



February 6, 2012

Bylaw Advisory Services Unit
Aboriginal Affairs and Northern Development Canada
10 Wellington Street
Gatineau, Quebec K1A 0H4

Attention: Marie-Eve Martel, A/Manager

Dear Ms. Martel,

RE: Kamloops Indian Band (Tk'emlúps te Secwépenc) Development Approval Process Bylaw

Please find enclosed our approved Kamloops Indian (Tk'emlúps te Secwépenc) Band Development Approval Process Bylaw.

Sincerely,

Barb Morin
Governance Relations Advisor

CC: David Lorensen, Manager, Governance and Capacity Development
British Columbia Region
Natalie Nepton, Director, Band Governance Directorate

Kamloops Indian Band (Tk'emlúps te Secwépemc) **DEVELOPMENT APPROVAL PROCESS BYLAW**

WHEREAS section 35 of the *Constitution Act*, 1982 recognizes and affirms the existing aboriginal (self-government) rights of the aboriginal peoples of Canada;

AND WHEREAS the Council of the Kamloops Indian Band (Tk'emlúps te Secwépemc) desires to make a Bylaw for the regulation of orderly development on the Reserve;

AND WHEREAS paragraphs 81(1) (d), (f), (g), (h), and (q) of the *Indian Act* empower the Kamloops Indian Band (Tk'emlúps te Secwépemc) Council to make Bylaws for the prevention of nuisances, construction and the regulation of land use and ancillary matters;

NOW THEREFORE the Council of the Kamloops Indian Band (Tk'emlúps te Secwépemc) hereby enacts the following Bylaw.

PART A

PURPOSE AND OBJECTIVES / DEFINITIONS AND INTERPRETATION

1. Purpose and Application

- 1.1. Purpose and Application. The purpose of this Process is to enable the orderly development of the Reserve in accordance with approved master development plans and development plans, applicable Law and agreements, bylaws and policies. The Process applies in respect of all development on the Reserve, and is intended to respect the interests of the Band, Band members, applicants and owners of land within the Reserve.

2. Objectives

- 2.1. Objectives. The Band wishes to achieve certain objectives in respect of the development of the Reserve, including:
- (1) promoting orderly and high quality development on the Reserve, whether owned or occupied by the Band, Band members or others;
 - (2) protecting and enhancing the short-term and long-term interests of the Band, including economic, financial, legal, social, environmental, employment and cultural interests;
 - (3) facilitating a co-operative and efficient working relationship between the Band, Band members, applicants and owners of land on the Reserve; and,
 - (4) establishing a framework under which owners and applicants adequately address relevant development issues.

3. Definitions

- 3.1. Definitions. In this Process, the following terms have the following meanings:
- (1) **"Acceptance of Certification Report"** means the document issued or caused to be issued by the DAB in respect of any Services and Facilities, under section 52;

- (2) **"Acceptance of Warranty Certification Report"** means the document issued or caused to be issued by the DAB in respect of any Services and Facilities upon completion of the Warranty Period, under section 53;
- (3) **"Action"** means any demand, claim, cause of action, action, suit or proceeding of any kind or nature whatsoever, whether brought or made in a court proceeding, arbitration proceeding or otherwise;
- (4) **"Applicant"** means the Person who makes an application for any Authorization; includes the owner and any Person who undertakes or performs any work under an Authorization;
- (5) **"Approval conditions"** means any conditions attached to any Authorization;
- (6) **"Approval to Construct"** means an approval made by the DAB authorizing an applicant to construct on land any Services and Facilities;
- (7) **"Approval to Proceed"** means an approval made by the DAB authorizing an applicant to construct on land any Works;
- (8) **"Architect"** means a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia);
- (9) **"Authorization"** means any inspection, approval, approval on conditions, authorization, acceptance, permit, license, certificate, requirement or order relating to any interest in, or any use or development of, or construction or operation on the Lands or any building or other improvement on the Lands, or any portion of any of them, under this Process, including those related to any of the following:
 - (a) any Master Development Plan;
 - (b) any Development Plan;
 - (c) any subdivision or step in the subdivision approval process;
 - (d) any plans, specifications or design brief;
 - (e) any construction or phasing of construction of any Services and Facilities or Works; and
 - (f) any variance,
 and any amendment, modification, suspension, revocation, extension, rescission or termination of any of them;
- (10) **"Band"** means the Kamloops Indian Band (Tk'emlúps te Secwépemc);
- (11) **"Band Building Bylaw"** means the Band's Building Regulations Bylaw;
- (12) **"Band Development Approval Requirements"** includes applicable Law, Band bylaws, the Process, the Standards, the Building Code, Environmental Requirements, Geotechnical Requirements, Heritage Requirements, Authorizations, approval conditions, and agreements relating to the Lands;

- (13) **"Band Environment and Lands Management System"** means the Band Environment and Lands Management System;
- (14) **"Band Heritage Bylaw"** means the Band's Heritage Conservation Bylaw;
- (15) **"Band Heritage Policy"** means the Cultural Heritage Policy of the Band, as amended, superseded and replaced from time to time;
- (16) **"Band member"** means a person who is a member of the Band and is registered on the Band List as defined under the *Indian Act*;
- (17) **"Band Official"** includes the Council, the DAB, members of Council, officials, officers and employees of the Band;
- (18) **"Building"** means any structure used or intended for supporting or sheltering any use or occupancy; includes retaining walls;
- (19) **"Building Certificate"** means an acceptance or approval made under the Band Building Bylaw, authorizing the construction of a building or structure;
- (20) **"Building Code"** means the British Columbia Building Code;
- (21) **"Business Day"** means a day which is not a Saturday, a Sunday, a statutory holiday under the Band Personnel Policy approved by the Council or another day on which the Band offices are not open during regular business hours;
- (22) **"Canada Land Surveyor"** means a person who has been granted a commission as a Canada Land Surveyor under the *Canada Land Surveys Act*;
- (23) **"Certification Report"** has the meaning given to that phrase in section 52.1(4);
- (24) **"Chief"** means the Chief of the Band duly elected or holding office and sworn into office in good standing under the relevant provisions of the under the Band's Custom Elections Regulation;
- (25) **"Chief Financial Officer"** means the person holding that position, or the successor to that position, for the Band from time to time;
- (26) **"Class A Cost Estimate"** means a detailed estimate of costs based on quantity take-offs from final drawings and specifications, generally used to evaluate tenders; includes a contingency allowance of 5% plus engineering and other allowances;
- (27) **"Class B Cost Estimate"** means an estimate of costs prepared after site investigations and studies have been completed and the major systems defined, based on a project brief and preliminary design, and generally used for obtaining firm financial commitments, budgetary control and design cost control; includes a contingency allowance of 15% plus engineering and other allowances;
- (28) **"Class C Cost Estimate"** means an estimate of costs which is prepared with limited site information, based on probable conditions affecting a project; it represents the summation of all identifiable project component costs, and generally is used for program planning and to establish a more specific definition of client needs and to obtain approvals in principle; includes a contingency allowance of 25% plus engineering and other allowances;

- (29) **"Compliance coordination"** means the activities necessary to ascertain that the Registered Professionals of record for the various components of the Project:
- (a) have reasonably interpreted the Standards and other Band Development Approval Requirements governing the design of such components;
 - (b) have incorporated the Standards and other Band Development Approval Requirements into their designs;
 - (c) have integrated the design meeting the Standards and other Band Development Approval Requirements so that they are compatible with the requirements of other disciplines;
 - (d) have fulfilled the requirements of the Standards and other Band Development Approval Requirements; and
 - (e) will provide field reviews in respect of their respective components of the Project;
- (30) **"Construct"** includes erect, repair, alter, enlarge, extend, install, add to, demolish, remove, place or replace on land any building, structure, works, Services and Facilities or other improvement; includes excavating and soil removal, filling and site preparation;
- (31) **"Construction"** includes erecting, repairing, altering, enlarging, extending, installing, adding to, demolishing, removing, placing or replacing on land any building, structure, works, Services and Facilities or other improvement; includes excavating and soil removal, filling and site preparation;
- (32) **"Coordinating Registered Professional"** means a Registered Professional Architect or Engineer retained by the owner to coordinate; on behalf of the owner, all design work and field reviews of the Registered Professionals required for the Project;
- (33) **"Council"** means the Chief and Councillors of the Band duly elected or holding office and sworn into office in good standing under the relevant provisions of the Band's Custom Elections Regulation;
- (34) **"Councillor"** means a person duly elected or holding office and sworn into office in good standing under the relevant provisions of the Band's Custom Elections Regulation;
- (35) **"DAB"** and **"Development Approval Board"** mean the board established under section 9;
- (36) **"Damage"** means any loss, cost, damage, expense or liability of any kind or nature whatsoever, including injury to property, personal injury, death, contract damages or debt, economic loss, consequential damage and any reasonable legal or other professional fee or disbursement and any tax on any of the above;
- (37) **"Develop"** means to change the use of any land, building, structure, works or other improvement, or the carrying out of any construction, engineering or other operations on, in, over or under land, including the removal or deposit of soil, and site clearing, grading and excavation; does not include the maintenance of any existing works, structures, buildings or other improvements;

- (38) **"Development"** means a change in the use of any land, building, structure; works or other improvement, or any construction, engineering or other operations on, in, over or under land, including the removal or deposit of soil and site clearing, grading and excavation; does not include the maintenance of any existing works, structures, buildings or other improvements;
- (39) **"Development plan"** means a comprehensive statement of the proposed development within one or more Lots of the Reserve, including details as to proposed land use, the form and character of development (including use, density, siting, size and dimensions of land, buildings and structures), streets, parks and other amenity areas, servicing infrastructure, and the phasing of construction;
- (40) **"Development plan application"** means an application for approval or amendment of a development plan;
- (41) **"Director of Finance"** means the person holding that position, or the successor to that position, for the Band from time to time;
- (42) **"Dwelling unit"** means one or more rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy or rental or lease on a monthly or longer basis, and physically separated from any other dwelling units or rooms which may be in the same building, and containing independent cooking, sleeping and sanitary facilities, but no more than one cooking facility;
- (43) **"Easement"** means an easement, right of way, permit under section 28(2) of the *Indian Act* or other interest in or right to use land, as may be required for any Roads or required by the Band, the owner, any lawful authority, any public utility or other entity for the provision, operation or maintenance of or access to any Services and Facilities;
- (44) **"Engineer"** means a person registered or licensed in good standing to practice as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia);
- (45) **"Environmental Laws"** means all applicable common laws, statutes, bylaws, ordinances, regulations, standards, codes, guidelines, notices, directives, decisions, orders or lawful requirements of, or issued by or under the direction of, any lawful authority relating to or in respect of the environment or its protection, preservation, restoration or enhancement;
- (46) **"Environmental Requirements"** includes the requirements, recommendations, terms and conditions of or under one or more of the following:
- (a) any Environmental Laws including the Band Environment and Lands Management System;
 - (b) any environmental assessment decision prepared or issued by or on behalf of the Band or Indian and Northern Affairs Canada, including all further reports, plans, materials and information required or recommended in or under the environmental assessment decision;
 - (c) any requirements in respect of the environment or the protection, preservation, restoration or enhancement of it, imposed under this Process or any agreement relating to the Lands;

- (47) **“Environmental Specialist”** means the person holding that position, or the successor to that position, for the Band from time to time;
- (48) **“Escalation Factor”** means the fraction (which may be greater than, equal to, but not less than, 1) of which:
- (a) the numerator is the All-Items Consumer Price Index for Vancouver, British Columbia, published by Statistics Canada, or its successor, as of the date that the Escalation Factor is to be determined; and
 - (b) the denominator is the All-Items Consumer Price Index for Vancouver, British Columbia, published by Statistics Canada, or its successor, as of the date the Security was first provided to the Band,
- except that if any at time Statistics Canada no longer publishes an All-Items Consumer Price Index for Vancouver, or is no longer operated by the Canadian Government, the Escalation Factor will be determined by the Director of Finance acting reasonably, based on the rate of inflation (subject to any applicable agreement to the contrary);
- (49) **“Field reviews”** means such reviews of the work at the Project site to which any Approval to Construct or other Authorization relates and, where applicable, at fabrication locations where Project components are fabricated for use at the Project site, that a Registered Professional, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the Band Development Approval Requirements;
- (50) **“Geotechnical Requirements”** includes the requirements, recommendations, terms and conditions of or under one or more of the following:
- (a) any Law;
 - (b) any geotechnical report prepared by a Registered Professional Engineer, including all further reports, plans, materials and information required or recommended in or under the geotechnical report;
 - (c) any requirements in respect of any geotechnical matter imposed under this Process or any agreement relating to the Lands;
- (51) **“Heritage”** has the meaning given to such term in the Band Heritage Conservation Bylaw;
- (52) **“Heritage Requirements”** means the requirements, recommendations, terms, and conditions of or under one or more of the following:
- (a) any Law, including the Band Heritage Bylaw and the Band Heritage Policy; and
 - (b) any requirements in respect of the heritage of the Band or the protection, reservation or enhancement of it, imposed under this Process or the or any agreement relating to the Lands;
- (53) **“Her Majesty”** means Her Majesty the Queen in Right of Canada as represented by the Minister of Indian Affairs and Northern Development;

- (54) **"Indian and Northern Affairs Canada"** means the Indian and Northern Affairs department of the government of Canada;
- (55) **"Indian Act"** means the *Indian Act* (Canada);
- (56) **"Indian Lands Registry"** means the Indian Lands Registry or the successor of such registry insofar as it relates to the Reserve;
- (57) **"Interest Rate"** means the Prime Rate plus 4% per annum;
- (58) **"Land"** includes land covered by water;
- (59) **"Lands"** means the land being developed;
- (60) **"Lands, Leasing and Tax Manager"** means the person holding that position, or the successor to that position, for the Band from time to time;
- (61) **"Land Surveyor"** means a Canada Land Surveyor;
- (62) **"Landscape Architect"** means a person registered or licensed in good standing as a landscape architect under the *Architects (Landscape) Act* (British Columbia);
- (63) **"Law"** means any law, statute, regulation, bylaw, resolution, ordinance, code, standard, guideline, notice, appointment, directive, Band policy approved by the Council, decision, order or lawful requirement of, or issued by or under the direction or authority of, any lawful authority, including any Environmental Laws and each guideline, legislation, code and standard referred to in a lease that applies to the Lands, as that lease may be amended or replaced from time to time;
- (64) **"Lawful authority"** means Her Majesty, the Minister, the Band, the Council, the DAB and any other federal or other government or governmental authority, office or official having jurisdiction, and includes any authorized delegate, appointee, board, bureau, commission, department, administrative agency or regulatory body of any of them;
- (65) **"lease"** means a lease of land within the Reserve made by or on behalf of Her Majesty to a Person; includes a sublease and an assignment of the lease or sublease;
- (66) **"Letters of Assurance"** means the letters of confirmation or assurance and certification to be provided by the owner, Registered Professionals and others in respect of a Project or a component of a Project, in the forms described in Appendix B;
- (67) **"Letter of Credit"** means a clean, unconditional and irrevocable letter of credit drawn on a Canadian chartered bank or other financial institution approved by the DAB, in a form approved or specified by the DAB.
- (68) **"Lot"** means a portion of the Lands which is described as a separate and distinct parcel, whether on one level or more, and whether or not connected with another or others, on a legally recorded Survey Plan or description filed in the Indian Lands Registry;

- (69) **"Master Development Plan"** means a comprehensive statement of the objectives, policies and guidelines for development within a defined geographical area of the Reserve, including details as to the future pattern of land use, the form and character of development (including use, density, siting, size and dimensions of land, buildings, structures), streets, parks and other amenity areas, servicing infrastructure, and the phasing of construction;
- (70) **"Master Development Plan Application"** means an application for approval or amendment of a master development plan;
- (71) **"Materials and information"** includes maps, plans, specifications, materials, tests, information, reports, studies, environmental screenings, audits and assessments, certifications and assurances;
- (72) **"Minister"** means the Minister of Indian Affairs and Northern Development and his or her authorized representatives;
- (73) **"Natural Resource Manager"** means the person holding that position, or the successor to that position, for the Band from time to time;
- (74) **"NRD"** means the Natural Resource Department of the Band;
- (75) **"Occupancy"** means the use or intended use of a building or part of a building for the shelter or support of persons, animals or property;
- (76) **"Occupancy Certificate"** means an acceptance or approval made under the Band Building Bylaw, authorizing the occupancy of a building or structure or part of a building or structure;
- (77) **"Owner"** means the Person controlling the Lands and having the right to occupy and develop the Lands; without limiting the above, the "owner" includes:
- (a) where the Lands are designated under sections 38 and 39 of the *Indian Act* and leased under section 53 of the *Indian Act*, the tenant under the lease;
 - (b) where the Lands are held under a Certificate of Possession and not leased under section 58(3) of the *Indian Act*, the holder of the Certificate of Possession;
 - (c) where the Lands are held under a Certificate of Possession and leased under section 58(3) of the *Indian Act*, the tenant under the lease;
 - (d) where the Lands are held under a permit under section 28(2) of the *Indian Act*, the holder of the permit;
 - (e) subtenants under any of the above; and
 - (f) holders of unauthorized ("buckshee") leases;
- (78) **"Person"** means an individual, corporation, body corporate, partnership, joint venture, association, society or unincorporated organization or any trustee, executor, administrator or other legal representative;

- (79) **"Plan area"** means the area of land covered by and subject to a master development plan or development plan (as applicable);
- (80) **"Planner"** means a person who is a member in good standing of the Canadian Institute of Planners and the Planning Institute of British Columbia;
- (81) **"Planning & Engineering Manager"** means the person holding that position, or the successor to that position, for the Band from time to time;
- (82) **"Prime Rate"** means:
- (a) the floating annual rate of interest expressed as a percentage established from time to time by the main branch in Vancouver, British Columbia of Royal Bank of Canada as the base rate it will use to determine rates of interest charged by it for Canadian dollar commercial demand loans made by it in Canada and designated by Royal Bank of Canada as its "prime rate"; or
 - (b) if at any time the Royal Bank of Canada does not exist or does not publish its "prime rate", then the "Prime Rate" will be the "prime rate" published by another Schedule I Bank designated by the Chief Financial Officer, acting reasonably and if no "prime rate" is so published, then such other rate as is established by the Chief Financial Officer, acting reasonably;
- (83) **"Process"** means this Development Approval Process including any appendices and schedules to it;
- (84) **"Project"** means the Services and Facilities, Works, building, structure or development in respect of which a Registered Professional is retained, as described in a Letter of Assurance provided under this Process;
- (85) **"Public Works Foreman"** means the person holding that position, or the successor to that position, for the Band from time to time;
- (86) **"Recording Secretary"** means the person assigned to that position from time to time by the Lands, Leasing and Tax Manager;
- (87) **"Registered Professional"** means an Architect, Engineer, Land Surveyor, Planner, Landscape Architect, environmental consultant, heritage or archeological consultant or other professional who has been accepted to act as a Registered Professional under this Process, as set out in section 16;
- (88) **"Registered Professional Architect or Engineer"** means an Architect or Engineer accepted as a Registered Professional by the Band; includes Coordinating Registered Professional;
- (89) **"Reserve"** means land located within the Band Reserve Numbers 1 to 5, any other Band reserves or special reserves (as defined under the *Indian Act*) and any other land over which the Band has jurisdiction to pass bylaws or to manage land or development or both; includes designated land, land held under a Certificate of Possession and land held under a section 28(2) permit, as defined under the *Indian Act*;

- (90) **"Road"** means paved and unpaved roads, intersections, lanes and alleys, together with any curbs, gutters, walkways, sidewalks, street lighting, street signs, traffic control devices, boulevards, gardens, lawns, trees or landscaping reasonably incorporated in the design of them;
- (91) **"Security"** means security in the form of cash, Letter of Credit, or bond in the form and in the amount specified or otherwise provided for in this Process;
- (92) **"Services and Facilities"** means all on-site and off-site services, utilities, amenities and facilities in respect of or for the use of a development, including any Roads, walkways, fences, street lighting, parks, common areas, community facilities, recreation facilities, water, sanitary sewer, storm drainage or other drainage facilities, natural gas, solid waste facilities, telephone, electricity, cablevision and communication services and facilities;
- (93) **"Standards"** means the Band Design Criteria and Construction Standards and Specifications for Development approved by the Council by BCR 97-036 on March 21, 1997, as amended, superseded and replaced from time to time;
- (94) **"Subdivision"** means any change in the existing size, shape, number or arrangement of one or more Lots, whether or not involving the creation of a greater number of Lots than existing and whether carried out by Survey Plan or otherwise;
- (95) **"Subdivision approval"** means any approval of any subdivision step under Part L, including any approval conditions;
- (96) **"sublease"** means a sublease, sub-sublease or more remote leasehold interest granted under a lease;
- (97) **"Substantial Completion"** with respect to any Services and Facilities, means the completion of such Services and Facilities, such that they have been fully tested, are functional and can be used for their intended purpose, all as certified in writing under seal by the applicant's Registered Professional and as acknowledged by an Acceptance of Certification Report issued or caused to be issued by the Band;
- (98) **"Survey Plan"** means a survey plan that has been plotted under the direction of the Surveyor General under the *Canada Lands Surveys Act*, for approval by the Registrar of Indian Lands and by the Minister and then for confirmation by the Surveyor General pursuant to section 29 of the *Canada Lands Surveys Act* and approved in accordance with this Process;
- (99) **"Tenant"** means the holder of a lease or sublease;
- (100) **"Warranty Certification Report"** has the meaning given to that phrase in section 53.1(4);
- (101) **"Warranty Period"**, with respect to any Services and Facilities, means the period of two years after the date of the issuance of an Acceptance of Certification Report in respect of such Services and Facilities;
- (102) **"Warranty Security"** means the Security described in section 51.2;
- (103) **"Works"** means buildings, structures, works or other improvements, excluding:

(a) those whose construction is regulated by the Building Code and for which a Building Certificate is required; and

(b) Services and Facilities,

includes excavating and soil removal, filling and site preparation.

Where a word or expression is defined, other parts of speech or grammatical forms of the same word or expression have corresponding meanings.

