST (“CBT”)  
(collectively referred to as the “Parties”)**

## **1. PURPOSE**

The intent of this MOU is to provide guidance and clarity to the Province and CBT on the nature of their relationship. CBT’s mandate is established under the *Columbia Basin Trust Act*, RSBC 1996, c 53 (“CBT Act”) and through various agreements between the Province and CBT. This MOU is in addition to these previous agreements and recognizes CBT’s accountability to Columbia Basin residents as a regionally-based organization with its accountability to the Province as its shareholder. This MOU is not legally binding and does not affect the Parties’ respective rights and obligations, under the various agreements between them.

## **2. PRINCIPLES**

The Parties agree to a core set of guiding principles to support the successful implementation of the MOU which include:

- A mutually beneficial relationship is in the collective best interests of the Province, CBT and the people of the Columbia Basin;
- Regular and open dialogue is valued by both the Province and CBT;
- Recognition that CBT was created as a unique organization, with a distinctly regional purpose, with Columbia Basin residents directing CBT’s priorities and activities, and with CBT accountable to Basin residents; and
- Recognition that CBT must be transparent in its operations and accountable for its performance to the Province, its shareholder, as an organization within the Government Reporting Entity.



### 3. BACKGROUND

In 1995, CBT was created to support efforts by the people of the Basin to create social, economic and environmental well-being in the Canadian portion of the Columbia River Basin most affected by the Columbia River Treaty (“Treaty”).

The Region, as the site of operational infrastructure to produce hydroelectricity under the Columbia River Treaty, has suffered environmental and socioeconomic impacts as a result of Treaty operations. The Province has worked with other levels of government, communities, CBT and BC Hydro to address some of these issues.

During the creation and initial implementation of the Treaty, Basin residents were not adequately considered in the original negotiations of the Columbia River Treaty. In the early 1990s, residents, local officials and representatives from regional districts and First Nations joined together to coordinate efforts, forming the Columbia River Treaty Committee. The committee approached the Province in order to negotiate:

- that funds be allocated to the region, representing a fair share of the ongoing benefits being realized outside of the Basin as a result of the Treaty; and
- that a regional organization, governed by a board of Basin residents, be created to manage those funds.

The Province and the region established CBT as a result of this extensive community engagement process between Basin residents, First Nations, local governments and the Province. CBT was established under the CBT Act with a mandate to provide social, economic and environmental benefits in the region. The CBT Act established the Province of British Columbia as CBT’s shareholder and balances this ownership by the Province with accountability to Basin residents.

In establishing CBT, the Province and region agreed that CBT would operate with a high degree of independence and autonomy. CBT’s purposes are set out in the CBT Act, and its objectives and priorities are, by legislative requirement, established by CBT’s Directors in consultation with residents of the Columbia Basin.

The CBT Act establishes that:

- CBT is not an agent of Government.
- Basin residents comprise the CBT Board of Directors.
- CBT will set its objectives and priorities based on consultation with the people of the Basin.
- CBT will manage its assets for the ongoing social, economic and environmental benefit of the region.



A Financial Agreement between the Province and CBT dated July 27, 1995 (and amendments thereto dated April 17, 1996 and August 1, 1996) (“Financial Agreement”) established the initial funding arrangements. CBT was endowed with \$321 million:

- \$250 million to invest in CBT subsidiaries to pay capital costs of the Power Projects<sup>1</sup> and \$26 million in expansion rights at two dams; and
- A \$45 million upfront payment in 1996 for purposes consistent with CBT’s legislated purposes, which CBT used as an endowment.

CBT was also provided with:

- \$2 million per year from 1995 to 2010 for operational expenses as noted in the Financial Agreement; and
- \$10 million in 2006 as compensation for CBT forgoing its option to purchase Columbia Power Corporation (CPC).

CBT has attained substantial assets and revenues, and it does not receive funding from the Province or expect to request or receive funding in the future.

