**First Nation Land Management**

**LAND GOVERNANCE MANUAL**

Prepared as a resource tool for Operational First Nations under

*Framework Agreement on First Nation Land Management*

Last Updated: Jun 26, 2017

Oct 18, 2015 Version presented at LAB AGM – Nov 18, 2015

Review by Fraser Valley Focus Group – Jul 31, Apr 28, Mar 3, 2015

Edited – January 30, 2015

Additions & Amendments – Dec 2016 v.1

Think Tank additions – Jun 26 2017 v.1

reviewed by Hutchins Legal 2019 04 15

*Note: this document will be going through a reordering process and   
the materials will be broken down into smaller packages by subject matter*

TABLE OF CONTENT

[1. BACKGROUND 4](#_Toc432937631)

[2. LAND GOVERNANCE AUTHORITY 6](#_Toc432937632)

[3. OPERATIONAL START UP 12](#_Toc432937633)

[4. FIRST NATION LAND REGISTRY 19](#_Toc432937634)

[5. LAND REGISTRY CHECKLISTS & PROCEDURES 20](#_Toc432937635)

[5 a. LEASING PROCESS 21](#_Toc432937636)

[5 b. BEST PRACTICES FOR A LEASE ON COMMUNITY LANDS 24](#_Toc432937637)

[5 c. REGISTRATION OF LEASE 29](#_Toc432937638)

[5 d. SUBLEASE 30](#_Toc432937639)

[5 e. ASSIGNMENT OF SUBLEASE 31](#_Toc432937640)

[5 f. MORTGAGE OF SUBLEASE 32](#_Toc432937641)

[5 g. DISCHARGE OF MORTGAGE 33](#_Toc432937642)

[5 h. DEATH CERTIFICATE 34](#_Toc432937643)

[5 i. NOTICE 35](#_Toc432937644)

[5 j. GRANT OF PROBATE 36](#_Toc432937645)

[5 k. SEVERING A JOINT TENANCY 36](#_Toc432937646)

[5 l. CERTIFICATE OF INCAPABLITY 36](#_Toc432937647)

[6. INDIVIDUAL LAND INTERESTS / ALLOTMENTS 37](#_Toc432937648)

[7. TRADITIONAL LAND HOLDINGS 39](#_Toc432937649)

[8. LANDS INVENTORY & FILE MANAGEMENT 40](#_Toc432937650)

[9. MAPPING (GIS) 41](#_Toc432937651)

[10. WEBSITE DEVELOPMENT 43](#_Toc432937652)

[11. LAW DEVELOPMENT 44](#_Toc432937653)

[12. SURVEYS & RELATED DOCUMENTS 66](#_Toc432937654)

[13. NATURAL RESOURCES 68](#_Toc432937655)

[14. ENVIRONMENT 69](#_Toc432937656)

[14 a. Annex “F” Interim Environmental Assessment Process 69](#_Toc432937657)

[14 b. General Terms of Reference for Environmental Assessments 71](#_Toc432937658)

[14 c. What is an Environmental Management Plan? 79](#_Toc432937659)

[15. WILLS & ESTATES 86](#_Toc432937660)

[16. KNOWLEDGE SHARING 87](#_Toc432937661)

[ATTACHMENT A - FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT 89](#_Toc432937662)

[ATTACHMENT B – DEFINITIONS 90](#_Toc432937663)

[ATTACHMENT C – ACRONYM LIST 96](#_Toc432937664)

[ATTACHMENT D – REGISTRY CHECKLISTS & TEMPLATES 100](#_Toc432937665)

[ATTACHMENT E – REGISTRY FORMS 131](#_Toc432937666)

[ATTACHMENT F – TYPES OF INSTRUMENTS WITHIN THE FNLRS 144](#_Toc432937667)

[ATTACHMENT G – REGISTRATION FEES 146](#_Toc432937668)

[ATTACHMENT H – INDIVIDUAL LAND HOLDINGS & ALLOTMENTS 147](#_Toc432937669)

[ATTACHMENT I – HUMAN RESOURCES 153](#_Toc432937670)

[ATTACHMENT J – SECRET BALLOT VOTING PROCEDURES 166](#_Toc432937671)

[ATTACHMENT K – SURVEYS 173](#_Toc432937672)

[ATTACHMENT L – TIMBER CUTTING & REMOVAL PROCESS 190](#_Toc432937673)

[ATTACHMENT M – MATSQUI FIRST NATION ENVIRONMENTAL ASSESSMENT LAW 207](#_Toc432937674)

[ATTACHMENT N – SEMA:TH 2013 ENVIRONMENTAL MANAGEMENT PLAN 208](#_Toc432937675)

[ATTACHMENT O – FIRST NATION LAND REGISTRY SYSTEM (FNLRS) USER GUIDE 209](#_Toc432937676)

[FIRST NATION LAND REGISTRY REGULATIONS 210](#_Toc432937677)

|  |  |
| --- | --- |
| 1. ****BACKGROUND**** | |
| This project came about as requested by a number of operational and developmental First Nations over the years. It’s a huge task to undertake considering each First Nation has the right to manage their reserve lands as they wish. We understood this from the beginning and we put forward best practices as gathered by a focus group of Operational First Nations in the Sto:lo Territory in British Columbia. Within the Sto:lo Territory there are 11 Operational First Nations: Aitchelitz, Leq’a:mel, Matsqui, Seabird Island, Shxwha:y Village, Skawahlook, Skowkale, Squiala, Sumas, Tzeachten & Yakweakwooise. All the Land Governance Directors, Land Governance Officers and Lands Clerks from these First Nations were invited to participate as a focus group for this project. The First Nations offered to host the sessions in their communities on a rotating basis but we ended up having most of our meetings in the City of Chilliwack. The meetings were held on: May 21, 2014 at Shwha:y Village, May 28, 2014 at Squiala, June 17, 2014 at Tzeachten, July 3, 23, 29 & 30, 2014 at Sto:lo Nation/Tzeachten, September 9, 2014 and October 14, 2014 at Tzeachten. In total we had eight full day meetings and one half day meeting. I headed up the project as it was an idea that came to me knowing that I was asked to write a lands manual as a part of my job. I thought it would make more sense and be more appropriate to utilize the best practices from a collective instead of just relying on my own experience as a Land Governance Director. | |
| Our first session was a brainstorming session on items that the group thought should be in the lands manual and we worked through the list until we finished everything (attached are the items). Each meeting was dedicated to certain topics and participants were asked to come prepared with the tools and practices they use at their First Nation. During the meetings we broke into smaller groups to work on an individual topic and we would review each group’s assigned task for all to make amendments or comments.  The topics include core functions of developing policy and procedure within an operational First Nations Land Governance office. Some of the key topics: work plans, budget, forms, checklists, templates, “how to” documents, and cheat sheets. These documents are meant to be a guide that can be modified to meet the specific needs of each operational First Nation within the Framework Agreement. | C:\Users\aderrickson\Dropbox\LABRC\2013-11 Land Reg Wrkshp\FA Best Practices for Land Governance\Backgrounder\Suggested Land Manual Topics.JPG |
| We managed to get a lot of work done in these sessions and created a very good network. For some of the new lands people it gave them great exposure and knowledge on how to do the work they were hired to do. Just knowing that the resources are available to do almost every task in a Land Governance office was a comfort to everyone. | |
| I would like to personally thank the First Nations that hosted the sessions at no charge to us. I also want to acknowledge the following participants that took time out of their busy day to be a part of this project: Brittney Friesen, Lands Manager at Squiala; Corrinne Cyderman, Lands Manager for Skowkale, Aitchelitz & Yawkwioose (SAY); Brittany Hall, Land Clerk for SAY; Deanna Honeyman, Lands Manager for Tzeachten; Samantha Bisaillon, Lands Officer for Tzeachten; Debra Schneider, Lands Manager for Skawahlook; Jennifer Campbell, Lands Manager for Seabird Island (LABRC); Donna Andrew, Lands Clerk for Seabird Island; Tannis Tommy, Lands & Resources Officer for Sumas; including Angie Derrickson, LABRC and Denise Kelly, LABRC.  Valerie Sam, Manager: Fraser Valley, LABRC | |
| * Review and update to include the last 1.5 of think tank participation * Create thank you letters & participation certificate | |
| ACKNOWLEDGMENTS | |
| BIG THANKS to all of the focus group participants, Chiefs and Councils, Lands Advisory Board Resource Centre Staff, Aboriginal Affairs and Northern Development, Sto:lo Nation and other professionals Murray Browne, David Harper and if we missed anyone or any organization we truly apologize.  **DISCLAIMER**  This Manual was prepared as a resource tool by the Resource Centre to assist First Nations in adopting their own Land Management Regimes. The content of the Manual is provided for general information purposes only and does not constitute legal advice. First Nations working to adopt their own Land Management Regimes are advised to seek specific legal advice regarding their legal issues. | |

**NOTE TO FIRST NATIONS IN QUEBEC**

**Since 2001, the federal Parliament has adopted a process of harmonizing federal law with Quebec’s Civil Law. To do so, it undertook to modify certain laws in order to ensure that they take into consideration the Civil Law (in Quebec) and the Common Law (in the rest of Canada). This process does not have the effect of modifying the areas of jurisdiction of the federal or provincial governments. Federal law, however is not a judicial system in and of itself, rather it is fed by the application of the provincial rules, particularly in the area of property and civil law.**

**It was in this spirit that the *Framework Agreement on First Nation Land Management* (Amendment #4) and the *First Nations Land Management Act* were revised in 2007. Subsequently, the *First Nations Land Registry Regulations* (SOR/2007-231) was adopted.**

**The terminology in these texts takes into account the terms used in the Common Law and the Civil Law, in French and in English. For example, the terms “land right” (droits fonciers) corresponds to the terminology in the Civil Law while in the Common Law we refer to “interests” (intérêts). Bi-juralism does not have the effect of creating a different Framework for First Nations in Quebec, but it is necessary to pay particular attention when it is being applied in that province, particularly with respect to the formulation of land codes.**

**This Manual is meant to be a useful tool and a help for all First Nations signatories regardless of their location. This is why this text was revised in French and English to take into account of the different concepts applicable and notes were added to the text with Quebec First Nations in mind. On occasions where two terms are juxtaposed, the term in Common Law will precede the Civil Law terms: interest/land right (QC), and the civil law term will be written in blue.**

**The examples provided to facilitate the work in developing a land code (websites, existing First Nations laws, development plans, etc.) are those developed by First Nations outside of Quebec. These examples have yet to be developed by Quebec First Nations and therefore, the examples provided need to be adapted to reflect these bi-juridical concepts and the unique circumstances in Quebec. It is recommended that Quebec First Nations should seek additional support from the staff at the First Nations Land Management Resource Centre.**

|  |  |
| --- | --- |
| 1. ****LAND GOVERNANCE AUTHORITY**** | |
| LEGAL STATUS AND POWERS OF FIRST NATIONS |
| The *Framework Agreement* provides the option to govern and manage reserve lands outside the *Indian Act.* The option to regain control of reserve land through a land code can only be undertaken with the consent of the community. A land code replaces approximately 32 sections of the *Indian Act*.  Once the community ratifies their own Land Code and the Individual Agreement, control over First Nation lands and resources are no longer be subject to the *Indian Act*, but recognized to be under the governance authority of the First Nation*.*  The *Framework Agreement* provides First Nations with all the legal status and powers needed to govern and manage their lands and resources. While First Nations will not be able to sell their land, they will be able to lease or develop their lands and resources, subject to any limits imposed by their own community Land Code.   * RC can provide ongoing support and facilitate presentations to C&C, staff, LAC * Resource tools – sample executive summary, PPTs, etc. * C&C need to be committed to implementing governance structure (resource tool: BCAFNGovTool-Assess/ Banff Training Centre /customize tools for LC for resource exercise/workshop – LAB/LABRC involve) * Continued community engagement & support – engage with “no” voters encourage them to get involved |
| Further to considerations made during the developmental process, it is important to evaluate the current governance and organizational structure and to develop a strategic approach in Land Code implementation.   * ANDREW PPT – review and insert portions of TT Richmond Presentation * Chief & Council Guidebook – McLeod Lake * Governance Manual (seabird) other examples … Tsawwassen Community Governance Act … Squamish Nation Governance Manual … * Conflict of Interest – samples and guidelines   Sample Governance Statement:   * Vision & Mandate statement for the department within their branding – Seabird sample * Develop workshop or tools support this exercise for the organization (need sample materials & PPTs to review and provide as resource tool) * RFP Samples – 3rd parties, lawyers, EMP, etc. // sample reference check questions (Jennifer) – consider new section // negotiations, agreements // incl. Dispute Resolution * Don’t be afraid to insist you visions are reflected into proposals to meet the needs of your community |
| AGREEMENTS, UNDRIP & COURT CASES |
| * Reserve land vs. traditional territory – preamble support inherent right to lands and resources (update language) * Check Andrews PPTs and language around capacity building to support endeavors outside of reserve boundaries and UNDRIP principles from ground up … * Use Tools to assist with management of off-reserve lands // Tshilqoutin – Caretaker ? // TLE * Enhance off-reserve agreements to meet your standards defined by Land Code policy & procedures * This process respects historical treaties and supports continued self-governance structures. |
| Sample Organizational Chart: |
| * language describing the effect of Land Code throughout the organization, suggest to coordinate ¼ meetings with managers to ensure best efforts of implementation and cross-departmental issues. * Annual Strategic Planning sessions (C&C, senior staff, LAC) * Address departments processes C&C // LANDS // EcDev // Housing // Admin // + INAC process requirements (health, projects, etc.) … making lands first point of contact for any land related issues   Sample Land Code Processes: |
|  |
|  |
| Review the Land Code in detail, create a quick reference index list of which sections provide the authority and who is authorized to act under that authority. See sample provided below:   * Simplify Land Code – executive summary of each chapter … check with Murray’s ExSummary & Presentation; LNIB CE PPTs |
|  |

| **LAND CODE** | **SECTION** | **AUTHORITY** |
| --- | --- | --- |
| **PART 1 – PRELIMINARY MATTERS** |  |  |
| Additional Lands, member meeting and law | 5.4 | Council |
| **PART 2 – FIRST NATION LEGISLATION** |  |  |
| Laws-making | 6.1 | Council |
| Administration | 6.3 | Council, or designate |
| Delegation | 6.4 | Council |
| Delegation parameters | 6.5 | Council, Lands Advisory Committee (LAC), delegate |
| Proposed Law | 7.1 | Council, LAC, authorized Members |
| Urgent Law | 7.3 | Council |
| Approval of Law | 7.5 | Council |
| Certification of Laws | 7.6 | Council |
| Posting Laws | 8.2 | Council |
| Register of Laws | 8.3 | Council |
| Copy of Laws, Fees | 8.5 | Council or designate |
| **PART 3 – LAND ADMINISTRATION** |  |  |
| Establishment of Bank Accounts | 9.2 | Council |
| Financial System for accountability | 9.3 | Council |
| Financial Policy | 9.4 | First Nation |
| Signing Officers | 9.5 | Council, Lands Manager, designate |
| Adoption of Budget | 9.10 | Council |
| Adoption of Budget Consultation | 9.11 | Council, LAC |
| Etc… |  |  |

|  |
| --- |
| APPOINTMENT OF COUNCIL DESIGNATE / LAND GOVERNANCE DIRECTOR |
| The First Nation will want to formally appoint the Land Governance Director and register this authority in the FNLRS. The following is sample BCR language:  **WHEREAS** the \_\_\_\_\_ First Nation entered into the Framework Agreement on First Nation Land Management with Canada on \_\_\_\_\_\_, 20\_\_. (the “Framework Agreement”)  **WHEREAS** the \_\_\_\_\_ First Nation developed a Land Code as contemplated by the Framework Agreement (the “Land Code”) and presented it to the membership of \_\_\_\_\_ First Nation for ratification on \_\_\_\_\_\_, 20\_\_ in accordance with the First Nations Land Management Act.  **WHEREAS** the Land Code came into force on \_\_\_\_\_\_, 20\_\_;  **WHEREAS the First Nation wishes to appoint** \_\_\_\_\_\_\_\_\_\_\_\_\_ Land Governance Director for the \_\_\_\_\_ First Nation effective \_\_\_\_\_\_, 20\_\_.  **BE IT HEREBY** resolved and agreed:  THAT \_\_\_\_\_\_\_\_\_\_\_\_\_First Nation has appointed \_\_\_\_\_\_\_\_\_\_\_\_\_\_ to act in his/her place as Land Governance Director effective \_\_\_\_\_\_, 20\_\_ and terminating \_\_\_\_\_\_, 20\_\_.  THAT the Land Governance Director is authorized to designate in writing for a specific period of time a person employed by the \_\_\_\_\_\_\_\_\_\_\_\_ First Nation’s Land Services may act in his/her place as Land Governance Director during his/her absence.  THAT a copy of the present resolution is registered in the First Nations Land Registry System (FNLRS). |
| ESTABLISHMENT OF LANDS ADVISORY COMMITTEE (NEW SECTION, more materials) |
| Further to the process set out in the Land Code, it is important to develop a Terms of Reference (sample Annex XX) that compiles the Land Advisory Committee process and responsibilities. It is particularly useful to capture the relationship and processes that will be required between Council, Lands Governance office and LAC as implementation and strategic work planning move forward. See sample on website or ask your FNLMRC Support Technician for assistance.   * No requirement for LAC, but keeps community connected; very effective with a well established process * Stronger LAC TOR, collect samples into DB/resource file * “Advisory” – stress use if this term and add a sample “definition” * Staggered Terms * Succession planning & mentoring (youth/elders/hunter&gathers) * Separate Workplan that complements Strategic Plan/EcDev Plan (C&C, Staff, LAC) * Educational Plan / Workshops  (Resources: Board Training – Mike Watson; train the trainer - TBD) * Family heads, so families are equally represented * Addressing LAC lack of interest * Council representative on LAC to inform C&C * Committee reporting structure & responsibilities/representation of community (visuals - orgchart), * Committee funding – develop sample budget (formula to include # participants, # meetings, meals, legal, workshops, equipment supplies – files/emails (sample - aderrickson601@gmail.com), admin support, etc. ) * Samples – BCR for appointment / election process / etc. * Subcommittees – can create them to work on specific tasks in the workplan… |
| HUMAN RESOURCES | |
| Each First Nation will have their own unique governance structure and policies around Human Resources. Here as some sample postings, interview questions and job descriptions (see Attachment I).   * Sumas – receive best qualified people, look for samples from them * Resource Tools - List of individuals looking to work in Land Management / ask if they could share with other nations; | |
| Postings: | |
| * Land Governance Director (review and update, double check definition) * Land Governance Officer | |
| Interview Questions: | |
| * Land Governance Director * Land Governance Officer | |
| Job Descriptions: | |
| * Land Governance Director * Land Governance Officer | |
| You can also access up to date Human Resource Tools at <http://labrc.com/resources/human-resource-tools/> and it is encouraged to network with other First Nations to create knowledge sharing opportunities. (review and update) | |

|  |
| --- |
| 1. ****OPERATIONAL START UP**** |
| Three main components an operational First Nation should look to formalize when starting up their Land Governance office:   * Strategic Workplan * Operational Budget * Land Governance office Requirements |
| STRATEGIC WORK PLAN |
| * Template to be updated, collect samples, workshop designed * Successful strategic plans involve organizational approach incl. (C&C, Dept Managers, Staff, etc.) and links to other plans in the organization (CCP-Strategic Plan – Operational Plan) – * Seabirds process as an example -- Annual strategy meeting with Council and members   + Strategies are reviewed quarterly in line with quarterly budgets   + Community consultation happens twice annually   + Community members can provide comments or concerns at any time   + C&C create strategic plan, Managers report progress to CEO monthly * Ties into budget * The People   + natural leaders (advice)   + Traditional Government structures   + Matriarchal systems   + Customs/clans   + Traditional knowledge   + Knowledge holders   + Values   + Language   + Modern vs. contemporary   + Community dynamics |
| The following checklist provides an overview of the base activities that should be considered for an operational Land Governance office start up. It is recommended to identify timelines, staff and resources, and to track consideration, challenges and delays that may occur during implementation. You can download the full excel workplan from our website ([www.labrc.com](file:///C:\Users\aderrickson\Desktop\www.labrc.com)) which can be modified to suit your First Nation’s specific needs.   1. **Set up of the Land Governance office**  * Purchase office furniture and equipment * Prepare job description, post job and hire Lands Assistant, as needed * Create and maintain a standard system of filing * Set up the office for the lands assistant and purchase equipment * Provide orientation of Land Governance office to Assistant within two weeks of start date (i.e. security codes, computer log in, voice mail set up, mail boxes, overview of the organization, office policy manual and appropriate admin forms are completed, regular office procedures) * Create initial budget and consolidated workplan * Create and maintain an electronic lands inventory of all the FN Lands; train other lands staff to update and maintain data base * Create a lands webpage and maintain on an as needed basis (ongoing) * Develop annual budget and consolidated work plan for next fiscal year * Create registry fees, as approved by Chief & Council and notify law and notary offices * Create Lands Registry forms and have approved by Chief & Council * Connect with and develop relationship with local municipality; work together on future projects and/or service agreements * Ensure the lands staff and lands committee are covered with liability insurance * Consider branding all of these materials to be cohesive and professional moving forward (Law, Policy, Website, Forms, etc)  1. **Supervise the staff within the Land Governance office - Lands Assistant**  * Assist and give advice to the Lands Assistant on individual projects * Provide training to the lands assistant in the area of estates, granting of interests/land rights (QC) (including leases) and licences, and individual land holdings * Maintain budgets for lands staff and review budget on a monthly basis * Ensure lands assistant is connected to the FNLRS and provide training * Conduct staff evaluations, both probationary and regular annual evaluations, based on individual performance work plans * Hold regular team meetings  1. **Creation of operational Lands Committee (LCC) in accordance with Land Code**  * Ensure Chief & Council establish committee in accordance with Land Code * Develop Terms of Reference (TOR) as outlined in Land Code * Ensure Committee signs TOR & Oath * Develop Workplan, Budget and Meeting Schedule  1. **Carry out the core functions and responsibilities under the Land Code**  * Ensure the following tasks are completed and registered in the FNLRS: individual land holdings; granting of interests/land rights (QC) (including leases) and licences (including monitoring and compliance); lands research and encumbrance/charge (QC) checks; land estates; and other land issues, as requiredAssist membership and council with drafting necessary BCRs, completing land transfers/allotment forms, etc. * Promote the Land Governance office to local realtors, lawyers, bankers and developers via workshops, brochures, website, participating on boards, and trade shows/display booths * Produce annual report for next fiscal year * Law Development plan; including Matrimonial Real Property, Indemnity & Immunity Law, Property Development Laws, Zoning Law, Business Permit Law and others based on priority of Chief and Council  1. **Hold LMAC meetings and Chief and Council**  * Meet with the LMAC and Chief and Council as scheduled  1. **Knowledge Sharing**  * Work with LABRC and Land Code First Nations on networking and best practices  1. **Wills and Estates**  * Coordinate workshops for Wills and Estates  1. **Professional Development**  * Participate in Lands related workshops, courses and training sessions (e.g. Regional RC groups, FNA4LM)  1. **Phase 2 of Environmental Assessment (EA)**  * Ensure INAC completes Phase 2 of ESA's (if required)  1. **Complete outstanding survey and boundary issues**  * Work with NRCAN on Research and reviewing boundaries (if required)  1. **Environmental Management**  * Ensure all new projects undergo an environmental assessment as outlined in the Individual Agreement * Develop and implement an Environmental Management Plan * Develop and implement an Emergency Preparedness Plan  1. **Land Code Review**  * Review land code on an annual basis for potential amendments including updated clauses from other land codes or the LABRC  1. **Other**  * Review annual workplan |
| OPERATIONAL BUDGET | |
| The FNLMRC has developed a sample budget for Tiers 1 to 3, including a sample surplus budget to assist First Nations in preparing for their transitional funding.   * Strategic planning, budgeting & HR – Workshop / PPT (finance, auditors, etc)  carry over for new MOU funding structure * Annual reporting requirements – sample to include registered transactions, LAC meetings, $$, updated workplan, current land revenue and any expenditures; other … * OFF Data collection – develop and include as a request for submission on annual basis // revise sample budget to include feedback from sessions … work further with Sandra * FAL, some FN have included in their Land Codes … FMB resource link * Making sure unexpended monies are carried forward by Finance --- contact RC Support Technician or Sandra for advice under current MOU and projected MOU…. * Internal processes – project your real costs to support carry over to fund your office, LAC & strategic workplan // show carry over examples for planned projects (law marathon, survey updates, etc.)// educating auditors that this is allowed under FNLM$$ | |
| Tier 1 sample is shown in the sample budget, an editable version can be provided upon request.   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | **Sample First Nation (to be used as a tool in planning your own Budget with your own expenditures)** | **Budget 2017 - 2018** | **Notes** | **Budget 2018 -2019** | **Budget 2019 -2020** | **Budget 2020 -2021** | | INAC - FNLM Operational Funding (Base) | **204,536** | Annual funding base- tier 1 (update new MOU) | **204,536** | **204,536** | **204,536** | | INAC - FNLM Operational Funding (Transitional/Environmental) | **75,000** | Two year funding | **75,000** | **-** | **-** | | INAC - Other |  |  |  |  |  | | Other revenues |  |  |  |  |  | | **TOTAL REVENUES** | **279,536** |  | **279,536** | **204,536** | **204,536** | | **EXPENDITURES:** |  |  |  |  |  | | Lands Committee (Honorariums) + meals, training, travel | **7,500** | Lands Committee 5 people (month) 1/2 day | **7,500** | **7,500** | **7,500** | | Salaries & Benefits (Land Governance Director) | **50-75,000** | 100% position – add sliding pay scales | **50,000** | **50,000** | **50,000** | | Salaries & Benefits (Enforcement) | **$** | part-time/contract |  |  |  | | Salaries & Benefits (Environmental) | **25,000** | part-time position employee | **25,000** | **25,000** | **25,000** | | Salaries & Benefits (Lands Assistant) | **35,000** | 100% position | **35,000** | **35,000** | **35,000** | | Staff (Training/Conferences) | **5,000** |  | **6,500** | **6,500** | **6,500** | | Staff (Travel) | **5,000** |  | **6,500** | **6,500** | **6,500** | | Environmental monitors | **10,500** | per diem basis as needed (community members) | **3,500** | **3,500** | **3,500** | | Administrative overhead | **10,000** | this would be a % of overhead operating costs (possibly using total square footage/square footage for Land Governance office) | **10,000** | **10,000** | **10,000** | | Capital Acquisitions | **7,500** | setting up office with furniture and equipment | **7,500** | **2,500** | **2,500** | | Computer Acquisitions | **10,000** | setting up office with computers/printers | **5,000** | **2,500** | **2,500** | | Strategic Planning, Policy development/administrative structure | **15,000** | to set priorities and guidelines for LC implementation | **12,000** | **0** | **0** | | Land Use Plan Completion | **10,000** |  | **25,000** | **0** | **0** | | Legal Costs - Drafting Laws | **30,000** |  | **30,000** | **10,000** | **10,000** | | Legal Costs - Enforcing laws | **12,000** | Security Contractor appointed to monitor commercial & residential | **5,000** | **5,000** | **5,000** | | Legal Costs - General | **2,500** |  | **2,500** | **2,500** | **2,500** | | Liability Insurance | **10,000** | special liability insurance now that you are responsible for lands/environment etc. | **10,000** | **10,000** | **10,000** | | Community engagement | **3,500** | to have community meeting/dinner | **3,500** | **3,500** | **3,500** | | Meetings (catering, snacks, etc.) | **2,500** |  | **2,500** | **2,500** | **2,500** | | Office Supplies & Postage | **4,500** |  | **4,500** | **4,500** | **4,500** | | Professional Services (ex. Environmental, Engineer, Surveyor) | **15,000** | Consultants, Note: combine with next line item // Surveys own line item? | **15,000** | **10,000** | **10,000** | | Developmental plan expenses (building inspectors, etc ?? building code standards | **15,000** | Contract, agreement, Expenses (re: possible questions on development plans) Note: see OFF data | **7,500** | **0** | **0** | | Telecommunications (fax/phone/internet) | **6,000** |  | **6,000** | **6,000** | **6,000** | | **TOTAL EXPENDITURES** | **279,500** |  | **280,000** | **203,000** | **203,000** | | **CURRENT YEAR - Surplus (Deficit)** | **36** |  | **(464)** | **1,536** | **1,536** | | |
|  | |
| LANDS OFFICE REQUIREMENTS | |
| The following checklist sets out the Land Governance office requirements under a Land Code: (\*Note: cross reference with the Strategic Workplan)   1. Prepare a budget for the Land Governance office/office based on funding agreement (first two years of transitional funding (EMP) of $75,000.00) and own source revenue; 2. Have an office space equipped with a computer, printer/scanner (ScanSnap), digital camera, hand held GPS, plotter (optional), internet access and appropriate software; 3. Office furniture (desk, chair, file cabinet - fireproof if budget permits) and office supplies; 4. Hire the staff - a Land Governance Director and/or Land Governance Officer/Lands Clerk (need job descriptions); 5. Obtain qualified Legal Counsel (contact the LABRC for information); 6. Have copies of the First Nation’s: Land Code, Individual Agreement, Outstanding Issues List, Land Use Plans/Comprehensive Community Plans (if applicable), Development Plan, Economic Development Plan, Legal Land Description Report, Lands Manual, Bylaws, Netlands Reports, Parcel Abstract Reports, Lawful Possessors Report, and Evidence of Title Reports available for staff; 7. Have Chief and Council appoint the Lands Committee based on the Terms of Reference outlined in the Land Code or the First Nation Policy; 8. Most land codes give an option for a lands registry system, either the First Nation designs their own or they choose to use the First Nations Lands Registry System (FNLRS). If the First Nation chooses the FNLRS they need to obtain access for the lands staff or have staff obtain access on their own. The FNLRS is housed in Ottawa and is maintained by INAC staff. The FNLRS is identical to the Indian Lands Registry System (ILRS) except once a document is sent in for registration it receives a registry number so registration is instantaneous. The FNLRS is completely web based which means no hard copies are sent to INAC, they are electronically transmitted. Most First Nations have chosen to use the FNLRS because it’s inexpensive (it’s free) and relatively easy to use. In addition, the law offices (and notary offices) are familiar with this registry system. To obtain a Log-on and Password request from INAC HQ, call 1-866-795-6465 and let them know who you are, which First Nation you are the Land Governance Director for, and that you are requesting First Nation full access;    * + Website for FNLRS [https://pa-ap.aadnc-INAC.gc.ca/Citrix/XenApp/auth/login.aspx](https://pa-ap.aadnc-aandc.gc.ca/Citrix/XenApp/auth/login.aspx)      + If the First Nation chooses to use the FNLRS they should do it officially by a BCR/Law – register this BCR/Law in the FNLRS.      + Obtain training on how to use the FNLRS. INAC will hopefully give a mini web-based training session or LABRC staff may be able to give a training session.      + Chief and Council appoint the Land Governance Director (use job title rather than the person’s name or if no manager, the Land Governance Officer) to be their Lands Registrar officially by BCR or Law (register this in the FNLRS)      + If there are pre-existing leases and/or subleases on the reserve, have Chief and Council decide if they will be the approving body for any new assignments of these -pre-existing leases and/or subleases, mortgages/hypothecs (QC) or cancellations of subleases/leases. If they choose not to, they can delegate this to the Land Governance Director (or if no manager, the Land Governance Officer). Chief and Council should also do this officially by BCR or Law and register it in the FNLRS.      + If there are pre-existing registered leases/subleases, these must be registered onthe FNLRS immediately. 9. Develop an annual or long term work plan based on Land Code, for the Lands Department and Lands Committee. This could be prepared in coordination with Chief and Council. If a Band Council has adopted a law in accordance with the *Family Homes on Reserves and Matrimonial Interests or Rights Act* (S.C. 2013, c. 20), it can replace it with a law in accordance with the *Framework Agreement.* Laws are created as needed in accordance with the First Nation Land Code; 10. Have a current map/plan of each of the reserves;   a. Google Earth NRCAN Overlay - <http://clss.nrcan.gc.ca/googledata-donneesgoogle-eng.php>  b. NRCAN for all individual lots/parcels/plans - <http://clss.nrcan.gc.ca/advancedplansearch-rechercheplanavance-eng.php>  By having this plan the Land Governance Director/Officer can identify where all of the registered instruments are located. It’s a great way to get to know the reserves.   1. The creation of the appropriate registry forms, checklists and fee schedules for entry into the FNLRS should be developed and approved by Chief and Council, approval should be by BCR or Law. The Westbank First Nation website, Tzeachten First Nation website and Tsleil-Waututh First Nation website are all great resources to find these types of forms. These forms/checklists can be tailored for each First Nation. The First Nation will need to determine if they will be charging for the land registrations. Most of the FNLM First Nations do charge for this service. In B.C. the First Nations try to be consistent with each other and these fee schedules are normally available on the individual FNLM First Nations website or upon request. Once the registry forms and fee schedule are ready for use they should be sent to all of the local law, notary offices and real estate boards;  * Tzeachten First Nation website: <http://www.tzeachten.ca/> * Tsleil-Waututh First Nation website: <http://www.twnation.ca/> * Westbank First Nation website: <http://www.wfn.ca/>  1. If the First Nation has certificate of possessions (CP’s) they will need to set up a spreadsheet/database for any new allotments, transfers etc. as the First Nation is responsible for issuing new CP’s after the transfers and allotments are completed. In addition, if the First Nation is issuing new CP’s they will need to design their CP (Tzeachten used INAC’s format so that it’s familiar to the members - the only difference is that it is not set up on legal size paper. The new spreadsheet/database should have information such as: the CP number (a numbering system needs to be created), name of CP holder, legal description, interest/land right (QC) and type of tenure (if more than one CP holder on the lot). Because INAC does not generate CP numbers for new CP’s once a First Nation is under their land code, it's necessary for the First Nation to create their own numbering system so they can track their CP’s. When the allotment is registered in the FNLRS the new CP number can be added in the remarks field. It’s a good idea to do up an allotment law or policy; 2. Design a filing system for the Land Governance office (this could vary depending on the number of CP’s, registered leases/permits, number of reserves, and number of bands -i.e. SAY group); 3. Knowledge of how to do an encumbrance/charge (QC) check or land status report will be necessary as INAC no longer provides this for any new band housing or land developments (e.g., leases, permits, allotments, easements/servitudes (QC), mortgages/hypothecs(QC), etc.). INAC and LABRC can train staff on how to do an encumbrance/charge (QC) check and land status report; and 4. Phase 1 Environmental Site Assessments (ESA) of the reserves should be available for the Land Governance Director/Officer to review. If there is a need for a Phase 2 ESA, it will be outlined in the Phase 1 ESA. INAC funds the Phase 2 ESA projects. 5. Identify deadlines and requirements for any specific laws within the Land Code. (i.e. Spousal Property Law, Land Use Law, etc.). Refer to the Land Code for law development requirements.   ADD language – Chart for downloaded // cross-reference for content | |

