Executive Summary

A First Nation enters an industry negotiation as a rights- and title-holder, deciding whether and on what terms a project may proceed on its lands.

Industry partnerships can build lasting wealth, institutions, and capacity for the Nation. They can also lock a community into decades of obligations it did not fully understand. The difference is rarely the project itself. It is the Nation's readiness, clarity of mandate, and discipline in negotiation and implementation.

This guide sets out five phases:

1. Readiness — governance, mandate, community values, team and information in place before the first meeting, organized through the ECONOMY Framework.
2. Deal landscape — understanding the agreement types available and what each is for.
3. Strategy — interests, alternatives, leverage and risk drawn from the ECONOMY work, with reciprocity defined on the Nation's terms.
4. At the table — protocol, process agreements and the key terms to secure.
5. After signing — implementation, governance and monitoring, where most agreements succeed or fail.

Core principle - reciprocity reframed. A Nation’s consent is the first ‘give’. Access to land, water and territory is the opening contribution to the relationship. The reciprocal obligation therefore rests with the industry partner: to return value, respect and accountability in proportion to what the Nation has given.

How to Use This Guide

This guide is written for Chief and Council, economic development corporation (EDC) boards and executives, and the negotiating teams they mandate. It applies to agreements with proponents in the resource, energy, infrastructure, and service sectors.

- Leadership should read the Executive Summary, Foundations and Phase 1 to set mandate and governance.
- Negotiators and EDC staff should work through all five phases and use the Tools section as working documents.
- Community members can use Foundations and Phase 5 to understand what a good agreement should deliver and how to hold it accountable.

This is a strategic guide, not legal or financial advice. Independent legal counsel should review every agreement and, where equity or revenue is involved, independent financial advisors retained by the Nation.

Draft status: Legal and policy references reflect sources checked on 20 November 2026. The BC policy environment is changing quickly; see Foundations.

Foundations: The Nation's Starting Position

A Nation's leverage begins with its rights, not with the proponent's offer. Negotiators should be able to state the Nation's legal and policy position in plain terms before any discussion of benefits.

Foundation	What it means at the table
Section 35, Constitution Act, 1982	Aboriginal and treaty rights are recognized and affirmed. They exist before and independent of any agreement.
Duty to consult and accommodate (Haida Nation v. British Columbia, 2004 SCC 73)	The Crown's duty, not industry's. Proponents often carry procedural aspects, which gives the Nation's participation real value.
Aboriginal title (Delgamuukw, 1997; Tsilhqot'in Nation, 2014 SCC 44)	Where title is established, the title-holder's consent is required for use of the land, or the Crown must justify an infringement.
UN Declaration, Article 32(2)	States are to obtain free, prior and informed consent before approving projects affecting Indigenous lands and resources.
Federal UN Declaration Act (S.C. 2021, c. 14)	Requires Canada to align federal laws with the Declaration and implement an action plan. Last amended 27 November 2024 (Justice Laws).
BC Declaration Act (DRIPA, SBC 2019, c. 44)	Section 7 enables joint and consent-based statutory decision-making agreements. Status now uncertain; see below.

BC context is in flux — verify before relying on DRIPA.

- In December 2025, the BC Court of Appeal held in Gitxaała v. British Columbia (Chief Gold Commissioner), 2025 BCCA 430, that DRIPA incorporates UNDRIP into BC law with immediate legal effect (Gowling WLG).
- The Supreme Court of Canada granted BC leave to appeal on 21 May 2026; as of the sources reviewed, no hearing date had been set (CBC).
- Following the 24 October 2026 provincial election, Premier-designate Lorne Doerkson committed to repealing DRIPA. It is unclear whether repeal would affect existing section 7 agreements, such as the 2022 Tahltan agreement under which Eskay Creek was jointly permitted. The platform commits to honour existing agreements on LNG, pipelines, and transmission, but it does not list mines (EnergyNow, 19 Nov 2026).

Implication for negotiators: Do not let an agreement's protections depend solely on provincial legislation that may change. Write consent, decision-making, and dispute rights directly into the contract with the proponent, and include change-in-law provisions (see Phase 4).