#### **4. CROWN AGENCY GOVERNANCE**

The Minister of Finance has developed, and Cabinet has approved, a policy framework for the governance of British Columbia’s Crown agencies. The purpose of the Crown Agency Accountability System and Taxpayer Accountability Principles is to provide Crown agencies with the means to achieve government’s policy and performance expectations in an open, transparent and accountable manner. The intent of this system is to ensure that Crown agencies focus on those activities necessary to fulfill their mandates and that they are managed in the public interest.

This MOU is intended to ensure that the principles of the Province’s crown corporation governance framework are applied to CBT in a manner consistent with the legislative purpose of CBT and the agreements reached between the Province and the residents of the Columbia Basin that led to the establishment of CBT.

#### **5. ROLES AND RESPONSIBILITIES OF THE PARTIES UNDER THIS MOU**

##### **5.1. Reporting to the Province:**

- 5.1.1. CBT will provide the Province with information and reports that allow the Province to carry out its responsibilities as the shareholder, including submitting a Service Plan, Annual Service Plan Report, significant planned capital expenditures, quarterly financial forecasts, annual consolidated

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<sup>1</sup> Power Projects means: the Keenleyside Powerplant Project, the Waneta Expansion, the Brilliant Expansion, and power generation, transmission or distribution projects related to the Waneta Expansion or the Brilliant Expansion, and such other power generation, transmission or distribution projects in the Region as CPC and the Trust may, from time to time, agree upon.



financial statements and information on risks related to achieving financial forecasts or performance objectives.

- 5.1.2. CBT and the Province will jointly define CBT's high level strategic actions on an annual basis. These actions will be documented in a mandate letter that will inform the development of CBT's Annual Service Plan and Annual Service Plan Report. These actions may include areas such as consultation with Basin residents, Board succession planning, budget development and its relation to the Province's fiscal plan, performance measures and financial and performance reporting. Areas such as CBT's overall policy or strategic direction for delivery of benefits or investment activities and matters related to corporate operations will not be subject to joint approval, except if CBT is acting contrary to the CBT Act or other applicable legislation.
- 5.1.3. CBT and the Province will hold quarterly meetings between the Chair of CBT and the Minister Responsible to discuss corporate accountabilities consistent with the principle of regular and open dialogue.
- 5.1.4. Sections 5.1.1 to 5.1.3 satisfy the primary requirements for CBT reporting to the shareholder although other reports may be requested from CBT by the Province from time to time in its role as the shareholder.
- 5.1.5. If CBT anticipates that its plans and/or activities will result in an expected negative variance compared to the net income targets established in CBT's most recent Service Plan and that have been included in the Province's fiscal plan, CBT must first consult and seek support for this impact from the Minister Responsible and Treasury Board. After this consultation, the Minister Responsible may sponsor submissions that enable CBT to fulfill its mandate by seeking the appropriate provincial approval(s) (including Treasury Board approval) of a negative variance.

## 5.2. Legislation and Policy

- 5.2.1. CBT will comply with all legislation as amended from time to time that is applicable to CBT.
- 5.2.2. CBT will comply with all existing policy where it is consistent with the CBT Act, this MOU and the Financial Agreement between the Parties.
- 5.2.3. During the term of this MOU, Government may provide further policy direction to the Ministry Responsible for CBT who will communicate any such direction to CBT. Any direction will be consistent with the CBT Act, this MOU and the Financial Agreement between the Parties.



5.2.4. CBT will advise the Province in advance of the release of any information requests by CBT under the *Freedom of Information and Protection of Privacy Act*.

5.2.5. As the Province adjusts the Crown Agency Accountability System and its approach to governance of Crown entities evolves, the Minister Responsible will consult CBT on if, and how, any changes should be implemented within the context of this MOU.

5.2.6. CBT is committed to the highest standards of honesty, integrity and accountability. The Province has the right to investigate any alleged unethical or unlawful activities within CBT and CBT will cooperate fully with any such investigations.