|  |  |
| --- | --- |
| 1. ****FIRST NATION LAND REGISTRY**** | |
| NOTE concerning terminology  The Framework Agreement and the *First Nations Land Registry Regulations* use the term “document” (in English and French), instead of the term “instrument” (in English) and “acte” (in French), which correspond with the terminology in the Indian Land Registry System (ILRS) and sometimes in the First Nation Land Registry (FNLRS).  CITRIX XenApp – ILRS (FNLRS) | |
| To create a new account, forward your request for “CITRIX - ILRS Access” to INAC IT Services by email to: [sti-its@aadnc-INAC.gc.ca](mailto:sti-its@aadnc-aandc.gc.ca) or call toll free: 866-795-6465. You will need to ask for full access to the ILRS (FNLRS) and include the First Nation, your name, job title and contact information. Access should be limited to Land staff that are authorized to conduct Land Management tasks on behalf of the First Nation.  To access Citrix-ILRS log into the Access Portal - [https://pa-ap.aadnc-INAC.gc.ca](https://pa-ap.aadnc-aandc.gc.ca) | |
| ILRS (FNLRS) Public Access | |
| Non-lands staff and third parties can access the public FNLRS site to generate Parcel Abstract Reports and Instrument Searches: [http://services.aadnc-INAC.gc.ca/ILRS\_Public/Instruments/Instruments.aspx](http://services.aadnc-aandc.gc.ca/ILRS_Public/Instruments/Instruments.aspx) | |
| FIRST NATION LAND REGISTRY SYSTEM (FNLRS) USER GUIDE | |
| The FNLRS User Guide includes the following topics (see Attachment “O”):   * Logging into the First Nations Land Register * Using the Online User Guide * Setting User Preferences * Introduction – Purpose of Guide * Instrument Status * Initiating an Instrument/Upload Feature * Searching and Retrieving Instruments * Exporting Search Results * Searching and Retrieving Land * Viewing Parcel Detail * Viewing parcel using E-Rip (Geoviewer) * Reports – Viewing and Printing Reports * First Nations Land Registry Regulations * First Nations Land Management Act   When logged into the Citrix-ILRS account, you can access the *ILRS/FNLRS/SGFNLRS Online User Guide* which provides detailed information for using the FNLRS. | |
| 1. ****LAND REGISTRY CHECKLISTS & PROCEDURES**** |
| The following registration procedures are samples that have been developed by operational First Nations. You are encouraged to use them and modify as needed to suit your specific needs within your Land Governance office.  The registration procedures are to work in conjunction with the FNLRS Users Guide, Templates & Checklist sections of this booklet. If you require assistance please contact your FNLMRC support technician. | |
| * Researching PAR, and parent PINs and supporting documents (challenges in proper research) * Survey changes – Remainder lots, work with Tania to ensure language identifies LC processes include updating all parcels involved subdivision requests | |
| NOTE FOR FIRST NATIONS IN QUEBEC  The examples provided come from common law jurisdictions and will need to be adapted according to the particular circumstances in Quebec with respect to bi-jural concepts. It is recommended that First Nations in Quebec seek additional assistances from the Land Advisory Board Resources Centre.  When reviewing an instrument for registration, it is important for the Land Governance office to cross reference the transaction with other policy and law that may be in effect by the First Nation.  Please find sample CHECKLISTS for the following transactions in Attachment D:   * Transfer of Interest/Land Rights (QC) * Lease * Lease & Mortgage/Hypothec (QC)) * Sublease * Assignment of Sublease * Easement/Servitude (QC), Permit, Licence   These samples have been designed to be customized by the First Nation and recommend that new checklists be created to cover other transactions that require registration. |
| A list of registered/recorded instruments available in the FNLRS have been included for your reference (see Attachment F). | |
| LANDS REGISTER FEE SCHEDULE | |
| Registration fees can be charges as an additional revenue to support your Land Governance office. Be sure to take into consideration the amount of transaction and the time it takes to process the application when developing your fee schedule. You can also look to other First Nation websites to be comparable. (see Attachment G) | |

|  |
| --- |
| * 1. ****LEASING PROCESS**** |
| All developments on reserve lands should have a formal registered lease to protect the CP Holder or First Nation, as well as the Proponent.  NOTE FOR FIRST NATIONS IN QUEBEC  In Quebec a lease is not considered a land right, but for the purposes of the Framework Agreement and the law respecting First Nations Land Management, the rights of a tenant are deemed to be so.  ***What is a Lease?***  A lease is a legal binding contract that;   * allows someone to use a parcel of land exclusively for a specific period to time and for a specific rent; * grants an interest/land right (QC) in the parcel of land (for a longer period of time); * can be assigned to another person or company; and * cannot be cancelled at will.   Some common types of leases are:   * Commercial (Shopping Centers, Retail Outlet) * Residential (Single family, Multi family, Duplexes, Apartments) * Recreational (Race track, Sports fields, Beach front lots) * Agriculture (Tree farm, Crops).     A lease needs to include this information:   * Grantor / Grantee * Term (extent and duration of lease) * Purpose (what the land is used for) * Parcel of Land description (legal survey description) * Rent (amount of money paid for using the parcel of land) * Rent Review (if not pre-paid)   The lease will be drafted by the party’s lawyers as negotiated.  **FIRST STEP: *Negotiations***  Negotiations will begin between the CP Holder and/or First Nation and the Proponent to determine the proposed use of the land(s), rent(s) and term(s) (taking into consideration the First Nation bylaws/laws such as: New Development & Subdivision; Land Use & Zoning; and/or Property Taxation, as applicable to land management).  **Community Approvals**  A lease with a term over “X” years on community held lands ***may*** require a First Nation Membership Vote and Approval at a Special Meeting, as per section “X” Land Code.  **ADDITIONAL STEPS**  These next steps can be done simultaneously:  **Survey**  A measurement of a parcel of land, conducted by a Canada Lands Surveyor, that outlines the size of a parcel of land, boundaries, ground contours and where improvements or alterations have been made. The end result is a legal survey plan. *For example: Plan 69966 CLSR*  **Appraisal**  A written statement of market value or value as defined by the appraiser, of an adequately described parcel of land for a specific date and proposed use which is supported by relevant data (such as the value of a commercial Lease for 49 years on 10 acres of reserve).  The Proponent and/or CP Holder or First Nation hires an Appraiser to conduct the appraisal based on a Terms of Reference (see Attachment D for sample). This report is the basis for negotiating the rent of the lease.  **Service Agreement**  To obtain a service agreement, the Proponent must negotiate with the Municipality and/or First Nation. This agreement covers services that the Municipality or First Nation will provide which may include water, sewer, solid waste disposal, police and fire protection.  **Engineering Requirements** (based on either Provincial or Federal Codes or a combination of both).  A complete Conceptual Engineering Study & conceptual Drawings package is required in order to determine the viability of the proposed development. This will be submitted to Land Governance office and most likely the Municipality will want a copy if they are providing services.  A Final Design will have to be deemed satisfactory by Land Governance office before the **Consent to Construct** or Building Permit is issued.  General Engineering Requirements (Conceptual):   * **General** – Professional Seal and Signature, General Plans (location plan), Geotechnical Assessment, Off-Site Work * **Building** – Building plans (conceptual plan and elevations of proposed buildings) * **Water Service** – Water design drawings, Hydrant locations, water main looping, water service agreement * **Sanitary Service** – Design Drawings, service from existing system, service agreement, in-ground sewage disposal * **Drainage** – Storm water Management plan, Disposal, 200 year Flood level * **Road** – Conceptual Road Design Drawings, Utilities in Public Road, Access Permit * **Fire Protection** – Service Agreement, First Nation’s Fire Fighting Capability * **Utilities** – Service Agreements   **Environmental Impact Assessment (EIA)**  An EIA is a process to identify and evaluate all potential environmental impacts on the land that may occur as a result of the planned project. The EIA report will be completed according to the Canadian Environmental Assessment Act and the Species at Risk Act.  An EIA is a tool used to: promote sustainable development; identify environmental impacts of a project; provide for public participation and input; and minimize negative impacts (and maximize positive impacts) before projects start “mitigation measures”.  **Completion of the Lease**  Both parties must sign the lease (Proponent and the CP Holder or First Nation).  The lease must be registered in the First Nations Land Registry System (and the First Nation’s Duplicate Registry System if applicable). |

|  |
| --- |
| * 1. ****BEST PRACTICES FOR A LEASE ON COMMUNITY LANDS**** |
| As procedures and laws are developed, you will need to ensure that the processes align with the First Nation’s organizational structure and voting processes within the Land Code.  **Initial Application**   1. Preparation for lease – Proponent obtains leasing package from Land Office outlining the First Nations procedures and applicable land development, zoning and land use laws and environmental procedures. 2. Proponent provides application conceptual proposal to the Land Governance office. 3. Land Governance office reviews application for:    1. completeness    2. basic First Nation servicing issues (internal department reviews)    3. Land Use to ensure it conforms with zoning regulations  (if not, an application for Rezoning or Land Use amendment is required) 4. Land Governance office brings application to the lands committee for recommendations to Council. 5. If Council proceeds with application, the Land Governance office coordinates a meeting for the proponent to present and begin negotiations with Chief and Council.   **Development Procedures**   1. The Land Governance office determines if the proposed Land Use conforms to zoning regulations (if applicable). If it does not, an application for Rezoning or Land Use Amendment is required. 2. The proponent pays required fees and submits the appropriate applications and checklists:   a. Rezoning (if required)  b. Rezoning Checklists (if required)  c. Development Application  d. Development Checklist   1. The proponent provides a Community Benefit Summary (for subdivisions or development of more than (>) 4 lots or units for sale or lease to non-Members). In addition to increases to the property tax base, the proponent must provide a summary of all proposed benefits to the community. This could include donations equal to or greater than 5% of project value, or dedications of land or facilities for park, recreation or housing or a donation of cash in lieu; green space; trails; sidewalks; street lights; training or development opportunities for members; etc. 2. The proponent submits General Engineering Requirements for Land Development on Reserve Lands including provision of all plans, documents, and professional seals and signatures as set out in the General Engineering Requirements. 3. The proponent provides copies of all required environmental assessments and reports as per General Terms of Reference for Environmental Assessments and Archaeological Impact Assessment (AIA) including copies of all required archaeological impact assessments and reports as per the First Nation’s Heritage Policy Manual. 4. The proponent provides the following:   • Appraisal: For new sub-divisions, multi-family, commercial or industrial developments, an appraisal of the current market value of the land;  • A copy of a credit check from within the past 7 days or authorization for First Nation to carry out a credit check;  • A signed statement that the developer or applicant is solvent, is not bankrupt, and knows of no reason why they would have insufficient funds to complete the development or activity;  Proof of insurance including:  • Comprehensive Public Liability Insurance and Property Damage Insurance providing coverage of at least $5,000,000 inclusive against liability for bodily injury or death and/or damage to property on an all risk occurrence basis;  • Motor Vehicle Insurance for public liability and property damage providing coverage of at least $5,000,000 inclusive on owned, non-owned or hired vehicles;  • Completed operations coverage on all-risk occurrence basis of at least $5,000,000 inclusive against liability for bodily injury, death and/or damage to property of others arising out of the existence of any condition in the works when completed or any installation or repair operations during the period of 12 calendar months next ensuing after the issuance of a certificate of substantial completion by the First Nation;  • Confirmation in all of the above policies of insurance (except motor vehicle insurance) that the First Nation is a named insured, and in all policies of insurance that they contain a provision that the insurance shall apply as though a separate policy has been issued to each name insured;  • Confirmation in all of the above policies that each contractor engaged in the works shall be named as an additional insured in respect of the performance of the works, and each such policy shall provide that no expiry, cancellation or materials change in the policy shall become effective until after thirty days’ notice of such cancellation or change shall have been given to the First Nation by registered mail.  • Signed confirmation that the applicant will maintain all of the above policies until the development and the works have received final acceptance.  Bonds require the following:   * Posting of a performance bond or irrevocable letter of credit from a bank in a form acceptable to the First Nation in the amount of $\_\_\_\_\_\_\_\_\_\_ (120% of the estimated cost) to ensure the completion of the development and installation of infrastructure and improvements (this bond or letter of credit is in addition to any bonds or letters of credit required by the local municipality for off-site works); and * Posting of a maintenance bond or irrevocable letter of credit from a bank in a form acceptable to the First Nation in the amount of $\_\_\_\_\_\_\_\_\_\_ (10% of the estimated cost) for a period of one year following to ensure maintenance of the works and services and to correct any deficiencies discovered during the first year of operations.   The following Legal Documents are required:   * First Nations Lands Registry search that is less than 30 days old; * A copy of all draft or final executed leases, sub-leases, assignments, etc.; * A copy of all encumbrances/charges (QC), , easements/servitudes (QC) including rights of way, licences; * A copy the CLSR plan; * A copy of all existing and proposed subdivisions, and draft surveys; * A signed and witnessed agreement to indemnify the First Nation against any loss or damage in relation to the subdivision, development or activity; and * Confirmation of right of entry for the First Nation and all authorized officials to inspect the site and any structures or infrastructure  1. Temporary Use Permit (if required) – see sample permits under Attachment “D” 2. The Land Governance office refers application and documents to the following departments as appropriate:    1. Public works    2. Lands Advisory Committee    3. Environmental Consultant    4. Engineering Consultant    5. Archaeological Consultant    6. Ministry of Transportation (if under MOT roads jurisdiction)    7. Department of Fisheries and Oceans    8. Health Canada; and    9. Local Municipalities 3. If lease term requires community approval according to the Land Code, prepare information packages and coordinate meetings. (i.e. refer to section on community ratification process for 49 year lease, if applicable). 4. Providing that all requirements, regulations and laws have been satisfied, the Land Governance office gives notification to the proponent that the application is ready to be considered by the First Nation Council for initial decision.   **Rezoning, Land Use Amendment, Temporary Use Permit (if required) and Subdivision Application**   1. Council reviews the Rezoning, Land Use Amendment, Temporary Use Permit Application and/or Subdivision Application information and the recommendations compiled by the Land Governance office, and Council decides to decline the application or accept it with or without conditions. 2. If Council approves the application, the Land Governance office provides confirmation to the proponent.   **Conceptual Development Plan – Approval in Principle**   1. The applicant provides any additional information requested by the Land Governance office and, if they have not done so yet, the applicant provides detailed survey plans and engineering. 2. Council reviews the information and the recommendations compiled by the Land Governance office and Council decides to decline the application or accept it, with or without conditions. 3. If Council approves the application, the Land Governance office gives the Approval in Principle and provides confirmation to the applicant. 4. The applicant may begin laying out the subdivision or development but cannot begin construction until Council grants a Development Permit.   **Substantial Completion**   1. The applicant provides any available as-built plans and drawings and a certified statement from a registered professional and requests confirmation of substantial completion. 2. Provided the certified statement from the registered professional building inspector is in order, the Land Governance office issues a notice of substantial completion and notifies the applicant. 3. The Land Governance office releases the performance bond but retains 10% maintenance bond for one year.   **Completion**   1. The applicant provides all outstanding as-built drawings and plans and certified completion documents from certified professionals. 2. Provided the certified statement from the registered professional is in order, the Land Governance office registers the as-built documents and a notice of completion and notifies the applicant. 3. If there are no defaults or unaddressed maintenance issues, the Land Governance office releases the remaining 10% maintenance bond within one year after the notice of substantial completion. |

|  |
| --- |
| * 1. ****REGISTRATION OF LEASE**** |
| The following steps (5c to 5k) are provide to assist the Land Governance office in processing instruments and documents for registration in the First Nation Land Registry System (FNLRS). Sample registry checklists are provided under Attachment “D”. |
| 1. Get confirmation that there are no outstanding Property Taxes on the parcel. \*Note: you cannot register if the Lease has outstanding issues or property taxes. 2. Print and Review Parcel Abstract Report \*Note: you cannot register a Lease if there is an outstanding notice/lien on the property. Ensure there are no outstanding issues. 3. Make sure you have at least one (1) signed original copy of the Lease for your lands files and one signed Council consent, if applicable along with the application. \*Note: the Notary or Law office should sign the application as the Applicant’s Agent. If it is not, have them come into the office and sign or send a signed scanned copy of the first page of the application. Complete the Lease checklist (for the instrument date, use the date on the Legal Document not the application) \*Note: you cannot register if the instrument is predated. 4. Get Land Governance Director to approve and sign all the documents. 5. Scan documents to .pdf and save file to server. 6. Open Citrix XenApp & log in, Open ILRS (FNLRS). 7. Go to Instruments Tab & Click on Add Instrument. 8. Complete online application. \*if required include additional information into the remarks field. 9. Save. 10. Print application. 11. Upload file. Once uploaded, click on the Edit button and change the Status of the Instrument to RECEIVED to send. 12. File in pending files. 13. Once registered, make sure the instrument is correct on the Parcel Abstract Report and print. 14. Stamp each original with registration number and registration date. 15. File one copy and send the rest back with the new Parcel Abstract Report and receipt. 16. Update the First Nations Electronic Lands Inventory. |

**NOTE FOR FIRST NATIONS IN QUEBEC**

**The *First Nations Land Registry Regulations* (SOR/2007-231) explains at s.22(1)d that the registrar must record in the Registry the date the document was executed/signed according to all the required formalities for its validity (QC) or, if there is more than one date indicated, the most recent date.**

|  |
| --- |
| * 1. ****SUBLEASE**** |
| 1. Get confirmation that there are no outstanding Property Taxes \*Note: you cannot register if the Lease has outstanding issues or property taxes. 2. Print and Review Parcel Abstract Report \*Note: you cannot register a Sublease if there is an outstanding notice/lien on the property. Ensure there no outstanding issues. 3. Make sure you have at least one (1) signed original copy of the Lease for your lands files and one signed Council consent, if applicable along with the application. \*Note: the Notary or Law office should sign the application as the Applicant’s Agent. If it is not, have them come into the office and sign or send a signed scanned copy of the first page of the application. Complete the Lease checklist (for the instrument date, use the date on the Legal Document not the application) \*Note: you cannot register if the instrument is predated.   **NOTE FOR FIRST NATIONS IN QUEBEC**  **The *First Nations Land Registry Regulations* (SOR/2007-231) explains at s.22(1)d) that the registrar must record in the registry the date the document was executed (or in Quebec, signed according to all the required formalities for its validity) or, if there is more than one date indicated, the most recent date.**   1. Complete the Sublease checklist (for the instrument date, use the date on the Assignment not the application) \*Note: you cannot register if the instrument is predated. 2. If pre-land code lease, print and fill out the Ministerial Consent (if required) for that development. \*Note: transactions on any pre-land code leases may require ministerial consent. Since the First Nation now acts as the Minister they will need to develop a consent form/stamp for this approval. See sample in Attachment “D”. 3. Get Land Governance Director to approve and sign all the documents. 4. Scan documents to .pdf and save file to server. 5. Open Citrix XenApp & log in, Open ILRS (FNLRS). 6. Go to Instruments Tab & Click on Add Instrument. 7. Complete online application. \*Enter sublease # and/or lease # into the remarks field. 8. Save. 9. Print application. 10. Upload file. Once uploaded, click on the Edit button and change the Status of the Instrument to RECEIVED to send. 11. File in pending files. 12. Once registered, make sure the instrument correct on the Parcel Abstract Report and print. 13. Stamp each original with registration number and registration date. 14. File one copy and send the rest back with the new Parcel Abstract Report and receipt. 15. Update the First Nations Electronic Lands Inventory. |

|  |
| --- |
| * 1. ****ASSIGNMENT OF SUBLEASE**** |
| 1. Get confirmation that there are no outstanding Property Taxes \*Note: you cannot register an Assignment if the owners have outstanding property taxes. Also, if you are unable to contact anyone in the Taxation department, you can ask the Law/Notary Office for confirmation and send you a copy of the Tax Search. 2. Print and Review Parcel Abstract Report \*Note: you cannot register an Assignment if there is a notice/lien on the property. Ensure there no outstanding issues. 3. Make sure you have at least one (1) signed original copy of Assignment of Sublease for your files and one signed original Homeowners consent, if applicable along with the application. \*Note: if it states in the cover letter that they will be providing our office with a discharge of mortgage as soon as it is received from the Bank, you must register the cover letter along with the other documents. \*Note: the Notary or Law office must sign the application as the Applicant’s Agent, if it is not, have them send you a signed scanned copy of the first page of the application.   **NOTE FOR FIRST NATIONS IN QUEBEC**  **The *First Nations Land Registry Regulations* (SOR/2007-231) explains at s.22(1)d) that the registrar must record in the registry the date the document was executed (or in Quebec, signed according to all the required formalities for its validity) or, if there is more than one date indicated, the most recent date.**   1. Complete an Assignment of Sublease checklist (for the instrument date, use the date on the Assignment not the application) \*Note: you cannot register if the instrument is predated. 2. If pre-land code lease, print and fill out the Ministerial Consent (if required) for that development. \*Note: transactions on any pre-land code leases may require ministerial consent. Since the First Nation now acts as the Minister they will need to develop a consent form/stamp for this approval. See sample in Attachment“D”. 3. Get Land Governance Director to approve and sign all the documents. 4. Scan documents to .pdf and save file to server. 5. Open Citrix XenApp & log in, Open ILRS (FNLRS). 6. Go to Instruments Tab & Click on Add Instrument. 7. Complete online application. \*Note: enter sublease # and/or lease # into the remarks field. 8. Save / Print application. 9. Upload file. Once uploaded, click on the Edit button and change the Status of the Instrument to RECEIVED to send. 10. File in pending files. 11. Once registered, make sure the instrument is correct on the Parcel Abstract Report and print. 12. Stamp each original with registration number and registration date. 13. File one copy and send the rest back with the new Parcel Abstract Report and receipt. 14. Update the First Nations Electronic Lands Inventory. |
| * 1. ****MORTGAGE/HYPOTHEC OF SUBLEASE**** |
| 1. Get confirmation that there are no outstanding Property Taxes \*Note: you cannot register a Mortgage/Hypothec (QC) if the owners have outstanding property taxes. Also, if you are unable to contact anyone in the Taxation department, you can ask the Law/Notary Office for confirmation. 2. Print and Review Parcel Abstract Report \*Note: you cannot register a Mortgage if there is a notice/lien on the property. Ensure there no outstanding issues. 3. Make sure you have at least one (1) signed original copy of Form 03 – Mortgage and the Mortgage terms for our files. 4. Complete a Mortgage/Hypothec (QC) of Sublease checklist (for the instrument date, use the date on the application) \*Note: you cannot register if the instrument is predated. If registering an Assignment and a Mortgage/Hypothec (QC), register the Assignment first.   **NOTE FOR FIRST NATIONS IN QUEBEC**  **The *First Nations Land Registry Regulations* (SOR/2007-231) explains at s.22(1)d) that the registrar must record in the registry the date the document was executed (or in Quebec, signed according to all the required formalities for its validity) or, if there is more than one date indicated, the most recent date.**   1. If pre-land code lease, print and fill out the Ministerial Consent for that development. \*Note: transactions on any pre-land code leases may require ministerial consent. Since the First Nation now acts as the Minister they will need to develop a consent form/stamp for this approval. See sample in Attachment “D”. 2. Get Land Governance Director to approve and sign all the documents. 3. Scan documents to .pdf and save file to server. 4. Open Citrix XenApp & log in. 5. Go to Open ILRS (FNLRS). 6. Go to Instruments Tab & Click on Add Instrument. 7. Complete online application. \*Note: Enter sublease # and/or lease # into the remarks field. 8. Save. 9. Print application. 10. Upload file. Once uploaded, click on the Edit button and change the Status of the Instrument to RECEIVED to send. 11. File in pending files. 12. Once registered, make sure the instrument is correct on the Parcel Abstract Report and print. 13. Stamp each original with registration number and registration date. 14. File one copy and send the rest back with the new Parcel Abstract Report and receipt. 15. Update the Lenders Spreadsheet. |
| * 1. ****DISCHARGE OF MORTGAGE/HYPOTHEC**** |
| 1. Print and Review Parcel Abstract Report. 2. Make sure you have at least one (1) original copy of application signed by Lender. 3. Complete a Discharge of Mortgage/Hypothec (QC) checklist (for the instrument date, use the date on the application) \*Note: you cannot register if the instrument is predated. \*Note: the Mortgagee/hypothecary creditor (QC) is always the Bank.   **NOTE FOR FIRST NATIONS IN QUEBEC**  **The *First Nations Land Registry Regulations* (SOR/2007-231) explains at s.22(1)d) that the registrar must record in the registry the date the document was executed (or in Quebec, signed according to all the required formalities for its validity) or, if there is more than one date indicated, the most recent date.**   1. Get Land Governance Director to approve and sign all the documents. 2. Scan documents to .pdf and save file to server. 3. Open Citrix XenApp & log in. 4. Go to Open ILRS (FNLRS). 5. Go to Instruments Tab & Click on Add Instrument. 6. Complete online application. \*Enter sublease # and/or lease # and the discharge of mortgage/hypothec #\_\_\_\_\_\_\_\_ into the remarks field. 7. Save. 8. Print Application. 9. Upload file. Once uploaded, click on the Edit button and change the Status of the Instrument to RECEIVED to send. 10. File in pending files. 11. Once registered, make sure the instrument is correct on the Parcel Abstract Report and print. 12. Stamp each original with registration number and registration date. 13. File one copy and send the rest back with the new Parcel Abstract Report and receipt. |

|  |
| --- |
| * 1. ****DEATH CERTIFICATE**** |
| 1. Print and Review Parcel Abstract Report. 2. Make sure you have at least one (1) signed original copy of application and/or the original Death Certificate or a certified true copy of the Death Certificate. 3. Complete a Death Certificate checklist (for the instrument date, use the date on the Death Certificate). 4. Get Land Governance Director to approve and sign all the documents. 5. Scan documents to .pdf and save file to server. 6. Open Citrix XenApp & log in. 7. Go to Open ILRS/FNLRS. 8. Go to Instruments Tab & Click on Add Instrument. 9. Complete online application. \*Note: Enter sublease # and/or lease # into the remarks field and write Transfer to surviving tenant if it is in joint tenancy in the Remarks field. If it is tenants in common then you can register the death certificate to the ESTATE OF the deceased person. Or the owners of the interests/land rights (QC) can wait to sell and then register the probate with the assignment. 10. Save. 11. Print Application. 12. Upload file. Once uploaded, click on the Edit button and change the Status of the Instrument to RECEIVED to send. 13. File in pending files. 14. Once registered, make sure the instrument is correct on the Parcel Abstract Report and print. 15. Stamp each original/copy with registration number and registration date. 16. File the original copy and send back a photocopy or extra copies with the new Parcel Abstract Report and receipt. 17. Update the First Nation Lands Inventory. |