4. Interpretation

- 4.1. Headlines and References. The headings used in and the organization of this Process are solely for convenience of reference and do not in any way affect, limit, amplify or modify any of the terms or conditions and must not be used in any way in the interpretation of this Process. Any reference in this Process to a part, article, section, appendix or other subdivision means a part, article, section, appendix or other subdivision of this Process unless otherwise expressly provided.
- 4.2. Non-limiting. The word "including", when following any statement, must be construed broadly, to refer to all other things that could reasonably fall within the scope of such statement, whether or not non-limiting language (such as "without limitation" or "without limiting the generality of the foregoing") is used with reference to it.
- 4.3. Number and Gender. In this Process, the singular includes the plural and the plural the singular, as the context permits or requires, and gender specific terms include both genders and corporations.
- 4.4. Reference to Law. Any reference to any Law including any Band Development Approval Requirements includes and is a reference to the same as amended, superseded or replaced from time to time.
- 4.5. Reference to Title. Where the title of a position within the Band's organization is used in this Process, the title refers to the person holding that position for the Band from time to time.
- 4.6. Reference to Government Body. Any reference in the Process to a government body, representative or department includes and is a reference to its successors from time to time.
- 4.7. Provisions Severable. If any section or portion of this Process is declared or held to be invalid for any reason, the invalidity must not affect the validity of the remainder of that section or this Process, and the terms and provisions of this Process are to continue to be in force and in effect and to be construed as if it had been enacted without the invalid portion.
- 4.8. Must. The word "must" is to be construed as imperative.
- 4.9. Appendixes. The following are the Appendixes to this Process:
- Appendix A - Master Development Plan and Development Plan Submission Requirements for Servicing
 - Appendix B - Forms of Letters of Assurance

- Appendix C - Arbitration

PART B

PROHIBITIONS AND ENFORCEMENT

5. General Prohibitions

- 5.1. No Development Without Approval. Land within the Reserve must not be developed except in compliance with this Process and the Band Development Approval Requirements. Without limiting the above, land within the Reserve must not be developed:
- (1) except for the development of one single family home on one Lot, unless the owner first obtains approval of a Master Development Plan or a Development Plan, as applicable;
 - (2) if land is being subdivided, unless the owner first obtains final subdivision approval; and
 - (3) unless the owner provides Services and Facilities as required under this Process.
- 5.2. No Development without Clearance by Environmental Coordinator. Without limiting section 5.1, a Person must not carry out any work or any development which would, directly or indirectly, disturb or alter any land until the Person has complied with all relevant requirements of the Band Environment and Lands Management System.
- 5.3. No Development without Clearance by NRD. Without limiting section 5.1, a Person must not carry out any work, including any testing or site investigations, which would, directly or indirectly, disturb or alter any land which contains any land designated under section 6 of the Band Heritage Bylaw until the Person (called the "proponent" under the Band Heritage Bylaw) has complied with all relevant requirements of the Band Heritage Bylaw and the Band Heritage Policy. Without limiting the above, where any "heritage investigation" (as defined under the Band Heritage Bylaw) is required under the bylaw, the owner must obtain from the NRD the certificate described in section 8(7) of the Band Heritage Bylaw and must comply with any terms and conditions contained in that certificate, before carrying out any work as described above.
- 5.4. Contravention of Process. A Person must not use or occupy any land, building, structure or other improvement in contravention of the provisions of this Process.
- 5.5. Contravention of Authorization. A Person must not use or occupy any land, building, structure or other improvement in contravention of the terms and conditions of an Authorization.
- 5.6. Liability of Owner. Where a Person contravenes the provisions of sections 5.4 or 5.5, the owner of the land, building, structure, works or other improvement is also deemed to be in contravention, of the provisions of and is liable to the penalties provided in this Process. Despite the above, nothing in this section relieves from liability the Person by whom the contravention was in fact committed.
- 5.7. No Development in Contravention of Process. A Person must not carry out any development in contravention of the provisions of this Process.

- 5.8. No Failure to Comply with Conditions of Authorization. A Person must not fail to comply with the terms and conditions of an Authorization.
- 5.9. No Failure to Comply with Time Limits. A Person must not fail to comply, within the time prescribed, with any order or direction given under section 6.3 of this Process.

6. Inspection and Enforcement

- 6.1. Entry/Inspection. The Band or its agent, may give written notice of no less than forty-eight (48) hours by the and will have the right of entry during normal business hours and may enter onto any land or into any building in a reasonable manner in order to inspect the same and to ascertain whether the provisions of this Process are being or have been complied with. In cases of emergency, no prior notice will be required.

- 6.2. Band May Refuse Approvals. If an owner or applicant:

- (1) has not obtained an Authorization as and when required under this Process;
- (2) has not fulfilled any other requirements under this Process; or
- (3) is in default of any of its material duties or obligations under the Band Development Approval Requirements, including this Process, another bylaw of the Band or a lease or other agreement entered into with the Band, Her Majesty or the Minister,

the DAB and other Persons having Authorization powers under this Process, Band bylaws or otherwise, may withhold any Authorization and any permit, acceptance, approval or other authorization relating to the development or use of the Lands, until such time as all required prior Authorizations have been obtained, and the Band is not liable to the owner, the applicant or any other Person in any Action or for any Damage that may arise or result from the withholding of any Authorization.

- 6.3. Orders and Directions. The Lands, Leasing and Tax Manager with the approval of the DAB may order or direct any Person to do one or more of the following:

- (1) discontinue or refrain from proceeding with any work or using or occupying any land or building or doing anything that is in contravention of this Process;
- (2) carry out any work or do anything to bring any land or building into conformity with this Process;
- (3) discontinue or refrain from doing anything that is in contravention of any terms or conditions of an Authorization;
- (4) carry out any work or do anything to bring any land or building into conformity with any terms or conditions of an Authorization.

- 6.4. Appeal of Order or Decision. Where the Lands, Leasing and Tax Manager or the DAB makes an order or direction under section 6.3, any Person who is subject of the order or direction may appeal the order or direction to an independent appointed Arbitrator, within 15 Business Days after the date the order or direction was made. The independent appointed Arbitrator may confirm or set aside the order or direction as it considers proper.

- 6.5. Work May be Done and Added to Taxes. In the event of default, neglect, refusal or failure to comply with an order or direction given under section 6.3 according to the terms of it,

the Lands, Leasing and Tax Manager may, without prejudice to all and any other methods of enforcement provided for in this Process or at Law or at common law or in equity, bring the matter to the attention of the independent appointed arbitrator and, if he or she approves, then the Lands, Leasing and Tax Manager may cause such work to be done at the cost of the Person in default. If the Person in default does not pay such cost to the Band within 10 days after receipt of the Band's invoice for same, the cost of such work will be recoverable from the business owner or occupier by the Band:

- (1) as a debt by summary process at law in any court of competent jurisdiction; or
- (2) if the Person in default appears by the Tax Roll of the Band to be the owner of the land, then the cost of such work will also be a charge upon the land, and the costs when certified by the Chief Financial Officer, if not collected before that time, will be entered by the Chief Financial Officer in the Tax Roll next prepared after certification, and will be considered to be taxes in arrears and collected in the same manner as taxes shown on the Tax Roll.

6.6. Service of Order. An order, direction or invoice under this section which is to be given to a Person who is an owner of land will be sufficiently served if sent by registered mail to the owner at his or her address as it appears on the records of the British Columbia Assessment Authority.

7. Offence and Penalties

7.1. Offence. A Person who:

- (1) violates any provision of this Process;
- (2) suffers or permits any act or thing to be done in contravention or violation of any provision of this Process;
- (3) neglects to do or refrains from doing anything required to be done by any provision of this Process;
- (4) does any act which violates any provision of this Process; or
- (5) fails to comply with any order, direction or notice given under this Process, commits an offence and is liable to the penalties imposed by this Process.

7.2. Penalty. A Person who commits an offence against this Process is liable to a penalty not exceeding \$1,000.

7.3. Directors, Officers. If a corporation commits an offence under this Process, an employee, officer, director or agent of the corporation who authorized, permitted or acquiesced in the offence commits the offence even though the corporation is convicted.

7.4. Imprisonment. A Person who is liable to a monetary penalty specified in this is also liable to imprisonment for not more than 30 days.

PART C

ROLE OF COUNCIL

8. Role of Council

- 8.1. Representation of Band. Subject to this Process and any other Law, the Band will be represented by the Council.
- 8.2. Involvement in the Process. The Council will not be involved in the carrying out of the Process except as set out herein or in any Law.

PART D

DEVELOPMENT APPROVAL BOARD

9. Establishment of Development Approval Board

- 9.1. DAB Established. A board to be known as the "Development Approval Board" or "DAB" is by this Process established and appointed.
- 9.2. DAB Members. The DAB must consist of:
- (1) Lands, Leasing and Tax Manager;
 - (2) Planning & Engineering Manager;
 - (3) Natural Resource Manager;
 - (4) Public Works Foreman;
 - (5) Environmental Specialist; and
 - (6) Other staff members as assigned by the DAB from time to time.
- 9.3. Role and Function of the DAB. The role and function of the DAB is to:
- (1) carry out the functions and exercise the powers assigned to it under this Process, including receiving, reviewing and approving applications; and
 - (2) make decisions about matters that are assigned to it under this Process, taking into consideration relevant Band Development Approval Requirements, sound professional judgment and any reasonable concerns of the DAB with respect to the development.
- 9.4. DAB Not to Unreasonably Delay. The DAB will not unreasonably delay:
- (1) in respect of applications and matters to be decided by the DAB; or
 - (2) in making a decision.
- 9.5. DAB to Participate in Council Meetings. The DAB Chair shall participate and make reports in all meetings of the Council at which the Process or any matters under this Process are considered.

10. Chair of the DAB

- 10.1. Chair of the DAB. The Lands, Leasing and Tax Manager will act as the Chair of the DAB.
- 10.2. Alternate Chair. If the Chair is absent from any meeting of the DAB, the DAB members present will choose another member to preside.

11. Administration

- 11.1. Administration by Lands, Leasing and Tax Manager. The Lands, Leasing and Tax Manager will administer the affairs of the DAB and oversee its operation and will carry out the functions assigned to her or him under this Process or by the DAB in respect of this Process.

12. Notice of DAB Meetings

- 12.1. Regular Meetings. Regular meetings of the DAB will be held at the call of the Chair, but in any event, no less than once every two months.
- 12.2. Notice of Regular Meetings. The Lands, Leasing and Tax Manager will give written notice of the time, date and place of each regular DAB meeting to each member of the DAB at least five Business Days prior to the date of the meeting. The notice will include an agenda of the business to be conducted at the meeting.
- 12.3. Posting of Notice. The Lands, Leasing and Tax Manager will post a notice of the time, date and place of each regular DAB meeting on the bulletin board in the Band Administration Building at least five Business Days prior to the date of the meeting, together with a copy of the agenda for the meeting.
- 12.4. Special Meetings. The Chair of the DAB may call a special meeting of the DAB at any time.
- 12.5. Notice of Special Meeting. Where the Chair calls a special meeting of the DAB, the Lands, Leasing and Tax Manager will notify each member of the DAB of the date, time and place of the meeting by telephone, facsimile, telegram or notice by hand, at least 4 hours before the time of the meeting, and indicate the items of business on the agenda for the meeting.

13. Conduct of DAB Meetings

- 13.1. Quorum. The quorum for the DAB for the conduct of any business will be a majority of all the members of the DAB.
- 13.2. DAB May Determine its own Rules and Procedures. The DAB may determine its own rules and procedures.
- 13.3. Members Only. DAB meetings will be open to DAB members only.
- 13.4. Others May Be Invited. Despite section 13.3, the Lands, Leasing and Tax Manager may invite technical advisors, consultants, Persons whose interest in land is directly affected by the application or matter before the DAB and other Persons to attend all or a portion of a DAB meeting.

14. Decisions of the DAB

- 14.1. DAB May Refer Applications for Opinion or Advice. The DAB may refer for comment or advice any application or matter before it to any outside consultant or agency.
- 14.2. Submissions to DAB. Before making a decision on any application or matter before it, the DAB will, after receiving a request in writing from the applicant, a Band member or owner, whose interest in land is directly affected by the application or other matter before the DAB, permit the Person making the request to make written submissions to the DAB.
- 14.3. Decisions of the DAB. Decisions of the DAB, including in respect of an application or matter before it, will be made by consensus where possible. Subject to section 14.4, if consensus is not reached after a reasonable time, the decision will be made by majority vote of the DAB members. In the event of a tie vote, the Chair will have the deciding vote.
- 14.4. Dissenting Votes or Opinions. Where one or more members of the DAB do not agree with a decision made by the DAB:
- (1) where the decision relates to an application or matter to be decided by the DAB, the DAB will include in its monthly report to Council a summary description of the area of disagreement, with brief reasons for and material information relating to the area of disagreement; and,
 - (2) where the decision is a matter which affects the health or safety of Persons or property, the DAB must either:
 - (a) reach consensus; or
 - (b) refer the matter to be determined by arbitration as set out in section 68.

15. Minutes

- 15.1. Minutes of DAB Meetings. The Recording Secretary, will make a legible record of the decisions of the DAB and the business transacted at DAB meetings.
- 15.2. Minutes to be Signed as Correct. After the DAB has reviewed and approved the minutes of a meeting, and subject to any necessary corrections having been made, the minutes will be signed as correct by the Chair.
- 15.3. Minutes to be Retained and Provided on Request. After the minutes have been signed as correct under section 15.2, the Recording Secretary will:
- (1) provide a copy of the minutes to all members of the DAB;
 - (2) retain the minutes on file; and
 - (3) make a copy of the minutes available for inspection by any Person within two Business Days following a request for the minutes to the Recording Secretary.
- 15.4. Copies of Minutes. The Recording Secretary may provide a Person described in section 15.3(3) with copies of any minutes, for a fee as established under this Process.

PART E

REGISTERED PROFESSIONAL SYSTEM

16. Registered Professionals

16.1. Band Acceptance of Registered Professionals. The DAB may:

- (1) accept certain Architects, Engineers, Land Surveyors, Planners, Landscape Architects, environmental consultants, heritage or archeological consultants and other professionals to act as Registered Professionals under this Process, in accordance with the process established by the DAB under section 16.2 and the requirements and standards established by the DAB under this section;
- (2) restrict the number of professionals who are accepted to act as Registered Professionals under this Process; and
- (3) establish the requirements and standards for acceptance as a Registered Professional under this Process, which may include:
 - (a) having and maintaining professional liability and other insurance, as required under section 17.6;
 - (b) demonstrated knowledge of the Band Development Approval Requirements;
 - (c) demonstrated knowledge of the Kamloops area, including its climate and geology;
 - (d) having applied for and obtained a business license from the Band; and
 - (e) qualifications as an Architect, Engineer, Land Surveyor, Planner, Landscape Architect, environmental consultant, heritage or archeological consultant or other professional, as applicable.

16.2. Process for Acceptance. The DAB must establish a process under which it may accept professionals to act as a Registered Professional under this Process. The process must:

- (1) provide that a core group of professionals be accepted on a periodic basis, with the period no longer than every three years;
- (2) permit the acceptance from time to time of other professionals to act as Registered Professionals, as necessary or expedient;
- (3) permit the removal of professionals from those accepted to act as Registered Professionals;
- (4) permit the acceptance of either individual professionals or firms or corporations of professionals to act as Registered Professionals; and
- (5) where a firm or corporation is accepted to act as Registered Professionals, permit the designation of some or all of the professionals within the firm or corporation to act as Registered Professionals;

- (6) provide that neither the establishment of the process for the acceptance of Registered Professionals nor the acceptance of professionals to act as Registered Professionals is valid until it has been ratified by the DAB.

16.3. Suspension of Privileges. The DAB may suspend the privileges of a Registered Professional, if the Registered Professional:

- (1) is found guilty of related unprofessional conduct under the governing legislation of his or her profession, as applicable;
- (2) fails, when required by the DAB or a Person designated for that purpose by her or him, to demonstrate a satisfactory familiarity with Band Development Approval Requirements;
- (3) ceases to be registered or licensed with, or a member in good standing of, his or her professional organization;
- (4) knowingly submits to the Band a document which is in any material way inaccurate or misleading;
- (5) does or fails to do anything with the intent of misleading or concealing something from the Band;
- (6) fails to disclose to the Band any substantial deviation or change from or contravention of the requirements of any Approval to Construct, Approval to Proceed or other Band Development Approval Requirements in respect of any Project for which he or she is a Registered Professional;
- (7) is considered by the Lands, Leasing and Tax Manager to be in a conflict of interest between the Band and the applicant or owner for whom the Registered Professional is acting; or
- (8) ceases to hold a valid business license from the Band.

16.4. Appeal to DAB. Where the Lands, Leasing and Tax Manager suspends the privileges of a Registered Professional under section 16.3, the Registered Professional who is the subject of the suspension may appeal the suspension to the DAB within 15 Business Days after the date the suspension was made. The DAB may confirm or set aside the suspension as it considers proper.

17. Registered Professionals' Role in this Process

17.1. Owner Must Retain Registered Professionals. For each development to be carried out on the Reserve, the owner must retain:

- (1) one or more Registered Professionals with the relevant expertise and experience necessary for all aspects of the work to be carried out in respect of the development, which may include Engineers with experience in civil engineering and Engineers with experience in geotechnical matters, to carry out the duties and responsibilities of the Registered Professionals under this Process; and
- (2) a Registered Professional Architect or Engineer to act as the Coordinating Registered Professional and to carry out the duties and responsibilities of the Coordinating Registered Professional under this Process, whether the owner retains one or more than one Registered Professional.

17.2. Materials to be Signed and Sealed. Without limiting any other provision of this Process, all materials and information prepared by a Registered Professional for submission under this Process, including any that indicate compliance with any Band Development Approval requirements, must be signed and sealed by the Registered Professional. Despite the above, if the relevant Registered Professional is not the member of a profession which uses a seal, the Registered Professional must sign, certify or otherwise acknowledge and accept responsibility for materials and information prepared or submitted by her or him, in accordance with any formalities established by the governing legislation or governing body of that profession.

17.3. Duties of Coordinating Registered Professional. The duties and responsibilities of the Coordinating Registered Professional under this Process include:

- (1) providing overall responsibility and authority for compliance coordination of the design work and field reviews of the Registered Professionals required for the Project, in order to ascertain that the design and construction of the Project will substantially comply in all material respects with the provisions of the Standards and the other Band Development Approval Requirements;
- (2) referring of master development plan applications, development plan applications and subdivision applications to referral agencies, as instructed by the DAB including coordinating the sending and receiving of referrals and referral responses and promptly forwarding copies of each to the DAB;
- (3) delivering to the DAB Letters of Assurance from each of the Registered Professionals required for the Project, as required under this Process;
- (4) keeping a record of the field reviews over which the Coordinating Registered Professional has responsibility and of any corrective action taken as a result;
- (5) reviewing reports of other testing and inspection agencies and disciplines where necessary; commenting on their acceptability; determining the corrective action to take if unacceptable; and maintaining a detailed record of every such report and comment;
- (6) every two weeks, submitting a written summary progress report to the DAB, including all reports and records described above;
- (7) advising the DAB in writing of any matter of design or construction that does not substantially comply in all material respects with the Standards and the other Band Development Approval Requirements;
- (8) coordinating any corrective measures necessary to bring work into substantial compliance with the Band Development Approval Requirements; and
- (9) providing such other services to the owner as may be required from time to time by the DAB, acting reasonably.

17.4. Duties of Registered Professional. The duties and responsibilities of a Registered Professional under this Process include, in respect of the components of the Project for which he or she is responsible:

- (1) designing or supervising the design of the Project;

- (2) certifying under his or her professional seal or stamp any and all plans and other materials and information which are provided by him or her in support of an application for an Authorization under this Process;
- (3) certifying that the design of the Project will substantially comply in all material respects with the Band Development Approval Requirements;
- (4) certifying that the construction of the Project substantially complies in all material respects with the certified design and the Band Development Approval Requirements;
- (5) delivering to the DAB any Letters of Assurance required under this Process for the Project;
- (6) providing quality assurance to ensure that the Project substantially complies in all material respects with the Band Development Approval Requirements;
- (7) being responsible during construction for field reviews of those components; keeping a record of the field reviews and of any corrective action taken as a result of the field reviews; and making the record available to the DAB;
- (8) if at any time after an Authorization has been issued, unforeseen conditions or circumstances become known which make it necessary that changes in design or extra work be done in order to complete the Project substantially in compliance in all material respects with the Band Development Approval Requirements, ordering such changes or extra work as he or she considers necessary to complete the Project substantially in compliance in all material respects with the Band Development Approval Requirements, and ensuring that any such changes are reviewed and approved by the Person having responsibility under this Process for that type of Authorization;
- (9) recording the details of any field design or construction changes from the plans and other materials and information prepared by the Registered Professional, as referenced in an Authorization;
- (10) ensuring that all necessary information for the preparation of "as-constructed" drawings is recorded;
- (11) reviewing for adequacy and acceptability any oral or written report concerning any testing, inspection or field review requirement; maintaining a detailed record of such reports or comments; and making the same available to the DAB every two weeks during construction;
- (12) advising the DAB in writing of any matter of design or construction that does not substantially comply in all material respects with the Standards and the other Band Development Approval Requirements;
- (13) ensuring that any corrective measures necessary to bring work into substantial compliance with the Band Development Approval Requirements are carried out; and
- (14) providing such other services to the owner as may be required from time to time by the DAB, acting reasonably.

- 17.5. Compliance with Letters of Assurance. A Registered Professional who signs a Letter of Assurance, and an owner or other Person who signs or has an agent sign a Letter of Assurance, must comply with the portions of this Process and the letter that apply to the Person signing.
- 17.6. Insurance. Each Registered Professional must procure and maintain in force professional liability and comprehensive general liability insurance, on the terms and conditions set out in section 63, at reasonable levels of coverage as jointly agreed to by the DAB for reasonable risks and over reasonable periods of time, taking into account the nature and extent of his or her engagement. The Registered Professional must provide proof of such insurance to the DAB before the Registered Professional commences work in respect of any development on the Reserve.