Phase 1 — Readiness

The strongest negotiating position is built before the first meeting. A Nation that knows what it wants, who decides, and what it will not trade negotiates from strength; one that does not will negotiate against itself.

ICDPRO's ECONOMY Framework organizes this preparation. Its seven steps - Existing, Coming, Other, No-go zones, Organize, Mitigate risks and Yearly plans - move a Nation from what it already holds to the plans that put an agreement to work. Applied to a negotiation, each step answers one readiness question before the Nation sits down with a proponent.

ECONOMY step	Readiness question	Output for the table
Existing	What do we already hold, and who is already operating in our territory?	Asset inventory; territory audit; guiding documents and existing agreements
Coming	What is this project, and what else is coming?	Verified project file; pipeline of upcoming projects and government commitments
Other	What does our community need, and what other opportunities exist?	Needs assessment; the Nation's definition of "benefit"; alternatives to this deal
No-go zones	What is not on the table?	Mapped protected areas; written non-negotiables
Organize	What are our priorities, and who negotiates for us?	Mandate organized by the six capitals; negotiating team
Mitigate risks	What could weaken our position or derail the deal?	Governance safeguards; risk positions; capacity funding
Yearly plans	How will the agreement serve our plans, year by year?	Ratification timeline; benefits mapped to yearly plans; implementation approach

E — Existing: start with what the Nation holds

- Ground the mandate in existing guiding documents: the comprehensive community plan, the land use plan, the economic development strategy, and the Nation's laws and policies.
- Inventory community assets: people and their skills, Nation businesses able to contract, land, infrastructure and institutions. These define what the Nation can deliver — and offer — in employment and procurement terms.
- Complete a territory audit: which companies operate in the territory, what they do, how long they have been there, and whether they consulted. A Nation that knows who is where negotiates with knowledge of its whole territory, not one project at a time.

- Commission or update traditional land-use, cultural, and socio-economic baseline studies under Nation control.
- Review existing agreements with this proponent and others. Terms already secured or conceded set precedents.

C — Coming: know the project and the pipeline

- Gather the project description, timelines, capital cost, expected revenue, and the proponent's financial position. Independent advisors should verify the proponent's claims.
- Place the project on the territory map alongside other projects coming through the territory — roads, power lines, mines, utilities — with company contacts, timing and potential benefits.
- Track government commitments that create opportunity, such as Indigenous procurement targets and equity financing programs (see Phase 2).

O — Other: define benefit by community need

- Engage Elders, knowledge keepers, youth, and off-reserve members early. Their priorities define what "benefit" means for this Nation.
- Assess community needs — the gap between what is and what should be — so the agreement answers real priorities such as housing, food, water, education and safety, not revenue alone.
- Identify other opportunities in the territory, such as tourism, harvesting, agriculture or manufacturing. They widen the Nation’s options and strengthen its alternatives (see Phase 3).

N — No-go zones: settle what is not on the table

- Map sacred sites, burial and ceremonial grounds, and hunting and harvesting areas with Elders and land users. Decide in advance what will be shared with the proponent, and when; sharing no-go zones early prevents conflict later.
- Record contaminated or unusable sites. Remediation can become a negotiated benefit.
- Carry these limits into the mandate as non-negotiables (see Organize).

O — Organize: set priorities, mandate and team

- Organize everything gathered into the six capital areas — economic, human, natural, physical, social and cultural — and set priorities within each. The result is the Nation’s interest map for Phase 3.
- Translate values into measurable outcomes the agreement must deliver, not just principles in a preamble.
- Pass a Council resolution establishing the team, its authority, reporting cadence and approval thresholds.
- Set out objectives, priorities, and non-negotiables in writing; for example, protected sites, water, harvesting areas, and minimum benefit floors.
- Define what requires community ratification and how ratification will occur.