**NOTE FOR FIRST NATIONS IN QUEBEC**

**The concepts of “tenancy in common” and “joint tenancy” are common law principles that do not translate directly into the civil law. Instead, the civil law refers to “undivided co-ownership” whereby several persons jointly and at the same time own the same property that is not physically divided up. “Undivided” co-owners each have a share in the single right of ownership in the undivided property. This concept most closely relates to “tenancy in common”.**

**There is no equivalent civil law concept to the common law’s concept of “joint tenancy”. In common law, joint tenancy provides for a right of survivorship whereby the deceased’s share of the property devolves (or is transferred) to the surviving co-owner. In civil law, the undivided co-owner’s share is instead transmitted to the person’s heirs or legatees.**

|  |
| --- |
| * 1. ****NOTICE**** |
| 1. Print and Review Parcel Abstract Report. 2. Make sure you have at least one (1) signed original copy of Form 04 – Other Registerable Instruments and one (1) original copy of the Notice (or Equitable Charge) to be registered for our files. 3. Complete a Notice checklist (for the instrument date, use the date on the Notice or Equitable Charge) \*Note: you cannot register if the instrument is predated. 4. Get Land Governance Director to approve and sign all the documents. 5. Scan documents to .pdf and save file to server. 6. Open Citrix XenApp & log in. 7. Go to Open ILRS (FNLRS). 8. Go to Instruments Tab & Click on Add Instrument. 9. Complete online application. \*Enter sublease # and/or lease # and enter the Expiration date of the Notice in the remarks field \*Note: for an Equitable Charge the Expiration Date is the same as the Expiration Date of the Lease. 10. Save. 11. Print Application. 12. Upload file. Once uploaded, click on the Edit button and change the Status of the Instrument to RECEIVED to send. 13. File in pending files. 14. Once registered, make sure the instrument is correct on the Parcel Abstract Report and print. 15. Stamp each original with registration number and registration date. 16. File one copy and send the rest back with the new Parcel Abstract Report and receipt. |

|  |
| --- |
| * 1. ****GRANT OF PROBATE**** |
| Contact the law/notary office that submitted the document for registration for assistance and clarification and INAC FNLRS Registrar – phone (819) 953-0614. |
| * 1. ****SEVERING A JOINT TENANCY**** |
| A joint tenancy may be severed (changed to an interest held in tenancy in common) at any time in the following way:   1. A joint tenant may transfer in writing his/her interest to any other band member or to the band without being required to obtain the consent of the other joint tenant(s). A joint tenant may not transfer his/her interest to his/her self in order to sever the joint tenancy; 2. All joint tenants may enter into a written agreement to hold the interests as tenancy in common.   So, you could use the following instruments to sever the joint tenancy: transfer, agreement or a letter.  \*Note: If both individuals want to sever their joint tenancy, then it would be a good idea to get signatures from both individuals.  **NOTE FOR FIRST NATIONS IN QUEBEC**  **The concepts of “tenancy in common” and “joint tenancy” are common law principles that do not translate directly into the civil law. Instead, the civil law refers to “undivided co-ownership” whereby several persons jointly and at the same time own the same property that is not physically divided up. “Undivided” co-owners each have a share in the single right of ownership in the undivided property. This concept most closely relates to “tenancy in common”.**  **There is no equivalent civil law concept to the common law’s concept of “joint tenancy”. In common law, joint tenancy provides for a right of survivorship whereby the deceased’s share of the property devolves (or is transferred) to the surviving co-owner. In civil law, the undivided co-owner’s share is instead transmitted to the person’s heirs or legatees.** |
| * 1. ****CERTIFICATE OF INCAPABILITY**** |
| Contact the law/notary office that submitted the document for registration for assistance and clarification and INAC FNLRS Registrar – phone (819) 953-0614. |

|  |
| --- |
| 1. ****INDIVIDUAL INTERESTS/LAND RIGHTS (QC) AND ALLOTMENTS**** |
| Individual interests/land rights (QC) are rights given to individual First Nation members to use, occupy and possess specific parcels of land according to laws developed by communities under their Land Code. The following has been based on operational First Nation’s procedures that have chosen to continue to issue the Certificate of Possession (CP). |
| ALLOTMENT OF LAND |
| What is an allotment?  An allotment is the process by which a member receives lawful possession of reserve land commonly in the form of a document known as a CP. |
| **PROCEDURES – SAMPLE 1** |
| 1. The Land Governance office receives a request for an ALLOTMENT. 2. The Land Governance office must obtain PROOF OF MEMBERSHIP from the membership clerk or valid Status Card to ensure the individual(s) are entitled to the CP or Allotment. Proof of Membership is required from all First Nations under Section 10 of the Indian Act. 3. There must be an up to date legal description and survey for the parcel to be Allotted. If there is not a sufficient legal description, arrange for a survey to be completed by a certified Canada Lands Surveyor. 4. Once PROOF OF MEMBERSHIP or Status Card is received: 5. Complete a Land Status Report to see if there are any encumbrances/charges (See Attachment K – Encumbrance/Charges Checklist) and that there is proper access to the parcel. 6. Complete the Allotment of Land form (See Attachment H - Allotment Form), including the individual’s name, membership number (status number) and correct legal description that contains the lot number and survey plan number. 7. Determine how the land will be held if there is more than one (1) interest/land right holder (QC); Joint Tenant or Tenants in Common.    * + - Joint Tenant – The holding of property by two (2) or more persons whereas upon the death of one (1) of the owners, the survivor(s) take ownership of the property. Under this arrangement, land interest cannot be willed.        - Tenants In Common – The holding of property by two (2) or more persons each of whom has an undivided interest which, upon his/her death, passes to heirs and not to the survivor(s). 8. Attach a copy of the survey plan and the proof of membership or copy of status card to the Allotment form. 9. If needed, draft a background note for Chief and Council. 10. Submit the package to Chief and Council for signing. 11. Once Allotment form has been signed and approved by Chief and Council: 12. Ensure the package is submitted back to the Land Governance office. 13. Update and enter information into the CP Tracking Spreadsheet. 14. Create Certificate of Possession and save, as applicable. 15. Print two CPs. 16. Complete Allotment Checklist (See Attachment H - Allotment Checklist form). 17. Register into the FNLRS (look to Instrument Instructions). 18. If the Land Governance office has delegated authority, sign at least one CP, otherwise, submit to the appropriate signatory, such as Chief and Council. 19. File originals, including checklist, copy of CP, Allotment and application and any supporting documents in the Individual Land Holding (ILH) file or create file, as applicable. 20. Deliver one originally signed copy of the CP to the individual landholder along with an updated parcel abstract and a copy of the survey plan. |
| FORMS & TEMPLATES |
| The following Forms and Templates are samples from Operational First Nations that are meant to be used and modified to meet you specific needs (see Attachment H):   * **CP Original** – for use when issuing certificate to individual * **CP Database** – to be used by the Land Governance office to track issuance of CPs * **Housing Allotment Form** – to be used as an internal document that tracks the progress and required cross-departmental approvals * **Parcel of Land Purchase Approval Form** – to be used as an internal document that tracks the progress and required cross-departmental approvals   Note concerning terminology:  The First Nations Land Management Regime does not provide for individual ownership of land, but rather the acquisition of an interest or land right in the land that provides for possession, occupation and the use of the specific parcel of land.   * **Locatee Parcel of Land Purchase Approval Form** - to be used as an internal document that tracks the progress and required cross-departmental approvals * **FORM 01 – CP Allotment by First Nation** – sample format for Council to issue a CP * **SAMPLE BCR** – sample format for Council to issue a CP * **NOTICE OF ALLOTMENT** – to be developed * Add Conflict of Interest (one pager INAC, see Val/Jennifer) also include a spot in the Checklist   Registry Forms (see Attachment E)   * FORM - Request for Replacement of Title * FORM 01 – Transfer CP |

|  |
| --- |
| 1. ****TRADITIONAL LAND HOLDINGS**** |
| First Nations are working to develop Traditional Land Holdings Laws (Family Holdings, Custom Holdings, etc.) that merge the non-registered historical knowledge of the reserve to grant interests/land rights (QC) under the new system of Land Management. These types of interests/land rights (QC) are being researched and a new type of land tenures (e.g. Individual Land Holding (ILH), Right of Occupancy, Certificate of Allocation, etc.) are being shaped for those First Nations that do not issue Certificate of Possession on reserve. Under a First Nation Land Code unique interests/land rights (QC) may be created by First Nations to reflect their preferred instrument name.  This section will be expanded once more laws are developed, in the meantime you can contact FNLMRC Support Technician to see if there is more information available. |

**NOTE FOR FIRST NATIONS IN QUEBEC**

**The examples provided relate to common law jurisdictions. They must be adapted in Quebec when dealing with bi-juridical concepts. For additional support, seek assistance from the FNLMRC Support Staff.**

|  |
| --- |
| 1. LANDS INVENTORY & FILE MANAGEMENT |
| ELECTRONIC LANDS INVENTORY |
| To assist in building your Electronic Lands Inventory, you can extract reports from FNLRS.   1. Search Instrument – FNLRS, Reserve Name, Advance Search Criteria “Instrument Effective”, other qualifiers that you may want to add to the spreadsheet. 2. Then Search, export, open and format excel table and save. 3. Review for formatting issues and modify for First Nation use. |
| NETLANDS |
| Once INAC provides your Netlands Reports, you have the option to request access to Netlands through your Citrix account. Depending on your compliance and monitoring requirements, you may want to consider developing your own inventory system using MS Excel and MS Outlook programs to assist in your time management needs. |
| FILE MANAGEMENT |
| Most First Nation have created their own hard file systems based on INAC indexing system as it was easier to integrate the documents in their original file structure.  However some organizations have updated their systems to include electronic file systems, such as Westbank who uses Vadim & Lasherfische as their digital platforms.  If you are interested in researching File Management Systems, it is recommended that the Land Governance office work with their IT Departments to find what will work best throughout the organization.   * Coordination of files received from INAC (format electronic, BC Region/others) * Sample letter of request (Jennifer sample of Monica’s letter) * Inventory – Outstanding issues and ESA Phase 1, Estates, TLH, Family Lands (samples) |
| If you need further assistance with your Land Inventory needs, please contact your FNLMRC Support Technician. |

**NOTE FOR FIRST NATIONS IN QUEBEC**

**The examples provided relate to common law jurisdictions. They must be adapted in Quebec when dealing with bi-juridical concepts. For additional support, seek assistance from the FNLMRC Support Staff.**

|  |  |  |  |
| --- | --- | --- | --- |
| 1. ****MAPPING (GIS)**** | | | |
| ONLINE LAND MANAGEMENT/GIS SYSTEMS | | | |
| There Web-based systems that helps First Nations manage lands   * **LABRC Website** is a public site where Lands Governance Directors can access information, tools and effective practices such as documents, checklists, videos, etc. * **First Nation Land Registry System (FNLRS)** is an electronic registry system, which holds a database of instruments registered in the Indian Lands Registry relating to Reserve Lands under the First Nation Land Management Act. There is a public site which can be accessed by any person interested in obtaining parcel information and a secure site which is managed by the First Nation. This system is hosted by Indigenous and Northern Affairs Canada. [http://services.aadnc-INAC.gc.ca/ILRS\_Public/home/home.aspx](http://services.aadnc-aandc.gc.ca/ILRS_Public/home/home.aspx) * **Canada Lands Survey System (CLSS)** – Natural Resources Canada provides the CLSS Map Browser, CLSS Survey Plan Search and Canada Lands overlay for use in earth browsers – these system allows users to browse the CLSS cadastral data to search and visualize administrative boundaries and related survey parcels and plans maintained by the Surveyor General Branch (SGB).   + CLSS Map Browser - <http://clss.nrcan.gc.ca/map-carte-eng.php?rg=bc>   + Survey Plan Search - <http://clss.nrcan.gc.ca/advancedplansearch-rechercheplanavance-eng.php>   + Canada Lands In Google Earth - <http://clss.nrcan.gc.ca/googledata-donneesgoogle-eng.php>   + FNLRS User Guide - Attachment N | | | |
| Each First Nation will develop their own processes to meet the needs of their unique land management systems. Some examples are as follows:   * **Squiala First Nation** – Land Department - purpose to administer interests in land and natural resources consistent with the Land Code and related agreements. <http://www.squiala.com/Lands-Department> * **Tsleil-Waututh Nation** - Reserve Lands Register - registration and recording of interests or licences on Tsleil-Waututh Reserve lands are carried out by the Tsleil-Waututh Lands Register. <http://www.twnation.ca/en/Government/Departments/Lands%20Registry.aspx> * **Kitselas First Nation** – Laws & Policies – As new Kitselas Laws are developed, complementary policies and procedures are needed to provide for smooth implementation of these new legal frameworks on Kitselas Reserve Lands. <http://www.kitselas.com/government/laws/> * **Westbank First Nation** – Regional Mapping System – WFN now manages their lands under their own self-government agreement. Being an urban reserve, WFN has entered into a regional mapping system with surrounding municipalities. <http://www.rdcogis.com/GIS_App/RDCO_GIS_App.html>. WFN’s manages their lands and taxation with customized operational software.   Most First Nations can manage with the Web-based, however, as the First Nation continues to grow, their organizational needs may increase. There is potential for collaboration with surrounding communities and/or customized administrative software. The development of these systems can become very costly. | | | |
| The following are some sample Land Inventory codes that you may want to consider in database design: | | | |
| LOT \_ID  PIN\_NUM  BAND  BAND\_NUM  LOT\_ID  EOT\_NAME  PLAN\_TYPE  PLAN\_NO | LSD\_NUM  FN#  EVIDENCE\_OF\_TITLE  EOT\_NUM  EOT\_TYPE  LEASE  LEASE\_TERM  LEASE\_EXPIRY  LESSEE | SUBLEASE\_NUM  BAND\_LAND  LAND USE  LAND USE TYPE  LAND USE CODE  TOPOGRAPHY  ENV\_ISSUES  EI\_ADJACENT  SERVICES | ACCESS ROUTES  PERMIT  LOT  PLAN  IR  RESIDENT  STREETADDRESS  BUILDING TYPE  FOLIO/ROLL# |
| **Good Practices Guide - Success In Building And Keeping An Aboriginal Mapping Program** this may be a useful document was prepared by Centre for Indigenous Environmental Resources (CIER): <http://www.yourcier.org/uploads/2/5/6/1/25611440/good_practices_guide.pdf>  **Other GIS Data sources in BC:**   * GeoBC - <http://geobc.gov.bc.ca/applications/index.html> iMapBC - <http://maps.gov.bc.ca/ess/hm/imap4m/> * DataBC - <http://maps.gov.bc.ca/ess/sv/olc/> * Integrated Cadastral Information Society - [www.icisociety.ca](http://www.icisociety.ca/) | | | |

**NOTE FOR FIRST NATIONS IN QUEBEC**

**The examples provided relate to common law jurisdictions. They must be adapted in Quebec when dealing with bi-juridical concepts. For additional support, seek assistance from the FNLMRC Support Staff.**

|  |  |
| --- | --- |
| 1. WEBSITE DEVELOPMENT | |
| The following is a suggested list of items you may wish to include on your website:   * Logo, Pictures and Background Information of the First Nation * Current Leasehold Development include Property Managers contact information * Link to Land Code * Link to the [Framework Agreement](http://www.labrc.com/framework-agreement/introduction/) and the [First Nations Lands Management Act (S.C.](http://www.labrc.com/c49-legislation/introduction/) 1999, c.24) * Link to the [Lands Advisory Board / First Nations Land Management Resource Centre](http://www.labrc.com/home/) and [FAQs](http://www.labrc.com/faqs/) * Link to the [First Nations Land Registry Regulations](http://www.laws-lois.justice.gc.ca/eng/regulations/SOR-2007-231/) * First Nation Fee Schedule and First Nation Registry Forms – make available to download * First Nation Registration Process * First Nation Laws * First Nation Land Use Plan (Public Map) and all other development processes * First Nation Heritage Policy * First Nation Environment Assessments (minimum 20 days) with the ability for the public to comment on the assessment * Link to [INAC - Wills & Estates](https://www.aadnc-aandc.gc.ca/eng/1100100032357/1100100032361) * Link to Regional Districts, local municipalities * Maps of the Reserve Land * Link to [NRCan Canada Lands Survey System – CLSS Map Brower](http://clss.nrcan.gc.ca/map-carte-eng.php?rg=bc) * Link to [NRCan Canada Lands Survey System – Survey Plan Search](http://clss.nrcan.gc.ca/advancedplansearch-rechercheplanavance-eng.php) * Link to [NRCan Data – Canada Lands Surveys](http://www.nrcan.gc.ca/earth-sciences/geomatics/canada-lands-surveys/11092) | |
| * Notices & upcoming events * Land Office Contact Information * Enforcement Officer | Examples of Websites:   * [Tzeachten First Nation](http://www.tzeachten.ca/Lands) * [Tsleil-Waututh Nation](http://www.twnation.ca/en/Government/Departments/Lands%20Registry.aspx) * [Westbank First Nation](http://www.wfn.ca/bitterroot/landmanag.htm?RD=1) |
| * Links to Local Resource – law offices, notary office, surveyors, appraiser, Building Inspectors, Environmental Consultants, Financial Institutions * Links to other First Nation Resources: other First Nation websites, FNA4LM |

|  |
| --- |
| 1. ****LAW DEVELOPMENT**** |
| Where does your authority come from to create a Law? |
| * Land Code * Self-Government * Treaty   A broad, general principle to set the vision and priorities for your First Nation comes from Council Strategic Direction.  Ideally, laws and policies should be developed based on principles, visions and priorities, rather than reactions to immediate issues.  The details of law development are outlined within your Land Code. It is important to review these sections and building supporting policy to ensure there is a consistent process that is followed. |
|  |

|  |
| --- |
| What is a Law? |
| * The system of rules that a particular country or community recognizes as regulating the actions of its members and may enforce by the imposition of penalties * “…commanding what is right and prohibiting what is wrong” * Are legally binding * May create penalties and offences * Authorize enforcement measures * Are passed under an original source of jurisdiction (e.g. Canadian Constitution or FNLMA) vs. bylaws which are delegated * Before a draft bill or law can become a law, it must go through a series of steps that allow it to be debated and amended. * In order to become law, a federal or prov. bill must receive a majority of votes in parliament or the provincial legislature * It is important to confirm that there is authority under the Land Code for the type of law * Follow the requirements for consultation with community and committee or approval by the community or Council * Try to follow the traditions, teachings and culture of your First Nation |