18. Registered Professionals and the Band

- 18.1. Stop Work. The DAB may issue a stop work order and suspend an Authorization in the following circumstances:
- (1) if a Registered Professional ceases to be retained by the owner for the Project;
 - (2) without limiting section 18.1(1), if a Coordinating Registered Professional ceases to be retained by the owner for the Project;
 - (3) if a Registered Professional is suspended by the DAB under section 16.3;
 - (4) if a Registered Professional fails to perform any of her or his duties or obligations under section 17; or
 - (5) if a Registered Professional ceases to be a Registered Professional.

Where an Authorization is suspended under this section, no work other than remedial work necessary, in the opinion of the Registered Professional, to remove any hazards, may be done on the Project unless specifically authorized in writing by the DAB.

- 18.2. No Liability of Band. Without limiting any other provision of this Process, where the Band accepts any materials and information prepared or submitted by a Registered Professional, including any Letter of Assurance, Certification Report or Warranty Certification Report, the Band will be entitled to rely on the materials and information and neither the Band nor any Band Official will be liable in any case, personally, directly or vicariously, for any Damage suffered or incurred by any Person, including an owner, applicant or any subsequent owner or occupier, including any Damage caused or contributed to because any Services and Facilities or any other Project in respect of which an Authorization is issued is unsafe or does not comply with any Band Development Approval Requirements.

19. Duties on Termination of a Registered Professional or a Coordinating Registered Professional

- 19.1. Notice by Coordinating Registered Professional. The owner and the Coordinating Registered Professional must each notify the DAB in writing of the date the Coordinating Registered Professional or any Registered Professional ceases to be retained by the owner at any time during the design or construction of the Project, before the date the Coordinating Registered Professional or the Registered Professional ceases to be retained or, if that is not possible, then as soon as possible.

- 19.2. Notice by Registered Professional. The Registered Professional must notify the DAB in writing as soon as possible of the date the Registered Professional ceases to be retained by the owner at any time during the design or construction of the Project, before the date the Registered Professional ceases to be retained or, if that is not possible, then as soon as possible.
- 19.3. Owner Must Not Terminate Registered Professional. The owner must not terminate the appointment of a Coordinating Registered Professional or a Registered Professional unless:
- (1) the owner immediately replaces or has replaced the Coordinating Registered Professional or the Registered Professional, respectively; and
 - (2) the owner delivers or has delivered to the DAB new Letters of Assurance as required under this Process.

PART F

VARIANCES

20. Approval of Variance

- 20.1. DAB Power to Grant Variances. On an application brought before it under this Process, the DAB may grant a variance from the Band Development Approval Requirements, if:
- (1) the owner is proposing a solution that its Registered Professional has certified is justified in the circumstances or is equivalent to the requirement that is being varied;
- and, as long as:
- (2) in granting any variance, the DAB must consider and have regard for the intent of this Process and other applicable bylaws, policies and guidelines established by the Council; and
 - (3) subject to section 29.2 and 35.2, the variance must not amount to an amendment of a master development plan or development plan.
- 20.2. Timing for Decision. The DAB may refuse to make a decision about a variance application submitted separately from the application in respect of which the variance application is made if the DAB considers, in its sole discretion, that it does not have sufficient information to make the decision or that the decision would be better made as part of its decision in respect of the application in respect of which the variance application is made.
- 20.3. Conditions. The DAB may impose conditions on its approval of a variance.
- 20.4. Reasons. Where the DAB rejects the application, it will provide brief reasons for its decision.
- 20.5. Notice of Decision. The DAB will advise the applicant in writing of the decision of the DAB, including its reasons where it rejects the application for a variance.

21. Variance Process

- 21.1. Application for Variance. An application for a variance from the Band Development Approval Requirements may be made either:
- (1) within and as part of another application; or
 - (2) separate and independent from another application.
- 21.2. Requirements for Variance Application. An application for a variance must be made to the DAB and must include the materials and information that will enable the DAB to determine whether it will grant the variance, including whether the variance is within the scope of section 20.1.

PART G

MASTER DEVELOPMENT PLAN OR DEVELOPMENT PLAN REQUIRED

22. Requirement for Master Development Plan or Development Plan

- 22.1. Master Development Plan or Development Plan Required. Land within the Reserve must not be developed unless the owner first obtains the approval by the DAB of a master development plan or development plan for the Lands.
- 22.2. Exemptions for Single Family Home. Despite section 22.1 and any applicable Laws (including the Band Building Bylaw), an owner may construct one single family home on one lot, without first obtaining approval of a master development plan or development plan.
- 22.3. Authorizations Invalid without Plan Approval. Except as specifically provided or exempted under this Process, no building permit, Building Certificate, subdivision approval, Approval to Construct, Approval to Proceed or other Authorization issued for any development will be valid unless an approval of a master development plan or development plan has first been obtained.

23. Master Development Plan Required

- 23.1. Master Development Plan Required. A master development plan is required where the Lands, Leasing and Tax Manager or the DAB decides that a master development plan, rather than a development plan, is required.
- 23.2. Factors for DAB Decision. In making its decision under section 23.1, the Lands, Leasing and Tax Manager and the DAB must consider the nature, size and complexity of the proposed development, including:
- (1) the size and location of the area of land to be developed;
 - (2) whether the proposed development includes a single use or multiple uses;
 - (3) the proximity of the Lands to other developments;
 - (4) the nature of adjoining or reasonably adjacent developments and the uses of adjoining or reasonably adjacent land;
 - (5) the proximity of the Lands to services;

- (6) the number of Lots compromising the Lands; and
 - (7) the number of Lots being created by the development.
- 23.3. Lands, Leasing and Tax Manager or DAB to Decide. The Lands, Leasing and Tax Manager may decide whether a master development plan or development plan is required.

24. Development Plan Required

- 24.1. Development Plan Required. Except where the Lands, Leasing and Tax Manager or the DAB decides that a master development plan is not required, a development plan is required.

PART H

MASTER DEVELOPMENT PLAN APPROVAL

25. Land Subject to Master Development Plan

- 25.1. Master Development Plan Area. The land area to be covered by the master development plan will be determined by the applicant in consultation with the DAB.
- 25.2. Additional Land to be Included. Without limiting section 25.1, the DAB, at their discretion, may require that other land be included within the plan area, in order to establish logical physical or neighbourhood boundaries.
- 25.3. Lease Application. The land to be included in a master development plan must be covered by a lease application accepted by the Chief and Council.

26. Approval of Master Development Plan

- 26.1. Powers of the DAB. The DAB may accept or reject, with or without conditions, an application for:
- (1) approval of a master development plan, or
 - (2) approval of an amendment to a previously approved master development plan.
- 26.2. Reasons. Where the DAB rejects the application, it will provide brief reasons for its decision.
- 26.3. Notice of Decision. The Lands, Leasing and Tax Manager will advise the applicant in writing of the decision of the DAB, including its reasons where it rejects the application.

27. Master Development Plan Approval Process

- 27.1. Steps in Master Development Plan Approval Process. The steps in the master development plan approval process, including the approval of an amendment of a previously approved master development plan, include all of the following:
- (1) pre-application consultation by the applicant with the DAB, including consultation as to whether a master development plan or development plan is required;
 - (2) the DAB deciding whether a master development plan is required;

- (3) applicant submitting to the DAB the Confirmation of Commitment by Owner and by Coordinating Registered Professional re: Design and Field Review (Appendix A) and a list of the Registered Professionals required for the Project;
- (4) if not already commenced, commencement of the environmental assessment process as described in the Band Environment and Lands Management System;
- (5) if not already commenced, commencement of the heritage process as described in the Band Heritage Bylaw and the Band Heritage Policy;
- (6) an applicant submitting an application to the DAB;
- (7) the DAB carrying out a preliminary review of the application, including whether it is complete and whether additional consultants or materials and information are required for the more detailed review;
- (8) referral of application by the Coordinating Registered Professional in accordance with directions by the DAB to outside agencies, which may include Environment Canada, Health Canada, Department of Fisheries and Oceans, City of Kamloops, Ministry of Transportation and Highways, Ministry of Environment, Lands and Parks, utilities, fire, police and school district;
- (9) the Lands, Leasing and Tax Manager submitting a briefing note to the DAB in respect of the application, to provide the DAB with basic information about the application, to request a decision as to whether public consultation will be required and to make recommendations in that regard;
- (10) the DAB deciding whether public consultation is required, under section 38.1;
- (11) public consultation process as described in Part K commences, if the DAB determines that public consultation is required;
- (12) a meeting of the DAB, for an initial formal review of the application, including an applicant presenting a summary of application and responding to questions;
- (13) a meeting of the DAB, for receiving public submissions;
- (14) detailed review of an application, including referral agency comments, by the DAB;
- (15) a meeting of the DAB, for a final formal review of the application, including decision by the DAB, which may include rejection of application, requirement for more materials and information, or approval, with or without conditions;
- (16) the DAB submitting a briefing note with recommendations and a proposed Council Resolution to the Council in respect of the names of new streets;
- (17) the DAB making a decision about the application, which may include rejection of the application, a requirement for more materials and information, or approval, with or without conditions; includes brief reasons if the DAB rejects the application; and
- (18) after the DAB has made its decision, the DAB notifying the applicant of the DAB's decision.

28. Master Development Plan Application Submission Requirements

28.1. Pre-Application Consultation with DAB. Before making a master development plan application or an application for amendment of a previously approved master development plan, an applicant must discuss the proposal with the DAB, and advisors or agencies as directed by the DAB, before carrying out detailed preparation of the application, so that significant planning, engineering, environmental and other issues and concerns can be raised at an early stage in the process. Identification of issues at this stage will not preclude the DAB from identifying additional issues or concerns at any later stage of the approvals process.

28.2. Requirements for Master Development Plan Application. A master development plan application must be submitted to the DAB and must include:

- (1) the application form provided by the DAB, fully completed;
- (2) any materials and information as required by the application form;
- (3) materials and information as necessary to describe the proposed development, as more specifically set out in section 28.3;
- (4) if the applicant is not the owner of the land that is subject of the master development plan, a written authorization by the owner of the land, in a form satisfactory to the DAB; the DAB may waive this requirement for the additional land where additional land has been included within the plan area under section 25.2;
- (5) three complete sets of all drawings (with each sheet numbered) and other supporting material as required by this Process; and any additional sets as may be required by or for outside agencies;
- (6) the release of liability described in section 63.10; and
- (7) the applicable fee, as set out in the Band's fees and charges bylaw.

28.3. Contents of Master Development Plan. A master development plan must:

- (1) be succinct and organized into sections, each covering a specific matter as described in this section 28.3; and
- (2) be prepared by one or more appropriate Registered Professionals,
and must include:
 - (3) a detailed description of the proposed plan area summarizing location, ownership, lease arrangements and legal descriptions of the plan area;
 - (4) an inventory and analysis of existing land uses, permitted land uses under any existing land use plan or bylaw or zoning bylaw, transportation networks, utility infrastructure, archaeological or cultural resources, geotechnical issues, natural environment (including soils, hydrology, wildlife, landscape features), as appropriate to the plan area; may require an inventory and analysis relating to the plan area, the adjacent land and the impacts of the proposed development on the adjacent land;

- (5) a detailed slope analysis illustrating topographic patterns within the plan area (with minimum contour interval of 1 metre or such lesser interval as the DAB considers necessary in the circumstances) and clearly delineating all potential problem areas;
- (6) a summary of the design or planning rationale for the proposed land use plan, in text and graphic form;
- (7) a conceptual land use plan:
 - (a) clearly designating land use areas throughout the plan area;
 - (b) including general descriptions of land uses and building forms permitted within each area; and
 - (c) delineation of cultural and heritage areas and areas of environmental significance or sensitivity or requiring specific environmental treatment;may include photographs or sketches of the anticipated character of development;
- (8) statistical summaries for the plan area including calculations of gross plan area, gross developable area, gross undevelopable area, total land areas of each land use area (private and public) and percentages of each land use relative to the total plan area; must include densities and unit potential of each development cell as well as total yield and total population potential for the plan area;
- (9) provision for parkland pursuant to Part J;
- (10) details of the specific proposed built forms including for each built form, a detailed description (in text and graphic form) of permitted uses, siting, size, form, dimensions, exterior design and finish of land, buildings and structures; may include photographs or sketches of the anticipated character of development;
- (11) development and design guidelines of a general nature relating to the overall plan area as well as to specific portions of it; address issues including parking, landscaping, the relationship or transition between land uses or special treatments to achieve specific design objectives;
- (12) a phasing plan describing the sequence of development in respect of the provision of utilities, transportation facilities, community services and amenities, and servicing infrastructure;
- (13) description of street hierarchy (for example, arterial, collector, local) accompanied by detailed street standards including scaled cross-sections showing the location of underground services as well as above-ground features including sidewalks, street lights and street trees;
- (14) conceptual servicing plans identifying the location and capacities of all servicing infrastructure, both on-site and off-site, including water, sanitary sewer, storm sewer and drainage, and roads, including the location of underground services as well as above-ground features including sidewalks, streetlights and street trees; include an analysis of demand, level of service and system design, in accordance with the requirements of the Standards and Appendix A;

infrastructure must be adequate to service the maximum development potential reflected in the master development plan;

- (15) Class C Cost Estimates as described in Appendix A and financing program describing the method of cost recovery for capital expenditures and long-term maintenance of Services and Facilities, if applicable;
- (16) a review and synthesis of environmental resources within the proposed plan area, as an appendix;
- (17) a review and synthesis of the environmental resources within the proposed plan area, as an appendix;
- (18) identification of any aspects of the application that do not or will not comply with Band Development Approval Requirements, any variances from Band Development Approval Requirements that are requested, and the rationale and justification for each variance; and
- (19) other studies or reports prepared by qualified specialists as considered necessary by the Coordinating Registered Professional or the DAB to address concerns specific to the proposed plan area.

28.4. Exception. Despite section 28.3, the DAB may permit an applicant for amendment of a previously approved master development plan to provide only those materials and information described in section 28.3 that the DAB considers are relevant and necessary to support the amendment applied for.

29. Effect of Approval of Master Development Plan

- 29.1. Effect of Approval of Master Development Plan. After a master development plan has been approved, no development may take place in, on, over or under the land covered by the master development plan, that is inconsistent with the master development plan, or is not authorized or provided for in the master development plan, unless the owner first obtains approval of the DAB in the form of an amendment of the previously approved master development plan.
- 29.2. Exception. Despite section 29.1, the DAB may, in the context of the approval of a subdivision, approve a minor amendment to an approved master development plan if the DAB considers that the amendment does not materially affect the intent of the master development plan. Where an amendment is approved under this provision, the applicant must provide the DAB with materials and information that properly reflect the approved master development plan.

30. Master Development Plan Time Limits

- 30.1. Approval Void Unless Work Commenced. An approval of a master development plan will be void five years after the date it was given, unless the development authorized by it has been substantially commenced.
- 30.2. Void Unless Substantially Completed. Subject to the terms of the approval, an approval of a master development plan will be void 15 years after the date it was given unless 90% of the development authorized by it has been completed and work on the development is continuing.

PART I

DEVELOPMENT PLAN APPROVAL AND AMENDMENT

31. Land Subject to Development Plan

- 31.1. Lease Application. The land to be included in a development plan must be covered by a lease application accepted by the Lands, Leasing and Tax Department of the Band.

32. Approval of a Development Plan

- 32.1. Powers of the DAB. The DAB may accept or reject, with or without conditions, an application for:
- (1) approval of a development plan; or
 - (2) approval of an amendment of a previously approved development plan.
- 32.2. Reasons. Where the DAB rejects the application, it will provide brief reasons for its decision.
- 32.3. Notice of Decision. The DAB will advise the applicant in writing of the decision of the DAB, including reasons where it rejects the application.

33. Development Plan Approval Process

- 33.1. Steps in Development Plan Approval Process. The steps in the development plan approval process, including the approval of an amendment of a previously approved development plan, include all of the following:
- (1) pre-application consultation by the applicant with the DAB, including consultation as to whether a master development plan or development plan is required;
 - (2) the DAB deciding whether a master development plan is required;
 - (3) an applicant submitting to the DAB the Confirmation of Commitment of Owner and by Coordinating Registered Professional re: Design and Field Review (Appendix A) and a list of the Registered Professionals required for the Project;
 - (4) if not already commenced, commencement of the environmental assessment process as described in the Band Environment and Lands Management System;
 - (5) If not already commenced, commencement of the heritage process as described in the Band Heritage Bylaw and the Band Heritage Policy;
 - (6) an applicant submitting an application to the DAB;
 - (7) the DAB carrying out a preliminary review of the application, including whether it is complete and whether additional consultants or materials and information are required for the more detailed review;
 - (8) referral of an application by the Coordinating Registered Professional in accordance with directions by the DAB to outside agencies, which may include Environment Canada, Health Canada, Department of Fisheries and Oceans, City of Kamloops, Ministry of Transportation and Highways, Ministry of Environment, Lands and Parks, utilities, fire, police and school district;

- (9) the DAB submitting a briefing note to the Council in respect of the application, to provide the Council with basic information about the application, to request a decision as to whether public consultation will be required and to make recommendations in that regard;
- (10) the DAB deciding whether public consultation is required, under section 38.1;
- (11) the commencement of the public consultation process as described in Part K commences, if the DAB determines that such is required;
- (12) meeting of the DAB, for an initial formal review of an application, including an applicant presenting a summary of an application and responding to questions;
- (13) a meeting of the DAB, for receiving public submissions;
- (14) a detailed review of an application, including referral agency comments, by the DAB;
- (15) a meeting of the DAB, for a final formal review of an application, including decision by the DAB, which may include rejection of an application, a requirement for more materials and information, or an approval, with or without conditions;
- (16) the DAB submitting a briefing note with a proposed Council Resolution to the Council in respect of an application, including the names of new streets;
- (17) the DAB making a decision about an application, which may include rejection of an application, a requirement for more materials and information, or an approval, with or without conditions, and including the names of new streets; including brief reasons if the DAB rejects an application; and
- (18) after the DAB has made a decision, the DAB notifying the applicant of the DAB's decision.

34. Development Plan Application Submission Requirements

- 34.1. Pre-Application Consultation with Development Approval Board. Before making a development plan application or an application for amendment to a previously approved development plan, an applicant must discuss the proposal with the DAB, and advisors or agencies as directed by the DAB, before carrying out detailed preparation of the application, so that significant planning, engineering, environmental and other issues and concerns can be raised at an early stage in the process. Identification of issues at this stage will not preclude the DAB from identifying additional issues or concerns at any later stage of the approvals process.
- 34.2. Requirements for Development Plan Application. A development plan application must be submitted to the DAB and must include:
 - (1) the application form provided by the DAB, fully completed;
 - (2) any materials and information as required by the application form;
 - (3) materials and information as necessary to describe the proposed development, as more specifically set out in section 34.3;

- (4) if the applicant is not the owner of the land, a written authorization by the owner of the land, in a form satisfactory to the DAB;
- (5) three complete sets of all drawings (with each sheet numbered) and other supporting material as required by this Process; and any additional sets as may be required by or for outside agencies;
- (6) the release of liability described in section 63.10; and
- (7) the applicable fee, as set out in the Band's fees and charges bylaw.

34.3. Contents of Development Plan. A development plan must:

- (1) be succinct and organized into sections, each covering a specific matter as described in this section 34.3;
- (2) be prepared by one or more appropriate Registered Professionals;

and must include, subject to section 34.4:

- (3) a detailed description of the proposed plan area summarizing location, ownership, lease arrangements and legal descriptions of the plan area;
- (4) an inventory and analysis of existing land uses, permitted land uses under any existing land use plan or bylaw or zoning bylaw, transportation networks, utility infrastructure, archaeological or cultural resources, geotechnical issues, natural environment (including soils, hydrology, wildlife, landscape features), as appropriate to the plan area; may require an inventory and analysis relating to the plan area, the adjacent land and the impacts of the proposed development on the adjacent land;
- (5) a detailed slope analysis illustrating topographic patterns within the plan area (with minimum contour interval of 1 metre or such lesser interval as the DAB considers necessary in the circumstances) and clearly delineating all potential problem areas;
- (6) a summary of the design or planning rationale for the proposed land use plan, in text and graphic form;
- (7) a conceptual land use plan:
 - (a) clearly designating land use areas throughout the plan area;
 - (b) including general descriptions of land uses and building forms permitted within each area; and
 - (c) delineation of cultural and heritage areas and areas of environmental significance or sensitivity or requiring specific environmental treatment;

may include photographs or sketches of the anticipated character of development;
- (8) statistical summaries for the plan area including calculations of gross plan area, gross developable area, gross undevelopable area, total land areas of each land use area (private and public) and percentages of each land use relative to the

total plan area; must include densities and unit potential of each development cell as well as total yield and total population potential for the plan area;

- (9) provision for parkland pursuant to Part J;
- (10) details of the specific proposed built forms including for each built form, a detailed description (in text and graphic form) of the permitted uses, siting, size, form, dimensions, exterior design and finish of land, buildings and structures; may include photographs or sketches of the anticipated character of development;
- (11) development and design guidelines of a general nature relating to the overall plan area as well as to specific portions of it; address issues including parking, landscaping, the relationship or transition between land uses or special treatments to achieve specific design objectives;
- (12) a phasing plan, if applicable, describing the sequence of development in respect of the provision of utilities, transportation facilities, community services and amenities, and servicing infrastructure;
- (13) description of street hierarchy (for example, arterial, collector, local) accompanied by detailed street standards including scaled cross-sections showing the location of underground services as well as above-ground features including sidewalks, street lights and street trees;
- (14) conceptual servicing plans identifying the location and capacities of all servicing infrastructure, both on-site and off-site, including water, sanitary sewer, storm sewer and drainage, and roads, including the location of underground services as well as above-ground features including sidewalks, street lights and street trees; include an analysis of demand, level of service and system design, in accordance with the requirements of the Standards and Appendix A; infrastructure must be adequate to service the maximum development potential reflected in the development plan;
- (15) Class C Cost Estimates as described in Appendix A for the construction and installation of servicing infrastructure and landscaping;
- (16) a review and synthesis of cultural and heritage resources within the proposed plan area, as an appendix;
- (17) a review and synthesis of the environmental resources within the proposed plan area, as an appendix;
- (18) identification of any aspects of the application that do not or will not comply with Band Development Approval Requirements, any variances from Band Development Approval Requirements that are requested, and the rationale and justification for each variance; and
- (19) other studies or reports prepared by qualified specialists as considered necessary by the Coordinating Registered Professional or the DAB to address concerns specific to the proposed plan area.

