



Memorandum of Understanding Between Enoch Cree Nation and EPCOR Water Services Inc.



PREAMBLE:

WHEREAS Enoch Cree Nation [Maskêkosak nehiyowak] is a signatory to Treaty No. 6 and it is recognized that the Nation has an inherent right to self-government;

AND WHEREAS EPCOR Water Services Inc. ("EPCOR Water Services") is a North American water utility incorporated under the laws of Alberta;

AND WHEREAS EPCOR Water Services operates a portion of its business within lands claimed by Enoch Cree Nation as its traditional territory, such as the Rossdale Water Treatment Plant, and on former Enoch Cree Nation reserve lands, such as the E.L. Smith Water Treatment Plant;

AND WHEREAS the Parties have mutual respect for each other's values, policies and areas of jurisdiction;

AND WHEREAS the Parties recognize that they each have distinct authorities and responsibilities and acknowledge that the interests of all persons served by the Parties are best served by working together in the spirit of reconciliation and collaboration;

AND WHEREAS the Parties recognize the United Nations Declaration on the Rights of Indigenous Peoples (2007) as a framework for reconciliation;

AND WHEREAS the Parties wish to establish a robust working relationship based on mutual respect and cooperation, to deal with issues of mutual interest and benefit;

NOW THEREFORE, the Chief and Council of Enoch Cree Nation, on behalf of its members and citizens and the President and CEO of EPCOR Utilities Inc., on behalf of EPCOR Water Services hereby declare their mutual intentions to pursue a lasting relationship based upon mutual respect, honour and recognition.

PURPOSE:

The purpose of this Memorandum is:

1. To set a strong foundation for the Parties to establish and maintain a cooperative relationship in the spirit of reconciliation;
2. To establish a path forward on projects, initiatives, and joint-endeavors associated with projects causing Ground Disturbances at E.L. Smith and Rossdale Water Treatment Plants ("Water Projects") that are of mutual benefit to both Parties; and,
3. To create a platform for meaningful, effective and transparent communication on issues of mutual interest.

DEFINITIONS:

"Area of Interest" means the geographic area, as shown on the map, attached as Appendix A.

"EPCOR-Enoch Cree Nation Working Group" means the staff level working committee to be established by this Memorandum and Addendum No. 1: Engagement and Consultation Processes and Practices.

"Ground Disturbance" means land surface disturbance activities that require development proponents to comply with standard conditions under the Historical Resources Act, RSA 2000, c. H-9, as amended from time to time and may require regulatory approvals under this act.

"Memorandum" means the Memorandum of Understanding between Enoch Cree Nation and EPCOR Water Services, entered into on the Effective Date indicated below.

"Water Projects" means development projects initiated by EPCOR Water Services that will cause or are anticipated to cause Ground Disturbances at E.L. Smith Water Treatment Plant and Rossdale Water Treatment Plant.

SHARED PRINCIPLES:

This Memorandum represents a commitment by the Parties to develop a strong, committed and fair working relationship between their respective entities, working together for the rights and benefit of all, in accordance with the following:

1. It is recognized that Enoch Cree Nation's history, culture and peoples have made and continue to make significant contributions to the social, economic, and ceremonial growth of the Edmonton Metropolitan Region.
2. It is recognized that the Parties mutually benefit from EPCOR Water Services providing safe, clean water to customers within its service area.
3. It is recognized that the Parties mutually benefit from the continued operation of both the E.L. Smith Water Treatment Plant and Rossdale Water Treatment Plant, and the potential expansion or upgrades of the plants to meet future water needs and regulatory requirements.
4. It is acknowledged that EPCOR Water Services may have regulatory or other obligations to engage with or consult with other First Nations and Indigenous communities on matters that may overlap with interests and traditional territories claimed by Enoch Cree Nation, and that this does not diminish Enoch Cree Nation's claims, responsibilities or rights.
5. A cooperative working relationship between EPCOR Water Services and Enoch Cree Nation is built on effective communication, respect and trust.
6. This Memorandum reflects an understanding between the EPCOR Water Services and Enoch Cree Nation to work cooperatively in the best interests of both their respective entities and the region as a whole.
7. It is recognized that the parties mutually support the principles of the Edmonton Declaration, which called for immediate and urgent action to limit global warming to 1.5 degrees Celsius.

SHARED OBJECTIVES:

The Parties will collaborate on the development and implementation of Water Projects of mutual benefit and will work to develop agreements to achieve these goals.

The Chief and Council of Enoch Cree Nation and the Senior Vice President of EPCOR Water Services agree to work together, along with their respective technical teams, to address issues of mutual interest. Both Parties will strike a standing working committee to advance the collaborative dialogue and joint work, some examples of which include:

- Identifying and establishing a series of addenda to this Memorandum that address issues of mutual interest and benefit;
- Information sharing; and
- Cultural and historical development.

TERM:

This Memorandum will begin on the Effective Date indicated below and will continue until such time as it is terminated by the Parties.