|  |  |  |
| --- | --- | --- |
| When is a Law the best tool? | | |
| * When required by your Land Code * When there are issues of fundamental importance * When there are sufficient resources for implementation and enforcement * When mandatory standards or prohibitions need to be set * When enforcement tools are required | | |
| When is a Law NOT the best tool? | | |
| * When there is a lot of detail that needs to be regularly revised (laws take time to amend; usually changeable details go into regulations or policies) * If there are not sufficient resources to implement and enforce it * When the goal is educational or aspirational | | |
| What are Regulations? | | |
| * Contain the details to make a Law work. * (Ex: if a Law requires a meeting to be held, the regulations would set out how many days in advance, the form of the notice, etc.) * Can be amended more easily than Laws * Are usually created under delegated authority * Council may delegate regulation-making powers through the “parent” law * Are still legally binding (compared to policies which are not) | | |
| When are Regulations the best tool? | | |
| * A decision is not of fundamental importance * A non-controversial aspect of the law may need to be altered easily or often * There are details that clarify issues in the related Act * It is clear who has the authority to make and amend the regulations | | |
| Regulations should NOT: | | |
| * Limit personal rights or freedoms * Deal with matters of fundamental importance * These should be in the law itself * Allow for the transfer or sub-delegation of the power to make regulations to other parties * Exceed the limits set out in the Law that created them * Include vision statements or educational goals * Include items that are not enforceable | | |
| What are Policies and Guidelines? | | |
| * Help maintain consistency in decision-making * May support laws, or implement a non-legislative government objective * Are NOT legally binding * Give direction to program managers and staff about how to make decisions (e.g.: how to decide when a fee should be waived, etc.) * Provide guidance to applicants about application procedures (e.g.: what forms to use, how long processing takes) | | |
| When are Policies the best tool? | | |
| * When there does not need to be the force of law (when the goal is to educate, promote, or implement rather than to enforce) * When there are repeated applications or decisions and a policy is needed to ensure consistency * When there are minor gaps in the implementation of laws or regulations * When a decision must be made about how to spend pre-determined funding or manage programs * To simplify or explain a law to people using it (such as members or applicants) | | |
| How to assess relevant laws and priorities for your First Nation: | | |
| * Does your First Nation have any urgent issues? * Major development happening right away * Urgent issues with CP land * Major pollution or contamination issue * Dangerous or aggressive dogs * Imminent danger to your community | | |
| Legislative Drafting – Do… | | |
| * Be aware of the legislative requirements of your land code, consider the Indian Act, federal/Provincial/Municipal laws as well as treaty and other aboriginal rights * Follow your Nation’s traditions and teachings * Where appropriate or required, seek community input on key issues and values to inform the law * Find ways to engage with members that are informal and comfortable * Consider which draft provisions need to be in the law and which belong in regulations or policies * Think about enforcement: what tools are available and how can the law be effectively and inexpensively enforced? * “Test drive” the law with hypothetical scenarios and examples to see if it will work * Use preambles to provide context and goals for the law * Use plain English and keep it simple * Use consistent terminology and terms * Define key terms, but do not define terms that are used only once * Use cross-references sparingly * Work with the staff who will be implementing the law to develop schedules, regulations, policies, application forms, permits, etc. * Proofread the draft law many times | | |
| Legislative Drafting – Do Not… | | |
| * Only communicate when you need something from members (e.g.: a ratification vote) * Ignore members’ or stakeholders’ legitimate concerns * Make assumptions: if you don't know, ask * Blindly cut and paste or use wording from precedents that may not apply to your Nation * Include provisions that do not conform with your Land Code, the Indian Act or your Treaty * Draft wording that is ambiguous, difficult to understand, is overly complex or legalistic * Include provisions that you don’t understand or can’t easily explain to others * Use inconsistent or ambiguous wording * Draft large complex structures or bureaucracies or processes that will be difficult and expensive to implement * Draft laws or provisions that are impossible or very difficult or expensive to enforce * skip qualified legal review prior to law enactment | | |
| Law Development Procedures | | |
| A proposed law may be introduced at a duly convened meeting of the Council by   * the Chief or a Councilor; or * the representative of anybody or authority composed of members that may be authorized by Council to do so * in accordance with your Land Code | | |
| Tabling and posting of proposed laws | | |
| Before a proposed law may be enacted by the Council, it must first be:   * tabled at a meeting of the council held at least \_\_\_ days before the law is to be enacted * posted in public places on First Nation land at least \_\_ days before the law is to be enacted   Must be developed in accordance with your Land Code. | | |
| Urgent matters | | |
| The Council may enact a law without the preliminary steps required in your land code, if the Council is of the opinion that the law is needed urgently to protect First Nation land or the members, but the law expires \_\_\_ days (in accordance with your land code) after its enactment, unless re-enacted in accordance with section \_\_\_. | | |
| Approval of Law | | |
| A law is enacted if it is approved by a majority of the Council at a duly convened meeting.  Council may want to hold a Secret Ballot Vote at a Special Membership meeting for a law that does not require a Ratification Vote under the Land Code but is significant enough to have membership validate the law being developed. For a sample of a “Secret Ballot Voting Process” – see Attachment “J”. | | |
| Certification of Laws | | |
| The original copy of any law or resolution concerning First Nation land shall be signed by a quorum of the council present at the meeting at which it was enacted. In accordance with your Land Code. | | |
| Enforcement | | |
| Operational First Nations have full power to enforce their land and environmental laws and may enter into further agreements with other jurisdictions to assist in such enforcement. A First Nation can appoint its own Justice of the Peace to try offences created under a Land Code or a First Nation law, and can appoint its own prosecutor. First Nation laws may make provision for search and seizure, fines, imprisonment, restitution, community service or alternate means for achieving compliance with its laws.  Key points to keep in mind when developing any law are:   * Who will be enforcing the law? (Land Governance Director, Band Manager, Enforcement Officer, Security Company, Bailiff, RCMP, Justice of the Peace) * What tools can be built in to the law and policy? (Education, Warnings, Stop-work orders, remediation orders, tickets, fines) * Can you coordinate with other entities? (Other First Nations, municipalities and regional districts, SPCA, RCMP, etc.) * How will additional costs be recovered? * Removing politics from enforcement – develop some language or tools // Andrew PPTs * Security Contractor appointed to monitor commercial & residential, giving presence … issues to go to LGO/Council for follow up (link into budget) | | |
| HOW TO WRITE LAW - Checklist | | |
| 1. Obtain qualified legal services; a lawyer that is familiar with First Nation Law, Framework Agreement, Indian Act, and Land Code. 2. Refer to Operational First Nation Budget for sample breakdown of law development. 3. Research neighboring FNLM Laws, local municipality bylaws, and First Nations own bylaws. 4. Have lands committee involved by reviewing all of the above materials in preparation for meetings. 5. Know what your First Nation wants to do with the law (i.e. what do they want to prohibit, allow, and/or incorporate into the law). 6. Create a standard template for creating a law. 7. Be sure the law is consistent to the First Nations Land Code and other laws that may be applicable. 8. Build in traditional values or principles. For example, some of the traditional laws are:   a) It’s good to remember the teachings of our ancestors;  b) Respect all things;  c) Don’t waste, ruin, destroy everything only take what you need;  d) This is our land we have to take care of everything that belongs to us.   1. Have someone lead the lands committee through drafting the law. 2. Ensure active participation from the lands committee. Canvass each participant during the meeting or welcome comments following the meeting. 3. Adopt a good neighbor policy by incorporating comparative fees to your neighboring municipality and First Nations. 4. Complete the draft law and forward to Chief and Council for their input and upon recommendations bring to the community for input. 5. Create a communication strategy for law distribution to the community members – if needed. 6. Bring comments and any issues from the community members to the lands committee and Chief and Council for consideration. 7. Follow your land code for the steps to ratify the law.   Register the law in the FNLRS, have available for the general public, post on website, post in public places, and create a binder of laws. | | |
| SAMPLE LAWS | | |
| Some sample laws can be found on the LABRC website <http://www.labrc.com/resources/land-laws/>. If you are looking to develop a specific law, we encourage you to research other First Nation’s websites, to connect with them for copies and ask them about their experience when developing the law. | | |
| * [Application for Business License](http://www.labrc.com/wp-content/uploads/2014/03/Application_for_Business_License.pdf) * [Business License Law](http://www.labrc.com/wp-content/uploads/2014/03/Business_License_Law.pdf) * [Business License Law Fee Schedule](http://www.labrc.com/wp-content/uploads/2014/03/Business_License_Law_Fee_Schedule.pdf) * [Establishing a Land Authority](http://www.labrc.com/wp-content/uploads/2014/03/Establishing-a-Land-Authority-jul-2012-V2.pdf) * [Fireworks Law](http://www.labrc.com/wp-content/uploads/2014/03/Fireworks_Law.pdf) * [Governing Use and Occupancy](http://www.labrc.com/wp-content/uploads/2014/03/Governing-Use-and-Occupancy-of-OCN-Lands-Law-2003-003-2.pdf) * [Land Code Zoning Regulation](http://www.labrc.com/wp-content/uploads/2014/03/Land-Code-Zoning-Regulation.pdf) * [Land Committee Selection Process Law](http://www.labrc.com/wp-content/uploads/2014/03/Land-Committee-Selection-Process-Law.pdf) * [Land Law Consultation, Voting, and Enactment](http://www.labrc.com/wp-content/uploads/2014/03/Land-Law-Consultation-Voting-and-Enactment.pdf) * [Land Use and Community Plan](http://www.labrc.com/wp-content/uploads/2014/03/Land-Use-and-Community-Plan-and-Natural-Resources-Land-Law.pdf) * [Land Grants to Members Policy](http://www.labrc.com/wp-content/uploads/2014/03/Land_Grants_to_Members-Policy.pdf) | | * [Land Interest Act](http://www.labrc.com/wp-content/uploads/2014/03/Land_Interest_Act_Oct_1_2007.pdf) * [Land Pricing Policy](http://www.labrc.com/wp-content/uploads/2014/03/Land_Pricing_Policy-May-10-2011.pdf) * [Land Instrument Law](http://www.labrc.com/wp-content/uploads/2014/03/Lands-Instrument-Law.pdf) * [Law on Interests](http://www.labrc.com/wp-content/uploads/2014/03/Law_on_Interests.pdf) * [Natural Resources Land Law](http://www.labrc.com/wp-content/uploads/2014/03/Land-Use-and-Community-Plan-and-Natural-Resources-Land-Law1.pdf) * [Soil Transport, Deposit and Removal](http://www.labrc.com/wp-content/uploads/2014/03/Soil_Transport_Deposit_and_Removal_.pdf) * [Soils Law](http://www.labrc.com/wp-content/uploads/2014/03/Soils_Law.pdf) * [Subdivision Developments and Servicing Law](http://www.labrc.com/wp-content/uploads/2014/03/Subdivision-Development-and-Servicing-Law.pdf) * [Subdivision and New Development](http://www.labrc.com/wp-content/uploads/2014/03/Subdivision_and_New_Development.pdf) * [Zoning and Land Use](http://www.labrc.com/wp-content/uploads/2014/03/Zoning_and_Land_Use.pdf) * [Matrimonial Property](http://www.labrc.com/resources/matrimonialspousalfamily-property-laws/) |
| LAW INDEX | | |
| In accordance with your Land Code, a register of the original copy of all laws and resolutions, including laws and resolutions that have been repealed or are no longer in force may be kept at the First Nation’s administrative offices. Any person may obtain a copy of a law or resolution on payment of a reasonable fee set by the Council.  This could be organized in a few ways, you could have a public computer available with your laws, or set up a binder with a Sample Law Index (e.g. XX First Nation Law #2010-01, First Nation Title of Law). It is also a good practice to register laws in the FNLRS, post on the First Nation and LABRC websites. | | |
| LAND CODE AMENDMENTS | | |
| * LC amendment (difficult process, expensive, timely) specifics are in the Land Code * Track adjustments, suggested review periods, 3-5 years * Typos and technical errors can be track (BCR sample) * Vote considerations that are more cost effective; * Depends on FN & LC language; secret ballot at special meeting, electronic voting, * Consider amendments to amendments language if to strict | | |
| 1. **Land Use Planning – DRAFT FOR REVIEW** | | |
| 1. Introduction and Summary | | |
| It is widely acknowledged that the development of Land Use Plans (LUPs) is one of the best ways of assuring successful and healthy communities; whether fitted within a broader Community Plan, or operating on its own, a LUP can provide the basis for the development of others plans such as Economic Development Plans, Infrastructure Plans and Environmental Management Plans. Plainly put, a LUP is a key tool for good governance over lands. And this is particularly key in communities where planning was historically mired in colonial processes lingering within the Indian Act (IA) and now, with the Framework Agreement (FA) ratified, enabled to undertake fully “community led” land use planning. A community’s Land Code (LC) under the FA provides the legal framework for a LUP to be enacted and enforced by the same community. As the FA evolves and as Operating Communities (OCs) undertake economic development within the lands they govern over, land use planning will become increasingly important in assuring community success. | | |
| Reasons for OCs to develop LUPs are varied, including the negotiations of Servicing Agreements with other jurisdictions, establishing successful economic development strategies, mitigating ad hoc development, planning and selecting lands within the Additions to Reserves (ATR) process, ensuring best use of available lands (including Treaty Land Entitlement (TLE) lands), preventing incompatible land uses, protecting cultural resources and traditional sites, and enabling financial impact analyses on different land use options. The pressure to develop LUPs is therefore intense within OCs. | | |
| The temptation to encourage the development of LUPs prior to the completion of LCs is enormous. While it might initially seem that developing a LUP prior to developing a LC will help jump-start a community’s land governance capacity, there are challenges in doing so (see Section 3 below). The long term success of LUPs developed prior to LC development and enactment remains unproven in terms of efficacy and effectiveness as they may, for example, require significant (and perhaps costly) reconciling with an enacted LC as soon as the same communities become operational. These adjustments, or the possibility of adjustments being required, may in turn discourage third party investors pondering development within the same communities. | | |
| The Resource Centre (RC) provides individual and customized assistance and advising in the realm of LUP to both OCs and communities in the process of developing their LCs. The RC’s LUP assistance provides the opportunity to support and strengthen the same communities in other realms, including, capacity building, mentoring, project planning, community engagement, community survey interpretation, technical reviews, and so on. At the same time, and within the LUP advising function, the RC provides assistance and advising on general land governance matters; this can range from skill-building through map and survey interpretation, to project management. Each OC is different, with varying capacity and staff expertise, unique sets of traditions, distinctive locational and resource advantages, and with individual aspirations and strategies; it stands to reason therefore, that each LUP related assistance strategy varies by community. | | |
| As funding for developing LUPs is increased, OCs will gradually want to undertake land use planning activities, whether a LUP is non-existent, or when an existing LUP is out of date (more than three to five years old). The support requirements are therefore increasing. | | |
| 1. Background and Context   Planning under the Indian Act, Shifting Definitions and Assessment Perceptions | | |
| LUPs are primary tools for governing over lands. They are key components of community economic development footprints, they provide ways of ensuring that cultural values and traditional sites are protected, they can be used to ensure that environmental rules and areas are respected, they are valuable in the inventorying and managing natural resources, they are invaluable in developing infrastructure plans and capital plans, and they enable best use studies and in turn the determination of community priorities for lands. While taking into consideration community will and a variety of variables aside from land characteristics, and given appropriate amounts of time for the planning process to unfold, LUPs can also provide ways through which community buy-in on land matters can be obtained. For First Nation communities, land use planning during the first 80 years of the last century had been undertaken under the (*IA*). This means that, among the many very real challenges for the same communities, traditional time horizons used within the planning field have rarely been part of the plan; instead of seventy or more years used as a planning base, five or less years have been used. This has important consequences in terms of traditional use, community growth, economic development and corresponding infrastructural planning. At the same time, and related to the same issue, the planning cycle itself is usually subjected to fiscal year constraints; instead of embarking on multi-year planning exercises that span fiscal years, the process has been (and often continues to be) compressed into a few months to enable funds to be expended in time for fiscal year end. | | |
| Over the last years, many initiatives have been instigated to address some of the gaps in land use (and other) planning activities. In each case, however, there have been similar challenges. The challenges are not the result of ill-will; they persist simply due to the requirements legislated under the IA and fiscal year realities. At the same time, and linked to the development of the many planning initiatives, LUPs are often confused with Physical Development Plans (PDPs), Comprehensive Community Plans or Comprehensive Community Strategic Plans (CCPs or CCSPs), Infrastructure Plans, Subdivision Plans, and so on. Each of these has different purposes and over the years their meaning has become blurred; for this reason, many people, including consultants, consider PDPs, CCPs, CCSPs and others, as LUPs. This can lead to erroneous information provided in assessment questionnaires, wrong assumptions in terms of “community readiness”, improperly scoped LUP terms, and potentially unsuitable results (due to misinterpretations in what is actually meant by “LUP”). Exacerbating the challenges is the notion that few planners recognize the differences between planning under the IA and planning under the FA. | | |
| At present, as communities are assessed in terms of entry into the *Framework Agreement* and the corresponding development of their LCs, the existence of a LUP is considered a “plus”. If a community signals that it has a LUP in place, the interpretation is such that economic development has been at least partially plan and indeed, enabled. Aside from the fact that none of the existing LUPs are being assessed, there are several factors to consider. First, when a community indicates that it has a LUP, it is not known if it is a LUP, a PDP, or any other form of planning document. Second, the same document may very well be outdated. Quite often, LUPs have been developed and then shelved for several years before the community feels ready for its implementation. Over time, political realities, community will and development opportunities will have changed and the LUP becomes outdated and of limited use. As LUPs are dynamic documents, they should be re-assessed and updated regularly, probably every three to five years. Third, LUPs often do not include detailed implementation plans. This means that the community is left without a plan to put in place the processes required to actualize its LUP. Asking a community if it has a LUP may be of limited value for assessing readiness[[1]](#footnote-1). | | |
|  | | |
| Related to the way LUPs are defined and therefore perceived is the question of what is truly expected from a LUP. Depending on the community, it is possible that internally, what is expected is any one or combination of several focus areas, including traditional use and cultural site identification, economic development planning, environmentally sensitive area management, natural resources inventorying, infrastructure planning, and so on. In other words, depending on the community’s needs, a LUP will mean different things. Similarly, a LUP will have different meanings to those who assess ‘readiness’ and in turn, any LUP funding applications. If the desired outcome is to provide ‘economic development impetus’, then one would have to link an LUP to a broader community economic development strategy. Without the latter, the LUP will be of limited use (if economic development is the goal). Clearly then, for any LUP to be effective in a given community, its terms of references must first be defined to suit the same community, including whatever combination of the above themes (and others) that the community might desire. | | |
| Acknowledging that each community is different and therefore has different land use planning definitions and aspirations, the RC has developed a strategy that has as its primary aim to assist and advise communities in community-specific planning strategies (Section 3 below). | | |
| 1. Technical Concerns in Developing LUPs prior to LC Ratification | | |
| 1. Under a LC, laws, policies and regulations are developed and enacted pursuant to a completely different legal framework than the *IA*. | | |
| 1. A LUP enacted under the *IA* as a bylaw is not automatically compatible with the FA or a community’s LC in terms of becoming a law under the latter. | | |
| 1. It is difficult to finalize a LUP against a legal framework as established by a community’s LC when the LC is not yet complete. Similarly, it is difficult to imagine a LUP developed to operate in concert with land laws that have yet to be planned (let alone developed) under a LC. | | |
| 1. In any community, as third party developers and investors realize that a LUP bylaw may be changed once the LC is enacted (reconciled with the LC and transformed into a law), confusion and delays may result. | | |
| 1. In the developmental phase, FNs are developing their land codes which will end up being their “guidepost” for developing and enacting laws later in the operational phase. These guideposts often include principles such as limitations to granting and exercising new types of land interests/land rights (QC) not at all contemplated by the *IA*. The following are just a few laws and regulations that can affect the final LUP:  * The conditions (such as community votes) required in order to enact a LUP; * The codifying of traditional types of land holdings that were extralegal under the IA; * Time limits on financing interests; * Environmental Management laws; * Laws on surveys, setbacks, zoning; * Laws on development and Development Cost Charges; * Utility (and other) interests; and, * Expropriation | | |
| 1. A LUP developed under the *IA* makes assumptions about community growth and its limits. For example:  * A LUP under the *IA* considers the way infrastructure monies are allotted through programs; and, * A LUP developed under a LC makes no such assumptions. It assumes best use scenarios, developer-pay scenarios, and relatively short permit development approval timelines. The result can be drastically different. | | |
| 1. Related to ‘vi’, a LUP developed under the *IA* makes assumptions on relatively short time lines. A LUP developed under the FA can have much longer time horizons – seven generations. | | |
| 1. Under a LC, community input and involvement is generally identified. This applies to the development of laws such as LUP. With a LUP developed under the *IA*, the same community rules do not apply. This will lead to community confusion. | | |
| 1. A LUP undertaken at the same time as a LC is potentially confusing for committee and community members. | | |
| If Planning Consultants who specialize in FN land planning do not know the outcome of the ratification vote of a community’s paramount land law, there is no alternative but to plan within *IA* confines. The tendency is therefore to continue to plan within standardized approaches and *IA* tenets in mind; a LUP designed pre-LC therefore has the potential to maintain the “reserve feel” in terms of infrastructure and best-use scenarios, all-the-while negating FN planning tenets and perspectives. | | |
| 1. Resource Centre Planning Assistance | | |
| Once a FN requests LUP related assistance, the RC undertakes research on the lands of the community. While the RC does not undertake the development of LUPs per se, the primary tenet to the strategy is that any LUP must be community-specific and not generic. As each OC is different, with varying capacity and expertise of staff, unique sets of traditions, distinctive locational and resource advantages, and with individual aspirations and strategies, it stands to reason that each LUP related assistance strategy varies by community (see section 3a). | | |
| Further, and as noted above, LUP assistance provides the opportunity to support and strengthen the same communities in other realms, including, capacity building, mentoring, project planning, community engagement, community surveys, technical reviews, and so on. At the same time, and within the LUP advising function, the RC provides assistance and advising on general land governance matters; this can range from skill-building through map and survey interpretation, to project management. These strengthening activities occur at all stages of the LUP assistance strategy (see section 3b). | | |
| 3a. RC LUP Assistance and Advising Activities | | |
| Primary RC LUP Assistance and Advising Activities therefore include the following: | | |
| 1. Planning Orientation to staff:  Depending on the community, workshops are held in order to explain planning concepts and options to the community’s lands staff. Sometimes this orientation extends to a separate session with the community’s Chief and Council. | | |
| 1. Planning Orientation to Lands Committee: This is related to Item #2. Depending on the community needs, workshops can be arranged for the Lands Committee. These workshops can range from land use planning in general, to more specific issues such as related policies and procedures. | | |
| 1. Preliminary LUP Advising:  In essence, this step follows any initial workshop with the Lands Staff and \ or Lands Committee and \ or Chief and Council.  With the Lands Staff, a LUP workplan *specific to the community*, can be developed. | | |
| 1. Strategic Advising to Chief and Council: In some cases, we advise on LUP development and sequencing. | | |
| 1. Process Orientation to Community: When requested to do so, we work on a community LUP directly with community members, either through community meetings, or sometimes individually or by family. | | |
| 1. Planning Requirements Design:  Given that each community is different, with different aspirations and circumstances, the RC works with Lands Staff to establish the specific requirements for its LUP. (In other words, not all LUPs should look the same…) | | |
| 1. Community Surveys:  We work in developing LUP-related community surveys. | | |
| 1. Community Survey Analysis:  When asked, and if needed, we analyze and present community survey results. | | |
| 1. Traditional Use Study and Analysis: Some community have done, are doing, or are planning Traditional Use Studies. These require dovetailing with old, existing or pondered LUPs. We work on strategies to do this. | | |
| 1. LUP \ Economic Development Interface Advising: Some communities have existing or pondered economic development initiatives. When requested, we advise on how a LUP might impact existing or new developments. | | |
| 1. Zoning Plans: Zoning Plans are seen as a useful tool for *some* communities; for other communities, it is not. Depending on the community, the RC works with Land Committees on zoning definitions. | | |
| 1. Policy Development Assistance: When requested, we provide advice in land-related policy development. | | |
| 1. Communications Advising: The RC provides assistance in communications planning throughout LUP processes. | | |
| 1. Visioning \ Coaching: This is generally seen as one of the first steps in LUP processes. The RC, when requested, assists in the development of a community vision.  In tandem with the entire process, the RC coaches and mentors Lands Staff. | | |
| 1. Calls for Proposals (for LUP): The RC assists and advises the community in terms of developing Calls for Proposals. Note that in many cases, outside consultants are very willing to do this, as well as providing input in funding applications.  The latter is conflicting and the RC works as an independent advisor. | | |
| 1. Proposal Assessments:  When requested to do so, the RC advises communities in assessing LUP proposals. | | |
| 1. LUP Ratification Assistance: The RC can assist in LUP community ratification votes. | | |
| LUP maintenance: Many communities have LUP that are over five years old. These require updating. The RC assist in this activity. | | |
| 4b. RC LUP-related Assistance and Advising Activities: | | |
| LUP assistance provides the opportunity to support and strengthen the same communities in other realms. These include Capacity Building, Mentoring, Project Planning, Project Management, Community Engagement, Community Surveys, Technical Reviews, and Specific Skills Building such as map and survey interpretation, and other General Land Governance Matters. | | |
| 1. Towards a Land Use Planning Framework for Operational Communities under the Framework Agreement | | |
| From several years of assisting OCs as they navigate through LUP processes, it seems clear that a combination that includes components from both traditional and western approaches, all-the-while incorporating FA tenets and specific LC commitments, constitutes best results for LUPs. More community involvement, including Elder input at all stages, for example, is preferred, leading to increased community engagement. Similarly, longer time horizons are desired, as is consideration for traditional use and traditional stewardship (figure 1). Community members expect that LC commitments form part of any LUP. | | |
| lup blended model  Figure 1 – Land Use Planning – Blended Approach | | |
| Some communities have in-house capacity; others have less. Where capacity does exist, it can be tempting to undertake a LUP without external advisors. Many components to the plan can indeed be undertaken within the community’s administration office. Engagement exercises, community surveys, first tier data compilation, GIS mapping and other activities can be undertaken and safe time and costs to the LUP. Other activities should be done by professional planners: A LUP design that is specific to the community’s needs and wants, for example, should be undertaken by someone with a broad view of the planning process. Similarly, technical analyses such as best use scenarios, land compatibility studies and economic development plans require expertise that specializes in those areas. | | |
| Successful lands governance recognizes that each community is distinct and its lands therefore require customized approaches to management. To be effective, lands governance must take into account the uniqueness of the community and incorporate sound land use and community planning principles, including the defining of clear objectives and a roadmap that leads to intended results, all-the-while including traditional components. To be efficient, land management must be done within a balanced approach that includes traditional and western approaches, in whatever combination the community is comfortable with. A successful approach must therefore take into account both the traditional ways of the community, and state-of-the art planning and governance techniques and tools. | | |
| What follows is a broad framework for land use plans within OCs. | | |
| 5.1 Land Use Plan Framework (Checklist) for Lands Directors | | |
| Each community is different. Therefore each community’s Land Use Plan will be unique and will be planned, outlined and developed with the same community’s wants, needs and characteristics in mind. The Lands Governance Director should review the following framework outline and use it as a guide to help identify the components that the community desires. | | |
| LAND USE PLAN FRAMEWORK (CHECKLIST) | | |
| 1. Preliminaries   Develop Workplan  Assemble Land Use Planning Team  Develop Call for Proposals, Terms of Reference  Select Planning Consultant | | |
| 1. Start-up | | |
| Visioning: | Corresponds to LC | |
| Values: | Correspond to LC | |
| Guiding Principles: | Reflects FA  Balanced and Sustainable  Responsible, Responsive and Respectful  Relevant and Informed  Coordinated and Collaborative  Fair and Equitable  Transparent and Accountable  Well governed Land | |
| Goals and Objectives: | Land Staff Goals and Objectives  Community Goals and Objectives  Council Goals and Objectives  Land Holder Goals and Objectives (where applicable) | |
| Analysis: | Framework Agreement  Community Land Code  Implications of the Community LC on the LUP | |
| Timelines: | Land Code Commitments | |
| Project timeline | LUP timeline | |
| Special Components: | Land Code Commitments (ex.: some LCs may have blanket land use exclusions)  Specific to the Community (ex.: Land restrictions, locational advantages and disadvantages) | |
| Land Code Related Policies: | Specific to the Community | |
| Community Capacity: | Current Community Capacity  Land Code Commitments  Capacity Building Component to the LUP | |
| Communications Strategy: | Land Code Commitments  Strategy Development  Community Survey(s)  Community Engagement Strategy  Elder and Youth Involvement | |
| 1. Inventories | | |
| Cultural Heritage: | Use of Aboriginal Traditional Knowledge (ATK)  Traditional Use Studies (TUS)  Cultural Resources  Traditional Sites  Information Gaps Identification | |
| Inventories and  Technical Assessments: | Land  Areas and Shapes  Density  Landscape / Topography / Drainage features  Ecological / Geological / Geotechnical features  Parcel Identification  Water bodies  Information Gaps Identification | |
| Natural Resources: | Specific Inventories  Information Gaps Identification | |
| Demographics: | Community Profile  Information Gaps Identification | |
| Mapping: | GIS mapping and analysis  Information Gaps Identification | |
| Existing Land Uses: | Existing Land Use Designations  Conflicting Designations Identification  Information Gaps Identification | |
| Surveys and Survey needs: | Identification of Surveys and Survey needs | |
| Existing Capital Plan: | Capital Implementation Status | |
| 1. Analysis   Analysis of Existing Land, Resources and Uses  Analysis of Potential and Desired Land Uses  Analysis of Existing Economic Development initiatives  Conflicting Economic Development Identification  Information Gaps Identification  Identification and Analysis of Existing Lands Policies  Identification and Analysis of Neighboring Jurisdictions  Neighbouring Land Uses | | |
| 1. The Plan   Traditional Use Considerations  Protected Areas Designation  Land Use Designations  Land Use Definitions | | |
| Land Use Plan interface with:  Environmental Management Plan  Economic Development Plan  Infrastructure Plan  Community Plan | | |
| Other Related Plans such as Housing  Land Related Policies  Economic Development Strategy  Short-term  Medium-term  Long-term  Infrastructure Implications | | |
| 1. Ratification   Land Code Commitments  Chief and Council BCR, or,  Community meeting vote, or,  Community Vote | | |
| 1. Implementation   Community Integration  Community re-engagement  Funding Commitments  Timeline Revisions  Infrastructure Planning  Economic Development Planning | | |
| 1. Conclusion | | |
| Without a LUP, a community misses out on one of the most useful tolls for governing over its lands. Strategic land management can be positively affected with a good LUP; guidelines reflecting a community’s wishes in terms of how it will utilize its lands and protect its resources (natural and traditional), both in the short term and in the longer term can be established and codified; and economic development plans can be enabled through a good LUP. The best way to assist FNs as they make their way through the process of becoming Operational and successfully governing over their lands is to make certain that implementation is such that each community’s land laws, regulations and procedures is as seamless as possible, flowing from the LC. A LUP is part of the tool kit. | | |
| While it might seem that time could be saved by undertaking the development of a LUP before a LC is enacted, the cost in financial and temporal terms to reconcile the two may indeed be significant. And while it is conceivable that a LUP developed under the *IA* is planned to be reconciled with the LC once the latter is enacted, the effects on third party investors who become aware of the possible changes to the LUP may not be negligible. The risk is that outside developers turn their investment gaze outwardly and perhaps more significantly, that the LUP and LC processes get muddled within the communities. | | |
| Key within Operating Community contexts, is the level of community involvement within planning exercises; this has been an underappreciated by planners. Typically, various players have in the past developed LUPs with minimal community input and within template-like models. The results have been less than adequate results – no sidewalks, no street lighting, no consideration for traditional activities or sites, and very little consideration for land-based economic development activity. With the powers enabled by the FA, communities have clear governance over their lands. | | |
| The RC’s LUP assistance and advising is multifaceted and has broad implications (broader than strictly “LUP advising”). It builds capacity at different community levels, directly affecting the implementation of plans and the overall implementation of Land Codes. | | |

|  |
| --- |
| 1. **SURVEYS & RELATED DOCUMENTS** |
| First Nation Lands under a Land Code remain Federal Lands Section 91(24) of the Constitution Act 1982, and are still "Canada Lands" as defined under the *Canada Lands Surveys Act*. Surveys of First Nation Lands under a Land Code are still carried out by a Canada Lands Surveyor, with instructions being issued by the Surveyor General of Canada. It’s recommended that a First Nation be familiar with their own role and the role of other stakeholders in the overall survey process, to prevent delays or miscommunication with regards to their internal surveys.   * Survey changes – Remainder lots, work with Tania to ensure language identifies LC processes include updating all parcels involved subdivision requests   INTERNAL SURVEYS |
| The following Samples, Information and Forms are provided within Attachment “K” |
| * The Roles and Process for an Administrative (Section 31) Survey Plan chart * Interdepartmental Letter of Agreement related to the Cooperation in the area of Surveys and the Specifications for Descriptions of Land for Transactions on Reserve Lands (Interdepartmental Letter of Agreement) – identifies “appropriate methods of describing lands when land descriptions are required for executing and/or registering land transactions in the Registry. This Agreement prescribes which survey plan products to use for specific types of land transactions involving Reserve Lands. It also sets out the basic principles on which the standards for the products and methods of describing land are based.” Chart A identifies the type of survey plan to be used for certain land transactions. * Sample Request for a Survey * Sample wording for a BCR/letter – providing permission for a surveyor to access the Reserve * Sample of sketch to assist with request for survey * Sample of Encumbrance Checklist and Land Status Reports * Sample wording for a BCR/letter – providing approval of survey plan |
| Links to additional information: |
| * **Canada Lands Survey System (CLSS)** – The Surveyor General Branch of Natural Resources Canada (NRCan) provides several [tools and applications related to surveys, such as: the CLSS Map Browser,](http://clss.nrcan.gc.ca/advancedplansearch-rechercheplanavance-eng.php) CLSS Survey Plan and Project Searches, [a Canada Lands overlay for use in Google Earth, including](http://clss.nrcan.gc.ca/googledata-donneesgoogle-eng.php) digital datasets for [use in a Geographic](http://clss.nrcan.gc.ca/map-carte-eng.php?rg=bc) [Information System (GIS) – these tools and applications](http://clss.nrcan.gc.ca/googledata-donneesgoogle-eng.php) allow users to browse the CLSS cadastral data to search and visualize administrative boundaries and related survey parcels, the status of current survey projects and finalized plans recorded in the Canada Lands Surveys Records (CLSR).   + Map Browser - <http://clss.nrcan.gc.ca/map-carte-eng.php>   + Survey Project Search - <http://clss.nrcan.gc.ca/advancedprojectsearch-rechercheprojetavance->eng.php   + Survey Plan Search - <http://clss.nrcan.gc.ca/advancedplansearch-rechercheplanavance-eng.php>   + Canada Lands In Google Earth - <http://www.nrcan.gc.ca/earth-sciences/geomatics/canada->lands-surveys/11092#CLGoogleEarth   + Canada Lands Digital Cadastral Data (for a GIS) - <http://www.nrcan.gc.ca/earth-sciences/>geomatics/canada-lands-surveys/11092#CLdata * NRCan has prepared a document entitled Getting a Survey Done, which "is intended to assist government departments and First Nations administering Canada Lands, entities or persons requiring a survey...". This document details roles and responsibilities, how to start a survey, including the process to submit the survey plan, and survey requirements for First Nations lands under a Land Code.   + Getting a Survey Done - <http://www.nrcan.gc.ca/sites/www.nrcan.gc.ca/files/earth-sciences/files/pdf/geomatics/Getting_a_Survey_Done_eng.pdf> |