34.4. Exception. Despite section 34.3, the DAB may permit an applicant for approval of a development plan or for amendment of a previously approved development plan to provide only those materials and information described in section 34.3 that the DAB considers are relevant to and necessary to support the application.

35. Effect of Approval of Development Plan

- 35.1. Effect of Approval of Development Plan. After a development plan has been approved, no development may take place in, on, over or under the land covered by the development plan that is inconsistent with the development plan, or is not authorized or provided for in the development plan, unless the owner first obtains approval of an amendment of the previously approved development plan.
- 35.2. Exception. Despite section 35.1, the DAB may, in the context of the approval of a subdivision, approve a minor amendment to an approved development plan if the DAB considers that the amendment does not materially affect the intent of the development plan. Where an amendment is approved under this provision, the applicant must provide the DAB with appropriate materials and information to properly reflect the amendment in the approved development plan.

36. Development Plan Time Limits

- 36.1. Approval Void Unless Work Commenced. An approval of a development plan will be void two years after the date it was given, unless the development authorized by it has been substantially commenced.
- 36.2. Void Unless Substantially Completed. Subject to the terms of the approval, an approval of a development plan will be void five years after the date it was given unless 90% of the development authorized by it has been completed and work on the development is continuing.

PART J

PARKS

37. Parks

- 37.1. Dedication of Parkland. As a condition of the DAB approving any master development plan or any development plan, the owner must, at the DAB's option, do one of the following:
- (1) provide, without compensation, useable parkland in an amount and in a location acceptable to the DAB, which parkland may include walking trails and other park areas for the public;
 - (2) pay to the Band an amount that equals the market value of the land that may be required for parkland purposes under this section, as determined under section 37.4 or 37.5; or
 - (3) any combination of (1) and (2).
- 37.2. Useable Parkland. For land to constitute "useable parkland" for the purposes of section 37.1, it must:
- (1) be available for the use of members of the public, including residents of the Lands and other residents of the Reserve and other communities with which the Band has established joint park use agreements; and
 - (2) at the option of the DAB be developed to a useable level satisfactory to the DAB, acting reasonably, for appropriate uses such as parks, trails, playgrounds and

playing fields, provided that portions of the Lands contiguous to such developed areas which are preserved in or restored to their natural condition will be included in "useable parkland" if such portions reasonably complement the intended use of the developed parkland.

- 37.3. Maximum to be Provided. The amount of land that may be required under section 37.1(1) or used for establishing the amount to be paid under section 37.1(2) must not exceed 5% of the Lands.
- 37.4. Calculation of Cash Amount. If an owner opts to pay money under section 37.1(2), the value of the land is whichever of the following is applicable:
- (1) the average market value of all the Lands calculated as that value would be on a date within ninety days before the approval of the master development plan or development plan, as though the master development plan or development plan has been approved and any Services and Facilities necessary to the development of the Lands have not been installed; or
 - (2) if the Band and the owner agree on a value for the Lands, the value on which they have agreed.
- 37.5. Resolution of Value. If an owner and the Band do not agree on the market value for the purpose of section 37.4, the value must be determined by an appraiser appointed jointly by the owner and the Band. Unless otherwise agreed, the cost of the appraiser will be borne equally by the owner and the Band. If the parties fail to agree on an appraiser, then the market value must be determined by arbitration under section 68, and an arbitrator appointed under such section may determine to appoint an appraiser or appraisers and establish the appraisal terms of reference and procedures to be followed in the making of such determination.
- 37.6. Timing for Providing Parkland. Where the DAB requires parkland to be provided, the owner must provide the required parkland no later than the date of approval by the DAB of the master development plan or development plan. Despite the above, the DAB may permit the owner to provide the parkland at a later date or dates where the provision of the parkland is not practicable at the time set out above.
- 37.7. Timing for Payment of Money. Where the owner is paying the Band money instead of providing the parkland, the money must be paid to the Band prior to the owner or applicant obtaining an Approval to Construct at each phase of development, in an amount determined by the DAB at the time it approves the master development plan or development plan, on a pro rata basis, calculated on the basis of factors such as the area of developable land being developed in that phase, the number of dwelling units being developed in that phase, the gross floor area being developed in that phase, as compared to the total for the Lands.
- 37.8. Security for Parkland. If the owner does not provide all the parkland or pay all the money required under section 37.1 before the DAB approves the master development plan or development plan, the DAB may require the owner to post Security in the amount equal to the product obtained by multiplying:
- (1) the quotient of the market value of the Lands determined under section 37.4 or 37.5 divided by the gross area of the Lands;
- by

- (2) the percentage of the parkland or money then remaining to be provided or paid by the owner.
- 37.9. Reduction of Security. Where Security has been posted under section 37.8, the Band will reduce pro rata the amount of Security held by the Band, as the owner provides the parkland or pays the money.
- 37.10. The Band May Draw Upon Security. At any time after the date which is:
- (1) where the Lands are being developed under a master development plan, 10 years after the date the Security is posted by the owner; or
- (2) where the Lands are being developed under a development plan, 3 years after the date the Security is posted by the owner,
- the Band may draw upon and use such Security for the purposes set out in section 37.11, unless the full amount of the parkland has been provided or the full amount of the money has been paid.
- 37.11. Use of Money Paid in Lieu of Providing Land. The amount paid by the owner in lieu of providing parkland will be used by the Band in the creation and improvement of parks on the Reserve.
- 37.12. No Obligation for the Band to Return Excess Parkland Provided. Under no circumstances will the Band be required to return land to the owner or to pay any amount to the owner if the owner provides more than 5% of the gross area of the Lands as useable parkland.
- 37.13. Parkland Requirements at Later Stage. Even if the DAB did not make a decision for any reason about parkland under this Part at the time it approved a master development plan or development plan, the DAB may impose requirements under this Part at any time until subdivision design approval has been granted, as long as an amount of parkland or money has not previously been required under section 37.1 in respect of the Lands being developed.
- 37.14. Parkland to be Shown on Subdivision Plan. When land is provided for parkland under section 37.1, the land must be shown on a subdivision plan as a "Park" or "Trail".

PART K

PUBLIC CONSULTATION

38. Public Consultation

- 38.1. The DAB May Require Public Consultation. Before approving an application for approval of a master development plan, amendment of a previously approved master development plan, development plan approval or amendment of a previously approved development plan, the DAB may require public consultation under this Part if, after receiving a briefing in respect of the application, the DAB determines, in its sole discretion, that:
- (1) the application or amendment is a material, substantial or contentious one,
- (2) the application or amendment involves a change in the permitted use or density of an area,

- (3) an adequate public consultation process has not previously been carried out in respect of the proposed development, or
- (4) the applicant has requested that public consultation be carried out.

38.2. Public Consultation Procedure. Where the DAB requires public consultation in respect of an application as described above, public consultation will consist of the following:

- (1) the DAB will keep one copy of the application readily available for inspection by any Person during normal business hours, until a decision regarding the application has been made; in no case will the period of availability for inspection be less than 30 days;
- (2) the Band will hold two evening open houses:
 - (a) one for Band members, and
 - (b) one for the public,

prior to the DAB meeting at which the DAB will give the application the initial formal review, to give the applicant an opportunity to describe and explain to Band members and the public, respectively, the nature of the proposed application;
- (3) Band members and Persons whose interest in land is directly affected by the application will be given an opportunity:
 - (a) to appear a delegation at a meeting of the DAB, and to make submissions to the DAB; or
 - (b) to make written submissions to the DAB, as long as the written submission is submitted to the DAB before the end of the meeting at which the DAB receives submissions.

38.3. Notice to be Given. Before each of the open houses described in section 38.2(2) and before the DAB meeting described in section 38.2(3), notice must be given, as follows:

- (1) the notice must be published in at least two consecutive issues of a newspaper, the last publication to appear not less than 7 and not more than 14 days before the open house or DAB meeting, as applicable; and
- (2) the notice must be posted on the bulletin board of the Band Administration Office, the Sk'elep School of Excellence, the Chief Louis Centre Assembly Hall and other notice boards located on the Reserve as determined by the DAB.

38.4. Contents of Notice. The notice will state:

- (1) the general nature and purpose of the application;
- (2) the area of land that is subject of the application;
- (3) the place where, and the period during which, the application will be available for inspection;

- (4) the date, time and place of the open house at which the application will be presented or the DAB meeting at which the DAB will receive submissions, as applicable; and
- (5) where the notice is of a DAB meeting, to whom written submissions are to be submitted and the time by which they must be submitted.

PART L

SUBDIVISION APPROVAL

39. Subdivision without Approval

- 39.1. No Subdivision Without Approval. Land must not be subdivided for any purpose unless and until the subdivision has been finally approved by the DAB.

40. Eligibility for Approval of Subdivision

- 40.1. Eligibility for Subdivision Approval. An application for subdivision approval may only be made in respect of land located within an area that is covered by an approved master development plan or an approved development plan.

41. Approval of Subdivision

- 41.1. Powers of the DAB. The DAB may accept or reject, with or without conditions, an application for:
 - (1) subdivision layout approval,
 - (2) subdivision design approval,
 - (3) final subdivision approval, or
 - (4) Approval to Construct.
- 41.2. Reasons. Where the DAB rejects the application, it will provide brief reasons for its decision.
- 41.3. Notice Of Decisions. The DAB will advise the applicant in writing of the decision of the DAB, including its reasons where the DAB rejects the application.

42. Subdivision Approval Process

- 42.1. Steps in the Subdivision Approval Process. To facilitate completion by the applicant of the survey, engineering, heritage, environmental, construction and other work required before seeking final Subdivision approval, and subject to the more detailed requirements set out in this Process, the steps in the subdivision approval process include:

Subdivision Layout Approval

- (1) application for subdivision layout approval, including materials and information prepared by one or more appropriate Registered Professionals;
- (2) preliminary review of the application by the DAB;

- (3) the DAB makes a decision about the application for subdivision layout approval, which may include rejection of the application, a requirement for more materials and information, or approval, with or without conditions; includes brief reasons if the DAB rejects the application;

Subdivision Design Approval

- (4) after subdivision layout approval has been granted, application for subdivision design approval, including information and materials relating to Services and Facilities, prepared by one or more appropriate Registered Professionals;
- (5) referral of application by the Coordinating Registered Professional in accordance with directions by the DAB, to outside agencies, which may include Environment Canada, Health Canada, Department of Fisheries and Oceans, City of Kamloops, Ministry of Transportation and Highways, Ministry of Environment, Lands and Parks, utilities, fire, police and school district;
- (6) detailed review by the DAB of the application, including referral agency comments, as to the issues arising in respect of the subdivision, including:
 - (a) land use;
 - (b) servicing;
 - (c) compliance with Band Development Approval Requirements, including Geotechnical Requirements, Environmental Requirements, Heritage Requirements and the Standards;
- (7) the DAB makes decisions about:
 - (a) the application for subdivision design approval; and
 - (b) the Approval to Construct,which may include rejection of the application, a requirement for more materials and information, or approval, with or without conditions; includes brief reasons if the DAB rejects the application;

Final Subdivision Approval

- (8) after subdivision design approval and Approval to Construct have been granted, application for final subdivision, including information and materials prepared by one or more appropriate Registered Professionals as applicable;
- (9) review by the DAB;
- (10) the DAB makes a decision about the application for final subdivision approval, which may include rejection of the application, a requirement for more materials and information, or approval, with or without conditions; includes brief reasons if the DAB rejects the application.

43. Subdivision Approval Requirements

- 43.1. Viable Lots and Access. All Lots created by the subdivision plan and any Lots or portions of Lots remaining after final approval of the subdivision plan must be capable of being

held, used and developed as independent viable legal Lots, and without limiting the above, each Lot must be:

- (1) provided with necessary and reasonable access to one or more Roads open to the public; and
- (2) connected to or provided with Services and Facilities.

43.2. Changes to Proposed Subdivision. A subdivision layout approval will not preclude the DAB from requiring changes to the proposed subdivision layout as a result of any:

- (1) materials and information provided to the DAB by the applicant; or
- (2) responses, concerns or requirements received by the DAB from consultants, advisors or referral agencies,

at the subdivision design approval step.

44. Subdivision Application Submission Requirements

44.1. Requirements for Subdivision Applications. All applications for approval of a subdivision must be made by an appropriate Registered Professional, submitted to the DAB and must include, to the extent that any of the materials and information have not been provided at a previous step or stage in the approvals process or any previously provided materials and information have changed or are no longer accurate:

- (1) the application form provided by the DAB;
- (2) three complete sets of all plans and drawings (with each sheet numbered) and other supporting materials and information as required by this Process; and any additional sets as may be required by or for outside agencies;
- (3) any materials and information as recommended, specified or required in or under the Band Development Approval Requirements;

At application for subdivision layout approval:

- (4) Letters of Assurance (Appendix B);
- (5) evidence of a valid lease;
- (6) if the applicant is not the owner of the land, written authorization by the owner of the land, in a form satisfactory to the DAB;
- (7) identification by full legal description of every Lot proposed to be subdivided under the subdivision concept plan;
- (8) a subdivision concept plan prepared by an appropriate Registered Professional showing the approximate dimensions of every Lot proposed to be subdivided, every new Lot proposed to be created, Roads and highways, both existing and proposed, and the approximate location of any existing buildings on the land;
- (9) identification of any existing building proposed to be retained after subdivision;

At application for subdivision design approval:

- (10) a detailed land use plan clearly indicating the regulations that apply to every Lot created, including specific details about each land use area (in text and graphic form), including regulations as to density, location of uses, siting, size and dimensions of buildings and structures and off-street parking, which must comply in all respects with the applicable master development plan or development plan and any approval conditions (except where the Council has adopted a zoning bylaw that applies to the lands to be subdivided, in which case it must comply in all respects with the zoning bylaw);
- (11) grading plan showing proposed finished ground elevations for land within the subdivision;
- (12) certificate from the NRD under section 8(7) of the Band Heritage Bylaw or, where applicable, written confirmation from the NRD that the applicant has otherwise complied with the applicable Heritage Requirements;
- (13) environmental assessments confirming that all Lots to be created in the Lands being subdivided are in all respects satisfactory for development, as required under the *Canadian Environmental Assessment Act* and regulations made under it, or under the Band Environment and Lands Management System, as applicable;
- (14) confirmation that Environmental Requirements imposed under any previous environmental assessment have been complied with;
- (15) Letters Of Assurance (Appendix B);

For Approval to Construct:

- (16) detailed engineering plans and specifications for Services and Facilities including Roads, sanitary sewer, water, drainage and other utilities, works and services necessary to serve all Lots of the land being subdivided, both on-site and off-site, to the specifications and requirements set out in the Band Development Approval Requirements;
- (17) Class A Cost Estimates for the Services and Facilities to be provided or constructed, certified correct by the relevant Registered Professional;
- (18) proof of insurance as required under this Process or under a lease or other agreement applicable to the Lands;
- (19) Letters of Assurance (Appendix B);

At final subdivision approval:

- (20) a detailed plan prepared by a Canada Land Surveyor showing all existing and proposed Lots (numbered), lot dimensions, Lot areas, streets (named in accordance with names provided or approved by the Council), Easement areas and tops-of-bank adjacent to watercourses;
- (21) all documents relating to the sublease of each Lot to be created, in a form satisfactory for registration in the Indian Lands Registry;

- (22) if the Services and Facilities are not Substantially Complete, the servicing agreement and Security required under section 49.1;
- (23) Letters of Assurance (Appendix B);
- (24) evidence of compliance with the regulations, policies and procedures of the Indian Lands Registry for registration of subdivision Survey Plans;
- (25) the agreements, in a form satisfactory for registration in the Indian Lands Registry, and detailed plans, for the Easements required for the Services and Facilities for the subdivision; and
- (26) if not previously provided, parkland, as required under Part J;
- (27) payment of property taxes for any parent properties such that any new Lots resulting from the subdivision will not have any property taxes or utility charges outstanding at the time of final subdivision approval;
- (28) all applicable development cost charges, damage deposits, Security and costs, in respect of the land being subdivided;

At each step:

- (29) identification any aspects of the application that do not or will not comply with Band Development Approval Requirements, any variances from Band Development Approval Requirements that are requested, and the rationale and justification for each variance;
- (30) all applicable fees and charges; and
- (31) such other materials and information as the DAB may reasonably require.

45. Subdivision Time Limits

- 45.1. Subdivision Layout Approval Time Limits. A subdivision layout approval will be void three months after the date it was given, unless it is extended under section 45.5.
- 45.2. Subdivision Design Approval Time Limits. A subdivision design approval will be void six months after the date it was given, unless it has been extended under section 45.5.
- 45.3. Approval to Construct Time Limits. An Approval to Construct will be void six months after the date it was given, unless it has been extended under section 45.5.
- 45.4. Final Subdivision Approval Time Limits. A final subdivision approval will be void three months after the date it was given, unless the Subdivision Survey Plan has been registered in the Indian Lands Registry or it has been extended under section 45.5.
- 45.5. Extensions. The DAB may permit one or more extensions of any periods specified in any of sections 45.1, 45.2, 45.3 and 45.4 if the DAB considers that the extension is warranted in the circumstances.

PART M

SERVICES AND FACILITIES REQUIREMENTS

46. Services and Facilities to be Provided

46.1. Services and Facilities to be Provided. Land must not be developed within the Reserve unless it is provided with the following Services and Facilities:

- (1) a storm drainage system,
- (2) domestic water system,
- (3) sanitary sewage collection system or onsite sewage disposal approved by Health Canada,
- (4) solid waste collection,
- (5) roads, which may include curbs and gutters, sidewalks, street lighting,
- (6) telephone, and
- (7) electricity,

in compliance with this Process and other Band Development Approval Requirements.

46.2. Services and Facilities May Be Required. At the time of approval of a master development plan or development plan, the DAB may require that any or all of the following Services and Facilities be provided:

- (1) irrigation water system,
- (2) natural gas,
- (3) cablevision,
- (4) boulevard treatment and landscaping,
- (5) parking, and
- (6) fibre optic communication infrastructure,

taking into consideration factors including the cost of supplying the Services and Facilities, the nature, size and density of the development, the need for and availability in the area of the Services and Facilities.

46.3. Other Services and Facilities. At the time of approval of a master development plan, the DAB may require that the owner provide Services and Facilities in respect of the Lands, consisting of community services or amenities such as day care, schools, libraries, or community centres or that the owner pay to the Band cash in lieu or a contribution toward them.

46.4. Fibre Optics and Communications. Fibre optics or other communication services and facilities may be provided for the Lands, at the option of the owner.

- 46.5. Cash Contribution. Where the physical construction of part or all of the Services and Facilities required under this Process is premature or otherwise not feasible at the time of development of the Lands, the requirement may be fulfilled by the payment of a non-refundable cash contribution in an amount estimated under a Class C Cost Estimate, as certified by the relevant Registered Professional for the owner to cover the cost of the required Services and Facilities. This cash contribution will be used by the Band at a future time when construction of the Services and Facilities is no longer premature or not feasible. The cash contribution must be paid before the subdivision is finally approved or any Approval to Construct or any Building Certificate is issued, whichever is the earlier.
- 46.6. Services and Facilities to be Adequate. The Services and Facilities to be provided must be designed and constructed so as to be fully adequate to service the Lands, each phase of development and all dwelling units and other improvements constructed or to be constructed within the Lands.
- 46.7. Connection to Supply. The Services and Facilities must be tied-in and connected to their point of supply or discharge including tie-ins to driveways.
- 46.8. Exception. The requirements for Services and Facilities do not apply to land which is subdivided or developed for the sole purpose of supporting the installation of utilities and associated structures and equipment.

47. Construction of Services and Facilities

- 47.1. Construction. The Services and Facilities must be designed, constructed and completed:
- (1) in a good and workmanlike manner and strictly in compliance with the Band Development Approval Requirements, including the Standards and this Part M; and
 - (2) within the locations shown for them in the master development plan or development plan, as applicable, except to the extent a revised location is set out in any subdivision approval or Approval to Construct.
- 47.2. Environmental. Geotechnical and Heritage Requirements. Without limiting section 47.1(1), the Services and Facilities must be designed, constructed and completed in compliance with the Environmental Requirements, the Geotechnical Requirements and the Heritage Requirements. In the case of any conflict between the Standards and the Environmental Requirements, Geotechnical Requirements or Heritage Requirements, the stricter of the requirements will prevail.
- 47.3. Underground Services. The Services and Facilities described in section 47.1(1) (except Roads) must be placed underground, unless an above ground or other location is first approved by the Band Planning & Engineering Manager under this Process. Despite the above sentence, the owner will have no obligation to place underground any overhead Services and Facilities existing at the date of the Approval to Construct.
- 47.4. Minimize Water Usage. In all development on the Lands, measures designed to minimize water usage and sewage generated by the development, including promoting the use of low flow plumbing fixtures and water metering must be instituted.
- 47.5. No Connection Between Storm Sewers and Collection System. The owner must not connect or permit any connection between any portion of the storm drainage system and the sanitary sewage collection system or any portion of it.