You can find the process, with downloadable worksheets, on our website at
https://indigenouscommunitydevelopment.com/community-economy-process/

The negotiating team

Role	Contribution
Lead negotiator	Runs the table; mandated and accountable to leadership.
Independent legal counsel	Drafting, rights protection, enforceability. Retained by and loyal to the Nation.
Financial advisor	Project economics, equity and revenue modelling, tax and structure.
Technical / environmental advisor	Interprets project design, impacts and monitoring data.
Knowledge keeper or Elder advisor	Brings cultural and land knowledge into the mandate and the room.
Community liaison	Keeps members informed; carries concerns back to the table.
Note-taker / records lead	Maintains the negotiation record and commitments log.

M — Mitigate risks: protect the Nation's position

Governance weaknesses are the risks most likely to undermine a negotiation. The framework assesses voice and accountability, political stability, government effectiveness, regulatory quality, the rule of law, and corruption control.

- Clarify who holds authority: Chief and Council, hereditary leadership, a central government, the EDC, or a combination. Resolve this internally first.
- Separate political oversight from commercial negotiation. The Council sets the mandate and approves; the EDC or a designated team negotiates and reports.
- Document conflict-of-interest rules for everyone at the table, including family-business interests in procurement.
- Protect continuity through elections. Put policies in place so a leadership change does not reset the negotiation or remove the team mid-process.
- Secure capacity funding from the proponent before substantive talks, through a separate process or capacity agreement. Funding should not be conditional on the outcome.
- Know the Nation's data rights: who owns studies, how traditional knowledge is protected, and when it may be shared.
- Set the Nation's risk tolerance, particularly for equity, where the Nation accepts commercial risk in exchange for commercial return.

Y — Yearly plans: connect the agreement to the Nation's plans

- Set the ratification and decision timeline against the proponent's schedule so the Nation's process isn't compressed by the proponent's deadlines.

- Map how benefits will flow into the Nation's yearly plans: which priorities revenue, jobs and contracts will fund, year by year.
- Plan implementation from the start using ICDPRO's ACTION approach — Alignment, Commitment, Tasks, Interdependence, Ownership and Non-negotiables — so the agreement has legs once signed (see Phase 5).

Phase 2 — Know the Deal Landscape

Agreements are sequenced across a project's life, and each stage sets the terms for the next. A Nation should know which agreement it is negotiating, what it should and should not commit to at that stage, and what comes after.

Agreement	Typical stage	Purpose	Watch for
Communication protocol / MOU	Early exploration	Sets how parties will engage; signals intent.	Language implying support or consent for the project.
Capacity or process funding agreement	Before substantive talks	Funds the Nation's team, advisors and studies.	Funding tied to a positive outcome or a timeline.
Exploration agreement	Exploration	Access terms, site protection, local hiring and contracting.	Clauses that pre-commit the Nation at later stages.
Impact Benefit Agreement (IBA) / participation agreement	Pre-permitting to construction	Consent or support in exchange for impact management and benefits.	Broad non-opposition clauses; weak implementation terms.
Revenue or royalty sharing	Within IBA or stand-alone	Ongoing payments tied to production, revenue or profit.	Profit-based formulas the Nation cannot audit.
Equity ownership	Development or acquisition	Ownership stake in the asset, with returns and governance rights.	Debt burden, cash calls, minority-holder protections.
Procurement / contracting agreement	Construction and operations	Set-asides, preferred access and capacity support for Nation businesses.	Unrealistic bonding and insurance thresholds.
Employment and training agreement	Construction and operations	Targets, training pathways, retention and advancement.	Targets without reporting or consequences.
Closure and reclamation agreement	Late life	Land return standards, monitoring and financial security.	Security too small to cover actual reclamation cost.

Equity is now a realistic option, and a serious commitment.

- The federal Indigenous Loan Guarantee Program has doubled its guarantee authority from $5 billion to $10 billion and extended its scope to major projects across sectors (Major Projects Office).
- Its first guarantee supported 36 First Nations in acquiring a 12.5% interest in Enbridge's Westcoast natural gas pipeline system, backed by a $400 million guarantee (CDEV).
- BC's First Nations Equity Financing Program offers provincial loan guarantees capped at $1 billion (Gov. of BC). The incoming government has committed to rebuilding the program, so terms may change.

Equity can align interests and build intergenerational wealth. It also exposes the Nation to commercial risk. Model downside scenarios, debt service, and cash calls before treating equity as a benefit.