|  |
| --- |
| 1. **NATURAL RESOURCES** |
| Operational First Nations will have Natural Resource provisions under their Land Codes, including removal requirements. You may want to consider development of laws such as:   * Protection, regulation and granting of Interest/land rights (QC) in Natural Resources * Fees, stumpage, or royalties to be paid to the First Nation for the removal, extraction or use of minerals, gravels, timber and water from community land and from Allotments or CP lands * Fees to be paid to the First Nation for permits, licences, and other Interests/land rights (QC) and for applications and administrative processes including registrations * Hunting, fishing, and management and protection of fish, water fowl, wildlife and their habitat on First Nation land * Protection and management of flora, fauna and other vegetation for cultural harvesting   Sample Laws:   * Sand and Gravel Removal (law) * Agriculture (law, permit, policy) * Tsawout Soil Deposit and Removal * Tsawout Heritage Policy * Tsawout Timber Permitting |
| TIMBER PERMITTING PROCESS |
| First Nations that have developed a Timber Permitting process - see Attachment “L”   * Tzeachten Timber Cutting and Removal Process and Permit Policy – Aug 2010 * McLeod Lake Indian Band - Forest Management Planning and Cutting Permit Approval Process – Draft of February 9, 2009 * McLeod Lake Indian Band – Application for Development * Opaskwayak Cree Nation Timber Permit Process – July 2008 |
| SAMPLES |
| * SAMPLE - Timber Cutting & Removal Process * SAMPLE - Timber Permit Application * SAMPLE - Timber Permit |

|  |
| --- |
| 1. **ENVIRONMENT** |
| * 1. **Annex “F” Interim Environmental Assessment Process** |
| Operational First Nations have the power to make environmental laws, until these are developed the First Nation will follow the terms in their Individual Agreement - Annex “F” Interim Environmental Assessment Process. |
| **ANNEX “F”**  **INTERIM ENVIRONMENTAL ASSESSMENT PROCESS**   1. In this Annex,    1. “CEAA (1992)” means the Canadian Environmental Assessment Act, S.C. 1992, c. 37 [repealed, 2012, c. 19, s. 66], as it read immediately prior to its repeal;    2. “CEAA 2012” means the Canadian Environmental Assessment Act, 2012, S.C. 2012, c. 19, s. 52, as amended from time to time. 2. This Annex sets out the environmental assessment process that will apply to projects on First Nation Land until the enactment and coming into force of First Nation Laws on that subject. 3. The First Nation shall conduct an assessment process in respect of every project on First Nation Land consistent with:    1. CEAA (1992); or    2. CEAA 2012. 4. Notwithstanding clause (3), the First Nation is not required to conduct an additional environmental assessment if the First Nation decides to adopt an environmental assessment that Canada conducts in respect of that project. 5. If the First Nation elects to use a process consistent with CEAA (1992), the following applies:    1. When the First Nation is considering the approval, regulation, funding or undertaking of a project on First Nation Land that is not described in the exclusion list as defined in CEAA (1992), the Council of the First Nation shall ensure that an environmental assessment of the project is carried out in accordance with a process that is consistent with that of CEAA (1992). Such assessment shall be carried out as early as practicable in the planning stages of the project before an irrevocable decision is made.    2. The First Nation shall not approve, regulate, fund, or undertake the project unless the Council has concluded, taking into consideration the results of the environmental assessment, any economically and technically feasible mitigation measures identified as necessary during the assessment, and any public comments received during the assessment, that the project is unlikely to cause any significant adverse environmental effects or that any such effects are justifiable under the circumstances.    3. If the First Nation approves, regulates, funds, or undertakes the project, the First Nation shall ensure that all mitigation measures referred to paragraph (b) above are implemented at its expense or it is satisfied that another person or body will ensure their implementation. The Council shall also consider whether a follow-up program, as defined in CEAA (1992), is appropriate in the circumstances and if so, shall design a follow-up program and ensure its implementation. 6. If the First Nation elects to use a process that is consistent with CEAA 2012, the following applies unless it is inconsistent with any amendments made to CEAA 2012 in the future or any legislation that replaces CEAA 2012:    1. If the project is a “designated project” as defined in CEAA 2012, the First Nation shall conduct an environmental assessment of that project in accordance with a process that is consistent with that of CEAA 2012.    2. If the project is a “project” as defined in section 66 of CEAA 2012, the First Nation shall not carry out the project on First Nation Land, or exercise any power or perform any duty or function conferred on it under the Land Code or a First Nation law that would permit the project to be carried out, in whole or in part, on First Nation Land, unless the Council of the First Nation determines that the carrying out of the project       1. is not likely to cause significant adverse environmental effects as defined in CEAA 2012; or       2. is likely to cause significant adverse environmental effects and the Council decides that those effects are justified in the circumstances. 7. All processes shall be conducted at the expense of the First Nation or of the proponent of the project. 8. The provisions in this Annex are without prejudice to any environmental assessment process that the First Nation may develop in accordance with the Act and the Framework Agreement for incorporation in First Nation laws respecting environmental assessment. |
|  |

|  |
| --- |
| * 1. **General Terms of Reference for Environmental Assessments** |
| **1. Background & Definitions**  The Canadian Environmental Assessment Act (CEAA) was developed to minimize or avoid adverse environmental effects before they occur and to incorporate environmental factors into project decision making early in the project planning process.  All projects on Reserve require the completion of an Environmental Assessment (EA) unless specifically set out in the Exclusion List Regulations of CEAA. This term of reference addresses general considerations for the completion of an EA. Specific projects (e.g. sand and gravel permits, leases, wastewater treatment systems, logging permits, and complex projects) may require additional investigations beyond those outlined here. The appropriate Lands and Trust Services (LTS) Environmental Specialist, LTS Natural Resources Officer, or Pubic Works Government Services Canada (PWGSC) engineer should be consulted early in the project process to ensure that the planned EA meets all specific project requirements.  **The following are key terms required to properly interpret this Terms of Reference:**  **Scoping**  An integral part of the EA process that determines the extent of the EA investigation and the appropriate level of detail and complexity.  **Valued Ecosystem Component (VEC)**  Ecosystem components that are considered important or valuable, which must be considered during the EA process.  **Environmental Effect**  Any change a project may cause in the physical environment including any changes to listed wildlife species and their critical habitat or residences, as defined by SARA. Effects of changes to; health and socio-economic conditions, physical and cultural heritage, structures, sites, or things of historical archaeological, paleontological, or architectural significance, and the current use of lands and resources for traditional purposes by aboriginal persons require consideration.  **Species at Risk Act (SARA)**  An EA must ensure that the potential for environmental effects on a species at risk and its habitat, as defined by SARA, have been adequately assessed.  **Cumulative Effect**  Changes to the environment that are caused by an action being considered in a project in combination with other past, present, and future human actions.  **Mitigation**  The elimination, reduction, or control of the adverse environmental effects of a project. Mitigation may include compensatory measures for damage to the environment.  **Accessory Activities**  Accessory activities include physical works that must be completed to allow the principal project to proceed (e.g. access roads, drilling, test pits, surveys, etc.)  Project proponents who are unfamiliar with CEAA should review guidance information available at http://www.ceaa.gc.ca/default.asp?lang=En&n=D75FB358-1 and at <http://www.ceaa-acee.gc.ca/default.asp?lang=En&n=DACB19EE-1>. Information on the consideration of SARA in an EA is available in “Environmental Assessment Best Practice Guide for Wildlife at Risk in Canada, 1st Edition, Feb. 27, 2004". This document can be found at: <http://www.cws-cf.ec.gc.ca/publications/AbstractTemplate.cfm?lang=e&id=1059>.  **2. Environmental Assessment Scoping**  Scoping is a critical first step in the EA. Scoping will determine the limits of the EA and will focus future analysis on the relevant issues and concerns. The key elements in the scoping process which must be considered in all EAs are:  • Determine project undertakings and activities that must be assessed as part of the EA.  • Determine what factors and issues need to be considered in the EA.  • Determine who will be involved in the EA, their interests and concerns.  **2.1 Environmental Assessment Scoping Report (Capital Projects Only)**  An EA scoping report is required for all funding services capital projects. An EA scoping report is not required for LTS projects unless specifically directed by your INAC environmental or natural resources specialist.  An EA scoping report is a stand-alone document which summarizes the elements identified in Section 2.  This report includes the project description, environmental setting, significant environmental issues, valued ecosystem components (VECs), and completed and planned EA investigations. This report is completed during the feasibility stage of a project and will be used in the assessment of project viability.  Where multiple sites are being considered during the feasibility stage, environmental restrictions and impacts at each site must be considered and incorporated into the site selection process. The following are to be addressed in the EA scoping report. |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **General Terms of Reference for Environmental Assessments**   |  |  | | --- | --- | | 1.1.1 Introduction | Provide a summary description of the project including construction, operation, decommissioning, and other activities expected during the life of the project. Project proponent contact information including organization, name, mailing address, telephone number, and email address (if available) are required. Provide a list of information sources used. | | 1.1.2 Maps/Plans | Provide plans showing the geographical location of the project with latitude and longitude, the proposed location(s) of the project within the context of the Reserve and an overall preliminary plan for the project. Include environmentally significant features (e.g. water bodies, forests, significant elevation changes, species lunges, known habitats, etc.) Where appropriate and readily available, inclusion of First Nation nomenclature for place names, flora, fauna, etc. should be considered. Copies of topographic maps and aerial photos/mosaics should be provided where available. | | 1.1.3 Environmental | Provide a summary description of the existing environment in the project area including landscape, waterbodies, archeology, natural resources, and environmental uses (e.g. wildlife habitat, natural resource harvesting, residential properties, etc.). Indicate the areas potentially affected by the project. Outline known environmentally significant historical uses and develop a list of VECs for the project. Socio-economic conditions should be described if potentially impacted by environmental changes caused by the proposed project. | | 1.1.4 Environmental | Indicate known and suspected environmental effects of the project on listed VECs.  Identify any cumulative effects that are anticipated on the basis of initially available information. Include effects likely to result from the project in combination with other pre-existing developments and/or in combination with developments that will be carried out as a direct result of this project. | | 1.1.5 Studies | Describe the scope of work for the planned EA. Document site assessments completed to date. Identify further investigations which are required to address situations where environmental effects are unknown or to determine appropriate mitigation activities.  A determination must be made as to the likely presence of wildlife, birds, aquatic life, flora and/or habitat at risk in the project area. This determination must be made using relevant data base lists, range maps, local knowledge (where available), and other existing information on species known to occur in the project area. Where the range of a species at risk overlaps with the proposed project area, existing information sources must be checked and documented to determine whether actual or potential habitat or residences for these species are present. | | 1.1.6 Public Consultation | Document consultation with other government departments and agencies. Provide contact information. Outline any additional consultation planned with the community, public, or other government departments and agencies as part of the EA. | | 1.1.7 Accessory Activities | Accessory activities planned during the design stage must be assessed (e.g. geotechnical, surveys, etc.). Identify activities causing significant environmental impacts on VECs and outline mitigation measures that will be implemented. Note: Accessory activities planned during feasibility and associated mitigation measures must be summarized in the feasibility stage proposal. | |
| **2 Environmental Assessment Study Report**  An EA study report describes in detail, the environmental effects from construction, operation, modification, decommissioning, abandonment, malfunction, and cumulative effects on VECs. Proposed mitigative measures, including follow-up activities and their expected outcomes once implemented, are clearly identified. For capital projects the EA Study Report will usually be completed during the design stage and must be submitted as a stand-alone document. A capital project which triggers CEAA cannot be funded for construction without a screening decision by INAC based on the EA Study Report.  **2.1 Introduction**  Provide a summary description of the project including construction, operation, decommissioning, and other activities expected during the life of the project. Project proponent contact information including organization, name, mailing address, telephone number, and email address (if available) are required.  **2.2 Studies/Investigations**  Summarize the results and recommendations of studies carried out as part of the EA (e.g. geotechnical studies, water quality investigations, SARA wildlife & habitat surveys, archaeological investigations, survey results, fisheries studies, etc.).  **2.3 Maps/Plans/Nomenclature**  Provide scaled plans showing the geographical location of the project with latitude and longitude, the location of the project within the context of the Reserve, and an overall site plan for the project. Include environmentally significant features (e.g. water bodies, forests, significant elevation changes, species ranges, known habitats, etc.). Where appropriate and readily available, inclusion of First Nation nomenclature for place names, flora, fauna, etc. should be considered. Copies of topographic maps and aerial photos/mosaics should be provided where available.  **2.4 Environmental Setting**  Provide a detailed description of the existing environment in the project area including landscape, water bodies, archeology, natural resources, and environmental uses (e.g. wildlife habitat, natural resource harvesting, residential properties, etc.). Indicate the areas affected by the project.  Outline known environmentally significant historical uses in the area of the project. Develop and/or update the list of VECs in the project area. Socio-economic conditions should be described if potentially impacted by environmental changes caused by the proposed project.  Where an EA scoping report has not been completed (e.g. projects completed for LTS) the likelihood of wildlife, birds, aquatic life, flora and/or habitat at risk in the study area must be determined using relevant data base lists, range maps, local knowledge (where available), and other existing information on species known to occur in the project area. Where species at risk are identified whose range overlaps with the proposed project area, existing information sources must be checked to determine whether actual or potential habitat or residences for these species are present in the project area.  Example information sources include: the Conservation Data Centre (CDC) for rare element occurrence records, Committee on the Status of Endangered Wildlife in Canada (COSEWIC), the Species at Risk Public Registry for recovery strategies, action plans, and management strategies, and the Ministry of Sustainable Resource Managements Species and Ecosystem Explorer.  For all projects where potential interactions with species at risk have been identified, field surveys, consistent with published recovery plan strategies, will be required to determine whether individuals of species at risk, critical habitat, recovery habitat, or residences occur in the project study area.  **2.5 Project Activities**  Provide a detailed description of all potential project activities throughout the project life cycle including construction, operation, modification, decommissioning, abandonment, malfunction, and potential accidents.  Where environmentally responsible solutions have been incorporated into project development (e.g. energy efficient buildings, water conservation, alternative energy) describe expected environmental benefits. For more information see the Green Building Checklist available from LTS.  **2.6 Environmental Effects**  Verify significant environmental effects on VECs caused by project activities and quantify where possible.  Examples include but are not limited to: destruction of vegetation and habitat by construction equipment, damage to sites with cultural or archaeological significance, siltation of surface waters, sedimentation of lake bottoms and river beds, soil contamination through improper storage and disposal of waste products, emissions causing air quality and climate change impacts, release of chemicals to groundwater through accident or system failure, etc.  Verify any cumulative effects that are anticipated. Include effects likely to result from the project in combination with other pre-existing developments and/or in combination with developments that will be carried out as a direct result of this project.  **2.7 Mitigation**  Detail how environmental effects will be mitigated and show how the mitigation measures have been included in the design of the project. Applicable portions of the design and/or operation and maintenance information should be referenced in the EA report document (refer to specific design drawings where applicable) to confirm that mitigation measures have been incorporated.  Where a project causes interactions with species at risk, specific mitigation measures must be identified.  Mitigation strategies for species at risk are hierarchical with avoidance being preferred (e.g. timing, design/location change), followed by minimization through project modification or implementation under special conditions, and lastly, compensatory mitigation (e.g. replacement of lost habitat).  **2.8 Permits & Approvals**  Provide information on the status of required environmental permits and approvals necessary to undertake the project (e.g. rights of way, fisheries authorization, navigable waters, sand and gravel, and timber permits).  **2.9 Supporting**  When available include correspondence and/or approvals from other Documentation government departments (e.g. Health Canada, Fisheries and Oceans, Environment Canada, B.C. Ministry of Water Land and Air Protection, BC Ministry of Sustainable Resource Management: Archaeology and Registry Services Branch etc.)  **2.10 Public Participation**  Document strategies used to assess project input from the First Nation & Consultation community and/or public. Identify how any concerns were addressed and/or mitigated.  **2.11 Closure**  Provide a narrative summary of the environmental effects associated with the proposed project. Make a determination of their significance (not likely significant or significant). For significant impacts, summarize proposed mitigation strategies and how they will reduce environmental effects. Quantify wherever possible.  Where follow-up is recommended, discuss planned follow-up activities. Include a table which shows VECs, project activities, environmental effects, mitigation measures, and reference to supporting documents. For VECs where impacts are found to be not likely significant ensure that justification is provided. Provide a recommendation regarding project viability based on environmental considerations. |
|  |

|  |
| --- |
| **Sample Environmental Assessment Study Report**  **Table of Contents**   1. INTRODUCTION    1. Background    2. Scope of Assessment    3. Proponent/Consultant Contact Information    4. Information Sources 2. SITE INFORMATION 3. PREVIOUS STUDIES AND INFORMATION 4. ENVIRONMENTAL SETTING    1. Physical Resources       1. Topography       2. Climate       3. Land/Soil       4. Surface Water       5. Groundwater    2. Biological Resources       1. Flora       2. Fauna       3. Species at Risk    3. Land Use       1. Historic Land Use       2. Natural Resources       3. Cultural Resources and Archeology 5. PROJECT ACTIVITIES AND MITIGATION 6. CUMULATIVE EFFECTS 7. PUBLIC CONSULTATION & SUPPORTING DOCUMENTATION 8. SUMMARY    1. Summary Table    2. Conclusion   APPENDICES  Maps & Plans  Design and/or Operation and Maintenance Documentation  Permits & Approvals  Supporting Documents  Photographs |

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Sample Summary Table**  **Table X- EA Summary**   |  |  |  |  |  | | --- | --- | --- | --- | --- | | **VEC s** | **Project Activities** | **Environmental Effects** | **Proposed Mitigation Activities** | **Reference** | | *Example: Fraser River (Surface Water)* | *Excavation* | *Silt Run Off* | * *Silt Fencing* * *No excavation during periods of significant rainfall* * *Only well maintained equipment to be used* * *Spill kit to be maintained in work area* | * *Design drawing #XXX* * *Fisheries authorization* * *Contract specification section #XXXXX* * *Contract specification section #XXXX* | | Groundwater |  |  |  |  | | Aquatic Biology |  |  |  |  | | Air Quality |  |  |  |  | | Land/Soil |  |  |  |  | | Flora (Vegetation) |  |  |  |  | | Fauna (Wildlife) |  |  |  |  | | Habitat/Residences |  |  |  |  | | Noise |  |  |  |  | | Special Places |  |  |  |  | | Health & Safety |  |  |  |  | | Socio-Economic |  |  |  |  | | Recreational Resources |  |  |  |  | | Other |  |  |  |  | |

|  |  |
| --- | --- |
| * 1. **What is an Environmental Management Plan?** | |
| An Environmental Management Plan (EMP) is a statement of goals, actions, and strategies that a First Nation will pursue in meeting its obligations under the Framework Agreement and in maintaining or improving environmental quality on reserves. The Framework Agreement does not define or refer to an EMP. Rather, the need for EMPs was identified by First Nations, the Lands Advisory Board Resource Centre (LABRC), and federal agencies as they discussed methods of implementing the Framework Agreement. An EMP is a powerful expression of environmental governance of First Nations land, helping to fulfil the original spirit and intent of the Framework Agreement.  As noted in materials prepared by LABRC, the benefits of preparing an Environmental Management Plan include:   * Organizing environmental information from a variety of sources, * Engaging the community in discussions of environmental issues and responses, * Establishing a clear vision of a desired environmental condition, with associated plan goals and objectives, * Forming a rigorous process that will reduce the First Nation’s environmental liability risk, * Creating well-defined direction for the development of environmental laws, regulations, and policies, * Communicating environmental priorities and work programs to staff, membership, and outside agencies, * Improving coordination, efficiency and cost effectiveness of environmental actions. | |
| The Framework Agreement and environmental management | |
| The Framework Agreement empowers First Nations to undertake environmental management as part of their resumption of governance for reserve lands. In 2011, amendments to the Framework Agreement removed the requirement for First Nations and Canada to negotiate an Environmental Management Agreement before a First Nation could enact environmental laws. Free of this prerequisite, First Nations are now able to pass laws as well as implement other environmental management activities after ratifying their land codes.  When developing an environmental management plan under a land code, it is important to consider the following relevant sections of the Framework Agreement.   * A First Nation can develop laws (s. 18.1), including environmental laws (s. 23.1) and, in particular, laws on environmental protection and assessment (s. 18.2). Federal laws pertaining to migratory birds or endangered species are not affected by the Framework Agreement or a First Nation’s laws (s. 23.6); * Each First Nation should have an environmental assessment and an environmental protection regime (s. 23.2), and these regimes will be implemented through First Nation laws (s. 23.4); * First Nations, federal, provincial environmental regimes need to be harmonized (23.5). The First Nation will harmonize environmental protection with the province in which the First Nation is situated, where the province agrees to participate (s. 24.2); * A First Nation with a land code in effect will develop an environmental protection regime, with the assistance of the appropriate federal agencies to the extent that they agree to participate (s. 24.1). * If there is an inconsistency between the provision of a federal law respecting the protection of the environment and a provision in a land code or First Nation law, the federal provision will prevail (s. 24.4); * The First Nation environmental protection standards and punishments will have at least the same effect as those in the laws of the province in which the First Nation is situated (s. 24.3). This is a so-called “meet or beat” clause, and applies to environmental protection laws, which deal with contamination; * An environmental assessment process should be prepared within one year of a Nation becoming operational, with support of federal agencies and LAB (s. 25.1). The First Nation’s individual agreement should contain an interim environmental assessment process to apply until the First Nation’s regime is adopted (s. 25.2); * Federal, provincial, and First Nations environmental assessment processes should be harmonized (s. 25.7). The First Nation's environmental assessment process will be consistent with requirements of the Canadian Environmental Assessment Act (s. 25.3); * The First Nation's environmental assessment process will be triggered in appropriate cases where the First Nation is approving, regulating, funding or undertaking a project on First Nation land. The assessment will occur as early as possible in the planning stages of the project before an irrevocable decision is made (s. 25.4); * The obligation of a First Nation to establish environmental assessment and environmental protection regimes depends on adequate financial resources and expertise being available to the First Nation (s. 27.1).   The Framework Agreement also contains other sections that provide more detail on environmental topics, particularly environmental assessment. | |
| Content of an EMP | |
| The content of an EMP will vary from community to community, though certain EMP elements should be included in every EMP. For instance, operational First Nations need to have laws and procedures for conducting environmental assessments and for preventing contamination of their lands. Environmental management, of course, includes far more than these two legal requirements.  The environmental planning “flower diagram” in Figure 1 has been used in discussions with operational and developmental First Nations, and in reports prepared by LABRC. | **Figure 1. Environmental Management Plan Elements** |
| A First Nation’s EMP may involve more or fewer elements than are shown in the diagram, but a comprehensive plan for managing environmental issues on First Nations land should consider each of the topics shown. As will be discussed in “Steps in preparing an EMP”, the content of the plan should be based on the issues facing a particular First Nations community.  Note that an EMP establishes *why and how* a First Nation intends to respond to a specified environmental topic; it does not necessarily *resolve* the issue. For example, the EMP may say that a law regulating soil deposit will be prepared, and describe the purpose and key components of a law. The law itself, however, would be developed separately and after the EMP has been adopted. | |
| Steps in preparing an EMP | |
| Each First Nation’s approach to preparing its EMP will be determined by the community’s particular circumstances. The topics to be studied, the methods used for developing the plan, and the level of community involvement will be established by the First Nation during the planning process.  The following steps in preparing an EMP are presented as guidance; they are not requirements.  **Step 1. Project initiation--assemble the planning team.**  Usually, the First Nation’s Lands Governance Director takes a lead role in overseeing the preparation of the EMP. An advisory committee of knowledgeable community members and staff should be involved in development of the plan, perhaps a lands committee or a group convened specifically to guide the EMP process. Consultants with specialties in environmental management are often hired to assist with the work, though a First Nation can rely on its staff to prepare the plan, or arrangements can be made with colleges or universities to provide student or instructor expertise. Legal counsel may be involved in a review of the EMP, to make sure it is consistent with the land code and other First Nation legal matters. Chief and Council, of course, are responsible for authorizing preparation of the EMP and for its approval and implementation.  **Step 2. Collect and analyze information**.  During the development of its land code, most First Nations will have conducted various studies, including various environmental investigations. For example, Environmental Site Assessments (ESAs) that are conducted during development of the land code, to determine whether contaminants are present on the reserve lands to be governed by a First Nation. Information from these ESAs should be reviewed during the EMP process, as should other studies dealing with water, soil, habitats, and pollutants, or plans dealing with present and future development on reserves. Traditional practices associated with environmental management should be included as information is assembled to support the EMP. If community members have expressed concern about environmental matters, those issues should be examined to determine how they should be addressed in the EMP.  **Step 3. Identify environmental issues and responses.**  Using information from previous plans, studies, and community input, the First Nation should identify environmental issues affecting communities and ecosystems, and the potential methods for resolving those issues. Potential responses to environmental issues include the development and implementation of:   * policies, * traditional ecological knowledge or practices, * guidelines and Best Management Practices (BMPs), * education and outreach, * monitoring and reporting, and * environmental laws and regulations (First Nation-specific laws or application of federal or provincial laws on reserves).   Depending on the issues facing a First Nation, it may be appropriate to meet with local, provincial, and federal government staff to discuss environmental issues of mutual concern, applicable laws and regulations, and potential collaboration in delivery of environmental management programs.  **Step 4. Formulate environmental goal and objectives**.  The EMP should articulate a goal describing desirable future environmental conditions on First Nations reserve land that could be achieved by implementing the EMP. The goal statement should be clear, simple, and inspirational. It should avoid technical jargon or lengthy descriptions. A series of specific objectives should follow the goal. The objectives are actions or outcomes that support progress toward achieving the environmental goal.  **Step 5. Engage community in review of issues, responses, and goals**.  The EMP will affect the lives of First Nation members and businesses, so those people should be involved in the design and content of the plan. After drafting the goal, objectives, issues, and responses, the community should be brought together to learn about the EMP and to comment on the draft materials. Participants should be asked to identify what environmental issues they perceive to be present on reserves, what responses to those issues they consider appropriate, and whether the goals and objectives are consistent with their views of a desirable future.  **Step 6. Draft the EMP.**  With an understanding of the issues and topics that need to be included in the EMP and the goals to be achieved by environmental management, a First Nation is ready to prepare the plan. The EMP may contain the following main sections:   1. EMP Introduction 2. Goals and Objectives 3. Environmental Issues and Responses (focusing on issues deemed important by the First Nation) 4. Implementation of the EMP 5. References   Attached to this guide is the title page and table of contents for the EMP prepared by the Matsqui First Nation, and land code First Nation located in the Fraser Valley of British Columbia. The Matsqui reserves include residential and industrial areas, farmland, forest, and riverfront land, and are crossed by highways and railways. The 56-page stand-alone EMP is accompanied by nine technical appendices that provide detail about responses to the environmental issues, and are several times longer than the plan itself.  The content of an EMP will be influenced by the environmental issues faced by a First Nation and the way the community chooses to respond to those issues. Regardless of conditions on reserves, however, the Framework Agreement requires that EMPs must contain descriptions of environmental assessment and environmental protection regimes. This requirement is consistent with the purpose of EMPs, because First Nations that have adopted Land Codes typically want to control the process of environmental assessment and to prevent future contamination of their lands.  An EMP will have several audiences, including First Nation members and staff, businesses, and other governments. To keep the EMP readable, the main body of the plan should be short. Detailed technical information should be placed in a separate section or set of appendices that can be accessed as needed. This approach prevents the main body of the EMP from becoming large and cumbersome.  **Step 7. Review and revise the draft EMP**.  The draft EMP should be subject to a thorough review by community members, businesses, and other governments. A community meeting or other method of engagement should be held to explain the content of the plan and to encourage members to discuss the document. Participants should be asked to comment on the clarity and completeness of the plan, and to confirm that the proposed responses to environmental issues are acceptable to the community.  First Nations are not required to provide copies of their EMPs to other governments. However, in the spirit and collaboration and harmonization (see s. 23.5 of the Framework Agreement), a First Nation may choose to circulate the draft EMP to regional offices of Indigenous and Northern Affairs Canada (INAC) for comment. Depending on the contents of the plan, it may be appropriate to involve provincial or local government staff in the review. In managing environmental issues, First Nations often find it useful or even necessary to work with adjacent local governments. For instance, waste management, building inspection, or other services may be obtained from municipal or regional governments. Sharing the draft EMP helps to confirm a First Nation’s right to govern its reserve land and to build cooperative relationships among governments.  Comments received from participants in the examination of the draft EMP can often be used to revise and improve the document, creating a final draft of the plan.  **Step 8. Adopt and implement the EMP**.  When the EMP preparation team has considered the comments received and has made appropriate revisions, the final document should be conveyed to Chief and Council for approval. The method of approval may be determined by the First Nation’s land code.  EMPs should include a section on implementation, describing how the policies and actions in the plan will be executed. After the EMP has been approved, staff or other responsible parties identified in the plan should develop a schedule and strategy for implementation. The strategy should begin with a logical sequence of steps and actions. Annual budgets for implementing the EMP should be prepared, covering the costs of staffing, training, equipment, and supplies. | |
| Costs and funding | |
| First Nations are justifiably concerned about the costs of preparing and implementing an EMP. This section describes some of the considerations affecting the costs of preparing an EMP. The costs of implementation can be determined only after an EMP has been prepared.  The scope of work required to prepare an EMP, and the associated costs, are influenced by the following conditions of a First Nation community:   * Size (area, population). A larger land area typically implies that more environmental issues may need to be included in an EMP. Similarly, a larger population usually is associated with more human activity and potential environmental issues requiring action. * Complexity of issues. First Nation land that has been subject to industrial or other development uses may face a complex array of environmental issues (contaminants, habitat loss, effects on hydrology or water quality, etc.). Lands with a natural landscape free of development may face fewer environmental issues. * Previous studies conducted. If a Phase II or Phase III Environmental Site Assessment (ESA) was conducted before a land code was adopted, a First Nation will have useful information on the presence of contamination on its lands. If such studies were not conducted, then the First Nation may need to prepare ESAs as part of the EMP process. Note that Phase II and III ESAs can be costly, as sampling and laboratory analysis of soil, water, and air are typically required. * Environmental services offered. If a First Nation already delivers environmental services, the EMP need not devote much attention to those specific topics. If, however, a First Nation offers few environmental services, then the EMP will need to develop new approaches to managing the associated environmental issues. * Staff complement and expertise. If a First Nation’s staff are trained and experienced in environmental planning, then a greater proportion of tasks associated with EMP preparation can be conducted by the First Nation. If external consulting support is needed, higher hourly costs can be expected. The presence of trained and experienced staff can also aid in plan implementation. * Amount of community involvement desired. Community meetings and outreach are necessary parts of the EMP process. These activities also can be expensive. The level of community involvement desired by a First Nation will influence the cost of preparing an EMP. * Available funding. In some regions, INAC has released funds specifically for operational First Nations to prepare EMPs. This funding was temporary can cannot be anticipated to be available in the future. First Nations should plan on using their annual budgets for preparing EMPs. If other sources of funding can be identified, a First Nation may be able to afford a more detailed or in-depth EMP.   With all of the foregoing factors affecting the scope and cost of EMPs, each First Nation will need to prepare its own estimate of EMP costs, reflecting its circumstances and expectations. Based on estimates prepared by LABRC and the limited number of First Nations communities that have prepared EMPs, it may be possible to prepare an EMP for as little as $70,000 in communities facing few environmental issues. It is more likely that a First Nation would need $80,000 to $120,000 for a thorough EMP. If ESAs or other studies are needed to support the EMP, or for environmentally complex communities, costs could easily reach or exceed $250,000. | |
| Proceeding with an EMP | |
| The LABRC has noted that the preparing an Environmental Management Plan will generate a variety of benefits for operational First Nations. Any EMP will aid the First Nation in complying with its obligations under the Framework Agreement, create an organized framework for conducting environmental initiatives, and engage the community in environmental planning.  A First Nation that proceeds with environmental actions in the absence of an EMP runs the risk of having gaps and overlaps in environmental initiatives. Delivery of services could be inefficient and might waste scarce financial and staff resources. Environmental issues may not be clearly understood, and risk and liability would remain unmitigated.  An EMP helps to establish a First Nation’s rights to manage its lands, and reinforces the First Nation’s commitment to fully implement the Framework Agreement. A well-conducted EMP will create community support for environmental management, and will guide and improve the efficiency and effectiveness of governance activities of Chief, Council and staff. | |
|  | |
| The following are samples that First Nation have developed:   * Matsqui First Nation Environmental Assessment - See Attachment “M” * Semath EMP EOPS - July 24 2013 - See Attachment “N”   For updates on Environment please visit [www.labrc.com](http://www.labrc.com) | |