- 47.6. No Connection Between Domestic and Irrigation Water Systems. The owner must not connect or permit any connection between any portion of the domestic water system and the irrigation water system or any non-potable water source. Without limiting the above, the owner must not connect or permit any connection between any portion of the domestic water system within any building or Lot and any non-potable water source within any building or Lot.
- 47.7. Commencement of Construction Off-Site. Construction of any Services and Facilities outside the Lands must not be commenced unless the owner has first notified the Band Planning & Engineering Manager in writing at least 5 days before the commencement of construction.
- 47.8. Obtaining Consents. The owner must obtain from all lawful authorities all consents and approvals necessary for the construction, completion, operation and use of the Services and Facilities.
- 47.9. Keep the Band Informed. The owner must keep the Band Planning & Engineering Manager reasonably informed as to the progress of the construction of the Services and Facilities, including providing the Band Planning & Engineering Manager:
- (1) as often as is necessary with a reasonably detailed and up to date schedule of work; and
 - (2) with a written summary progress report, every two weeks.
- 47.10. Changes to Services and Facilities at Owner's or Applicant's Request. No change to the Services and Facilities covered by an Approval to Construct is permitted unless the change has been reviewed and approved by the Band Planning & Engineering Manager. All requests for changes to the Services and Facilities must be made in writing and include revisions to the previously accepted materials and information, signed and sealed by the relevant Registered Professional.
- 47.11. No Interference with Adjoining Land. Except as permitted by the Band Planning & Engineering Manager and the owner of the adjoining land, the construction, maintenance, operation or other work in respect of any Services and Facilities must not interfere with the drainage or use or occupation of any adjoining land.
- 47.12. Easements for Services and Facilities. The owner must obtain, in writing and in a form acceptable to the DAB, Easements from the owners of the land on which the Services and Facilities are constructed or located, to permit the Services and Facilities to be constructed, operated and maintained in that location.

48. No Construction of Services and Facilities without Approval to Construct

- 48.1. No Construction of Services and Facilities Without Approval. The construction of any Services and Facilities must not be commenced until after the owner has obtained from the DAB an Approval to Construct the Services and Facilities that are to be provided and, without limiting any other provision of this Process:
- (1) the owner has obtained from the NRD the certificate under section 8(7) of the Band Heritage Bylaw, or written confirmation that the applicant has otherwise complied with the applicable Heritage Requirements; and
 - (2) the owner has complied with all relevant requirements of the Band Environment and Lands Management System.

49. Time for Construction of Services and Facilities

- 49.1. Requirements for Subleasing, Final Subdivision Approval or Building Certificate. All Services and Facilities required to be provided must be provided, and the owner must have received from the DAB an Acceptance of Certification Report for them, before any sublease is approved by the Council, a subdivision is finally approved, or any Building Certificate or Approval to Construct is issued in respect of the Lands, whichever is the earlier, unless the owner of the Lands:
- (1) deposits with the Band, Security in the form and amount set out in 51.1; and
 - (2) enters into an agreement in form and content satisfactory to the DAB to construct and install the required Services and Facilities by a date as specified under section 49.2 or forfeit to the Band the amount secured under paragraph (1).
- 49.2. Time for Substantial Completion of Services and Facilities. Subject to section 49.1 to 49.5, the Services and Facilities must be constructed and Substantially Completed, including the applicant receiving from the DAB an Acceptance of Certification Report, within the time set out in any Approval to Construct or within one year after the date the Approval to Construct was issued, whichever is the later.
- 49.3. Services and Facilities by Phase. The construction of Services and Facilities may be phased, as long as all Services and Facilities in respect of or for the use of the phase are otherwise constructed in compliance with the applicable requirements in this Process and any applicable subdivision approval and Approval to Construct.
- 49.4. Requirements for Occupancy Certificate. Subject to section 49.5, until:
- (1) the Services and Facilities required to be provided have been provided, and the owner has received from the DAB an Acceptance of Certification Report for them; and
 - (2) final subdivision approval has been obtained for the Lands on which the building for which an Occupancy Certificate is sought is located,
- the Band may withhold issuance of any Occupancy Certificate or in relation to Works, in respect of the Lands, building or structure and the Band will not be liable to the owner, the applicant or any other Person for any Action or Damage that may arise or result from the withholding of the Occupancy Certificate.
- 49.5. Extension of Time for Substantial Completion. Upon a request by the owner either before or after the expiry of the period of time specified under section 49.2 for Substantial Completion of the Services and Facilities, the DAB may extend the period of time specified under section 49.2 where the owner has been unable to Substantially Complete the Services and Facilities for reasons beyond its control. Without limiting the previous sentence, financial problems of the applicant or owner and changes in market conditions are not considered to be reasons to justify such an extension, while weather conditions unusual in their severity or prolonged occurrence or other seasonal considerations may be.

50. Security for Services and Facilities

- 50.1. Amount and Type of Security. The Security to be provided to the Band under this Process must consist of a Letter of Credit or cash, in the amount of 125% of a Class A Cost Estimate certified by the Registered Professional for the Services and Facilities to be provided.

- 50.2. Security to be Valid for a Minimum Term. Any Security deposited with the Band under this Process must be valid for a term expiring not earlier than 60 days after the date under section 49.2 by which the owner is to have Substantially Completed the Services and Facilities in respect of which the Security was provided.
- 50.3. Renewal of Security. If any Services and Facilities secured are not Substantially Complete within the term of the Security that relates to such Services and Facilities, the owner must renew the Security for a further one year, and thereafter from year to year until the Services and Facilities have been Substantially Completed.
- 50.4. Amount of Renewal Security. If any Services and Facilities are not Substantially Complete by the time of renewal of the applicable Security, the amount of the renewed Security for the Services and Facilities must be increased by multiplying the then current amount of the Security by the Escalation Factor. If in any year the Security is not so renewed by at least thirty days before its expiry, the DAB may draw down the full amount of the Security and hold the funds so drawn as the Security.
- 50.5. Use of Security. If any of the Services and Facilities are not Substantially Complete within the time specified under section 49.2, the DAB may draw down or exercise the Band's rights under the Security provided for such Services and Facilities and may, but will not be obligated to, Substantially Complete or cause to be Substantially Completed such Services and Facilities at the cost of the owner, and deduct from the Security the actual cost of Substantial Completion, including engineering, legal and other consulting costs. The balance of the Security, if any (and if applicable), without interest and less any administrative, supervisory, engineering and design costs levied by the Band, acting reasonably, will be returned to the owner within 10 days after the Acceptance of Certification Report has been issued by the DAB. If the Security is insufficient to cover the actual cost of Substantially Completing the Services and Facilities then the owner must pay such deficiency to the Band within 10 days after receipt of the Band's invoice for same. If the Services and Facilities are Substantially Completed by the owner as required under this Process, then the Security provided for such Services and Facilities will be returned to the owner within 10 days after the Acceptance of Certification Report for such Services and Facilities has been issued.
- 50.6. Insolvency. Despite any other provision of this Process, the Band will be entitled to draw on the Security or the Warranty Security and may, but is under no obligation to, Substantially Complete the Services and Facilities or remedy any defects or deficiencies in the Services and Facilities, if:
- (1) the owner commits an act of bankruptcy or makes a proposal or general assignment for the benefit of its creditors;
 - (2) an order is made or a resolution passed or petition filed for the liquidation or winding-up of the owner; or
 - (3) a receiver or receiver-manager of the owner, or the Lands or part thereof, is appointed or any encumbrance-holder takes possession of the Lands or any part thereof.

The Security and the Warranty Security are not assets of the owner and are not subject to any trust or other right or claim of the owner other than a contract claim expressly contemplated by this Process.

51. Warranty of Services and Facilities

- 51.1. Warranty. The owner must:

- (1) maintain the Services and Facilities in complete repair for the Warranty Period;
- (2) remedy any defects or deficiencies appearing in the Services and Facilities within the Warranty Period; and
- (3) pay for any damage to other works or property resulting from the defects or deficiencies, save and except for defects and deficiencies caused by reasonable wear and tear, a wrongful act by or negligence of the Band, or Acts of God.

51.2. Warranty Security. On receipt of the Acceptance of Certification Report for the Services and Facilities or any portion of them, and prior to the return of the Security for those Services and Facilities, the owner must deposit with the DAB in the amount of 15% of the actual cost of the Substantially Completed Services and Facilities. If the owner fails under section 51.1 to maintain any of the Services and Facilities, remedy any defect or deficiency, or pay for any damage resulting from any defect or deficiency, the DAB may draw down or exercise the Band's rights under the Warranty Security provided for such Services and Facilities and may, but will not be obligated to, maintain the Services and Facilities, remedy the defect or deficiency and pay for the damage or cause any or all of them to be done at the cost of the owner, and deduct from the Warranty Security the actual costs and amounts paid or incurred, including engineering, legal and other consulting costs. The balance of the Warranty Security, if any (and if applicable), without interest and less any administrative, supervisory, engineering and design costs levied by the Band, acting reasonably, will be returned to the owner within 10 days after the Acceptance of Warranty Certification Report is issued or caused to be issued by DAB. If the Warranty Security is insufficient to cover the actual costs incurred by the Band then the owner must pay such deficiency to the Band within 10 days after receipt of the Band's invoice for same. If the owner complies with section 51.1 in respect of the Services and Facilities, then the Warranty Security provided for such Services and Facilities will be returned to the owner within 10 days after the Acceptance of Warranty Certification Report has been issued.

51.3. Reduction of Warranty Security. The Warranty Security held by the Band under section 51.2 will be reduced to 10% of the actual cost of the Substantially Completed Services and Facilities, upon receipt by the Band of the as-constructed drawings under section 52.3, and the difference will be returned to the owner within 10 days after the Band has received the as-constructed drawings.

52. Requirements for Acceptance of Certification Report

52.1. Inspection and Testing by Registered Professional. No later than 10 days before substantial completion of any Services and Facilities, the applicant must cause the relevant Registered Professional to:

- (1) provide at least 10 days prior written notice to the DAB of the date and time of the proposed inspections, examinations or tests under section 52.1(3), so that representatives of the Band may attend at such inspections, examinations or tests;
- (2) permit representatives of the Band to attend at such inspections, examinations or tests;
- (3) inspect such Services and Facilities and carry out or cause to be carried out any examinations or tests set out in the Standards or recommended by good engineering practice to determine whether the Services and Facilities are Substantially Complete (except for the Acceptance of Certification Report) and

substantially comply in all material respects with the Band Development Approval Requirements; and

- (4) prepare and certify a system certification report (the "Certification Report") for each of the Services and Facilities, including:

- (a) the Assurance of Professional Field Review and Compliance for Acceptance of Certification Report (**Appendix C**); and
- (b) the matters contained in section 52.3,

certifying that the Services and Facilities have been Substantially Completed (except for the Acceptance of Certification Report) and substantially comply in all material respects with the Band Development Approval Requirements.

52.2. Certification Report. The applicant must submit to the DAB, within 4 weeks after any of the Services and Facilities has been Substantially Completed (except for the Acceptance of Certification Report), 3 bound copies of each Certification Report.

52.3. Contents of Certification Report. Each Certification Report must be signed and sealed in its entirety by the relevant Registered Professional and must include:

- (1) the final subdivision survey Plans, if applicable, and supporting materials and information prepared by the relevant Registered Professional;
- (2) a complete set of as-constructed drawings of the Services and Facilities at the same scale and in the same format as the construction drawings, prepared in accordance with good engineering practice;
- (3) as-constructed Autocad files of the Services and Facilities saved in the format requested by the Lands Leasing and Tax Manager; and
- (4) copies of all test reports and results.

52.4. Records. The owner must collect, maintain, archive and make available the following to the Band on request by the Band or on a default by the owner under any lease from the Band or Her Majesty and reversion of the Services and Facilities to the Band or on any takeover by the Band of the Services and Facilities:

- (1) all shop drawings;
- (2) all geotechnical, traffic and other technical studies and reports, landscaping plans and other materials and information relevant to the Services and Facilities;
- (3) a list of contractors and major subcontractor by work item; and
- (4) copies of all operating and maintenance manuals;

and the owner must transfer any manufacturer's warranties to the Band.

52.5. Acceptance of Certification Report. Within 10 Business Days after receiving the Certification Report, the DAB may accept the Certification Report and if he or she does, the DAB will issue to the owner an Acceptance of Certification Report.

53. Requirements for Acceptance of Warranty Certification Report

53.1. Testing by Registered Professional. No later than 10 days before the expiry of the Warranty Period and the completion of the remedying of any defects or deficiencies in the Services and Facilities, the applicant must cause the relevant Registered Professional to:

- (1) provide at least 10 days prior written notice to the Lands Leasing and Tax Manager of the date and time of the proposed inspections, examinations or tests under section 53.3, so that representatives of the Band may attend at such inspections, examinations or tests;
- (2) permit representatives of the Band to attend at such inspections, examinations or tests;
- (3) inspect the Services and Facilities and carry out or cause to be carried out any examinations or tests set out in the Standards or recommended by good engineering practice to determine whether:
 - (a) the Services and Facilities are complete (except for the Acceptance of Warranty Certification Report);
 - (b) the Services and Facilities have been maintained in complete repair for the Warranty Period;
 - (c) any defects or deficiencies appearing in the Services and Facilities during the Warranty Period have been remedied;
 - (d) the Services and Facilities have been fully tested, are functional and can be used for their intended purpose; and
 - (e) the Services and Facilities substantially comply in all material respects with the Band Development Approval Requirements; and
- (4) prepare and certify a warranty certification report (the "Warranty Certification Report") for each of the Services and Facilities, including:
 - (a) the Final Assurance of Professional Field Review and Compliance for Acceptance of Warranty Certification Report (**Appendix C**); and
 - (b) the matters contained in section 53.3, certifying that:
 - (i) the Services and Facilities are complete (except for the Acceptance of Warranty Certification Report);
 - (ii) the Services and Facilities have been maintained in complete repair for the Warranty Period;
 - (iii) any defects or deficiencies appearing in the Services and Facilities within the Warranty Period have been remedied;
 - (iv) the Services and Facilities have been fully tested, are functional and can be used for their intended purpose; and
 - (v) the Services and Facilities substantially comply in all material respects with the Band Development Approval Requirements.

- 53.2. Warranty Certification Report. The applicant must submit to the DAB, within four weeks after the expiry of the Warranty Period and the completion of the remedying of any defects or deficiencies in the Services and Facilities, three bound copies of each Warranty Certification Report.
- 53.3. Contents of Warranty Certification Report. Each Warranty Certification Report must be signed and sealed in its entirety by the relevant Registered Professional, and must include the materials and information described in section 52.3 for any changes that have been made to the Services and Facilities in respect of their maintenance during the Warranty Period and the remedying of any defects or deficiencies.
- 53.4. Acceptance of Warranty Certification Report. Within 10 Business Days after receiving the Warranty Certification Report, the DAB may accept the Warranty Certification Report and if he or she does, the DAB will issue to the owner an Acceptance of Warranty Certification Report.

54. Ownership of Services and Facilities and Transfer of Services and Facilities to the Band

- 54.1. Services and Facilities the Property of the Owner. Unless and until the Services and Facilities are transferred to or to the order of the Band, the Services and Facilities will remain the property of the owner and will be and remain at the sole risk of the owner, despite any degree of annexation or affixation to the Lands or any rules of law or equity to the contrary.
- 54.2. Abandonment by Owner of Services and Facilities. Except as otherwise provided in any lease or other agreement applicable to the Lands, if the owner abandons any portion of the Services and Facilities, the Band, acting reasonably, may require the owner to remove all or a portion of such Services and Facilities from the Lands and to return the Lands to their previous condition and if the owner does not do so within a reasonable period of time, the DAB may draw down or exercise its rights under any Security held by the Band in respect of any of the Services and Facilities, and may, but will not be obligated to, remove or cause to be removed such portion of the Services and Facilities at the cost of the owner and deduct from the Security the actual cost of such removal, including engineering, legal and other consulting costs. If the Security is insufficient to cover the actual cost incurred by the Band then the owner must pay such deficiency to the Band within 10 days after receipt of the Band's invoice for same.
- 54.3. Transfer of Services and Facilities to the Band. Except as otherwise provided in any lease or other agreement applicable to the Lands, following the issuance of an Acceptance of Warranty Certification Report in respect of any of the Services and Facilities, the owner will assign, transfer and convey such Services and Facilities and Easements that the Band agrees to accept, as and when the Band agrees to accept them, to or to the order of the Band, free and clear of all liens, charges and encumbrances whatsoever except those approved by the Band, acting reasonably, and at no charge to the Band, pursuant to an agreement in writing in the form and content reasonably required by the Band, and without limitation, the owner will, at the election of the Band:
- (1) either surrender to Her Majesty or transfer to the Band as Band Road the portion of the Services and Facilities within the Lands which are comprised of Roads; and
 - (2) execute and deliver in favour of the Band or Her Majesty and register in the Indian Lands Registry any Easement or assignment or transfer of Easement that is required by the Band in respect of the Services and Facilities,

and the owner will cause to be prepared by a Canada Land Surveyor any survey required in connection therewith. Any such assignment, transfer or conveyance will not constitute an expropriation, taking or injurious affection for any purposes and the owner will not claim any compensation or damages in respect of any such assignment, transfer or conveyance.

- 54.4. Priority for Easements. The owner must grant priority over the head lease to any Easement granted by Her Majesty in favour of the Band or any Person in respect of the Services and Facilities.
- 54.5. Rights to Owner. Concurrently with the assignment, transfer or conveyance of Roads to the Band under section 54.3(1), the Band must grant to the owner rights over the Roads or portions of them for the owner, other occupiers of the Lands, and their customers, guests, invitees and licensees to have access to and egress from their land.
- 54.6. Maintenance of Services and Facilities. Where any of the Services and Facilities will not be assigned, transferred or conveyed to the Band, either for a period of time or at all, the owner must maintain or cause to be maintained and repaired those Services and Facilities, at its sole cost and expense, to a standard reasonably consistent with the standards of maintenance and repair for the remainder of the Lands, subject to any agreement in writing between the owner and the Band.

PART N

APPROVAL TO PROCEED

55. No Construction without Approval

- 55.1. No Construction without Approval to Proceed. The construction of any Works must not be commenced until after the owner has obtained from the DAB an Approval to Proceed for the Works and, without limiting any other provision of this Process :
- (1) the owner has obtained from the Natural Resource Department the certificate under section 8(7) of the Band Heritage Bylaw, or written confirmation that the applicant has otherwise complied with the applicable Heritage Requirements; and
 - (2) the owner has complied with all relevant requirements of the Band Environment and Lands Management System.
- 55.2. No Disturbance of Soil Without Approval. Without limiting the above, land must not be altered and soil must not be disturbed, removed or deposited until after the owner has complied with the requirements of section 55.1.

56. Eligibility for Approval of Subdivision

- 56.1. Eligibility for Approval to Proceed. An application for an Approval to Proceed may only be made in respect of land located within an area that is covered by an approved master development plan or an approved development plan.

57. Approval to Proceed

- 57.1. Powers of the DAB. The DAB may accept or reject, with or without conditions, an application for an Approval to Proceed;

- 57.2. Reasons. Where the DAB rejects the application, it will provide brief reasons for its decision.
- 57.3. Notice of Decisions. The DAB will advise the applicant in writing of the decision of the DAB, including its reasons where the DAB rejects the application.

58. Approval to Proceed Process

- 58.1. Steps in the Approval to Proceed Process. The steps in the Approval to Proceed process include:
- (1) application for Approval to Proceed, including materials and information prepared by one or more appropriate Registered Professionals, including Letters of Assurance;
 - (2) the DAB carries out a preliminary review of the application, including whether it is complete and whether additional consultants or materials and information are required for the more detailed review;
 - (3) referral of application by the Coordinating Registered Professional in accordance with directions by the DAB, to outside agencies, which may include Environment Canada, Health Canada, Department of Fisheries and Oceans, City of Kamloops, Ministry of Transportation and Highways, Ministry of Environment, Lands and Parks, utilities, fire, police and school district;
 - (4) detailed review by the DAB of the application, including referral agency comments, as to the issues arising in respect of the Works, including:
 - (a) land use;
 - (b) servicing;
 - (c) compliance with Band Development Approval Requirements, including Geotechnical Requirements, Environmental Requirements, Heritage Requirements, the Standards and other applicable standards and specifications;
 - (5) the DAB makes decisions about:
 - (a) the Approval to Proceed; and
 - (b) the Approval to Construct,which may include rejection of the applications, a requirement for more materials and information, or approval, with or without conditions; includes brief reasons if the DAB rejects the application; and
 - (6) after the DAB has made its decisions, the DAB notifies the applicant of the DAB's decision.

59. Approval to Proceed Application Requirements

- 59.1. Requirements for Approval to Proceed. All applications for an Approval to Proceed must be made by an appropriate Registered Professional, submitted to the DAB and must include, to the extent that any of the materials and information have not been provided at

a previous step or stage in the approvals process or any previously provided materials and information have changed or are no longer accurate:

- (1) the application form provided by the DAB;
- (2) three complete sets of all plans and drawings (with each sheet numbered) and other supporting materials and information as required by this Process; and any additional sets as may be required by or for outside agencies;
- (3) any materials and information as recommended, specified or required in or under the Band Development Approval Requirements;

For Approval to Proceed:

- (4) Letters of Assurance (Appendix B);
- (5) evidence of a valid lease;
- (6) if the applicant is not the owner of the land, written authorization by the owner of the land, in a form satisfactory to the DAB;
- (7) a site plan prepared by an appropriate Registered Professional showing the approximate dimensions of every Lot proposed to be developed, Roads and highways, and the approximate location of any existing buildings on the land;
- (8) identification of any existing building proposed to be retained after development;
- (9) a detailed land use plan clearly indicating the regulations that apply to the Lands including specific details about each land use area (in text and graphic form), including regulations as to density, location of uses, siting, size and dimensions of buildings and structures and off-street parking, which must comply in all respects with the applicable master development plan or development plan and any approval conditions (except where the Council has adopted a zoning bylaw that applies to the lands to be subdivided, in which case it must comply in all respects with the zoning bylaw);
- (10) grading plan showing proposed finished ground elevations for land within the development;
- (11) certificate from the NRD under section 8(7) of the Band Heritage Bylaw or, where applicable, written confirmation from the NRD that the applicant has otherwise complied with the applicable Heritage Requirements;
- (12) environmental assessments confirming that the Lands are in all respects satisfactory for development, as required under the *Canadian Environmental Assessment Act* and regulations made under it, or under the Band Environment and Lands Management System, as applicable.
- (13) confirmation that Environmental Requirements imposed under any previous environmental assessment have been complied with;
- (14) Letters of Assurance (Appendix B);
- (15) a detailed plan prepared by a Canada Land Surveyor showing all existing and proposed Lots (numbered), lot dimensions, Lot areas, streets (named in

accordance with names provided or approved by the Council), Easement areas and tops-of-bank adjacent to watercourses;

- (16) if not previously provided, parkland, as required under Part J;

For Approval to Construct:

- (17) detailed engineering plans and specifications for Services and Facilities including Roads, sanitary sewer, water, drainage and other utilities, works and services necessary to serve the Lands, both on-site and off-site, to the specifications and requirements set out in the Band Development Approval Requirements;
- (18) Class A Cost Estimates for the Services and Facilities to be provided or constructed, certified correct by the relevant Registered Professional;
- (19) proof of insurance as required under this Process or under a lease or other agreement applicable to the Lands;
- (20) Letters of Assurance (Appendix B);

For Approval to Construct and Approval to Proceed:

- (21) identify any aspects of the applications that do not or will not comply with Band Development Approval Requirements or other applicable standards and specifications, any variances from Band Development Approval Requirements that are requested, and the rationale and justification for each variance;
- (22) all applicable development cost charges, damage deposits, Security, costs, fees and charges; and
- (23) such other materials and information as the DAB may reasonably require.