Phase 3 — Strategy

Strategy turns the mandate into a plan for the table. Its purpose is to protect the Nation's interests, understand its alternatives, and use its leverage deliberately rather than reactively.

The ECONOMY work completed in Phase 1 becomes the Nation’s strategic advantage. It supplies the Nation’s interests, alternatives, fixed limits, and risk positions.

Interests, not just positions

A position is what a party asks for; an interest is why. The interest-based approach popularized by Fisher and Ury's Getting to Yes helps both sides find options neither proposed. For example, a demand for "500 jobs" may reflect an interest in keeping youth in the community - an interest that training pathways, apprenticeships, and local contracting may serve better.

Map interests on both sides:

	The Nation	The proponent
Typical interests	Protecting land, water and culture; lasting wealth; jobs and businesses; decision-making role; capacity building	Permit certainty; schedule; cost control; financing; reputation and ESG standing
What each can offer	Consent and support; local knowledge; workforce; regulatory confidence; partnership credibility	Revenue, equity, contracts, training, environmental commitments, shared governance

Then break the Nation’s interests down by the six capitals from the Organize step, so no area of wellbeing is traded away unseen:

Capital	Nation interests (examples)	What the proponent can offer

Capital	Nation interests (examples)	What the proponent can offer
Economic	Revenue, ownership, lasting wealth	Revenue or royalty share; equity; contracts
Human	Jobs, skills, careers for youth	Training funds; apprenticeships; advancement pathways
Natural	Land, water, wildlife and harvesting protected	Environmental commitments; joint monitoring; reclamation security
Physical	Housing, roads, power and community infrastructure	Shared infrastructure; legacy assets at closure
Social	Wellbeing, safety, community cohesion	Community investment; cultural safety and anti-racism commitments
Cultural	Language, sites, ceremony, knowledge	Site protection; cultural programs; respect for Nation law and protocol

Know the Nation's alternatives

Before negotiating, define what the Nation will do if no agreement is reached - its best alternative to a negotiated agreement (BATNA). Options may include regulatory participation, judicial review, alternative partners, or simply waiting. A credible alternative makes "no" a real answer.

Estimate the proponent's alternatives, too. Delay, litigation risk, and financing conditions often weigh more heavily on the proponent than the proponent will admit.

The Existing, Coming, and Other steps build these alternatives. Existing assets and businesses, other projects coming through the territory, and other opportunities mean the Nation does not depend on any one proponent. Name them in the strategy.

Hold the line on no-go zones

No-go zones and non-negotiables set in Phase 1 are not bargaining chips. Table them early, map and explain them, so the proponent designs around them rather than negotiating them away. Distinguish them from priorities, which can be traded for value elsewhere.

Sources of Nation leverage

- Rights and title over the land in question
- Timing: the proponent's permitting, financing and construction schedule
- Lender and investor expectations on Indigenous consent and ESG performance
- Government policy favouring Indigenous partnership and ownership
- Nation unity and a clear, ratified mandate
- Knowledge of the land that improves project design and reduces risk
- A completed territory audit: knowing every operator in the territory and the precedents set with each

Power imbalances between nations and companies are well documented in the literature (e.g., Caine & Krogman, 2010). Unity, preparation, and independent advice are the most reliable ways to narrow that gap.

Risk-adjusted strategy

Strategy should name the risks of agreeing as well as the risks of not agreeing. The framework's risk types apply directly:

- Calculated risk — weigh the pros and cons of each major term, such as an equity stake versus a larger revenue share.
- Accepted risk — decide which risks the Nation will take to reach a goal, such as construction-period disruption in exchange for training and contracts.
- Managed risk — manage risk through agreement terms (monitoring, financial security, audit rights) rather than avoiding opportunity altogether.
- Positive risk — consider what the Nation may lose by not acting now, such as a closing financing window.

Sequence benefits against yearly plans

Plan for what the Nation needs in years one to five, not just at signing. Front-load the community's needs - capacity funding before talks, training before construction - and tie later benefits to milestones the Nation can verify.