|  |
| --- |
| 1. **WILLS & ESTATES** |
| INAC will continue to help manage the estates of deceased, minor or mentally incompetent status First Nations individuals who were residents on a reserve.  For more details on INAC Wills and Estates Program please see:  [https://www.aadnc-INAC.gc.ca/eng/1334096114211/1334096166431](https://www.aadnc-aandc.gc.ca/eng/1334096114211/1334096166431)   * **Decedent Estates Program** [https://www.aadnc-INAC.gc.ca/eng/1100100032519/1100100032520](https://www.aadnc-aandc.gc.ca/eng/1100100032519/1100100032520) * [Administering an Indian Act Estate: General Information for Administrators](https://www.aadnc-aandc.gc.ca/eng/1336489991292/1336490026990) * [What Should I Do When A Loved One Dies?](https://www.aadnc-aandc.gc.ca/eng/1100100032522/1100100032524) * [Settling a Family Member’s Estate](https://www.aadnc-aandc.gc.ca/eng/1100100032526/1100100032528) * [What is a Will and How do I Make One?](https://www.aadnc-aandc.gc.ca/eng/1100100032530/1100100032532) * [Why Make a Will?](https://www.aadnc-aandc.gc.ca/eng/1100100032534/1100100032536) * **Living Estates Program** [https://www.aadnc-INAC.gc.ca/eng/1100100032363/1100100032365](https://www.aadnc-aandc.gc.ca/eng/1100100032363/1100100032365) * [Why Make a Will?](https://www.aadnc-aandc.gc.ca/eng/1100100032534/1100100032536) * [What is a Will and How do I Make One?](https://www.aadnc-aandc.gc.ca/eng/1100100032530/1100100032532)   You may want to work with your Membership Clerk to ensure there are workshops and information provided to the citizens on a regular basis. |
| TRANSFER OF ESTATE |
| Only upon Transfers on Death, would a First Nation be involved in estates matters. It is important to work with the INAC Estates Officer to ensure any Admin Transfers are filed at the Land Governance office on the appropriate registration form (see Attachment E – Registry Form No. 1 – Estate Transfer). |
| OTHER RESOURCES |
| * [Aboriginal Legal Aid in BC](http://aboriginal.legalaid.bc.ca/benefits/willsAndEstates.php) - http://aboriginal.legalaid.bc.ca/benefits/willsAndEstates.php |

|  |
| --- |
| 1. **KNOWLEDGE SHARING** |
| Knowledge sharing opportunities are encouraged, contact your FNLMRC Support Technician if you would like to conduct workshops, networking opportunities with member communities or require any specific information. |
| FNLMRC Website |
| Resources   * [Framework Agreement](http://labrc.com/resources/framework-agreement/) * [Communication Tools](http://labrc.com/resources/communication-tools/) * [Courselets](http://labrc.com/resources/courselets/) * [Environment – General](http://labrc.com/resources/environment-general/) * [Human Resource Tools](http://labrc.com/resources/human-resource-tools/) * [Land Codes](http://labrc.com/resources/land-codes/) * [Land Laws](http://labrc.com/resources/land-laws/) * [Lands Committee](http://labrc.com/resources/lands-committee/) * [Matrimonial/Spousal/Family Property Laws](http://labrc.com/resources/matrimonialspousalfamily-property-laws/) * [Models/Templates](http://labrc.com/resources/modelstemplates/) * [Surveys](http://labrc.com/resources/surveys/) * [Workplans](http://labrc.com/resources/workplans/) |
| COURSELETS |
| **Environmental Governance**   * [Introduction to Environment](http://labrc.com/public/courselet/Introduction%20to%20Environment/player.html) * [Introduction to Environmental Governance](http://labrc.com/public/courselet/IntroductiontoEnvironmentalGovernance/player.html) * [Environmental Management Plan Preparation](http://labrc.com/public/courselet/EMP_Preparation_Courselet_Final/player.html) * [Land Code Community Participation for Environmental Governance](http://labrc.com/public/courselet/Land_Code_Community_Participation_for_Environmental_Governance/player.html) * [Operations and Maintenance of Reserve Lands](http://labrc.com/public/courselet/Operations_and_Maintenance_of_Reserve_Lands/player.html) * [Environmental Inspection and Reporting](http://labrc.com/public/courselet/Environmental_Inspection_and_Reporting/player.html) * [Environmental Monitoring and Reporting](http://labrc.com/public/courselet/EnvironmentalMonitoringandReporting/player.html)   **Environmental Protection (EP)**   * [Introduction to Environmental Protection](http://labrc.com/public/courselet/Introduction_to_Environmental_Protection/player.html) * [Environmental Site Assessment](http://labrc.com/public/courselet/Environmental_Site_Assessment/player.html) * Sources of Contaminants (coming soon) * Federal – Provincial EP (coming soon) * Considerations in Developing an EP Regime (coming soon)   **Community Ratification Process (CRP)**   * [Introduction to the CRP](http://labrc.com/public/courselet/IntroductiontoCRPcourselet/player.html) * [Options for Community Approval Process](http://labrc.com/public/course/Options%20for%20Community%20Approval/player.html) * [Pre Vote Procedures under the CRP](http://labrc.com/public/courselet/PrevoteProceduresundertheCRP/player.html) * [Vote Procedures under the CRP](http://labrc.com/public/courselet/VoteandPostVoteProceduresundertheCRP/player.html)   ***Framework Agreement***   * [Introduction to the Framework Agreement](http://labrc.com/public/courselet/IntroductiontotheFrameworkAgreement/player.html) * [Principles of the Framework Agreement](http://labrc.com/public/courselet/PrinciplesoftheFrameworkAgreement/player.html)   **Additional Learning**   * [Conducting and Managing Surveys under Land Code](http://labrc.com/public/course/Conducting%20and%20Managing%20Surveys%20under%20a%20Land%20Code/player.html) * [Introduction to Planning](http://labrc.com/public/course/Introduction%20to%20Planning/player.html) * [Dispute Resolutions](http://labrc.com/public/course/Introduction%20to%20Dispute%20Resolution/player.html) * [Introduction to CBTPD Strategy](http://labrc.com/public/course/CBTPD/player.html) * [Introduction to the Developmental Phase](http://labrc.com/public/course/Intro%20DEVELOPMENTAL%20Phase%20v3/player.html) * [CAPP Milestones](http://labrc.com/public/processplan/player.html) |

**ATTACHMENT A -** [FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT](http://www.fnlabvrc.com/fnlab/course/Conducting%20and%20Managing%20Surveys%20under%20a%20Land%20Code/player.html)

**FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT**

An Act providing for the ratification and bringing into effect of the Framework Agreement on First Nation Land Management

**EXECUTIVE SUMMARY**

For Full Version of the Framework Agreement please visit our website at: <http://labrc.com/documents/Framework%20Agreement%20-%20Amendment%205.pdf>

**INTRODUCTION**

The *Framework Agreement on First Nation Land Management* was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations on February 12, 1996. One other First Nation was added as of December 1997. The Agreement is an initiative by these 14 First Nations to take over the management and control of their lands and resources. It applied then only to these 14 First Nations.

The *Framework Agreement* sets out the principal components of this new land management process, but it is not a treaty and does not affect treaty or other constitutional rights of the First Nations. The Agreement has been ratified and implemented by Canada in the *First Nations Land Management Act*, assented to June 17, 1999.

The *Framework Agreement* provides First Nations with the option to manage their reserve lands outside the *Indian Act*. The option to regain control of their land can only be taken with the consent of the community. Only when each of these First Nations takes control of its lands and resources under the Agreement, shall federal administration of its reserve lands cease under the *Indian Act*.

**ATTACHMENT B – DEFINITIONS**

**Assembly of First Nations (AFN)** - a national advocacy organization representing First Nation citizens in Canada, which includes more than 900,000 people living in 634 First Nation communities and in cities and towns across the country. (afn.ca)

**AFOA Canada** - a non-profit organization designed to assist aboriginal people better manage and govern their communities and organizations through a focus on enhancing finance and management practices and skills. (afoa.ca)

**Access to Information and Privacy (ATIP)** - the purpose of the *Access to Information Act* is to extend the present laws of Canada to provide a right of access to information in records under the control of a government institution in accordance with the principles that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific and that decisions on the disclosure of government information should be reviewed independently of government. The purpose of the *Privacy Act* is to extend the present laws of Canada that protect the privacy of individuals with respect to personal information about themselves held by a government institution and that provide individuals with a right of access to that information. ([tbs-sct.gc.ca/atip-aiprp/index-eng.asp](file:///C:\Users\aderrickson\Dropbox\LABRC\2013-11%20Land%20Reg%20Wrkshp\FA%20Best%20Practices%20for%20Land%20Governance\tbs-sct.gc.ca\atip-aiprp\index-eng.asp))

**Addition to Reserve (ATR)** - an addition to reserve is a parcel of land that is added to the existing land base of a First Nation or is used to create a new reserve. The legal title to the land is set apart for the use and benefit of the First Nation making the application.

**Addition to Reserve (ATR)** - the adding of a new parcel of land to reserve usually crown land, could also be fee simple or natural accretion, usually for Economic Development, Community Purposes or other.

**Allotment** - the process by which a member receives lawful possession of reserve land.

**Band** - a Band, or Indian Band is a governing unit of Indians in Canada instituting by the *Indian Act*, 1876. The Indian Act defines a band as a body of Indians: a) for whose use and benefit in common, lands, the legal title to which is vested by Her Majesty, have been set apart; b) has funds held for it by the Federal Government; c) is declared a band by the Governor-in Council.

**Band Council Resolution (BCR)** - an administrative tool used by Chief and Council to document formal decisions.

**Comprehensive Funding Arrangement (CFA)** - an arrangement between parties that sets out the terms and conditions for funding a project, such as a Capital Project for building a band hall between INAC and a First Nation.

**Canada Lands Survey Record (CLSR)** - a recording of a legal survey or field notes of Canada Lands that are registered in the Canada Lands Survey Records repository, for example a Section 29 (official) or Section 31 (registration) plan completed under the *Canada Lands Surveys Act.*

**Certificate of Occupation (CO)** - under Sect. 20(5) of the *Indian Act*, the Minister could issue a CO for a period of 2 years with a potential extension of two years. CO’s were commonly issued prior to granting a CP in order for the individual(s) to satisfy certain conditions prior to full allotment.

**Certificate of Possession (CP)** - documentary evidence of a First Nation/Band member’s lawful possession of a parcel of reserve land.

**Custom/Family/Traditional Land Holding** - are interests/land rights (Qc) given to specific members to use, occupy and possess specific parcels of land based on generations of historical occupancy of a certain area. These holding are not recognized through the *Indian Act* (but may be under a Land Code).

**Deputy Minister (DM)** - in Canada, a deputy minister is the senior civil servant in a government department. He or she takes political direction from an elected minister. Responsibility for the department's day-to-day operations, budget and program development lie with the deputy minister.

**Easement/Servitude** (QC) - is a defined area of private property over which certain interests/land rights (QC) are given to another, usually adjacent, property (commonly for access, utility or encroachment purposes).

**Encumbrance/Charge** (QC)- an interest or right in real property/immovable (QC), which diminishes the value but does not prevent conveyance.

**Environment** - means the components of the Earth, and includes:

1. land, water and air, including all layers of the atmosphere;
2. all organic and inorganic matter and living organisms; and
3. the interacting natural systems that include components referred to in paragraphs (*a*) and (*b*).

**Environmental Assessment (EA)** - means an assessment of the environmental effects of a designated project that is conducted in accordance with CEAA 2012.

**Environment Impact Assessment (EIA)** - is a formal process used to predict the environmental consequences (positive or negative) of a plan, policy, program, or project prior the implementation decision, it proposes measures to adjust impacts to acceptable levels or to investigate new technological solution.

**Environmental Management (EM)** - is the management of the interaction and impact of human societies on the environment.

**Environmental Management Plan (EMP)** - is the process of facilitating decision making to carry out development with due consideration given to the natural environmental, social, political, economic and governance factors and provides a holistic frame work to achieve sustainable outcomes.

OR an EMP is an operational manual to manage activities that have the potential to impact the environment and health of people in a specific area.

**Environmental Management Systems (EMS)** - is a set of processes and practices that enable an organization to reduce its environmental impacts and increase its operating efficiency. (Taken from epa.gov/ems)

**Evidence of Title (EOT)** - documentary evidence of an interest/land right(Qc) in lands, for example; a parcel abstract report or a transfer showing possession or an interest/land right (Qc) in a particular parcel of land.

**Environment Site Assessment (ESA)** - is a report prepared that identifies potential or existing environmental contamination liabilities.

**Framework Agreement (FA)** - a government-to-government agreement signed in 1996. Gives First Nations the option of withdrawing their lands from the Indian Act in order to exercise control over their lands and resources.

**First Nation Land ManagementAct (FNLMA)** - the federal law that confirms ratification by Canada of the Framework Agreement on First Nations Land Management and brings it into effect in accordance with its provisions

**First Nation Land Register System (FNLRS)** - is a Lands Registry System/Database of instruments registered in the Indian Lands Registry relating to Reserve Lands under the First Nation Land Management Act. It allows all users to perform inquiries and generate reports on data in the system (i.e. possession, leases, permits and other interests/land rights (QC) that may apply to a parcel of land).

**Headquarters (HQ)** - commonly refers to INAC Headquarters located in Gatineau Quebec.

***Indian Act* (IA)** - legislation enacted by the Federal Government the current act was in place since 1951, which governs “Indians” in the area of membership, lands, estates and governance.

**Individual Agreement (IA)** - is the negotiated agreement between Canada and the First Nation that lays out the transfer of land management from Canada to the First Nation; it includes the interim Environmental Assessment process; the revenue and funding and the reserve lands transferred.

**Individual Land Holding (ILH)** – authorization given to specific members of a First Nation to use, occupy and possess specific parcels of land through the granting of interests/land rights (Qc).

**Indian Land Registry System (ILRS)** - a Lands Registry System/Database of instruments registered in the Indian Lands Registry relating to Reserve Lands under the Indian Act. It allows all users to perform inquiries and generate reports on data in the system (i.e. possession, leases, permits and other interests/land rights (QC) may apply to a parcel of land).

**Indian Reserve (IR)** - specified by the *Indian Act*, an Indian Reserve is a "tract of land, the legal title to which is vested in Her Majesty; that has been set apart by Her Majesty for the use and benefit of a band."

**Joint Tenant (JT)** –a form of land holding where two or more persons share an equal interest or right in a parcel of land. This kind of land holding is common among families as it allows the property to pass to survivors without going through probate; this is referred to as a right of survivorship. Note that there is no equivalent civil law concept of “joint tenancy”. In civil law, the closest principle is “undivided co-ownership”. Rather than the right of survivorship being between the various owners, in civil law the share of the property of the deceased owner is transmitted to their heir or legatee.

**Lands Advisory Board (LAB)** - the political body with the mandate to implement the Framework Agreement and provides political support to both Operational and Developmental First Nations.

**Lands Advisory Board Resource Centre (LABRC)** – the technical services and support available to First Nations signatories and Operational First Nations that have ratified their Land Code vote and are functioning under a community land code and also to the Developmental First Nations who are in the process of developing their Land Code and preparing to conduct their community ratification vote.

**Land** - is everything within your boundaries both above and below and it may or may not have buildings or improvements on it.

“Broadly, any ground, soil, or earth. More specifically, real estate or real property, including this of a permanent nature found on earth or affixed to it such as houses and buildings; mines and minerals.” (Source Canadian Law Dictionary 3rd Edition)

**Lands Advisory Committee (LAC)** - as set out in the First Nation Land Code can include:

1. advise Council and the Land Manager of the First Nation Land administration system;
2. advise Council and First Nation staff on matters respecting First Nation Lands;
3. recommend to Council Laws, Council Resolutions, policies and procedures respecting First Nation Lands (as set out in the First Nation Land Code);
4. hold Meetings of Members and other meetings to discuss issues relating to First Nation Lands and make recommendations to Council on the resolution of such issues;
5. assist in the exchange of information between Members and Council regarding First Nation Land matters;
6. oversee other consultations under the First Nation Land Code; and
7. perform such other duties and functions as Council may direct.

**Lease** - Legal Definition: an agreement whereby one party, the Landlord, relinquishes his right to immediate possession of property while retaining ultimate legal ownership (title or in this case interest/land right( QC)). A conveyance of which a person having an estate in real or personal property/immovables or moveables (QC) transfers a portion of his interest/land right (QC) therein to another, usually in consideration for a certain periodical rent or other recompense, and it imports that exclusive possession is given to the premises conveyed.

For our purposes,

Lease means a legal contract that allows someone to use the parcel of land exclusively;

for a specific period to time; a specific rent; grants an interest/land right (Qc) in the parcel of land and usually for a long period of time; can be assigned to another person or company and cannot be cancelled at will.

Note that in Quebec, under the civil law, a lease is considered a personal right rather than a land right (or interest in land as in common law). However, for the purposes of the Framework Agreement and the law respecting First Nations Land Management, the rights of a tenant are deemed to be land rights in Quebec.

**Locatee** - refers to the individual who has possession through a certificate of possession or other document provided for in the Land Code.

**Legal Survey Division (LSD)** - the section of Natural Resources Canada that deals with legal surveys of Canada Lands.

**Licence** – see “permit” below.

**No Evidence of Title Issued (NETI)** - a situation where a Band/First Nation member has lawful possession of a parcel of reserve lands pursuant to the *Indian Act* but evidence of title was not issued. The locatee, when abstracted as having title does have lawful possession of the subject parcel of land; it was simply that the transaction granting possession was administratively deficient or that the locatee receiving the interest/land right (QC) was deceased or immediately transferred their right of possession onto another Band member, and therefore a Certificate of Possession was not issued.

**Parcel Abstract Report** - report from FNLRS that identifies the chain of title for a specific parcel of land.

**Parcel** - an area of reserve land regardless of dimension.

**Parcel Identification Number (PIN)** - a unique nine digit number generated by the ILRS for a parcel of reserve land based on the legal land description.

**Permit/License** - the terms permit and license are used interchangeably in this Manual. It refers to the right to use First Nation lands in a limited, specific way for a defined period of time. There can be more than one permit/license on a parcel of land. They are used to allow for things such as rights of way to run power lines, for agriculture, or to remove gravel or wild timber. It cannot be cancelled at will.

**Proponent** - A person who puts forward a proposition for a proposal.

**Regional Director General (RDG)** - most senior official appointed by INAC for each Province and Territory.

**Right-of-Way (ROW, R/W)** - is similar to an easement/servitude (QC), it is a legal agreement

granting passage along a specific route over another’s property. It does not grant possession. A right of way may be granted, among others, to a governmental or quasi governmental body, including a First Nation, or between individuals.

**Registered Survey of British Columbia (RSBC)** - survey plan for BC

**Registration Survey (RS)** - a graphical description of the boundaries of land prepared from information which can include existing legal land descriptions, field notes of survey, controlled aerial photographs or imagery, maps and information found in land transaction documents. It represents pictorially the legal boundaries and dimensions of a surveyed parcel of land, and identifies the type and location of monuments or survey posts set in the ground to define the boundaries of the parcel.

**Tenants in Common** - a form of land holding where two or more persons, share an interest or right in a parcel of land. Unlike with joint tenancy, there is no right of survivorship. Instead, a deceased tenant in common’s interest will pass to their estate rather than to the other surviving owners. Note that the concept of “tenancy in common” is a common law principle that does not translate directly into civil law. The civil law refers to “undivided co-ownership” whereby several persons jointly and at the same time own the same property that is not physically divided up. “Undivided” co-owners each have a share in the single right of ownership in the undivided property. This concept most closely relates to “tenancy in common” as there is no right of survivorship.

**ATTACHMENT C –** [**ACRONYM LIST**](http://www.fnlabvrc.com/fnlab/course/Intro%20DEVELOPMENTAL%20Phase%20v3/data/downloads/acronym%20list%20for%20intro%20development%20phase%20courselet.pdf)

INAC Aboriginal Affairs & Northern Development Canada

AFN Assembly of First Nations

AFOA Aboriginal Financial Officers Association (of Canada)

ATIP Access to Information and Privacy

ATR Addition to Reserve

BCR Band Council Resolution

CA Certificate of Allocation

CEAA *Canadian Environmental* Assessment Act

CEAA Canadian Environmental Assessment Agency

CEAR Canadian Environmental Assessment Registry

CEPA *Canadian Environmental Protection Act*

CFA Comprehensive Funding Arrangements

CIS Certificate of Indian Status

CLSR Canada Lands Survey Record

CMHC Canada Mortgage and Housing Corporation

CN Canadian National Railway

CO Certificate of Occupation

COGLA Canadian Oil and Gas Lands Administration

CP Certificate of Possession

CPR Canadian Pacific Railway

CRP Community Ratification Process

CRUO Certificate of Right to Use and Occupy

CWS Canadian Wildlife Service

DFO Department of Fisheries and Oceans

DG Director General

DIAND Department of Indian Affairs and Northern Development

DM Deputy Minister

DMO Deputy Minister's Office

DR Dispute Resolution

EA Environmental Assessment

EC Environment Canada

EIA Environment Impact Assessment

EllS Environmental Issues Inventory System

EM Environmental Management

EMF Environmental Management Framework

EMP Environmental Management Plan

EMS Environmental Management Systems

EO Electoral Officer

EOT Evidence of Title

EMP East of the Principal Meridan

ESA Environment Site Assessment

FA Framework Agreement

FA *Fisheries Act*

FAA *Financial Administration Act*

FAFNLM Framework Agreement on First Nation Land Management

FAL Financial Administration Law

FAQ Frequently Asked Questions

FMB Financial Management Board

FN First Nation

FNCR First Nation Council Resolution

FNA4LM First Nation Alliance 4 Land Management

FNFA First Nations Finance Authority

FNLMA *First Nation Land Management* Act

FNLRS First Nation Land Register System

FNTC First Nation Tax Commission

FNTC First Nations Technology Council

HQ Headquarters

HR Human Resources

HRDC Human Resources Development Canada

IA *Indian* Act

IA Individual Agreement

ILH Individual Land Holding

ILR Indian Lands Registry

ILRS Indian Land Registry System

INAC Indian and Northern Affairs Canada

IOGC Indian Oil and Gas Canada

IR Indian Reserve

IRS Indian Registry System

IRWDR Indian Reserve Waste Disposal Regulations

IT Information Technology

JT Joint Tenant

LAB Lands Advisory Board (Political Body)

LABRC Lands Advisory Board Resource Centre (Technical Services)

LAC Lands Advisory Committee

LC Lands Committee

LM Land Governance Director

LS Legal Services

LS Location Sketch

LSD Legal Survey Division

LT Location Ticket

LTS Location Ticket Sketch

LUA Land Use Area

LUP Land Use Plan

MI Mentally Incompetent

MFLNRO Ministry of Forests Lands and Natural Resource Operations

MLA Member of Legislative Assembly

MOTI Ministry of Transportation and Infrastructure

MOU Memorandum of Understanding

MP Member of Parliament

MRP Matrimonial Real Property

NE Notice of Entitlement

NEB National Energy Board

NETI No Evidence of Title Issued

NRCan Natural Resources Canada

NRUO Notice of Right to Use and Occupy

OIC/OC Order in Council

OCPC Order in Council on the advice of the Privy Council

OSR Own Source Revenue

PCL Parcel

PIN Parcel Identification Number

PTN Portion of land parcel

PWGSC Public Works and Government Services Canada

Q & A's Questions and Answers

RDG Regional Director General

RIPs Registry Index Plans

ROW Right of Way

RSBC Registered Survey of British Columbia

RFP Request for Proposals

RGE Range

RLAP Regional Lands Administration Program

RS Regional Surveyor / survey plan

RSA Regional Surveyor plan of Alberta

RSATL Regional Surveyor Plan of Atlantic

RSBC Regional Surveyor Plan of British Columbia

RSM Regional Surveyor Plan of Manitoba

RSO Regional Surveyor Plan of Ontario

RSQ Regional Surveyor Plan of Quebec

RSS Regional Surveyor Plan of Saskatchewan

SARA Species at *Risk Act*

SCC Supreme Court of Canada

SES / SEC Section

SG Self-Government

SOI Statement of Intent

TB Treasury Board

TC Tribal Council

TLE Treaty Lands Entitlement

TOR Terms of Reference

TPS Treaty Payments System

TSL Treaty Settlement Land

TWP Township

UBCM Union of British Columbia Municipalities

UBCIC Union of British Columbia Indian Chiefs

WPM West of the Principal Meridian

W2M West from the Second Meridian

**ATTACHMENT D – REGISTRY CHECKLISTS & TEMPLATES**

CHECKLIST - Transfer

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **LOGO** | | **[First Nation]** lands OFFICE checklist  **TRANSFER OF INTEREST/Land RIGHT (Qc)** | | | | | | | | | | |
|  | | | | | | | | | | | |
| Legal Description: | Lot | | | Plan of survey | | | Reserve | PIN: | | |
| Y M D **Date of Transfer:** | | | | | | | | | | |
|  | | | | | | | | | | | |
| Transferor(s): | | | | | | | | Band No. | | |
|  | | | | | | | | Band No. | | |
|  | | | | | | | | Band No. | | |
|  | | | | | | | | | | | |
| Transferor(s): | | | | | | | | Band No. | | |
|  | | | | | | | | Band No. | | |
|  | | | | | | | | Band No. | | |
|  | | | | | | | | | | | |
| Was an Appraisal conducted? | | | Yes | | No | Appraisal Amount: | | Sale Price: | | |
| Sought Independent Legal Advise | | | Yes | | Waived | Surveyor’s Certificate attached? | | | Yes | N/A |
|  | | | | | | | | | | | |
| Existing Easements/servitudes (QC) & Access to site identified? | | | Yes | | No | Has an Occupancy Permit been issued? | | | Yes | N/A |
| Is a Request for Replacement of Title required? | | | Yes | | No | Has been reviewed by Property Manager? | | | | |
| Mortgage No.: | | | Assumed | | Discharged | Lot File reviewed for outstanding issues? | | | | |
| Original’s Certified by? | | | Officer’s Signature | | Affidavits of Witness | Folio/Roll No.: | | | | |
| Utility Fees paid? | | | Yes | | N/A | CP No. Issued: | | | | |
| Property taxes paid? | | | Yes | | N/A | Originator File No.: | | | | |