60. Approval to Construct and Approval to Proceed Time Limits

- 60.1. Approval to Construct Time Limits. Each of an Approval to Construct and an Approval to Proceed will be void six months after the date it was given, unless it has been extended under section 60.2.
- 60.2. Extensions. The DAB may permit one or more extensions of the periods specified in section 60.1 if the DAB considers that the extension is warranted in the circumstances.

61. Letters of Assurance (Appendix B)

- 61.1. Letters of Assurance. The applicant must submit Letters of Assurance (Appendix B) to the DAB, within 4 weeks after the Works have been substantially completed.

PART O

MISCELLANEOUS DEVELOPMENT REQUIREMENTS

62. Miscellaneous Development Requirements

- 62.1. Trees.

- (1) Trees must not be cut down, felled or removed from the Lands except with the prior approval of the Minister, and in compliance with all Laws including all requirements of the *Indian Act* and its regulations.
 - (2) The owner must take all reasonable steps to protect and preserve trees during development.
- 62.2. Watercourses. The natural watercourses in and around the Lands must not be disturbed except with the prior approval of the Band, the Coast Guard and the Department of Fisheries and Oceans, as applicable.
- 62.3. Topsoil and Gravel.
 - (1) Topsoil and gravel must not be removed from the Lands except with the prior approval of the Minister, and in compliance with all Laws including all requirements of the *Indian Act* and its regulations.
 - (2) Topsoil on the Lands must to the greatest extent reasonably possible be scraped off and set aside from the other soils and natural materials, and preserved by the owner for re-use on the Lands.
- 62.4. Weeds. The owner must use reasonable efforts to control weeds on the Lands so as to tend to their elimination and to prevent their increase on the Lands or their spreading onto adjoining Lots within the Lands or adjoining property outside the Lands.
- 62.5. Restoration of Damaged Property. The applicant must within a reasonable time after completion of any construction or other work restore as nearly as possible to its original state any property, wheresoever situated, which is disturbed or damaged by the work, including restoration of the natural surface cover, to the satisfaction of the Coordinating Registered Professional and the Band Planning & Engineering Manager. If restoration is not completed within this time, the Band Planning & Engineering Manager may give notice to the applicant giving a reasonable time in which to complete such works and if not completed within that time, the Band and its employees, agents and contractors may enter upon the property to complete such restoration and charge the actual costs including administrative, supervisory and engineering costs of the Band to the owner. The owner must reimburse the Band within 10 days after receipt by the owner of the Band's invoice.
- 62.6. Survey Markers. The owner must protect all survey pins, posts and other markers during the construction or other work in respect of the Lands, and, prior to seeking a final subdivision approval, an Acceptance of Certification Report, an Acceptance of Warranty Certification Report, a Building Certificate, or an Occupancy Certificate, employ a Canada Land Surveyor to accurately relocate, repair or replace any such markers which may have been moved, damaged or destroyed.
- 62.7. Building Materials. The owner must not place or keep on the Lands any building or other materials or goods except those required for the development of the Lands.
- 62.8. Construction Debris. On a periodic basis during any construction or other work on the Lands and upon completion of the work the applicant must remove and dispose of all construction rubbish and debris. All surplus construction and other materials and goods must be removed from each site upon completion of the construction or other work.
- 62.9. Reasonable Precautions. In all construction and other work, the applicant must take all reasonable precautions to avoid danger to or interference with or inconvenience to the public and Persons using or occupying Lots or dwelling units on or near the Lands.

PART P
INSURANCE

63. Insurance

63.1. Insurance. The owner must take out and maintain or cause to be taken out and maintained, at the expense of the owner, the following insurance in respect of the development of the Lands, including construction of the Services and Facilities:

- (1) **Liability Insurance.** Comprehensive General Liability insurance (the "Liability Insurance") against claims for personal injury, death or property damage or loss occurring at or about the Insured Area (defined below) for such amounts as are required by the Band from time to time, acting reasonably. Such insurance must include premises and operations liability, contingency liability with respect to the operations of contractors and subcontractors, completed operations liability, contractual liability and automobile liability for owned, non-owned and hired units. The Band may require endorsements for broad form property damage and broad form completed operations, depending on the work involved.
- (2) **Builder's Risk Insurance.** Insurance (the "Builder's Risk Insurance") against damage to any improvements and building materials on or about the Insured Area from time to time during construction by an "all risks" form including resultant damage from error in design and faulty workmanship, to their full replacement cost;
- (3) **Automobile Insurance.** A standard automobile policy (the "Automobile Insurance" including standard contractual liability endorsement against claims for bodily injury, death and damage to property, for not less than \$2,000,000 for any one occurrence or for such higher amount as the Band may require from time to time, acting reasonably;
- (4) **Property Insurance.** "All risks" property insurance (the "Property Insurance") upon any improvements, including the Services and Facilities, to their full insurable value, calculated on a replacement cost basis against loss or damage by fire and other perils under customary supplementary coverage;
- (5) **Boiler Insurance.** "Broad form" boiler and pressure vessel insurance (the "Boiler Insurance") upon any boilers, pressure vessels or mechanical equipment located on the Lands in such amount as the Band may require from time to time, acting reasonably;
- (6) **Environmental Insurance.** Insurance against any such environmental risk as is required by the Band, with limits the Band considers appropriate, acting reasonably; and
- (7) **Other Insurance.** Such other insurance as the Band may reasonably require from time to time in amounts and for perils against which a prudent owner or tenant would protect itself in similar circumstances.

63.2. Insured Area. For the purposes of this section 63, the "Insured Area" includes the Lands and any area outside the Lands where Services and Facilities are being constructed or work in relation to any of them is being carried out.

63.3. Term for Insurance. The owner must obtain and maintain in force the insurance required under this section 63:

- (1) in respect of any Services and Facilities, to cover any claims in respect of any occurrence up to and including the date of issuance of the Acceptance of Warranty Certification Report;
- (2) in respect of any other improvements, to cover any claims in respect of any occurrence arising up to and including the date of issuance of the Occupancy Certificate.

63.4. Terms and Conditions of Insurance. Subject to section 63.5, each insurance policy must be written on an occurrence basis, on the following terms and on such other terms and conditions and with such insurers as are from time to time approved by the Band:

- (1) the policy must be written to the extent legally possible in the names of the owner; Her Majesty, the Band and any other Person designated by the Band or having an interest in the Insured Area, will be additional insureds as their respective interests may appear, to the extent that such additional insureds have an interest in such insurance as set out in section 63.1;
- (2) the policy must contain an agreement by the insurer that it will not cancel or alter the policy without first giving to all of the insureds at least 30 days' prior written notice by registered mail;
- (3) the Liability Insurance, Automobile Insurance and Boiler Insurance must each contain a provision for cross liability among the insureds such that each Person insured under such policies will be insured in the same manner and to the same extent as if separate policies had been issued to each;
- (4) the Property Insurance and Builder's Risk Insurance must each contain a waiver of any subrogation rights which the insurer or insurers may have against any of the insureds and those for whom the insureds are responsible in law, whether any insured loss or damage is caused by the act, omission, or negligence of any of the insureds, or by those for whose acts an insured is responsible in law;
- (5) if a policy of insurance contains a co-insurance provision then the owner must at all times maintain or cause to be maintained sufficient insurance to prevent the insureds under the policy from being co-insurers; and
- (6) the Liability Insurance and Boiler Insurance must each include protective liability for acts performed by contractors or their subcontractors, employer's liability (or contingent employer's liability where worker's compensation insurance applies), and unlicensed and specially licensed vehicle liability coverage.

63.5. Professional Liability Insurance. Where professional liability insurance is not available on an occurrence form, the insurance policy may be written on a claims made form. In such case, the professional must maintain its claims made insurance in force for two years unless the professional obtains and maintains in force a sunset policy or a discovery policy for a period that the Band considers is reasonable to cover its exposure in these circumstances.

63.6. Not Invalidate Insurance. The owner must not do, permit or suffer anything to be done on or from or about the Insured Area which might cause any policy of insurance required by section 63.1 to be invalidated or cancelled, and the owner must comply forthwith with every notice in writing from the Band or any insurer requiring anything to be done or not done in order to avoid invalidation or cancellation of any insurance.

- 63.7. Evidence of Insurance. The owner must deliver certificates evidencing every policy of insurance that is required by section 63.1 to the DAB immediately after the insurance is effected and must deliver a certificate of renewal or other evidence satisfactory to the DAB that the insurance has been renewed or replaced at least 15 days before the expiry of any policy of insurance in force. The owner must, upon written request from the DAB, deliver a certified copy of every insurance policy requested by the DAB.
- 63.8. Automobile Licenses and Insurance. Unless otherwise agreed by the DAB in writing, the owner must ensure that the owner obtains for every automobile or other vehicle owned or operated by the owner on the Reserve such licenses and insurance as are required under the laws of the Province of British Columbia for the ownership and operation of automobiles and other vehicles within the Province.
- 63.9. Worker's Compensation. Prior to commencing any construction or other work under this Process which requires the consent or approval of any lawful authority, the owner must provide the DAB with evidence of compliance with the applicable governmental requirements relating to worker's compensation insurance, including payments due thereunder.
- 63.10. Release of Liability for Insured Damage. The owner must provide to the Band an agreement in a form satisfactory to the DAB in which the owner fully releases and discharges and agrees to fully indemnify and save harmless Her Majesty and the Band from and against any and all Actions and Damages whatsoever caused by, resulting from or in respect of any of the perils or injury against which it is required under this Process to insure, even if the Action or Damage arises out of the negligence or omission of Her Majesty, Her Majesty's representatives, the Band or the Band's representatives and even if the owner has failed to so insure.

PART Q

BUILDING

64. Pre-Condition to Building Certificate

- 64.1. Pre-Condition to Building Certificate. An application for a Building Certificate may only be made in respect of land that has previously received master development plan approval or development plan approval and, if subdivision is being undertaken, final subdivision approval.

65. No Building without Building Certificate

- 65.1. No Building Without Approval. No building or structure or any part of a building or structure may be constructed, or substituted for an existing building or structure, unless the owner has first obtained a Building Certificate or is exempt under the Band Building Bylaw from the requirement to obtain a Building Certificate.

PART R

APPLICATIONS / CHANGES TO REQUIREMENTS

66. Applications

- 66.1. Applications by Owner. All applications under this Process must be made by the owner of the Lands or another Person authorized in writing by the owner, in a form satisfactory to the DAB.

- 66.2. Provision of Materials and Information. Despite any of the application submission requirements contained in this Process, the applicant must provide all materials and information requested by the DAB, or other Person having Authorization powers under this Process, that any of them consider reasonably necessary or desirable for the purposes of reviewing and assessing an application or for addressing concerns raised during public consultation.

67. Changes to Requirements

- 67.1. The DAB May Amend. The DAB, acting reasonably, and in furtherance of the objectives set out in section 2, may at any time and from time to time amend this Process, without the consent of any Person, except as may be required under the *Indian Act*.
- 67.2. Effective Date of Amendment. Where the DAB amends this Process, the changes will not take effect for a period of 60 days after the effective date of the amendment of this Process.

PART S

DISPUTE RESOLUTION

68. Arbitration / Reconsideration of Decision

- 68.1. Independent Arbitrator. The DAB may at any time appoint an independent arbitrator in connection with the administration of this Process and upon application by any interested Person entitled to arbitration in accordance with this Process, the DAB will appoint such an independent arbitrator. An arbitration carried out in accordance with this Process will be carried out in accordance with Appendix C, unless otherwise agreed by all parties to the arbitration and approved by the arbitrator so appointed. **[Note to draft: Please see Appendix C and consider whether the arbitrator should be appointed with the agreement of the parties instead of by the DAP, as noted in Appendix C.]**
- 68.2. Application for Reconsideration. Where this Process or any bylaw of the Band provides for reconsideration of any decision made by the DAB or otherwise pursuant to this Process, an application for reconsideration may be brought to and appointed independent arbitrator within one month after the date of the making of the decision that is the subject of the application.
- 68.3. How an Application for Arbitration is Made. An application for arbitration may be brought by submitting to the Lands, Leasing and Tax Manager a letter or other written notice stating to the extent relevant and in reasonable detail:
- (1) the Person or body who made the decision,
 - (2) the decision or matter that is subject of the application,
 - (3) the grounds for the reconsideration or other reason for the arbitration, and
 - (4) the relevant material facts,
- upon which the Lands, Leasing and tax Manager will cause an arbitration to be carried out in accordance with this section 68.
- 68.4. Powers of the Arbitrator on Reconsideration. On a reconsideration, the appointed independent arbitrator may confirm, vary or rescind the decision that is subject of the

reconsideration, and may make any decision that could have been made by the person or body whose decision is being reconsidered.

- 68.5. Who May Apply for Reconsideration. The applicant, Band members and any other Person whose interest in Land is directly affected by, and who is aggrieved by, a decision of the DAB:

- (1) approving,
- (2) refusing, or
- (3) imposing conditions on an approval of,

an application for subdivision layout approval, subdivision design approval, an Approval to Construct, Approval to Proceed or final subdivision approval, may apply to the appointed independent arbitrator for reconsideration of that decision.

PART T

ALLOCATION OF RISK AND RELEASES

69. Allocation of Risk

- 69.1. No Liability. None of the Band or any Band Official will have any liability whatsoever for any Damage to any Person for or in respect of any of the following:

- (1) the exercise of or failure to exercise any power, duty, authority or discretion under or in connection with this Process, the Band Development Approval Requirements or any Authorization, including any inspection or any confirmation of compliance or conformity with any of the above;
- (2) any advice, representations, comforts or assurance given in respect of the Lands or any development on the Lands, any condition or state of the Lands or any other land or premises, including environmental conditions, taxes and charges, authorizations, zoning, development and rights or licensing;
- (3) the neglect or failure, for any reason, of the Band or a Band Official to discover any breach or default under, or to enforce any of its rights, under this Process, the Band Development Approval Requirements or any Authorization or agreement under any of them.

- 69.2. No Liability for Authorizations. Without limiting any other provision of this Process, the Band or any Band Official, in giving or making any Authorization under this Process, including inspecting and approving plans or other materials and information or inspecting buildings, Services and Facilities, structures or things requiring an Authorization for their development or construction, has no legal duty to any Person on which a cause of action can be based to ensure that plans, buildings, Services and Facilities, structures or other things so constructed or developed, comply with the Band Development Approval Requirements. Without limiting the above, the Band or any Band Official is not liable for any Damage sustained by any Person as a result of any neglect or failure of the Band or a Band Official to discover or detect any contravention of any Band Development Approval Requirements or from the neglect or failure, for any reason or in any manner, to enforce any Band Development Approval Requirements or for any Damage from a failure to take any enforcement action available to the Band.

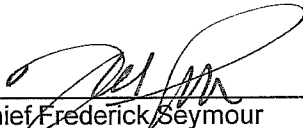
- 69.3. No Personal Liability. A Band Official or a former Band Official is in no case liable for any Damage and no Action for any Damage lies or may be instituted against a Band Official or former Band Official for or in respect of any of the following:
- (1) anything said or done or anything not said or done by a Band Official or a former Band Official in the performance, intended performance of or failure to perform any of that person's duties;
 - (2) the exercise of or failure to exercise that person's power, duty, authority or discretion, including the issuance of or failure to issue any Authorization; and
 - (3) any default or neglect or alleged default or neglect in the performance, intended performance of or failure to perform any of that person's powers, duties, authority or discretion.
- 69.4. No Defence in Certain Circumstances. Section 69.3 does not provide a defence if:
- (1) the Band Official or former Band Official has, in relation to the conduct that is the subject matter of the Action, been guilty of dishonesty, gross negligence or malicious or willful misconduct; or
 - (2) the Action or Damage relates to libel or slander.
- 69.5. Nuisance Actions. The Band, a Band Official or former Band Official is not liable in any Action for any Damage based on nuisance or the rule in Rylands v. Fletcher or in any claim or Action for injurious affection, where the Damage giving rise to the Action arises directly or indirectly out of any failure, breakdown, malfunction, insufficiency or inadequacy of any of the Services and Facilities, for any reason whatsoever.
- 69.6. Owner Obligation to Comply. Without limiting any other provision of this Process, neither anything contained in this Process, nor the acceptance by the Band of any materials and information from a Registered Professional, nor the issuance of an Authorization will:
- (1) relieve the owner, the applicant or any Registered Professional from their obligations of compliance with the Band Development Approval Requirements; or
 - (2) be construed as an assumption of responsibility in any way by the Band or any Band Official for any of these or any construction or other work carried out in accordance with this Process or the Band Development Approval Requirements .
- 69.7. No Reliance on the Band/Owner Responsible. Without limiting anything contained in this Process:
- (1) all Authorizations made under this Process are for the sole benefit of the Band and will in no way relieve or excuse the owner from designing, constructing, operating and maintaining all buildings, structures, development and Services and Facilities in strict compliance with the terms and conditions of this Process and the other Band Development Approval Requirements;
 - (2) the owner will rely exclusively on itself and its own Registered Professionals, consultants and advisors in respect of any development of land, construction and other work carried out by or on behalf of the owner, including the construction of any Services and Facilities; and

- (3) none of the Band or any Band Official warrant or represent by any Authorization, that any buildings, structures, development or Services and Facilities comply with any Band Development Approval Requirements, or are without fault or defect or fit for their intended purpose.


69.8. No Limitation on Other Exemptions. Nothing contained in this section 69 will in any way limit or modify any exemption from or limitation on any liability which is available to the Band or any Band Official under any Law or any agreement.

This Bylaw is hereby authorized at a duly convened meeting of the Band Council of the Kamloops Indian Band (Tk'emlúps te Secwépemc) this 6th day of February, 2012

Voting in favour of the Bylaw are the following members of the Council:



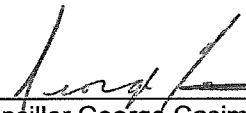
Acting Chief Frederick Seymour



Councillor Constance D. Leonard



Councillor Rosanne Casimir



Councillor George Casimir



Councillor Evelyn Camille

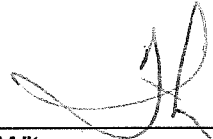
Being the majority of those members of the Band Council of the Kamloops Band (Tk'emlúps te Secwépemc) present at the aforesaid meeting of the Council. There are seven (7) Council members and a quorum of the Band Council is four (4) plus one (1).

Number of members of the Band Council present at the meeting: 5.

I, Chief/Councillor of the Kamloops Band (Tk'emlúps te Secwépemc), do hereby certify that a true copy of the foregoing Bylaw was mailed to the Minister of Indian Affairs and Northern Development at the District/Regional/Hull office (as the case may be) pursuant to section 82(1) of the *Indian Act*, this 6th day of February, 2012.



Acting Chief/Councillor



Witness

IAN PEONE,
SNE RECORDING SECRETARY

APPENDIX A

MASTER DEVELOPMENT PLAN AND DEVELOPMENT PLAN SUBMISSION REQUIREMENTS FOR SERVICING

Each master development plan and development plan will include different land uses within a different context. Specific submission requirements will vary to some extent from proposal to proposal in order for the DAB to assess a proposal. The materials and information relevant to the particular proposal must be provided.

1. Water Distribution and Storage

Provide details of the following:

- demand - per capita consumption and peaking factors (for non-residential uses, provide population equivalents)
- summary of irrigation demands, where applicable
- fire flow requirements
- maximum and minimum pressures
- hydrant spacing
- criteria for water storage; sizing of reservoir
- average day and peak day demands by phase and for total development at build-out.

At a conceptual level, specify the general approach to the provision of water service, including:

- source and location of supply (will be the Band system unless otherwise approved)
- connection from development to point of supply
- storage - volumes, location and elevation of reservoir(s)
- trunk main sizes and routing
- delineation of pressure zones, if applicable
- approximate hydrant locations.

Where applicable, it must be demonstrated how the water system serving the development can be integrated with the existing or proposed developments on adjoining and nearby properties so that a fully looped system can evolve in the longer term.

2. Sanitary Sewer System

Provide details of the following:

- per capita generation of sewage flows and peaking factors (for non-residential uses, provide population equivalents)
- projected sewage flows by phase and for total development at build-out

At a conceptual level, specify the general approach to the provision of sanitary sewer service, including:

- location, sizing and routing of trunk mains to connect to the Band/City of Kamloops system
- location, sizing and routing of trunk mains (major and minor) within the development.

Where applicable, it must be demonstrated how the system can potentially interconnect with points in adjoining properties.

3. Storm Water Management

Provide details of the following:

- flow calculations (City of Kamloops methodology and criteria to be used)
- targets for quality of storm water before discharge
- major system criteria
- minor system criteria.

At a conceptual level, specify the general approach to storm water management, including:

- catchment areas
- what methods will be used to ensure quality targets are being met (e.g. detention and sedimentation ponds, on-site containment, etc.)
- sizing and routing of storm drains
- location and method of disposal
- point of discharge.