Reciprocity on the Nation's terms

State the reciprocity principle at the outset and adhere to it. The Nation's consent is the first and largest contribution. The proponent's obligation is to reciprocate by sharing value, respecting Nation law and protocol, and being accountable for commitments. Proposals should be tested against one question: does this return value in proportion to what the Nation gives?

Phase 4 — At the Table

Process shapes outcomes. The Nation should set the protocol, agree to the negotiation rules in writing, and work from its own draft whenever possible.

Protocol and process

- Open on the Nation's territory and in its protocol: welcome, ceremony where appropriate, and acknowledgement of Nation law and governance.
- Negotiate a process agreement first. It should cover confidentiality, capacity funding, schedule, decision-makers on each side, the "without prejudice" status of discussions, and how the community will be informed.
- Confirm that the proponent's negotiators have the authority to commit. Avoid repeated escalations to unseen executives.
- Table the Nation's own term sheet or draft agreement. Responding to the proponent's template concedes the frame.
- Keep a written record of every commitment and open issue, reviewed at each session.

Key terms to secure

Area	Terms to negotiate
Consent and support	Precise scope of support; what the Nation is not agreeing to; right to participate in regulatory processes; no blanket non-opposition.
Environmental and cultural protection	Protected sites and areas; Nation-led or joint monitoring; access to data; stop-work rights for cultural discoveries; water protection.
Financial benefits	Revenue, royalty or profit share with clear formulas; minimum payments; inflation indexing; audit rights; payment timing.
Equity	Ownership percentage; financing structure; board seats; minority protections; exit, transfer and buy-back rights.
Employment and training	Targets by phase and job level; training funded before construction; retention, cultural safety and anti-racism commitments; advancement pathways.
Procurement	Set-asides and first rights; contract sizing for Nation businesses; bonding and payment terms; joint venture standards that prevent "rent-a-Nation" structures.
Governance	Joint implementation committee with defined authority; senior executive escalation; annual review.
Reporting	Regular public or member-facing reports against every target.
Change and assignment	Agreement binds successors and purchasers; change-of-control triggers; change-in-law clause protecting Nation rights if legislation such as DRIPA changes.
Dispute resolution	Staged process: committee, executives, mediation, then binding arbitration. Nation law and protocol recognized.
Review and renegotiation	Scheduled reviews; renegotiation triggers for expansion, life extension or material change in project economics.
Closure	Reclamation standards defined with the Nation;

Area	Terms to negotiate
	adequate financial security; land return.

Before signing

- Independent legal and financial review of the final text.
- Plain-language summary for members, with community information sessions.
- Ratification by the process set out in the mandate.

Phase 5 — After Signing

Signing is the midpoint, not the finish line. An agreement delivers only what is implemented, monitored and enforced - and implementation needs its own budget, people and governance.

Build the implementation institution

- Establish the joint implementation committee within 90 days of signing, with terms of reference, a meeting schedule, and decision-making authority.
- Fund a Nation implementation coordinator, paid through the agreement, not from Nation core budgets.
- Create an obligations register listing every commitment, its owner, deadline and status.

Monitor and report

- Track employment, training, procurement, payments and environmental performance against agreed targets.
- Report to Council quarterly and to members at least annually, in plain language.
- Use Nation monitors on the land and Nation access to company data to verify, not just receive, reports.

Manage the money for generations

- Direct revenue through a governance structure set by Nation law or policy - for example, a trust or community investment fund - with clear rules separating spending, savings, and reinvestment.
- Align distributions with the community plan rather than annual budget pressure.

Enforce and adapt

- Raise non-performance early through the committee; escalate in writing if unresolved.
- Use scheduled reviews to renegotiate where project conditions, Nation priorities or the law have changed.
- Plan leadership transitions: brief new councils on the agreement, its obligations and its benefits.