This document has been reviewed by the [**First Nation]** Land Governance office and to the best of our knowledge and belief the documentation is satisfactory based upon information provided by the SOLICITOR(s) of the lessor/lessee and information provided to us by other internal departments of the [**First Nation]**.

|  |  |  |
| --- | --- | --- |
| Completed By: |  | Date: |

CHECKLIST – Lease

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **LOGO** | | **[First Nation]** lands OFFICE checklist  **Lease** | | | | | | | |
|  | | | | | | | | | |
| Legal Description: | Lot | | Plan of survey | | | | Reserve | PIN: | |
| Lessor: | | | | | | | | | |
| Lessee: | | | | | | | | | |
| Mailing Address: | | | | | | | | | Y M D |
|  | | | | | | | | | |
| Proposed Use: | | | | Term: | | | | Expiry Date: | |
| Law Firm: | | | | Firm Contact: | | | | Contact Phone No.: | |
|  | | | | | | | | | |
| Comply with Land Use Law? If Not, advise that amendment procedures are required at dev. stage | | | Yes | | No | Letter from Locatee?  (CP interest runs with Legal Desc. identified on Lease) | | | |
| Mortgage/Hypothec (QC) No.: | | | Assumed | | Discharged | Has been reviewed by Property Manager? | | | |
| Original’s Certified by? | | | Officer’s Signature | | Affidavits of Witness | Lot File reviewed for outstanding issues? | | | |
| Comply with survey requirements? | | | Yes | | N/A | Folio/Roll Number: | | | |
| Utility Fees paid? | | | Yes | | N/A | Sale/Lease Price: | | | |
| Property taxes paid? | | | Yes | | Letter of Undertaking | Originator File No.: | | | |

This document has been reviewed by the [**First Nation]** Land Governance office and to the best of our knowledge and belief the documentation is satisfactory based upon information provided by the SOLICITOR(s) of the lessor/lessee and information provided to us by other internal departments of the [**First Nation]**.

|  |  |  |
| --- | --- | --- |
| Completed By: |  | Date: |

CHECKLIST - Lease & Mortgage/Hypothec (QC)

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **LOGO** | | **[First Nation]** lands OFFICE checklist  **Lease & Mortgage/Hypothec (QC)** | | | | | | | | |
|  | | | | | | | | | | |
| Legal Description: | Lot | | Plan of survey | | | | Reserve | PIN: | | |
| Lessor: | | | | | | | | | | |
| Lessee: | | | | | | | | | | Y M D |
| Mortgagee/Hypothecary (QC): | | | | | | | | | | Y M D |
| Mailing Address: | | | | | | | | | | |
|  | | | | | | | | | | |
| Proposed Use: | | | | Term: | | | |  | | |
| Law Firm: | | | | Firm Contact: | | | | Contact Phone No.: | | |
|  | | | | | | | | | | |
| Compliance with Land Use Law? If No, advise that amendment procedures are required at dev. Stage. | | | Yes | | No | Letter from Locatee?  (CP interest runs with Legal Desc. identified on Lease) | | | | |
| Mortgage/Hypothec (QC) No.: | | | Assumed | | Discharged | Has been reviewed by Property Manager? | | | | |
| Original’s Certified by? | | | Officer’s Signature | | Affidavits of Witness | Lot File reviewed for outstanding issues? | | | | |
| Registration Fees paid? | | | Yes | | N/A | Folio/Roll Number: | | | | |
| Utility Fees paid? | | | Yes | | N/A | Sale/Lease Price: | | | | |
| Property taxes paid? | | | Yes | | Letter of Undertaking | Originator File No.: | | |  | |

This document has been reviewed by the [**First Nation]** Land Governance office and to the best of our knowledge and belief the documentation is satisfactory based upon information provided by the SOLICITOR(s) of the lessor/lessee and information provided to us by other internal departments of the [**First Nation]**.

|  |  |  |
| --- | --- | --- |
| Completed By: |  | Date: |

CHECKLIST - Sublease

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **LOGO** | | **[First Nation]** lands OFFICE checklist  **sublease** | | | | | | | | |
|  | | | | | | | | | | |
| Legal Description: | Lot | | | Plan of survey | | | | Reserve | PIN:  NEW PIN CREATION | |
| Lessor: | | | | | | | | | | |
| Lessee: | | | | | | | | | | |
| Mailing Address: | | | | | | | | | | Y M D |
|  | | | | | | | | | | |
| Lessee / Name of Development: | | | | | Proposed Use: ❑ Residential ❑ Commercial | | Lease No.: | | Modification No.: | |
| Law Firm: | | | | | Firm Contact: | | | | Contact Phone No.: | |
|  | | | | | | | | | | |
| Has an Occupancy Permit been issued? | | | Yes | | | N/A | Is the Minister’s consent required? | | | |
| Mortgage/Hypothec (QC) No.: | | | Assumed | | | Discharged | Has been reviewed by appropriate First Nation departments? | | | |
| Original’s Certified by? | | | Officer’s Signature | | | Affidavits of Witness | Lot File reviewed for outstanding issues? | | | |
| Annual Service Fees paid? | | | Yes | | | N/A | Folio/Roll Number: NEW FOLIO TO BE CREATED | | | |
| Utility Fees paid? | | | Yes | | | N/A | Sale/Lease Price: | | | |
| Property taxes paid? | | | Yes | | | Letter of Undertaking | Originator File No.: | | | |

This document has been reviewed by the [**First Nation]** Land Governance office and to the best of our knowledge and belief the documentation is satisfactory based upon information provided by the SOLICITOR(s) of the lessor/lessee and information provided to us by other internal departments of the [**First Nation]**.

|  |  |  |
| --- | --- | --- |
| Completed By: |  | Date: |

Remarks: “Lease #\_\_\_\_\_\_\_\_\_\_\_\_\_

CHECKLIST – Assignment of Sublease

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **LOGO** | | **[First Nation]** lands OFFICE checklist  **assignment of sublease** | | | | | | | | |
|  | | | | | | | | | | |
| Legal Description: | Lot | | | Plan of survey | | | | Reserve | PIN: | |
| Sublessor: | | | | | | | | | | |
| Sublessee: | | | | | | | | | | Y M D |
| Mailing Address: | | | | | | | | | | |
|  | | | | | | | | | | |
| Lessee / Name of Development: | | | | | Proposed Use: ❑ Residential ❑ Commercial | | Lease No.: | | Sublease No.: | |
| Law Firm: | | | | | Firm Contact: | | | | Contact Phone No.: | |
|  | | | | | | | | | | |
| Is the original Sublessor’s consent required? | | | Yes | | | N/A | Is Ministerial Consent required? | | | |
| Mortgage/Hypothec (QC) No.: | | | Assumed | | | Discharged | Has been reviewed by Property Manager? | | | |
| Original’s Certified by? | | | Officer’s Signature | | | Affidavits of Witness | Lot File reviewed for outstanding issues? | | | |
| Registration Fees paid? | | | Yes | | | N/A | Folio/Roll Number: | | | |
| Utility Fees paid? | | | Yes | | | N/A | Sale/Lease Price: | | | |
| Property taxes paid? | | | Yes | | | Letter of Undertaking | Originator File No.: | | | |

This document has been reviewed by the [**First Nation]** Land Governance office and to the best of our knowledge and belief the documentation is satisfactory based upon information provided by the SOLICITOR(s) of the lessor/lessee and information provided to us by other internal departments of the [**First Nation]**.

|  |  |  |
| --- | --- | --- |
| Completed By: |  | Date: |

Remarks: “Sublease #\_\_\_\_\_\_\_\_\_

CHECKLIST – Easement/Servitudes (QC), Permit or Licence

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **LOGO** | | **[First Nation]** lands OFFICE checklist  **Easement/SERVITUDES (QC), Permit or licence** | | | | | | | | |
|  | | | | | | | | | | |
| Legal Description: | Lot | | | Plan of survey | | | | Reserve | PIN: | |
| Lawful Possessor: Transferor(s): | | | | | | | | | | |
| Transferee(s): | | | | | | | | | | Y M D |
| Mailing Address: | | | | | | | | | | |
|  | | | | | | | | | | |
| Law Firm: | | | | | Firm Email Contact: | | | | | Contact Phone No.: |
|  | | | | | | | | | | |
| Letter from Locatee | | | Yes | | | N/A | Has been reviewed by Property Manager? | | | |
| Original’s Certified by? | | | Officer’s Signature | | | Affidavits of Witness | Lot File reviewed for outstanding issues? | | | |
| Registration Fees paid? | | | Yes | | | N/A | Folio/Roll Number: | | | |
| Utility Fees paid? | | | Yes | | | N/A | Sale/Lease Price: | | | |
| Property taxes paid? | | | Yes | | | Letter of Undertaking | Originator File No.: | | | |

This document has been reviewed by the [**First Nation]** Land Governance office and to the best of our knowledge and belief the documentation is satisfactory based upon information provided by the SOLICITOR(s) of the lessor/lessee and information provided to us by other internal departments of the [**First Nation]**.

|  |  |  |
| --- | --- | --- |
| Completed By: |  | Date: |

TEMPLATE – Registry Originator # Log Sheet

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **LOGO** | **[First Nation]** lands OFFICE  **REGISTRY ORIGINATOR # LOG SHEET** | | | | | |
| Originator | Track/Reg# | IR | Lot | Grantor | Grantee | Date |
| 2015-001 | *FN0001* | *1* | *123* | *A.ABEL* | *B.Best* | *Jan.5* |
| 2015-002 |  |  |  |  |  |  |
| 2015-003 |  |  |  |  |  |  |
| 2015-004 |  |  |  |  |  |  |
| 2015-005 |  |  |  |  |  |  |
| 2015-006 |  |  |  |  |  |  |
| 2015-007 |  |  |  |  |  |  |
| 2015-008 |  |  |  |  |  |  |
| 2015-009 |  |  |  |  |  |  |
| 2015-010 |  |  |  |  |  |  |
| 2015-011 |  |  |  |  |  |  |
| 2015-012 |  |  |  |  |  |  |
| 2015-013 |  |  |  |  |  |  |
| 2015-014 |  |  |  |  |  |  |
| 2015-015 |  |  |  |  |  |  |
| 2015-016 |  |  |  |  |  |  |
| 2015-017 |  |  |  |  |  |  |
| 2015-018 |  |  |  |  |  |  |
| 2015-019 |  |  |  |  |  |  |
| 2015-020 |  |  |  |  |  |  |
| 2015-021 |  |  |  |  |  |  |
| 2015-022 |  |  |  |  |  |  |
| 2015-023 |  |  |  |  |  |  |
| 2015-024 |  |  |  |  |  |  |
| 2015-025 |  |  |  |  |  |  |
| 2015-026 |  |  |  |  |  |  |
| 2015-027 |  |  |  |  |  |  |
| 2015-028 |  |  |  |  |  |  |
| 2015-029 |  |  |  |  |  |  |
| 2015-030 |  |  |  |  |  |  |

TEMPLATE – Memo to Registrar

This template can also be adapted into an email format for correspondence with the First Nation Lands Registry’s Deputy Registrar. Issues you may address could be “Order of Registration” as shown, to identify an error made within the application and/or parcel abstract report, to provide supporting documents, etc.

|  |  |
| --- | --- |
| Logo | **M e m o r a n d u m**  **[First Nation]** lands OFFICE |
| **Date:** | DATE |
| **To:** | FIRST NATION LANDS REGISTRY Deputy Registrar |
| **From:** | NAME Title |
| **Re:** | **ORDER OF REGISTRATION**  **LOT \_\_ PLAN \_\_\_ RESERVE NAME & no. \_\_\_** |
| Please ensure that the attached transactions are concurrently registered and reflected on the parcel abstract report in the following order:   1. **EASEMENT/SERVITUDES (QC) (#**\_\_\_\_\_\_\_\_\_**)** 2. **ASSIGNMENT OF SUBLEASE (#**\_\_\_\_\_\_\_\_\_**)** 3. **MORTGAGE/HYPOTHEC (QC) (#**\_\_\_\_\_\_\_\_\_**)**   If there are any issues regarding the above transactions, please hold and contact our offices immediately.  Yours sincerely,  **[First Nation]**  Name Title  Address  Phone Email | |

TEMPLATE – Consent Form

This template is to assist when under the Land Code, you may have a requirements for Council consent. \*Note: transactions on any pre-land code leases may require Ministerial consent.

|  |
| --- |
| **CONSENT FORM**  *(Grant or Disposition of Lease, License, Easement/Servitude (QC), Mortgage/Hypothec (QC) or Permit)*  TO: NAME OF APPLICANT  Address  **RE: LOT \_\_ CLSR \_\_ RESERVE NAME & NO. \_\_**  Assignment of Sublease No. \_\_\_  Transferor(s): NAME  Transferee(s): NAME(S)  NAME(S)  as Joint Tenants  In accordance with Section \_\_\_ of the \_\_\_\_\_\_\_\_\_\_\_\_\_ Land Code, I hereby consent to the above noted transaction on behalf of the Council / Minister **.**  This \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_ 2015  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  NAME, Lands Manager  FIRST NATION  Contact information  c/s  (note: affix seal here if applicable) |

SAMPLE – Temporary Use Permit Application

**REZONING, LAND USE AMENDMENT AND tEMPORARY USE PERMIT Application**

Application Information

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **APPLICATION TYPE:** (mark all applicable boxes): | | | | | |
| 🞎 Commercial Development  🞎 Construction  🞎 Development Permit  🞎 Excavation  🞎 Industrial Development | 🞎 Institutional Development  🞎 Infrastructure, Sewer, Water  🞎 Land Use Amendment  🞎 Recreational Development  🞎 Residential Development | | | 🞎 Rezoning  🞎 Roads, Intersections, etc.  🞎 Temporary Use Permit  🞎 Other: | |
| FILE # | DATE OF APPLICATION: | | | APPLICATION # | |
| APPLICATION FEE $ | RECEIPT # | | | DATE RECEIVED: | |
| **DEVELOPER/AGENT INFORMATION** | | | | | |
| DEVELOPER (AGENT) | | CORPORATE NAME: | | | |
| INCORPORATION NO. | | (B.C./ Canada) | | | |
| GST # | | HST # | | | |
| Address of Records Office: | | | | | |
| PHONE # (WORK) | | PHONE # (CELL) | | | |
| FAX # | | EMAIL: | | | |
| NAME OF DIRECTORS: | | | | | |
| Have any of the directors gone bankrupt or been a director for a corporation that has gone bankrupt in the past 5 years? | | | 🞎Yes | | 🞎 No |
| If yes, please provide the name of the director and the details: | | | | | |
| Name of the Authorized Representative: | | | | | |
| Address: | | Telephone: | | | |
| * COPY OF DIRECTORS RESOLUTION authorizing representative or an affidavit of execution or proof of authority to use the corporate seal attached to application? | | | | | |
| * A COPY OF A CORPORATION SEARCH from the past 7 days demonstrating that the corporation is in good standing. | | | | | |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **CP HOLDER INFORMATION** *(List all Certificate of Possession Holders)* | | | | |
| *All applications must be signed by both the CP Holder/Legal Interest Holder/Land Rights Holder (QC) and, if there is one, the Corporate, agent or developer applicant.*  By signing below I/We hereby authorize the corporation, agent or developer listed below to apply on our behalf. I/We agree to provide all information required for this application and to abide by all relevant \_\_\_\_\_, Federal, provincial and municipal laws in relation to the application and the project. | | | | |
| **OWNER (CP HOLDER 1)** | | | PHONE # (WORK) | |
| MAILING ADDRESS: | | | PHONE # (CELL) | |
| CITY/PROVINCE/POSTAL CODE | | | EMAIL: | |
| FAX # | | | **SIGNATURE:** | |
| **OWNER (CP HOLDER 2)** | | | PHONE # (WORK) | |
| MAILING ADDRESS: | | | PHONE # (CELL) | |
| CITY/PROVINCE/POSTAL CODE | | | EMAIL: | |
| **SIGNATURE:** | | | **Date:** | |
| **OWNER (CP HOLDER 3)** | | | PHONE # (WORK) | |
| MAILING ADDRESS: | | | PHONE # (CELL) | |
| CITY/PROVINCE/POSTAL CODE | | | EMAIL: | |
| **SIGNATURE:** | | | **Date:** | |
| **OWNER (CP HOLDER 4)** | | | PHONE # (WORK) | |
| MAILING ADDRESS: | | | PHONE # (CELL) | |
| CITY/PROVINCE/POSTAL CODE | | | EMAIL: | |
| **SIGNATURE:** | | | **Date:** | |
| **OWNER (CP HOLDER 5)** | | | PHONE # (WORK) | |
| MAILING ADDRESS: | | | PHONE # (CELL) | |
| CITY/PROVINCE/POSTAL CODE | | | EMAIL: | |
| **SIGNATURE:** | | | **Date:** | |
| **Legal Description** | | | | |
| LOT | PLAN | | | IR# |
| STREET ADDRESS: | | | | |
| EXISTING LAND USE UNDER THE TZFN LAND USE LAW – ZONING REGULATION: | | | | |
| PROPOSED LAND USE (IF DIFFERENT FROM CURRENT USE): | | | | |
| LEASE REGISTRATION #  (as contained in Lands Registry) | | SUBLEASE REGISTRATION #  (as contained in Lands Registry) | | |
| **temporary use permit** | | | | |
| REASON FOR PROPOSED TERMPORARY USE PERMIT (attach additional pages if necessary) | | | | |
|  | | | | |
|  | | | | |
| **Zoning OR LAND USE Amendment** | | | | |
| REASON FOR REZONING OR AMENDMENT AND PROPOSED LAND USE (attach additional pages if necessary) | | | | |
|  | | | | |
|  | | | | |
| **CHECKLIST** | | | | |
| I have provided all of the information and documents set out in the attached Re-zoning, Land Use Amendment and Temporary Use Permit Application Checklist | | | | |
| 🞎 Yes 🞎 No | | | | |
| If no, please provide an explanation: | | | | |

NOTE: If the applicant is not the registered owner of the property concerned, then the land owner/interest holder/land rights holder’s (QC) signature is required on this application.

**I/we hereby apply for the above approvals and agree to provide all information required for this application and to abide by all relevant \_\_\_\_ First Nation, federal, provincial and municipal laws in relation to the application and the project.**

**I/we further agree to allow any authorized \_\_\_ First Nation Representative or their delegate to enquire into my/our credit history, corporate standing and all other aspects of my/our business relevant to this application.**

**I accept responsibility for delays in processing caused by incorrect or insufficient submissions. Contact the \_\_\_\_\_ Land Governance office, if you should have any further questions.**

**I represent to the \_\_\_\_\_ First Nation, knowing that the \_\_\_\_\_ First Nation relies on this representation and warranty, that the property covered by this application, to the best of my knowledge having done due and diligent inquiry, is not contaminated or polluted in any way that would make it unlawful, unsafe or unsuited for the purpose for which it is intended to be used.**

**I assume all risks incidental to or that may arise as a result of the of this application and agree to save harmless and indemnify the \_\_\_\_\_ First Nation and its officials, agents, servants and representatives from and against all claims, actions, costs, expenses and demands with respect to death, injury, loss or damage to persons or property arising out of or in connection with this application. I agree to conform to all applicable laws. I understand that no warranty is implied for the approval of this application and that this wavier and indemnity is binding on me, my heirs, executors and assigns.**

**I have read and agree with the above paragraphs.**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature of Applicant/Agent Date**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Signature of CP-Holder/Interest Holder/ Date**

**Land Rights Holder (QC)**

|  |  |  |
| --- | --- | --- |
| **OFFICE USE ONLY** | | |
|  | | |
| APPLICATON IS: | 🞎 COMPLETE | 🞎 INCOMPLETE (PROVIDE COMMENTS BELOW) |
| Comments: | | |
| Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name of Staff  Member:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Signature:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | |

SAMPLE – Temporary Use Permit Checklist

**REZONING, LAND USE amendment or temporary use permit Application CHECKLIST**

All of the following must be provided as applicable:

|  |
| --- |
| **General**   * Application: A completed application form and payment of all prescribed fees. |
| **Community Benefits** |
| * Community Benefit Summary (for subdivisions or development of > 4 lots or units for sale, rental or lease to non-Members):   In addition to increases to the property tax base, please provide a summary of all proposed benefits to the \_\_\_\_\_ community. This could include donations or dedications of land or facilities for park, recreation or housing or a donation of cash in lieu; greenspace; trails; sidewalks; street lights; training or development opportunities for members; etc.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **Engineering** |
| * General Engineering Requirements for Land Development on \_\_\_\_\_ Reserve Lands   Provision of sufficient plans, documents, and professional seals and signatures as set out in the General Engineering Requirements to enable \_\_\_\_\_ Council to assess access, servicing and other issues relating to the proposed zoning or land use amendment. |
| **Legal Documents** |
| The following documents are required:   * First Nations Lands Registry search that is less than 30 days old; * A copy of all draft or final executed leases, sub-leases, assignments, etc.; * A copy of all draft or final encumbrances/charges (QC), rights of way, easements/servitudes (QC), permits; * A copy the CLSR plan; * A copy of all existing and proposed subdivisions, easements/servitudes (QC), rights of way, and draft surveys; * A signed and witnessed agreement to indemnify \_\_\_\_\_ First Nation against any loss or damage in relation to the subdivision, development or activity; and * Confirmation of right of entry for \_\_\_\_\_ and all authorized officials to inspect the site and any structures or infrastructure. |
|  |
| All information must be sent to: **\_\_\_\_\_ First Nation, Land Governance office**  ADDRESS, Phone, Fax: |
| *For assistance, in completing the application, please contact the above telephone number* |

SAMPLE – Development Permit

**DEVELOPMENT PERMIT AND SERVICING AGREEMENT  
PERMIT NO. \_\_\_\_\_\_\_\_\_\_**

THIS AGREEMENT made as of this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_ (herein called the "Effective Date")

BETWEEN:

**COMPANY NAME**, a company, having its registered and records office at, STREET ADDRESS, CITY, PROVINCE, POSTAL CODE

(hereinafter referred to as the "Developer")

OF THE FIRST PART

AND:

**FIRST NATION**, as represented by its duly elected Council, having an office at, STREET ADDRESS, CITY, PROVINCE, POSTAL CODE

(hereinafter referred to as the "First Nation")

OF THE SECOND PART

WHEREAS:

1. Indian Reserve No. \_\_ of the First Nation in the Province of \_\_\_\_\_ is a Reserve vested in Her Majesty the Queen in Right of Canada for the use and benefit of the \_\_\_\_\_ First Nation;
2. Pursuant to a lease registered in the First Nation Lands Register at Ottawa, Ontario, under Number \_\_\_\_\_\_\_\_\_\_\_\_ (herein called the "Lease"), the Developer is the Lessee of and proposes to develop all or a portion of certain lands known and described as:

Lot \_\_\_\_\_\_\_, Indian Reserve No. \_\_, in the Province of \_\_\_\_\_\_\_\_\_\_, as shown on Plan of Survey No. \_\_\_\_\_\_\_\_\_\_ deposited in the Canada Lands Survey Records, Ottawa, Ontario,

(hereinafter referred to as the "Lands")

1. The Developer wishes to subdivide or develop the Lands, or a part thereof, and for the purpose of obtaining permission to do so has submitted plans, specifications and documents to the First Nation for approval, which plans, specifications and documents are included in the list contained in Schedule "A" attached hereto;
2. By Order In Council P.C. 1989-998 dated May 25th, 1989 issued pursuant to Section 60 of the Indian Act ("P.C. 1989-998"), the First Nation, as represented by its duly elected Council, has been granted the authority to control and manage lands within the First Nation's reserves and to exercise certain powers of the Minister under the Indian Act, including the authority to approve of Development Plans submitted by lessees pursuant to leases of reserve lands;
3. \_\_\_\_ First Nation entered into a Framework Agreement with the Government of Canada;
4. \_\_\_\_ First Nation entered into an Individual Transfer Agreement on First Nation Land Management with the Government of Canada dated \_\_\_\_\_\_;
5. \_\_\_\_ First Nation approved a Land Code \_\_\_\_\_\_;
6. The Developer has applied to the First Nation for approval of the Development Plan and for permission to construct the Works and services shown on the Development Plan;
7. The First Nation has reviewed the Development Plan and by resolution of the Council dated the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, the First Nation has approved of the Development Plan on behalf of the Minister as required by the Lease and has authorized the execution and issuing of this Development Permit and Servicing Agreement (herein called the "Agreement").

**NOW THIS AGREEMENT WITNESSETH** that in consideration of the premises and of the mutual covenants and agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto covenant and agree as follows:

**2. Definitions**

In this Agreement, unless the context otherwise requires:

"Approving Officer" shall mean the Approving Officer as appointed by the Council pursuant to the *\_\_\_\_ Bylaw* and includes his designate;

"Complete" or "Completion" or any variation of these words, when used with respect to the Work referred to herein, shall mean completion of the Work, or a part thereof as the context requires, in accordance with the provisions of this Agreement and to the satisfaction of the Approving Officer when so certified by him in writing.

"Contractor" shall mean contractors and sub-contractors employed by the Developer, directly or indirectly, in the construction and installation of the Work.

"Council" means the Council of the \_\_\_\_ First Nation;

"Minister" means the Minister of Indigenous and Northern Affairs Canada;

"Subdivision Bylaw" means *\_\_\_\_ First Nation Bylaw No. ­­­­­\_\_\_\_* or any bylaw enacted in substitution thereof;

"Subdivision Plan" means a plan prepared under the Canada Lands Survey Act for registration in the Canada Lands Survey Records at Ottawa, Ontario, showing the subdivision of the Lands;

"Term" when used in respect of the Lease shall include any future extension to the term of the Lease;

"Work" shall mean all works, services, roads and any other improvement required to be constructed and erected or installed, both on the Lands and within Statutory Rights‑of‑Way, by the Developer under provisions of this Agreement.

**3. Works to be Constructed**

3.1 The Developer covenants and agrees to construct and install on the Lands and within Statutory Rights‑of‑Way, as the case may be, all of the Work as shown on the plans, specifications and documents (herein called the "Development Plan") listed in Schedule "A" attached hereto, which Development Plan is hereby incorporated into and forms a part of this agreement, including, but without limiting the generality of the foregoing:

1. Roads works and fire truck turnarounds;
2. Drainage works and services;
3. Sewage works and services;
4. Water works and services;
5. Sidewalks;
6. Boulevards;
7. Curbs and gutters;
8. Street lighting;
9. Underground electrical, telephone and cablevision works; and
10. other Works shown on the Development Plan.

3.2. In consideration of the due and proper performance by the Developer of his covenants herein contained, the First Nation covenants and agrees to permit the Developer to carry out and perform the Work.

3.3 The Parties hereto acknowledge that each of them has in their possession a copy of all of the items listed in Schedule "A".

3.4 Subject to Section 3.1, all Work shall be carried out by the Developer or his contractors in accordance with the Development Plan, and in accordance with the provisions of the bylaws of the First Nation from time to time in force.

3.5 In the event of a conflict between this Agreement and the Development Plan or between any of the items listed in Schedule "A", the following shall apply:

1. figured dimensions shown on a drawing shall prevail even though they may differ from dimensions scaled on the same drawing,
2. drawings of larger scale shall prevail over those of smaller scale,
3. specifications shall prevail over drawings,
4. conditions of approval set by any reviewing or approving authority shall prevail over specifications,
5. this Agreement shall prevail over all plans, specifications and documents, and
6. the First Nation's bylaws shall prevail over this Agreement.

3.6 The full cost of all Work herein shall be borne by the Developer.

**4.** **Excluded Works and Construction**

4.1 For greater certainty, this Agreement shall apply only to those works to be installed on the Lands and within Statutory Rights‑of‑Way, as the case may be, and does not include any works to be installed on any lands other than the Lands, regardless of whether or not such works are shown on the Development Plan.

4.2 This Agreement does not relieve the Developer from the requirement to comply with the provisions of any First Nation bylaw nor does it constitute a permit to carry out any activity or to do anything not expressly permitted herein and does not relieve the Developer from the requirement to obtain permits and to pay any permit fees required to be obtained or paid in respect of any activities or anything in respect of which a permit is required or a permit fee is payable and, without limiting the generality of the foregoing, does not constitute:

1. Building Permit issued under \_\_\_\_ First Nation Building Bylaw No. \_\_\_\_\_ and any amendments thereto in respect of any building to be constructed within the Lands; or
2. a permit to complete any service connection to the water works or the sewage works.

**5.**  **Contractors**

5.1 The Developer shall employ only qualified contractors to carry out and complete the Work.

5.2 The Developer shall obtain and provide to the First Nation upon request and free of charge true copies of all contracts and sub-contracts entered into by the Developer or its contractors and relating to the Work or, where oral contracts exist, written particulars of any such contracts.