4. Circulation

Provide details of the following:

- projected vehicular traffic flows that will be generated by the development (residential) or attracted to the development (non-residential) - by phase and for total development at build-out
- peaking factors for volumes of vehicular traffic
- classification of on-site roads (i.e. collector, local, etc.)
- typical cross-section of on-site roads (to RTAC standards).

At a conceptual level, specify the general approach to road infrastructure, including:

- general road layout within the development, including designation of collector and local streets
- location of points of access to existing roads
- provision for future extensions of roads to existing or future developments on adjoining properties
- general layout and location of sidewalks and trails for pedestrians (to be integrated with the road system and park/open space system)
- provision for future extensions of pedestrian network to adjoining properties.

5. Parking

- parking standards - off-street parking for residential and non-residential development (i.e. number of spaces per unit of development).

6. Cost Estimates

Provide estimates of capital costs for servicing works, broken down by category of service. Where applicable, provide cost estimates of on-site and off-site services.

All estimates are to be Class C Cost Estimates and must be inclusive, including an allowance for engineering and contingencies.

7. General

Provide detailed plans outlining the proposed approach to future operations and maintenance of the

Services and Facilities once completed, including:

- ownership - who will own the works and services? Will there be a transfer of
- ownership to the Band and, if so, what will be the proposed method and timing of transfer?
- financing - method of cost recovery to generate sufficient funds for operations and preventative maintenance program, including reserve fund for future replacement of system components as they age and deteriorate
- if the works are not to be transferred to the Band, what is the proposed approach to operations and maintenance? What assurance will there be that proper maintenance procedures will be adhered to over the long term?

APPENDIX B

FORMS OF LETTER OF ASSURANCE

Where Letters of Assurance are required under this Process, the Letters of Assurance will be generally in the forms set out in this Appendix. Despite the above, variations in the forms of the Letters of Assurance will be required, since the Letters of Assurance will apply to a broad variety of buildings, structures, Services and Facilities and other improvements in varying circumstances, and will be issued by a broad variety of owners, coordinating Registered Professionals. As a result, the form and content of Letters of Assurance to be provided in each instance will be determined by the DAB.

**CONFIRMATION OF COMMITMENT BY OWNER
AND BY COORDINATING REGISTERED PROFESSIONAL
RE: DESIGN AND FIELD REVIEW OF CONSTRUCTION**

- Note:
1. This letter must be submitted prior to issuance of any approval to construct.
 2. In this letter the words in italics have the meanings as set out in the notes below.

TO: The Development Approval Board

File No.: _____

Kamloops Indian Band (Tk'emlúps te Secwépemc)
406-345 Yellowhead Highway
Kamloops, BC V2H 1H1

Re:
Project:

Location: Kamloops Indian Reserve No. 1
Lot ●
Plan ● and
Lot ●
Plan ● CLSR

- 1) ● (the "Owner") has retained _____, P. Eng as its *Coordinating Registered Professional* to:
 - a) Provide responsibility and authority for *compliance coordination* of the site servicing design work and *field reviews* of the related *registered professionals* required for the *Project*, in order to ascertain that the design and construction of the *Project* will substantially comply in all material respects with the applicable requirements of the *Standards* and the *Band Development Approval Requirements*;
 - b) Obtain or cause to be obtained any necessary permits, inspections and approvals and ensure that the work on the *Project* is carried out by qualified persons, in accordance with applicable statutes, regulations, codes, standards and other *Band Development Approval Requirements* relating to the design, construction and use of overhead pole lines;
 - c) Deliver to the DAB letters of assurance of professional design and commitment for *field review* from each of the related *registered professionals* required for the *Project*, in the form attached as Schedule B or as otherwise approved by the DAB;
 - d) Before the *Owner* obtains final acceptance in respect of the *Project*, deliver to the DAB letters of assurance of professional *field review* and compliance from each of the related *registered professionals* required for the *Project*, in the form of Schedule C or as otherwise approved by DAB;
 - e) Keep a record of the *field reviews* over which the *Coordinating Registered Professional* has responsibility and of any corrective action taken as a result;
 - f) Every two weeks, submit a written progress report to the DAB, including all reports and records described above;
 - g) Review reports of other testing and inspection agencies and disciplines where necessary, comment on their acceptability, determine the corrective action to take if unacceptable; and maintain a detailed record of every such report and comment;

- h) Advise the DAB in writing of any matter of design or construction that does not substantially comply in all material respects with the applicable requirements of the *Standards* and the *Band Development Approval Requirements* as related to design and installation of site serving;
 - i) Coordinate any corrective measures necessary to bring work into substantial compliance with the applicable requirements of the *Standards* and the *Band Development Approval Requirements* as related to design and installation of site servicing; and
 - j) Provide such other services to the *Owner* as may be required from time to time by the Band, acting reasonably.
- 2) The *Owner* and the *Coordinating Registered Professional* will each notify the DAB of the date the *Coordinating Registered Professional* or any *registered professional* ceases to be retained by the *Owner* at any time during the construction of the *Project*, before the date the *Coordinating Registered Professional* or the *registered professional* ceases to be retained or, if that is not possible, then as soon as possible.
- 3) The *Owner* and the *Coordinating Registered Professional* each agree with the Band that where the *Coordinating Registered Professional* or any *registered professional* ceases to be retained at any time during construction of the *Project*, they will cause work on the *Project* to cease as of that date, until such time as a new *Coordinating Registered Professional* or *registered professional*, as applicable, is retained, and new letters of assurance for the *Coordinating Registered Professional* or *registered professional*, as applicable, are provided to the DAB.
- 4) The *Owner* will not terminate the appointment of the *Coordinating Registered Professional* or a *registered professional* unless:
 - a) The *Owner* immediately replaces or has replaced the *Coordinating Registered Professional* or the *registered professional*, and
 - b) The *Owner* delivers or has delivered new letters or assurances as described in section 3.
- 5) The undersigned *Coordinating Registered Professional*:
 - a) Certifies that he is a *registered professional* as defined in the letter;
 - b) Acknowledges that he has been retained as described above; and
 - c) Covenants that he or his firm presently carries professional liability insurance in accordance with the attached Certificate of Insurance.

COORDINATING REGISTERED
PROFESSIONALS

OWNER

Coordinating Registered Professional

Owner's Name (Print)

Coordinating Registered Professional's Signature

Owner or Owner's appointed agent's Signature. (If owner is a corporation the signature of a signing officer must be given here. If the signature is that of the agent, a copy of the document that appoints the agent must be attached.)

Date

Date

Address (Print)

Name of Agent or Signing Officer if applicable (print)

Address (Print)

Telephone

FAX

Occupation (Print)

Telephone

FAX

(Affix Coordinating Registered Professional's seal here)

(Affix Coordinating Registered Professional's stamp here)

(If the registered professional is a member of a firm, complete the following.)

I am a member of the firm _____ and I sign this letter on behalf of the firm.

NOTES:

- 1) This letter must be signed by the *Owner* or his or her appointed agent and by the *Coordinating Registered Professional* who is a *registered professional*. An agent's letter of appointment must be attached. If the *Owner* is a corporation, the letter must be signed by a signing officer of the corporation and the signing officer must set out his or her position in the corporation.
- 2) In this letter:
 - a) "**compliance coordination**" means the activities necessary to ascertain that the registered professionals of record for the various components of the *Project*:
 - (1) have reasonably interpreted the *Standards* and other applicable *Band Development Approval Requirements* governing the design of such components,
 - (2) have incorporated the *Standards* and other applicable *Band Development Approval Requirements* into their designs,

- (3) have interfaced the design meeting the *Standards* and other applicable *Band Development Approval Requirements* so that they are compatible with the requirements of other disciplines,
 - (4) have fulfilled the requirements of the *Standards* and other applicable *Band Development Approval Requirements*, and
 - (5) will provide *field reviews* in respect of their respective components of the *Project*;
- b) **"Coordinating Registered Professional"** means a registered professional retained by the *Owner* to Coordinate, on behalf of the *Owner*, all design work and *field reviews* of the registered professionals required for the *Project*;
- c) **"field reviews"** means such reviews of the work at the *Project* site to which any approval to construct or other approval relates and, where applicable, at fabrication locations where *Project* components are fabricated for use at the *Project* site, that a *registered professional*, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the plans and supporting documents prepared by the registered professional for which the approval to construct or other approval is issued;
- d) **"Band Development Approval Requirements"** means applicable permits, bylaws, standards, laws, regulations and approvals other than the *Standards* which apply to the *Project* including, without limitation, the draft *Canadian Environmental Assessment Act* Environmental Screening Record issued by the Band's Environmental Consultant on ●, as amended or superseded, the Band's Heritage Bylaw and Band's Heritage Policy, reports or other materials prepared by consultants retained by or on behalf of the *Owner* and accepted by the Band, and any requirements imposed by the Band, in respect of heritage, environmental or geotechnical matters;
- e) **"registered professional"** means:
 - (1) a person who is registered or licensed in good standing to practice as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia),
 - (2) a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia), or
 - (3) a person who is a professional with expertise and experience in the area of work being carried out by him or her on the *Project*,

and who is accepted as a registered professional by the Kamloops Indian Band; includes *Coordinating Registered Professional*;
- f) **"Standards"** means the Kamloops Indian Band (Tk'emlúps te Secwépemc) Design Criteria and Construction Standards and Specifications for Development, approved by the Council by BCR 97-036 on March 21, 1997, as amended or superseded from time to time.

SCHEDULE B

ASSURANCE BY REGISTERED PROFESSIONAL OF PROFESSIONAL DESIGN AND COMMITMENT FOR FIELD REVIEW

- Note:
1. This letter must be submitted prior to issuance of any approval to construct.
 2. In this letter the words in italics have the meanings as set out in the notes below.

To: The Development Approval Board File No.: _____

Kamloops Indian Band (Tk'emlúps te Secwépemc)
406-345 Yellowhead Highway
Kamloops, BC V2H 1H1

Re:
Project:

Location: Kamloops Indian Reserve No. 1
Lot ●
Plan ● CLSR and
Lot ●
Plan ● CLSR

- 1) The undersigned hereby gives assurance and certifies that the design of the (Initial those of the items listed below that apply to this *registered professional*. All the disciplines will not necessarily be employed on every project.)

a) **STORM DRAINAGE SYSTEM** including, but not restricted to, the following:

- The location, alignment, size and grade of all pipes and culverts;
- The spacing of manholes and catch basins;
- The construction of drywells;
- Materials used for pipes, culverts, manholes, catch basins, pipe and fitting joints, service connections, inlet and outlet structures;
- Materials used for pipe bedding and backfilling of trenches;
- Workmanship in the construction and installation of all materials;

b) **SANITARY SEWER SYSTEM** including, but not restricted to, the following:

- Location, alignment, size and grade of all pipes;
- Spacing of manholes and catch basins;
- Materials used for pipes, manholes, pipe and fitting joints, service connections;
- Materials used for pipe bedding and backfilling of trenches;
- Workmanship in the construction and installation of all materials;

c) **WATER DISTRIBUTION SYSTEM** including, but not restricted to, the following:

- Location, alignment, size and grade of all pipes;
- Spacing of hydrants and valves;
- Construction of pumping stations and reservoirs;
- Materials used for pipes, fittings, gate valves, valve boxes, hydrants, service connections, corporation stops, curb stop and boxes, air valves, stops and drains;
- Materials used for pipe bedding and backfill of trenches;

- Workmanship in the construction and installation of all materials;
- d) **ROADS** including, but not restricted to, the following:
- Alignment, width and grade of all roads;
 - Materials used for preparation of road bases and road surfaces;
 - Workmanship in the installation of materials;
- e) **CURBS, GUTTERS AND SIDEWALKS** including, but not restricted to, the following:
- Width and grade of sidewalks and boulevards;
 - Alignment and grade of curbs and gutters;
 - Materials used for preparation of subgrades and surfaces;
 - Workmanship in the installation of materials;
- f) **STREET LIGHTING, ELECTRICAL AND COMMUNICATIONS WIRING AND GAS INSTALLATIONS** including, but not restricted to, the following:
- Number and spacing of street light poles and luminaires;
 - Materials used for street lighting, electrical and communications wiring and gas installations;
 - Materials used for backfilling of trenches;
 - Workmanship in the installation of materials;
- g) **LANDSCAPING** including, but not restricted to, the following:
- h) **GEOTECHNICAL - TEMPORARY** including, but not restricted to, the following:
- Excavating;
 - Shoring;
 - Underpinning; and
 - Temporary construction dewatering;
- i) **GEOTECHNICAL - PERMANENT** including, but not restricted to, the following:
- Bearing capacity of the soil;
 - Geotechnical aspects of deep foundations;
 - Compaction of engineering fill;
 - Structural considerations of soil, including slope stability and seismic loading;
 - Backfill;
 - Permanent dewatering; and
 - Permanent underpinning;

components of the plans and supporting documents prepared by this *registered professional* in support of the application for an approval to construct substantially comply in all material respects with the provisions of the Kamloops Indian Band Design Criteria and Construction Standards and Specifications for Development, approved by BCR 97-036 dated March 21, 1997, as amended or superseded from time to time (the "*Standards*"), and other applicable permits, bylaws, standards, laws, regulation and approvals which apply to the construction of the *Project* including, without limitations, the draft *Canadian Environmental Assessment Act* Environmental Screening Record issued by Band's Environmental Consultant on ●, as amended or superseded, the Band's Heritage Bylaw and Band's Heritage Policy, reports or other materials prepared by consultants retained by or on behalf of the *Owner* and accepted by the Band, and any requirements imposed by the Band, in respect of heritage, environmental or geotechnical matters (the "*Other Requirements*").

- 2) The undersigned hereby undertakes, in relation to the above referenced components, to:
- a) Design the above-referenced components and be responsible during construction for *field reviews* of them; keep a record of the *field reviews* and if any corrective action taken as a result of the *field review*; and make the record available to the DAB;
 - b) Certify under his or her professional seal all plans, documents, materials and information which are provided by him or her to the Band in respect of the above referenced components of the *Project*;
 - c) Certify that the design of the above referenced components will substantially comply in material respects with the *Standards* and the *Other Requirements*;
 - d) Certify that the construction of the above-referenced components substantially complies in all material respects with the certified design, the *Standards* and the *Other Requirements*;
 - e) Provide quality assurance to ensure that the above-referenced components substantially comply in all material respects with the applicable requirements of the *Standards* and the *Other Requirements*;
 - f) Be responsible during construction for *field reviews* of the above-referenced components; keep a record of the *field reviews* and of any corrective action taken as a result of the *field reviews*; and make the record available to the DAB;
 - g) At any time after an approval to construct has been issued, unforeseen conditions or circumstances become known which make it necessary that changes in design or extra work be done in order to complete the above-referenced components substantially in compliance in all material respects with the *Standards* and the *Other Requirements*; and ensure that any such changes are reviewed and approved by the person having responsibility under the Band's development approval process;
 - h) Record the details of any field design or construction changes to the plans and supporting documents prepared by this *registered professional* in respect of the above-referenced components;
 - i) Ensure that all necessary information for the preparation of "as constructed" drawings is recorded;
 - j) Review for adequacy and acceptability and oral or written report considering any testing, inspection or *field review* requirements; maintain a detailed record of such reports or comments; and make the same available to the DAB every two weeks during construction;
 - k) Advise the DAB in writing of any matter of design or construction that does not substantially comply in all material respects with the applicable requirements of the *Standards* and the *Other Requirements*;
 - l) Ensure that any corrective measures necessary to bring work into substantial compliance with the applicable requirements *Standards* and the *Other Requirements* are carried out;
 - m) Before the *Owner* (defined below) obtains final inspection or approval for occupancy in respect of the *Project*, or as permitted by the DAB, deliver to the DAB a letter of assurance of professional *field review* and compliance in respect of the above-referenced components of the *Project*; and

- n) Notify the DAB in writing as soon as possible if the undersigned's contract for *field review* is terminated at any time during construction.

3) The undersigned *registered professional*:

- a) Certifies that he or she is a *registered professional* as defined below;
- b) Acknowledges that he or she has been retained by ● (the "Owner") to carry out the work and undertake the responsibilities described above, and
- c) Covenants that he or she or his or her firm presently carries liability insurance in the amount of _____.

Name (Print)

Signed

Address (Print)

Date

(Affix PROFESSIONAL SEAL here)

Phone

Fax

(If the *registered professional* is a member of a firm, complete the following.)

I am a member of the firm _____ and I sign this letter on behalf of the firm.

NOTES:

- 1) The above letter must be signed by a *registered professional*.
- 2) In this letter:
- a) "**field reviews**" means such reviews of the work at the *Project* site to which any approval to construct or other approval relates and, where applicable, at fabrication locations where *Project* components are fabricated for use at the *Project* site, that a *registered professional*, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the plans and supporting documents prepared by the registered professional for which the approval to construct or other approval is issued;
- b) "**registered professional**" means:
- (1) a person who is registered or licensed in good standing to practice as a

professional engineer under the *Engineers and Geoscientists Act* (British Columbia),

- (2) a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia), or
- (3) a person who is a professional with expertise and experience in the area of work being carried out by him or her on the *Project*,

and who is accepted as a *registered professional* by the Kamloops Indian Band (Tk'emlúps te Secwépemc).

SCHEDULE C

ASSURANCE BY REGISTERED PROFESSIONAL *FIELD REVIEW* AND COMPLIANCE (*COORDINATING REGISTERED PROFESSIONAL*)

- Note:
1. This letter must be submitted prior to issuance of any approval to construct. A separate letter must be submitted by each *registered professional*.
 2. In this letter the words in italics have the meanings as set out in the notes below.

To: The Development Approval Board File No.: _____

Kamloops Indian Band (Tk'emlúps te Secwépemc)
406-345 Yellowhead Highway
Kamloops, BC V2H 1H1

Re:
Project:

Location: Kamloops Indian Reserve No. 1
Lot ●
Plan ● CLSR and
Lot ●
Plan ● CLSR

I hereby give assurance and certify that:

- a) I have fulfilled my obligations for coordination of *field review* of the *registered professional* required for the *Project* as outlined in the previously submitted Schedule A, "Confirmation of Commitment by Owner and by *Coordinating Registered Professional* re: Design and *Field Review* of Construction"; and
- b) I am a *registered professional* as defined below.

Name (Print)

Signed

Address (Print)

Date

(Affix PROFESSIONAL SEAL here)

Phone

Fax

(If the registered professional is a member of a firm, complete the following.)

I am a member of the firm _____ and I sign this letter on behalf of the firm.

NOTES:

- 1) The above letter must be signed by a registered professional.
- 2) In this letter:
 - a) "**Coordinating Registered Professional**" means a registered professional retained by the Owner to coordinate, on behalf of the Owner, all design work and field reviews of the registered professionals required for the Project.
 - b) "**field reviews**" means such reviews of the work at the *Project* site to which any approval to construct or other approval relates and, where applicable, at fabrication locations where *Project* components are fabricated for use at the *Project* site, that a *registered professional*, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the plans and supporting documents prepared by the registered professional for which the approval to construct or other approval is issued.
 - c) "**Other Requirements**" means applicable permits, bylaws, standards, laws, regulations and approvals other than the *Standards* which apply to the construction of the *Project* including, without limitation the draft *Canadian Environmental Assessment Act* Environmental Screening issued by the Band's Environmental Consultant on ●, as amended or superseded, the Band's Heritage Bylaw and Band's Heritage Policy, reports or other materials prepared by consultants retained by or on behalf of the Owner and accepted by the Band, and any requirements imposed by the Band, in respect of heritage, environmental or geotechnical matters.
 - d) "**Owners**" has the meaning given to that term in Schedule A, "Confirmation of Commitment by Owner and by *Coordinating Registered Profession* re: Design and *Field Review* of Construction."
 - e) "**registered professional**" means:
 - (1) a person who is registered or licensed in good standing to practice as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia),
 - (2) a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia), or
 - (3) a person who is a professional with expertise and experience in the area of work being carried out by him or her on the *Project*,and who is accepted as a *registered professional* by the Kamloops Indian Band.
 - f) "**Standards**" means the Kamloops Indian Band Criteria and Construction Standards and Specifications for Development, approved by BCR 97-036 on March 21, 1997, as amended or superseded from time to time.

SCHEDULE C

ASSURANCE BY PROFESSIONAL FIELD REVIEW AND COMPLIANCE (*REGISTERED PROFESSIONAL*)

- Note:
1. This letter must be submitted prior to issuance of any approval to construct. A separate letter must be submitted by each *registered professional*.
 2. In this letter the words in italics have the meanings as set out in the notes below.

To: The Development Approval Board File No.: _____

Kamloops Indian Band (Tk'emlúps te Secwépemc)
406-345 Yellowhead Highway
Kamloops, BC V2H 1H1

Re:

Project:

Location: Kamloops Indian Reserve No. 1
Lot ●
Plan ● CLSR and
Lot ●
Plan ● CLSR

I hereby give assurance and certify that:

1)

- a) I have fulfilled my obligations for *field review* as outlined in the previously submitted Schedule B, "Assurance by *Registered Professional* of Professional Design and Commitment for *Field Review*";
- b) I have inspected those components of the *Project* opposite my initials in Schedule B (the "*subject components*") and carried out or caused to be carried out any examinations or tests set out in the *Standards* or recommended by good engineering practice to determine whether *subject components* meet the applicable requirements of the *Standards* and the *Other Requirements*; and
- c) The *subject components* are complete and substantially comply in all material respects with:
 - (1) The applicable requirements of the *Standards* and the *Other Requirements*; and
 - (2) The plans and supporting documents submitted in support of the application for the approval to construct in respect of the *subject components*;
- d) The final design plans and supporting materials and information prepared by me for the *Project* have been submitted to the DAB;
- e) A complete set of as-constructed drawings of the *subject components* at the same scale and in the same format as the construction drawings, prepared in accordance with good engineering practice has been submitted to the DAB.
- f) I am a *registered professional* as defined below.