COMMUNICATION:

1. The Chief of Enoch Cree Nation and the Senior Vice President of EPCOR Water Services shall hold meetings to discuss matters of mutual concern and/or interest on an 'as-required' basis, with an annual ceremony, planned jointly, to recognize the work arising from this Memorandum.
2. The Chief of Enoch Cree Nation and the Senior Vice President of EPCOR Water Services shall direct their respective technical teams to work together in establishing effective, respectful communication regarding matters mentioned in this Memorandum and its Addenda.

IMPLEMENTATION:

The Parties will establish a staff level working group (the "EPCOR-Enoch Cree Nation Working Group") to assist with implementing the Memorandum.

As soon as practicable after the signing of the Memorandum, the EPCOR-Enoch Cree Nation Working Group will be established by an exchange of letters between the Chief of Enoch Cree Nation and the Senior Vice President of EPCOR Water Services in which each Party will identify their working group representative(s) to the other Party.

Alternate members may be appointed to the EPCOR-Enoch Cree Nation Working Group as necessary to ensure that its work continues during temporary absences of any member.

The EPCOR-Enoch Cree Nation Working Group may:

- a. Develop terms of reference for its activities for approval by the Parties and will report to the Parties as required in implementing and administering Memorandum;
- b. Develop procedures governing frequency, timing, location, and record-keeping of matters arising out of its meetings;
- c. Meet as soon as is reasonably practicable after the signing of this Memorandum to discuss the process for implementation of matters under this Memorandum;
- d. Use all reasonable efforts to meet at least [two] times each calendar year, and more frequently as it may consider necessary to carry out its responsibilities under this agreement and will communicate as required by telephone or email; and
- e. Be a forum where each Party can be notified, as appropriate, of anticipated decisions of each Party respecting the Area of Interest that may affect the other.

DISPUTE RESOLUTION:

Where a dispute arises between the Parties, the Parties agree to first seek resolution of disputes through informal communications and on a without prejudice basis.

The Parties further agree that:

- a. The EPCOR-Enoch Cree Nation Working Group will endeavor to resolve disputes arising in that forum through informal communications; and the authority and/or limits of each Party's representatives in that forum will be clearly communicated to the other Party with respect to any matter under discussion or dispute.
- b. At any time, either Party may request a special meeting of the Parties to discuss a dispute by providing notice in accordance with the provisions of the Memorandum. At special meetings of the Parties, Enoch Cree Nation will be represented by the Chief of the Nation or his or her designate and EPCOR Water Services will be represented by the Senior Vice President of EPCOR Water Services or his or her designate.
- c. Where the Parties are unable to resolve a dispute by a special meeting, either Party may then suggest using informal dispute resolution guided by an independent third party (or third party neutral), such as a meeting facilitator or mediator. Use of a third party neutral process will be completely voluntary and without prejudice for both Parties. The Parties must agree on the selection of a third party neutral and will share the costs of such a process equally. Where both Parties agree to resort to a third party neutral, each Party will identify their own representative.

NOTICE:

The address for delivery of any notice or other written communication required or permitted to be given in accordance with this Memorandum, including any notice advising the other Party of any change of address, shall be as follows:

- a. to EPCOR Water Services:
Director, Edmonton Water Treatment Plants OR Manager,
Government & Indigenous Relations
Suite 2000 10423 – 101 Street NW
Edmonton, Alberta T5H 0E8
- b. to Enoch Cree Nation [Maskêkosak nehiyowak]
Consultation Supervisor OR Council Member with Consultation Portfolio
Box 29
Enoch, Alberta T7X 3Y3

Any notice mailed shall be deemed to have been received on the fifth (5th) business day following the date of mailing. For the purposes of this section, the term "business day" shall mean Monday to Friday, inclusive of each week, excluding days that are statutory holidays in the Province of Alberta.

The Parties may change their address for delivery of any notice or other written communication by notifying the other party in writing.

REVIEW:

This Memorandum will be reviewed annually by the Parties. No variation or amendment of this Memorandum is effective unless it is agreed in writing between the Parties.

TERMINATION:

This Memorandum may be terminated by either Party by giving 60 days' notice in writing to the other Party.

LIMITATIONS:

This Memorandum is not a binding legal agreement and does not create any binding obligations on any party.

Nothing in this Memorandum is intended to be construed as modifying any Treaty, creating a new Treaty or as a Treaty-making process and any discussion that may abrogate or derogate a Treaty Right is not to be construed as consultation without free, prior and informed consent.

ADDENDA UNDER DEVELOPMENT

- Addendum No. 1: Engagement and Consultation Processes and Practices
- Addendum No. 2: Communications and Information Sharing
- Addendum No. 3: Historic Resources and Naming of "E.L. Smith Solar Farm"
- Addendum No. 4: Plant Harvesting for Traditional Purposes

Agreed, this 1 day of September , 2020 ("Effective Date").

Signed for and on behalf of the Enoch Cree Nation:

Signature: Original signed on September 1, 2020

Chief William (Billy) Morin
Enoch Cree Nation

Witness: Original signed on September 1, 2020

Councillor Michelle Wilsdon
Enoch Cree Nation

Signed for and on behalf of EPCOR Water Services Inc.:

Signature: Original signed on September 1, 2020

Stuart Lee
President & CEO, EPCOR Utilities Inc.

Witness: Original signed on September 1, 2020

Shawn Bradford
Senior Vice President, EPCOR Water Services Inc.