Common Pitfalls and How to Avoid Them

Pitfall	Consequence	Prevention

Pitfall	Consequence	Prevention
Negotiating before the mandate is set	Team concedes points leadership never approved	Council resolution and written mandate first
Using the proponent's template	Proponent frames every issue	Table the Nation's own term sheet
Advisors paid or chosen by the proponent	Divided loyalty; weaker advice	Independent advisors retained by the Nation, funded by capacity agreement
Early MOU language implying support	Consent treated as given before terms are agreed	Explicit "no support or consent implied" clause
Broad non-opposition clauses	Nation loses its voice on future changes or expansions	Narrow, defined scope of support
Targets with no reporting or consequence	Commitments erode quietly over time	Reporting, audit rights and remedies for shortfalls
Confidentiality that silences members	Loss of trust; ratification at risk	Plain-language summaries and member engagement built into the process
No implementation budget	Agreement exists on paper only	Funded coordinator and committee written into the agreement
Relying on legislation alone	Protections vanish if law changes	Contractual rights plus change-in-law clauses
Benefits captured by a few	Division within the Nation	Transparent governance of revenue, jobs and contracts

Tools

Readiness checklist — complete before substantive negotiations begin.

- ☐ Council resolution establishing the negotiating team and its authority
- ☐ Written mandate: objectives, priorities, non-negotiables, approval thresholds
- ☐ Ratification process defined
- ☐ Roles of Council, hereditary leadership and EDC confirmed
- ☐ Conflict-of-interest declarations signed
- ☐ Independent legal and financial advisors retained
- ☐ Capacity funding agreement in place
- ☐ Community plan, land use plan and Nation laws reviewed for mandate alignment

☐ Elder, youth, women and off-reserve engagement completed

☐ Traditional use and baseline studies under Nation control

☐ Data and traditional knowledge protection terms set

☐ Nation's alternatives (BATNA) documented

☐ Territory audit completed

☐ No-go zones mapped and a sharing protocol agreed

☐ Interests organized by the six capitals

☐ Member communication plan approved

Negotiation planning worksheet — one row per priority issue; update after each session.

Issue	Nation interest	Opening position	Target	Walk-away point	Proponent's likely interest	Trade-offs available	Status
Example: employment	Youth stay and build careers at home	30% Nation workforce, all phases	25% with funded training	15% with pre-construction training	Skilled labour supply; schedule	Training fund in exchange for phased targets	Open

Sources and Verification Notes

Recommended practitioner resource

- Gibson, G., & O'Faircheallaigh, C. IBA Community Toolkit: Negotiation and Implementation of Impact and Benefit Agreements. Summer 2015 edition, The Gordon Foundation (PDF). A 2026 edition appears to have been published via Firelight (PDF)
- Adsit, A. (n.d.). Indigenous community development & prosperity. ICDPRO. Source of the ECONOMY Framework and ACTION approach used in Phases 1 and 3. Scholarly and negotiation references
- Caine, K. J., & Krogman, N. (2010). Powerful or just plain power-full? A power analysis of impact and benefit agreements in Canada's north. Organization & Environment, 23(1), 76–98. (Details confirmed via a Simon Fraser University reference list; verify against the journal before final citation.)
- Fisher, R., & Ury, W. (1981). Getting to yes: Negotiating agreement without giving in. Houghton Mifflin. (Cited from general knowledge; later editions add Patton as co-author.)

Law and policy

- Haida Nation v. British Columbia (Minister of Forests), 2004 SCC 73; Delgamuukw v. British Columbia, [1997] 3 SCR 1010; Tsilhqot'in Nation v. British Columbia, 2014 SCC 44 — standard citations, cited from general knowledge.
- United Nations Declaration on the Rights of Indigenous Peoples Act, S.C. 2021, c. 14 — Justice Laws Website.
- Gitxaała v. British Columbia (Chief Gold Commissioner), 2025 BCCA 430 — summarized by Gowling WLG; SCC leave reported by CBC.
- EnergyNow, 19 Nov 2026 — incoming BC government's DRIPA and partnership commitments.
- Major Projects Office: Partnering with Indigenous Peoples and CDEV: first ILGP guarantee.
- BC First Nations Equity Financing Program.

If you would like assistance working through this process or negotiating with Industry, please reach out to Angela@ICDPRO.ca.

I hope this guide was helpful.

Meduh,

Angela Adsit, MBA, PMP, Lean Six Sigma Black Belt