(Each registered professional must complete the following)

Name (Print)

Signed

Address (Print)

Date

(Affix PROFESSIONAL SEAL here)

Phone

Fax

(If the registered professional is a member of a firm, complete the following.)

I am a member of the firm _____ and I sign this letter on behalf of the firm.

NOTES:

- 1) This letter must be signed by a *registered professional*.
- 2) In this letter:
 - a) "**field reviews**" means such reviews of the work at the *Project* site to which any approval to construct or other approval relates and, where applicable, at fabrication locations where *Project* components are fabricated for use at the *Project* site, that a *registered professional*, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the plans and supporting documents prepared by the registered professional for which the approval to construct or other approval is issued.
 - b) "**Other Requirements**" means applicable permits, bylaws, standards, laws, regulations and approvals other than the Standards which apply to the construction of the *Project* including, without limitation the draft *Canadian Environmental Assessment Act* Environmental Screening issued by the Band's Environmental Consultant on ●, as amended or superseded, the Band's Heritage Bylaw and Band's Heritage Policy, reports or other materials prepared by consultants retained by or on behalf of the *Owner* and accepted by the Band, and any requirements imposed by the Band, in respect of heritage, environmental or geotechnical matters.
 - c) "**registered professional**" means:
 - (1) a person who is registered or licensed in good standing to practice as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia),

- (2) a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia), or
- (3) a person who is a professional with expertise and experience in the area of work being carried out by him or her on the *Project*,

and who is accepted as a registered professional by the Kamloops Indian Band (Tk'emlúps te Secwépemc).

- d) "**Standards**" means the Kamloops Indian Band Criteria and Construction Standards and Specifications for Development, approved by BCR 97-036 on March 21, 1997, as amended or superseded from time to time.

SCHEDULE B

ASSURANCE BY REGISTERED PROFESSIONAL OF PROFESSIONAL DESIGN AND COMMITMENT FOR FIELD REVIEW (ENVIRONMENTAL)

- Note:
1. This letter must be submitted prior to issuance of any approval to construct.
 2. In this letter the words in *italics* have the meanings as set out in the notes below.

To: The Development Approval Board File No.: _____

Kamloops Indian Band (Tk'emlúps te Secwépemc)
406-345 Yellowhead Highway
Kamloops, BC V2H 1H1

Re:
Project:

Location: Kamloops Indian Reserve No. 1
Lot ●
Plan ● CLSR and
Lot ●
Plan ● CLSR

- 1) the undersigned hereby gives assurances and certifies that the design of the works comprise the *Project*, including:
 - a) **STORM DRAINAGE SYSTEM** including, but not restricted to, the following:
 - The location, alignment, size and grade of all pipes and culverts;
 - The spacing of manholes and catch basins;
 - The construction of drywells;
 - Materials used for pipes, culverts, manholes, catch basins, pipe and fitting joints, service connections, inlet and outlet structures;
 - Materials used for pipe bedding and backfilling of trenches;
 - Workmanship in the construction and installation of all materials;
 - b) **SANITARY SEWER SYSTEM** including, but not restricted to, the following:
 - Location, alignment, size and grade of all pipes;
 - Spacing of manholes and catch basins;
 - Materials used for pipes, manholes, pipe and fitting joints, service connections;
 - Materials used for pipe bedding and backfilling of trenches;
 - Workmanship in the construction and installation of all materials;
 - c) **WATER DISTRIBUTION SYSTEM** including, but not restricted to, the following:
 - Location, alignment, size and grade of all pipes;
 - Spacing of hydrants and valves;
 - Construction of pumping stations and reservoirs;
 - Materials used for pipes, fittings, gate valves, valve boxes, hydrants, service connections, corporation stops, curb stop and boxes, air valves, stops and drains;
 - Materials used for pipe bedding and backfill of trenches;

- Workmanship in the construction and installation of all materials;
- d) **ROADS** including, but not restricted to, the following:
- Alignment, width and grade of all roads;
 - Materials used for preparation of road bases and road surfaces;
 - Workmanship in the installation of materials;
- e) **STREET LIGHTING, ELECTRICAL AND COMMUNICATIONS WIRING AND GAS INSTALLATIONS** including, but not restricted to, the following:
- Number and spacing of street light poles and luminaries;
 - Materials used for street lighting, electrical and communications wiring and gas installations;
 - Materials used for backfilling for trenches;
 - Workmanship in the installation of materials;
- f) **LANDSCAPING** including, but not restricted to, the following:
- g) **GEOTECHNICAL - TEMPORARY** including, but not restricted to, the following:
- Excavating;
 - Shoring;
 - Underpinning; and
 - Temporary construction dewatering;
- h) **GEOTECHNICAL - PERMANENT** including, but not restricted to, the following:
- Bearing capacity of the soil;
 - Geotechnical aspects of deep foundations;
 - Compaction of engineering fill;
 - Structural considerations of soil, including slope stability and seismic loading;
 - Backfill;
 - Permanent dewatering; and
 - Permanent underpinning;

substantially comply in all material respects with the provisions of the draft *Canadian Environmental Assessment Act* Environmental Screening Record issued by the Band's Environmental Consultant on ● as amended or superseded, including all further reports, plans and other materials required or recommended in or under the environmental screening record, that relate to the environment or the protection, preservation, restoration or enhancement of it (the "*Environmental Requirements*").

- 2) The undersigned hereby undertakes, in relation to the *Environmental Requirements*, as applicable to:
- a) Certify that the design of the *Project* will substantially comply in all material respects with the *Environmental Requirements*;
 - b) Provide quality assurance to ensure that the *Project* substantially complies in all material respects with the *Environmental Requirements*;
 - c) With respect to the plans and supporting documents prepared by this *registered professional* in respect of the *Project*, record the details of any field design or construction

changes to such plans and supporting documents, and ensure that all necessary information for the preparation of "as constructed" drawings is recorded;

- d) Advise the DAB in writing of any matter of design or construction of the *Project* that does not substantially comply in all material respects with the *Environmental Requirements*;
- e) Ensure that any corrective measures necessary to bring the *Project* into substantial compliance with the *Environmental Requirements* are carried out;
- f) Before the *Owner* (defined below) obtains final acceptance of the *Project*, or as permitted by the DAB, deliver to the DAB a letter of assurance of professional *field review* and compliance of the *Project* with the *Environmental Requirements*; and
- g) Notify the DAB in writing as soon as possible if the undersigned's contract for *field review* is terminated at any time during construction.

3) The undersigned registered professional:

- a) Acknowledges that he or she has been retained by ● (the "*Owner*") to carry out the work and undertake the responsibilities described above; and
- b) Covenants that he or she or his or her firm presently carries liability insurance in the amount of _____.

Name (Print)

Signed

Address (Print)

Date

(Affix PROFESSIONAL SEAL here)

Phone

Fax

(If the registered professional is a member of a firm, complete the following.)

I am a member of the firm _____ and I sign this letter on behalf of the firm.

NOTES:

- 1) The above letter must be signed by a registered professional.
- 2) In this letter:

- a) “**field reviews**” means such reviews of the work at the *Project* site to which any approval to construct or other approval relates and, where applicable, at fabrication locations where *Project* components are fabricated for use at the *Project* site, that a *registered professional*, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the plans and supporting documents prepared by the registered professional for which the approval to construct or other approval is issued.
- b) “**registered professional**” means:
- (1) a person who is registered or licensed in good standing to practice as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia),
 - (2) a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia), or
 - (3) a person who is a professional with expertise and experience in the area of work being carried out by him or her on the *Project*,

and who is accepted as a registered professional by the Kamloops Indian Band.

SCHEDULE C

ASSURANCE BY PROFESSIONAL *FIELD REVIEW* AND COMPLIANCE (ENVIRONMENTAL)

- Note:
1. This letter must be submitted prior to issuance of any approval to construct. A separate letter must be submitted by each *registered professional*.
 2. In this letter the words in italics have the meanings as set out in the notes below.

To: The Development Approval Board

File No.: _____

Kamloops Indian Band (Tk'emlúps te Secwépemc)
406-345 Yellowhead Highway
Kamloops, BC V2H 1H1

Re:
Project.

Location: Kamloops Indian Reserve No. 1
Lot ●
Plan ● CLSR and
Lot ●
Plan ● CLSR

I hereby give assurance and certify that:

- a) I have fulfilled my obligations for *field review* as outlined in the previously submitted Schedule B, "Assurance by *Registered Professional* of Professional Design and Commitment for *Field Review (Environmental)*";
- b) I have inspected the *Project* and carried out or caused to be carried out any examinations or tests set out in the *Standards* or recommended by good engineering or scientific practice to determine whether the *Project* meets the *Environmental Requirements*; and
- c) The *Project* substantially complies in all material respects with:
 - (1) The *Environmental Requirements*; and
 - (2) The plans and supporting documents submitted in respect of the *Environmental Requirements*;
- d) Where design plans and supporting materials and information have been prepared by me for the *Project*:
 - (1) The final design plans and supporting materials and information; and
 - (2) A complete set of as-constructed plans and supporting materials and information, at the same scale and in the same format as the construction drawings, prepared in accordance with good engineering practice,have been submitted to the DAB;
- e) I am a *registered professional* as defined below.

(Each *registered professional* must complete the following:)

Name (Print)

Signed

Address (Print)

Date

(Affix PROFESSIONAL SEAL here)

Phone

Fax

(If the *registered professional* is a member of a firm, complete the following.)

I am a member of the firm _____ and I sign this letter on behalf of the firm.

NOTES:

- 1) The above letter must be signed by a *registered professional*.
- 2) In this letter:
 - a) "**Environmental Requirements**" means the draft *Canadian Environmental Assessment Act* Environmental Screening Record issued by the Band's Environmental Consultant on ●, as amended or superseded, including all further reports, plans and other materials required or recommended in or under the environmental screening record, that relate to the environment or protection, preservation, restoration or enhancement of it.
 - b) "**field reviews**" means such reviews of the work at the *Project* site to which any approval to construct or other approval relates and, where applicable, at fabrication locations where *Project* components are fabricated for use at the *Project* site, that a *registered professional*, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the plans and supporting documents prepared by the registered professional for which the approval to construct or other approval is issued.
 - c) "**registered professional**" means:
 - (1) a person who is registered or licensed in good standing to practice as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia),
 - (2) a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia), or

- (3) a person who is a professional with expertise and experience in the area of work being carried out by him or her on the *Project*,
- d) "**Standards**" means the Kamloops Indian Band Criteria and Construction Standards and Specifications for Development, approved by BCR 97-036 on March 21, 1997, as amended or superseded from time to time.

SCHEDULE B

ASSURANCE BY REGISTERED PROFESSIONAL OF PROFESSIONAL DESIGN AND COMMITMENT FOR FIELD REVIEW (HERITAGE)

- Note:
1. This letter must be submitted prior to issuance of any approval to construct.
 2. In this letter the words in italics have the meanings as set out in the notes below.

To: The Development Approval Board File No.: _____

Kamloops Indian Band (Tk'emlúps te Secwépemc)
406-345 Yellowhead Highway
Kamloops, BC V2H 1H1

Re:
Project:

Location: Kamloops Indian Reserve No. 1
Lot ●
Plan ● CLSR and
Lot ●
Plan ● CLSR

- 1) The undersigned hereby gives assurances and certifies that the design of the works comprise the *Project*, including:
 - a) **STORM DRAINAGE SYSTEM** including, but not restricted to, the following:
 - The location, alignment, size and grade of all pipes and culverts;
 - The spacing of manholes and catch basins;
 - The construction of drywells;
 - Materials used for pipes, culverts, manholes, catch basins, pipe and fitting joints, service connections, inlet and outlet structures;
 - Materials used for pipe bedding and backfilling of trenches;
 - Workmanship in the construction and installation of all materials;
 - b) **SANITARY SEWER SYSTEM** including, but not restricted to, the following:
 - Location, alignment, size and grade of all pipes;
 - Spacing of manholes and catch basins;
 - Materials used for pipes, manholes, pipe and fitting joints, service connections;
 - Materials used for pipe bedding and backfilling of trenches;
 - Workmanship in the construction and installation of all materials;
 - c) **WATER DISTRIBUTION SYSTEM** including, but not restricted to, the following:
 - Location, alignment, size and grade of all pipes;
 - Spacing of hydrants and valves;
 - Construction of pumping stations and reservoirs;
 - Materials used for pipes, fittings, gate valves, valve boxes, hydrants, service connections, corporation stops, curb stop and boxes, air valves, stops and drains;
 - Materials used for pipe bedding and backfill of trenches;
 - Workmanship in the construction and installation of all materials;

- d) **ROADS** including, but not restricted to, the following:
 - Alignment, width and grade of all roads;
 - Materials used for preparation of road bases and road surfaces;
 - Workmanship in the installation of materials;
- e) **STREET LIGHTING, ELECTRICAL AND COMMUNICATIONS WIRING AND GAS INSTALLATIONS** including, but not restricted to, the following:
 - Number and spacing of street light poles and luminaries;
 - Materials used for street lighting, electrical and communications wiring and gas installations;
 - Materials used for backfilling of trenches;
 - Workmanship in the installation of materials;
- f) **LANDSCAPING** including, but not restricted to, the following:
- g) **GEOTECHNICAL - TEMPORARY** including, but not restricted to, the following:
 - Excavating;
 - Shoring;
 - Underpinning; and
 - Temporary construction dewatering;
- h) **GEOTECHNICAL - PERMANENT** including, but not restricted to, the following:
 - Bearing capacity of the soil;
 - Geotechnical aspects of deep foundations;
 - Compaction of engineering fill;
 - Structural considerations of soil, including slope stability and seismic loading;
 - Backfill;
 - Permanent dewatering; and
 - Permanent underpinning;

substantially comply in all material respects with the provisions of the Band's Heritage Bylaw and Band's Heritage Policy, as amended or superseded (the "*Heritage Requirements*").

- 2) The undersigned hereby undertakes, in relation to the *Heritage Requirements*, as applicable to:
 - a) Certify that the design of the *Project* will substantially comply in all material respects with the *Heritage Requirements*;
 - b) Provide quality assurance to ensure that the *Project* substantially complies in all material respects with the *Heritage Requirements*;
 - c) With respect to the plans and supporting documents prepared by this *registered professional* in respect of the *Project*, record the details of any field design or construction changes to such plans and supporting documents, and ensure that all necessary information for the preparation of "as constructed" drawings is recorded;
 - d) Advise the DAB in writing of any matter of design or construction of the *Project* that does not substantially comply in all material respects with the *Heritage Requirements*;
 - e) Ensure that any corrective measures necessary to bring the *Project* into substantial

compliance with the *Heritage Requirements* are carried out;

- f) Before the *Owner* (defined below) obtains final acceptance of the *Project*, or as permitted by the DAB, deliver to the DAB a letter of assurance of professional *field review* and compliance of the *Project* with the *Heritage Requirements*; and
- g) Notify the DAB in writing as soon as possible if the undersigned's contract for *field review* is terminated at any time during construction.

3) The undersigned registered professional:

- a) Acknowledges that he or she has been retained by ● (the "*Owner*") to carry out the work and undertake the responsibilities described above; and
- b) Covenants that he or she or his or her firm presently carries liability insurance in the amount of _____.

Name (Print)

Signed

Address (Print)

Date

(Affix PROFESSIONAL SEAL here)

Phone

Fax

(If the registered professional is a member of a firm, complete the following.)

I am a member of the firm _____ and I sign this letter on behalf of the firm.

NOTES:

- 1) The above letter must be signed by a registered professional.
- 2) In this letter:
 - a) "**field reviews**" means such reviews of the work at the *Project* site to which any approval to construct or other approval relates and, where applicable, at fabrication locations where *Project* components are fabricated for use at the *Project* site, that a *registered professional*, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the plans and supporting documents prepared by the registered professional for which the approval to construct or other approval is issued.

b) "**registered professional**" means:

- (1) a person who is registered or licensed in good standing to practice as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia),
- (2) a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia), or
- (3) a person who is a professional with expertise and experience in the area of work being carried out by him or her on the *Project*,

and who is accepted as a *registered professional* by the Kamloops Indian Band.

SCHEDULE C

ASSURANCE BY PROFESSIONAL *FIELD REVIEW* AND COMPLIANCE (HERITAGE)

- Note:
1. This letter must be submitted prior to issuance of any approval to construct. A separate letter must be submitted by each *registered professional*.
 2. In this letter the words in italics have the meanings as set out in the notes below.

To: The Development Approval Board File No.: _____

Kamloops Indian Band (Tk'emlúps te Secwépemc)
406-345 Yellowhead Highway
Kamloops, BC V2H 1H1

Re:
Project:

Location: Kamloops Indian Reserve No. 1
Lot ●
Plan ● CLSR and
Lot ●
Plan ● CLSR

I hereby give assurance and certify that:

- a) I have fulfilled my obligations for *field review* as outlined in the previously submitted Schedule B, "Assurance by *Registered Professional* of Professional Design and Commitment for *Field Review (Heritage)*";
- b) I have inspected the *Project* and carried out or caused to be carried out any examinations or tests set out in the *Standards* or recommended by good engineering, archaeological, cultural or scientific practice to determine whether the *Project* meets the *Heritage Requirements*; and
- c) The *Project* substantially complies in all material respects with:
 - (1) The *Heritage Requirements*; and
 - (2) The plans and supporting documents submitted in respect of the *Heritage Requirements*;
- d) Where design plans and supporting materials and information have been prepared by me for the *Project*:
 - (1) The final design plans and supporting materials and information; and
 - (2) A complete set of as-constructed plans and supporting materials and information, at the same scale and in the same format as the construction drawings, prepared in accordance with good engineering practice,have been submitted to the DAB;
- e) I am a *registered professional* as defined below.

(Each *registered professional* must complete the following:)

Name (Print)

Signed

Address (Print)

Date

(Affix PROFESSIONAL SEAL here)

Phone

Fax

(If the *registered professional* is a member of a firm, complete the following.)

I am a member of the firm _____ and I sign this letter on behalf of the firm.

NOTES:

- 1) The above letter must be signed by a registered professional.
- 2) In this letter:
 - a) "**field reviews**" means such reviews of the work at the *Project* site to which any approval to construct or other approval relates and, where applicable, at fabrication locations where *Project* components are fabricated for use at the *Project* site, that a *registered professional*, in his or her professional discretion, considers to be necessary to ascertain that the work substantially complies in all material respects with the plans and supporting documents prepared by the registered professional for which the approval to construct or other approval is issued.
 - b) "**Heritage Requirements**" means the Band's Heritage Bylaw and Band's Cultural Heritage Policy, as amended or superseded.
 - c) "**registered professional**" means:
 - (1) a person who is registered or licensed in good standing to practice as a professional engineer under the *Engineers and Geoscientists Act* (British Columbia),
 - (2) a person who is registered or licensed in good standing to practice as an architect under the *Architects Act* (British Columbia), or
 - (3) a person who is a professional with expertise and experience in the area of work being carried out by him or her on the *Project*,

- d) "**Standards**" means the Kamloops Indian Band (Tk'emlúps te Secwépemc) Criteria and Construction Standards and Specifications for Development, approved by BCR 97-036 on March 21, 1997, as amended or superseded from time to time

APPENDIX C

ARBITRATION

Any matter referred to arbitration pursuant to the Development Approval Process (the “**Process**”) to which this Appendix is attached will proceed in accordance with the provisions of this Appendix. Arbitration proceedings may be commenced by the party desiring arbitration giving notice to the other party specifying the matter to be arbitrated and requesting arbitration in respect thereof in accordance with the Process. The place of the arbitration will be on the Reserve at the location determined by the arbitrator and the language of the arbitration will be English.

An arbitration carried out in accordance with the Process will be carried out as follows:

- 1) The Arbitration Rules (the “**Rules**”) of the Institute will apply to the arbitration, except as otherwise provided in this Appendix.
- 2) The arbitrator will be a single arbitrator • **[appointed by the DAB] [agreed upon by the parties, or, failing agreement on the arbitrator within 10 Business Days after the giving of the notice requiring arbitration, an arbitrator appointed by the Institute upon the written request of either party after such period.]**
- 3) The arbitrator will be fully qualified in the field which is the subject matter of the arbitration, unless otherwise agreed to by the parties in writing.
- 4) The arbitrator will make his or her determination on the basis of written submissions and affidavits submitted by the parties, without any hearing, unless requested by either party or if the arbitrator determines that a hearing is necessary. Each party will be entitled to a copy of each submission and affidavit.
- 5) The parties acknowledge and agree that they have provided for arbitration so as to promote the efficient, expeditious and inexpensive resolution of disputes. The parties will cooperate with the arbitrator and agree to act at all times so as to facilitate, and not frustrate nor delay such efficient, expeditious and inexpensive resolution of disputes. The arbitrator is authorized and directed to make orders, on the arbitrator's initiative or upon application of either party to a disputed matter, to ensure that the arbitration proceeds in an efficient, expeditious and inexpensive manner, and in particular, to enforce strictly the time limits provided for in the Rules or set by order of the arbitrator, unless the arbitrator considers it inappropriate to do so. The parties acknowledge and agree that it is their intention that arbitration hearings will commence as soon as possible. The arbitrator is directed to make all reasonable efforts to make his or her award within 30 days following appointment.
- 6) The award of the arbitrator will be rendered in writing and will contain a recital of the facts upon which the award is made and the reasons for the award.
- 7) The award of the arbitrator with respect to a disputed matter will be final and binding upon the parties to the arbitration, subject to section 30 of the *Commercial Arbitration Act* (British Columbia).
- 8) The arbitrator has jurisdiction to award the costs of the arbitration, including the fees of the arbitrator, as the arbitrator sees fit. The costs need not be on any court approved tariff basis and may be on a complete indemnity basis and include actual legal and other professional costs and disbursements incurred. In making an award of costs, the arbitrator will take into account delays or increased costs incurred as a result of a party failing to comply with its obligations under section 5) above.

In all other respects, the arbitration will be carried out pursuant to the Rules and in accordance

with the *Commercial Arbitration Act* (British Columbia).

Capitalized terms used in this Appendix and not defined herein have the meanings assigned to such terms in the Process.