### 5.3. Collaboration:

5.3.1. The Province, its agencies, and CBT will explore and pursue opportunities to work together where their objectives are complementary.

### 5.4. Communications:

5.4.1. The Province and CBT will advise each other in a timely manner of any issues that may materially impact the business of CBT or the interests of the Province.

### 5.5. Board Appointments

5.5.1. In advance of the Province making appointments to the CBT Board of Directors, the Province will consult CBT on:

- Overall CBT Board composition and performance;
- Particular attributes and competencies needed for the Board;
- Staggering of terms of Board members to ensure Board continuity; and
- Individuals under consideration for nomination or appointment.

5.5.2. The Parties are committed to working together to develop an efficient and streamlined approach with respect to the creation of CBT subsidiaries.

5.5.3. The Province will appoint nominees from CBT to the board of directors of CPC, with those nominees making up one third of the CPC board, as per the April 2006 Board Nomination Agreement between the Province and CBT.



## 5.6. Investments and Delivery of Benefits

5.6.1. CBT will prudently invest its original endowment and other sources of income in order to generate the financial returns required to:

- Deliver ongoing social, economic, and environmental benefits to the residents of the Columbia Basin; and
- Support the cost of its operations.

5.6.2. CBT will report on its performance in meeting its investments objectives to the people of the Columbia Basin.

5.6.3. The Province will not direct CBT with respect to its investment policies. CBT will manage its investments, and ensure that all of its investment activities are consistent with the CBT Act and CBT's Board approved Statement of Investment Policies and Procedures.

5.6.4. CBT will deliver social, economic and environmental benefits to the people and the communities of the Columbia Basin. CBT will ensure that residents of the Columbia Basin have opportunities to consult, collaborate, engage, partner and provide input on the delivery of benefits. CBT will report on its performance in meeting delivery of benefits objectives to the people of the Columbia Basin and the Province.

5.6.5. The Province will not direct CBT with respect to the types of its delivery of benefits policies. CBT will ensure that its delivery of benefits policies and activities are consistent with the CBT Act and the current Columbia Basin Management Plan.

## 5.7. Government Direction

5.7.1. The Province recognizes the unique nature of CBT as defined in its governing statute. Any direction given by government will be consistent with this MOU, the Financial Agreement and the CBT Act.

## **6. MOU APPLICATION**

6.1. This MOU is subject to any existing rights and obligations of each of the Province and CBT.



## **7. MOU ADMINISTRATION**

- 7.1. If a conflict arises in relation to the roles and responsibilities within this MOU in which a resolution is not obtained at the working level, the unresolved issues will be referred to the Deputy Minister Responsible for CBT and CBT Chief Executive Officer. If resolution is not reached between the Deputy Minister and CEO, these issues will be referred to the Minister Responsible and Board Chair.
- 7.2. Amendments to this MOU can be made with the mutual consent of the Parties in writing.
- 7.3. This MOU may be terminated by written mutual consent of the Parties, or any one of the Parties may terminate this MOU by providing 90 days prior written notice by registered mail.
- 7.4. This MOU and the mandate letter referenced in section 5.1.2 will be posted in a publicly accessible location on each Party's website.
- 7.5. This MOU will not impose any financial responsibilities on the Parties except that each Party will be responsible for funding costs it incurs in its own interest, related to the support of this MOU.
- 7.6. This MOU will be reviewed every three years to ensure it continues to meet both the Province's and CBT's objectives.



## 8. EFFECTIVE DATE AND SIGNATURE

This MOU shall be effective upon the signature of the Parties.

The Province and CBT indicate agreement with this MOU by their signatures.

On Behalf of the Province

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Honourable Bill Bennett  
Minister of Energy and Mines

\_\_\_\_\_  
October 17th, 2016

Date

On Behalf of Columbia Basin Trust

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Rick Jensen  
Chair, Columbia Basin Trust

\_\_\_\_\_  
October 24th, 2016

Date