**6.**  **Changes to the Work**

6.1 The Developer shall not deviate from the approved Development Plan during construction of any part of the proposed Works unless the Developer has submitted to the First Nation a complete set of plans and specifications containing full details of the proposed deviation and obtained the prior written consent of the Approving Officer, which approval may be withheld in the absolute discretion of the Approving Officer.

6.2 Any decision of the Approving Officer in respect of a proposed change to the Development Plan shall be final.

6.3 In the event that the Developer carries out any construction which deviates from the Development Plan, the Developer shall, forthwith upon notification from the Approving Officer, reconstruct the Works such that it will comply with the Development Plan.

6.4 The plans and specifications referred to in Section 6.1 shall be in the quantity and format and to the standard set out in any bylaw of the First Nation in effect from time to time.

**7. Payment of Charges**

7.1 The Developer hereby acknowledges that prior to commencing construction, the Developer is required to pay to the First Nation:

* + 1. development cost charges for common facilities and services in the amount of \_\_\_\_\_\_\_\_\_ **($\_\_\_\_\_\_\_\_)**, the calculation of which is set out in Schedule "B" attached hereto, and
    2. connection fees for water services in the amount of \_\_\_\_\_\_\_\_\_ **($\_\_\_\_\_\_\_\_\_\_)**,the calculation of which is set out in Schedule "B" attached hereto, and
    3. fees for inspection of the Works in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **($\_\_\_\_\_\_\_\_)**, which amount is equal to \_\_\_\_\_**%** of the estimated cost of the Works in the amount of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ **($\_\_\_\_\_\_\_)**, as estimated or approved by the Approving Officer, plus all applicable taxes, a copy of which estimate is set out in Schedule "C" attached hereto.

7.2 In the event that the Developer fails to comply with this Agreement and the First Nation incurs costs in enforcing compliance on the part of the Developer, in addition to the other charges specified herein, the Developer shall pay to the First Nation any court costs plus the costs or commission of any solicitor engaged by the First Nation in enforcing compliance, whether or not any judicial proceeding has been taken, and any such monies shall bear interest from the date of payment at the rate of interest specified in Section 17.

7.3 The Developer acknowledges that the charges referred to herein are pre-connection charges only and do not include any amounts for:

* 1. any periodic charges levied by the First Nation including system users fees and parcel or frontage taxes levied in respect of any services provided to the Lands, and
  2. any future charges levied by the First Nation to recover any unforeseen costs attributable to the repair, restoration or replacement of any works or services arising from any unforeseen event including, and without limiting the generality of the foregoing:

1. an earthquake,
2. a snowslide, landslide, subsidence or other earth movement,
3. a flood, including waves, tides, and the rising of, the breaking out or the overflow of, any body of water, whether natural or man-made,
4. the loss or deterioration in quality of a source of water for the First Nation water system,
5. and the Developer shall pay any amounts of money levied by the First Nation on facility or service users to raise funds required to effect such repair, restoration or replacement provided however that any amounts levied on the Developer shall be levied on the same basis as they are levied on other users.

**8. Inspections**

8.1 The First Nation and its authorized agents or representatives shall at all times have access to the Work authorized by this Agreement. If parts of the Work authorized by this Agreement are in preparation at locations other than the Lands, the First Nation or its authorized agents or representatives shall be given access to such Work whenever it is in progress.

8.2 If any part of the Work authorized by this Agreement is required to be tested, inspected or approved by either the Development Plan or the laws of application to the Work authorized, the Developer shall give both the Approving Officer and any other authorities having jurisdiction over the Work timely notice of the date and time that the Works will be ready for inspection and shall not cover the Work or permit it to be covered until such time that the required tests or inspections have been completed.

8.3 If the Developer covers or permits to be covered Work that is required to be tested, inspected or approved before such tests, inspections or approvals are made, given or completed, he shall, if so directed, uncover such Work, have the tests or inspections satisfactorily completed and make good such Work at his own expense.

8.4 Forthwith upon completion of tests, inspections or approvals carried out by any authority having jurisdiction over the Work authorized by the Agreement, the Developer shall provide the Approving Officer with two (2) copies of any test results, certificates and inspection reports relating to the Work tested, inspected or approved.

8.5 The decision of the Approving Officer shall be final and binding on all parties hereto in determining whether or not the Work or any part thereof has been carried out and completed in accordance with the provisions of this Agreement.

**9. Ownership of the Works**

9.1 The Developer acknowledges and agrees that, unless otherwise agreed by the First Nation and the Developer, all right, title and interest in and to that portion of the Works located inside of the Lands shall at all times, during the term of the Lease, vest in the Developer and nothing herein contained shall derogate from the obligation of the Developer to pay for, use, operate, repair, replace and maintain the said Works in accordance with any laws of application thereto.

9.2 The Developer acknowledges and agrees that immediately upon issuance by the Approving Officer of his certification stating that the Work has been completed, all right, title and interest in and to that portion of the Works located outside of the Lands shall immediately pass to and vest in the First Nation, but nothing herein contained shall derogate from the obligation of the Developer to maintain the said Works for a period of one (1) year following completion as aforesaid.

**10. Engineer's Certificate and As-built Information**

10.1 Upon completion of the Works, and prior to the Approving Officer certifying completion of the Work, the Developer shall submit to the Approving Officer:

1. a certificate from the Developer's engineer certifying that the Works were installed and constructed in accordance with the Development Plan, and
2. final as-built mylar drawings of all Work constructed hereunder, signed and sealed by a Professional Engineer plus one copy of a diskette containing files of the as-built drawings produced using the AUTOCADD, Release 12, computer drafting software system.

10.2 Until the Developer submits the final as-built mylar drawings and computer diskette required by Subsection 10.1(b), the First Nation will hold $200.00 per sheet from the security deposit for drafting deficiencies.

**11. Schedule**

11.1 Subject to subsection 11.2, prior to commencing construction of the Works authorized by this Agreement, the Developer shall provide the Approving Officer with a schedule listing the various components of the Work authorized and a projected start date and completion date for each component and shall, from time to time, notify the Approving Officer of any changes to the schedule.

11.2 The Developer shall commence construction of the Works permitted by the Agreement within six months of the Effective Date and if the Developer does not commence construction within six months of the Effective Date, this Agreement shall lapse and any permission given hereunder to construct the Works shall be revoked without any requirement for notice to the Developer.

11.3 The Developer cause all Work herein to be carried out and completed by the completion date shown on the Schedule referred to in Section 11 (herein called the "Completion Date"), which Completion Date shall not be later than twelve months after the Effective Date.

11.4 At the request of the Developer, the Approving Officer may extend the period within which the Developer may carry out and complete construction of the Works provided that the Developer shall:

1. pay to the First Nation an additional inspection fee which shall be the greater of five hundred ($500.00) dollars or an amount calculated in the same manner as the inspection fee referred to in Section 7.1(c) except that it shall be calculated based on the value of works remaining to be completed as estimated by the Approving Officer, and
2. where the Developer has applied for and obtained approval of the Subdivision Plan conditional upon the provision of security to the First Nation, obtain equivalent extensions to the security provided to the First Nation and provide the First Nation with written evidence, satisfactory to the Approving Officer, that such extensions have been obtained.

**12. Payment of Taxes**

12.1 The Approving Officer may withhold final approval of the Works until such time that:

1. all arrears of property taxes levied against the Lands, if any, have been paid; and
2. all current assessed property taxes levied against the Lands, if any, have been paid.

**13. First Nation to Provide Service**

13.1 Upon completion of the Works and upon performance by the Developer of all of his covenants and agreements contained herein, the First Nation shall provide water and sewer services to any premises which may become connected to the water works and sewage works constructed pursuant to this Agreement subject to continued compliance on the part of the Developer and all persons claiming under, by or through the Developer with the terms and conditions of this Agreement and all bylaws of the First Nation in effect from time to time related to the said systems.

13.2 Notwithstanding any current or future requirement by the First Nation that any sublessee of the Developer execute any application for water or sewer services or any other service, the Developer shall collect any and all charges levied by the First Nation which are attributable to any subleased premises and pay such charges to the First Nation when they are due and payable.

13.3 Nothing in this Agreement shall be construed so as to create any greater standard of care or liability on the part of the First Nation in respect of the supplying of services to occupants and Premises within the Lands than that which applies to the supply of such services to other persons or Premises within the Reserve and, for greater certainty, the First Nation shall not be liable to the Developer for any interruption in the supply or reduction in the quality or quantity of services supplied due to causes beyond the reasonable control of the First Nation.

13.4 For greater certainty, nothing in this Agreement shall be construed as imposing any obligation on the First Nation to pay the costs of providing services to the Developer or to any other service users with funds other than those funds paid to the First Nation from time to time by the Developer or other service users for the purpose of defraying the full cost of those services.

**14. Security Deposit**

14.1 The Developer may apply for final approval of the Subdivision Plan related to that portion of the Lands covered by this Agreement prior to final approval of the Works by the Approving Officer provided that the Council may, as security for the due and proper performance by the Developer of all his covenants and agreements herein contained, require that the Developer deposit with the First Nation an unconditional, irrevocable Letter of Credit, in the form attached hereto as Schedule "D" and for a term of not less than twelve (12) months, in an amount equal to One Hundred and Twenty (120%) Percent of the cost of constructing and providing all of the Works remaining to be constructed and installed by the Developer under the terms of this Agreement, as estimated by the Approving Officer.

14.2 The Developer agrees that if the Work or any part thereof is not completed in accordance with the provisions of this Agreement and by the Completion Date, or if the Developer shall be in default of any of his covenants herein contained, and such default shall continue for a period of fourteen (14) days after notice thereof has been given by the First Nation to the Developer, the First Nation may call for and receive the funds secured by the Letter of Credit and the First Nation may complete the Work at the cost of the Developer and deduct from any fund held by the First Nation as security hereunder, the cost of such completion. The balance of the deposit, if any, shall be returned to the Developer less any administration fees equal to fifteen (15%) of the cost of the Works completed by the First Nation. If there is insufficient money on deposit with the First Nation under the Letter of Credit, then the Developer shall pay such deficiency to the First Nation immediately upon receipt of the First Nation's bill for completing the Work. It is understood and agreed that the First Nation may do such Work either by itself or by contractors employed by the First Nation. Any bill rendered by the First Nation to the Developer under the provisions of this paragraph, shall be regarded as charges for Work done or service provided.

14.3 The First Nation will, upon application by the Developer, consent to a reduction in the amount secured by the Letter of Credit, or cash, from time to time, and in accordance with the following:

1. The percentage of the credit reduction will be equal to the percentage of the cost of the Work completed, as estimated by the Approving Officer, and approved by the Approving Officer;
2. No reduction will be allowed for any amount less than 10% of the total cost of the construction and installation of the Work, as estimated by the Approving Officer;
3. Notwithstanding a. or b. herein, the First Nation will not refund an amount equal to 10% of the total cost of the Work, as estimated by the Approving Officer, or $2,000.00, whichever is greater, until the expiry of one (1) year following the full and final completion of all the Work; and
4. Upon the expiry of the aforesaid one (1) year period referred to in c. and provided that the Developer is not then in default under any of his covenants herein contained, and upon final approval of the Work by the Approving Officer, the First Nation will as soon as possible, reduce the remaining security to zero (nil).

**15. Indemnity**

15.1 The Developer shall indemnify and save harmless the First Nation from and against all claims, demands, losses, costs, damages, actions, suits, proceedings or fines or assessments by whoever made, brought or prosecuted and in any manner based upon, arising out of, related to, occasioned by or attributed to the breach of any provision of this Agreement to be performed by the Developer, its officials, servants, employees, members, agents and contractors. This indemnity shall survive the termination of this Agreement.

**16. Notices**

16.1 All notices under this Agreement must be given in writing and delivered in accordance with this Article.

16.2 All notices will be delivered to the other Party and no notice shall be effective until such delivery has been made.

16.3 The addresses for delivery are:

**To the First Nation:**

ADDRESS

Phone:

Fax:

**To the Developer:**

ADDRESS

Phone:

Fax:

Notice will be deemed to have been delivered:

1. if delivered by hand, upon receipt;
2. if sent by electronic transmission, 48 hours after the time of transmission, excluding from the calculation weekends and public holidays;
3. if sent by registered mail, four (4) days after the mailing thereof, provided that if there is a postal strike or other disruption such notice will be delivered by hand or electronic transmission.

16.5 The Parties may change their respective addresses for delivery by delivering notice of change as provided in this Section.

**17. Arrears to Bear Interest**

17.1 If any payment is not made by any Party as required by this Agreement, the same shall bear interest equal to the Prime Rate plus (3%) per cent per annum, calculated on the outstanding balance from time to time, from the date of default in payment until paid.

**18. Amendment of Agreement**

18.1 This agreement may be amended from time to time by written agreement signed by the Parties hereto.

**19. Assignment**

19.1 This Agreement shall not be assigned by either Party hereto, except with the prior written consent of the other.

**20. Interpretation**

20.1 It is understood and agreed that the First Nation has made no representations, covenants, warranties, guarantees, promises or agreements (oral or otherwise) with the Developer other than those contained in this Agreement.

20.2 Nothing contained or implied in this Agreement shall prejudice or affect the rights and powers of the First Nation in the exercise of its functions under any inherent right, statute, by-law, order or regulation.

20.3 Nothing in this Agreement shall be interpreted as creating an agency, partnership or joint ventureship among or between the Developer, the First Nation and/or the First Nation Council.

20.4 If any part of this Agreement is declared or held invalid for any reason, the invalidity of that part will not affect the validity of the remainder, which remainder will continue in full force and effect and be construed as if this Agreement had been executed without the invalid portion, the intent of the Parties being that this Agreement would have been executed without reference to any portion which may, for any reason, be declared or held invalid.

20.5 Time shall be of the essence of this Agreement.

20.6 Headings are inserted in this Agreement for convenience only and shall not be construed as affecting the meaning of this Agreement.

20.7 No waiver of any term or condition of this Agreement or a breach of any term or condition of this Agreement by any Party hereto shall be effective unless it is in writing and no waiver of breach even if in writing shall be construed as a waiver of any future breach.

20.8 Wherever the singular or masculine is used herein, the same shall be construed as meaning the plural, feminine or body corporate or politic where the context or the parties so require.

20.9 This Agreement and the terms, covenants and conditions herein contained shall ensure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and permitted assigns.

20.10 The Parties hereto shall do and cause to be done, all things and execute and cause to be executed all documents which may be necessary to give proper effect to the intention of this Agreement.

**IN WITNESS WHEREOF** the Parties hereto have executed this Agreement effective as of the day and in the year first above written.

|  |  |  |
| --- | --- | --- |
| The Corporate Seal of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_was hereunto affixed on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20 in the presence of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Authorized Signatory  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Authorized Signatory | )  )  )  )  )  )  )  )  )  )  ) | C/S |
| Signed, Sealed and Delivered by the Approving Officer on behalf of the First Nation on the \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20 in the presence of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Witness |  | \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Approving Officer |

**SCHEDULE "A"**

**\_\_\_\_ FIRST NATION  
DEVELOPMENT PERMIT AND SERVICING AGREEMENT**

**LIST OF PLANS AND SPECIFICATIONS FOR AUTHORIZED WORKS**

The following are the plans and specifications for the work authorized by a Development Permit and Servicing Agreement No. -\_\_\_\_\_\_\_\_\_\_\_\_ issued by the \_\_\_\_ First Nation:

**WRITTEN PLANS AND SPECIFICATIONS**

a. Environmental Impact Assessment for Lot \_\_\_\_\_, Indian Reserve No. \_\_\_ dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_ as prepared by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Engineering Ltd.

**ENGINEERED AND ARCHITECTURAL DRAWINGS**

|  |  |  |  |
| --- | --- | --- | --- |
| Document | Rev. No. | Issue Date | Description |
|  |  |  |  |
|  |  |  |  |

**SCHEDULE "B"**

**\_\_\_\_ FIRST NATION   
DEVELOPMENT PERMIT AND SERVICING AGREEMENT**

**DEVELOPMENT COST CHARGES FOR AUTHORIZED WORKS**

The following are the Development Cost Charges applicable to the work authorized by Development Permit and Servicing Agreement No. \_\_\_\_\_\_ issued by the \_\_\_\_ First Nation:

AMOUNT:

|  |  |
| --- | --- |
|  |  |
|  |  |
| TOTAL |  |

**SCHEDULE "C"**

**\_\_\_\_ FIRST NATION   
DEVELOPMENT PERMIT AND SERVICING AGREEMENT**

The following are the estimated taxes applicable to the work authorized by Development Permit and Servicing Agreement No. \_\_\_\_\_\_ issued by the \_\_\_\_ First Nation:

AMOUNT:

|  |  |
| --- | --- |
|  |  |
|  |  |
| TOTAL |  |

**SCHEDULE "D"**

**\_\_\_\_ FIRST NATION**

**DEVELOPMENT PERMIT AND SERVICING AGREEMENT**

Bank of: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Branch Address: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_ First Nation Council

ADDRESS

Dear Sirs,

**Re: (Insert Project Name and Location)**

At the request of (Developer) we hereby establish in your favour our irrevocable credit for a sum not exceeding \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dollars, ($\_\_\_\_\_\_). This credit shall be available to you by sight drafts drawn on the Bank of \_\_\_\_\_\_\_\_\_\_\_\_\_, Branch Address , B.C. when supported by your written demand for payment made upon us.

This Letter of Credit is required in connection with an undertaking by the Developer to perform certain works and services required by you. We specifically undertake not to recognize any notice of dishonour of any sight draft that you shall present to us for payment under this Letter of Credit. You may make partial drawings or full drawings at any time. We shall honour your demand without enquiring whether you have a right as between yourself and our Customer.

Our reference for this Letter of Credit is the Bank of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, B.C., Letter of Credit No. \_\_\_\_\_\_\_\_\_\_.

BANK OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

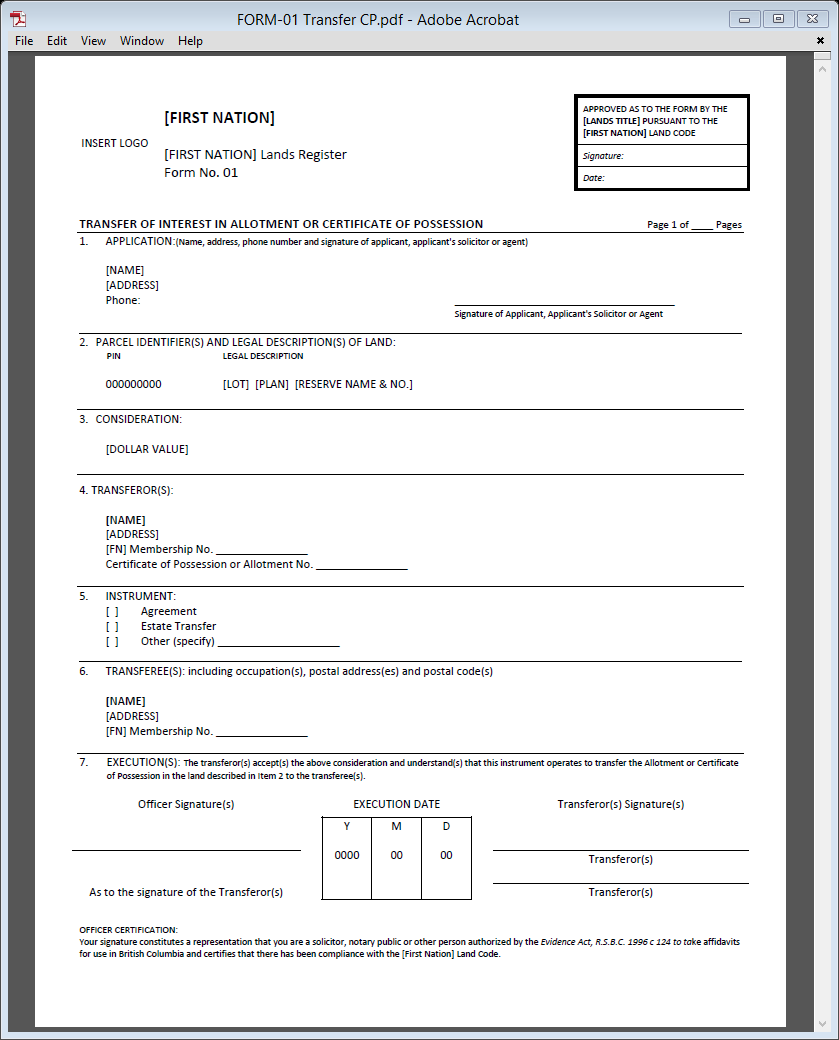
(Developer) hereby specifically agrees that it shall not take any action to dispute the validity of the Letter of Credit unless it shall have expired prior to demand. We hereby agree to indemnify the Bank of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ against any costs of actions relative to the above. We also authorize the Bank of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ to make such payments as may be necessary and to debit our account accordingly.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

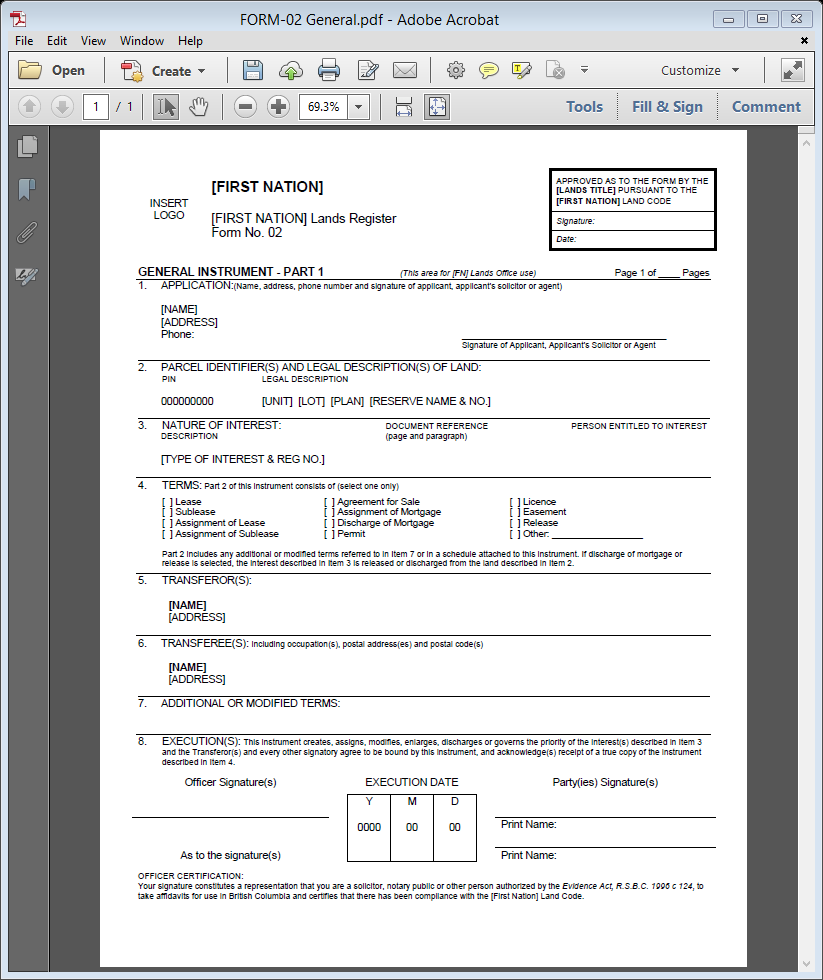
Developer

**ATTACHMENT E – REGISTRY FORMS**

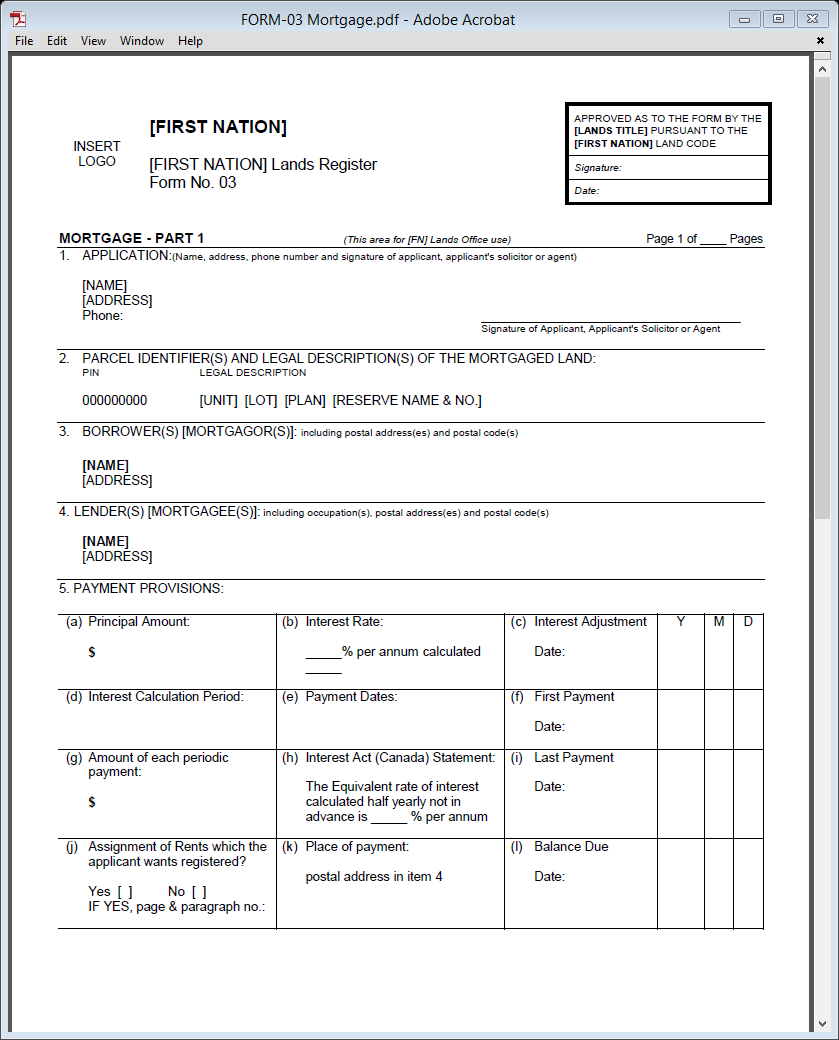
FORM-01 Transfer of Certificate of Possession

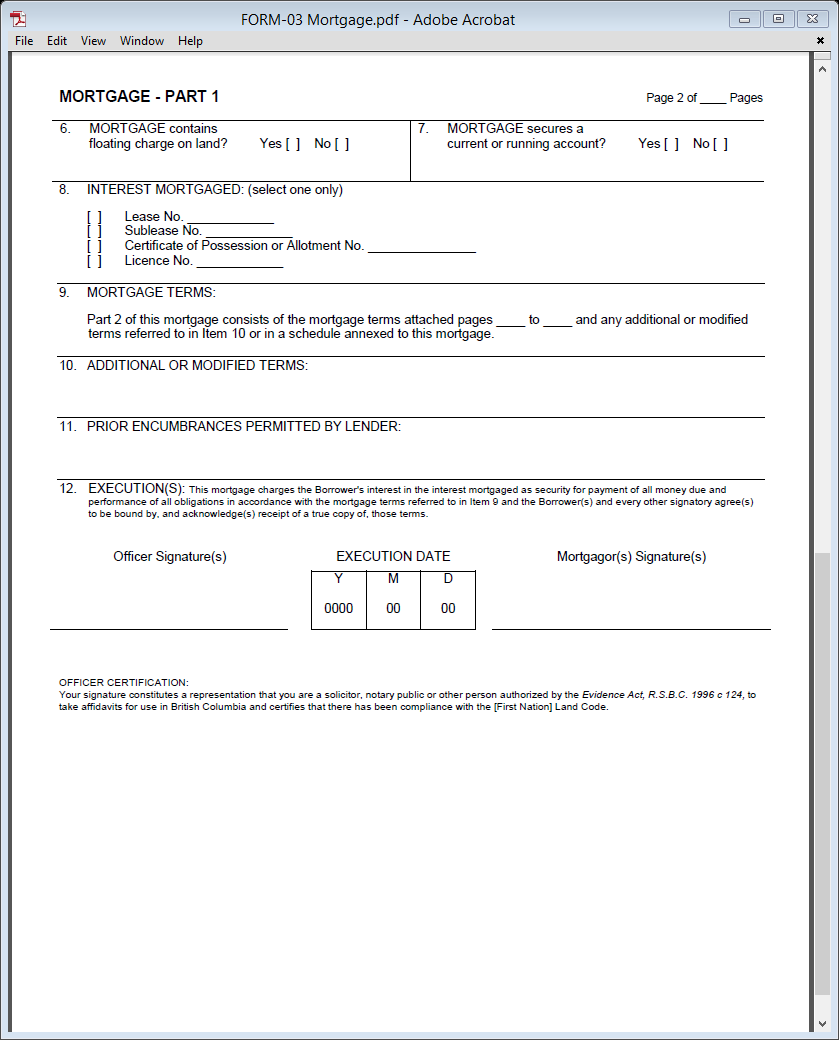


FORM-02 General

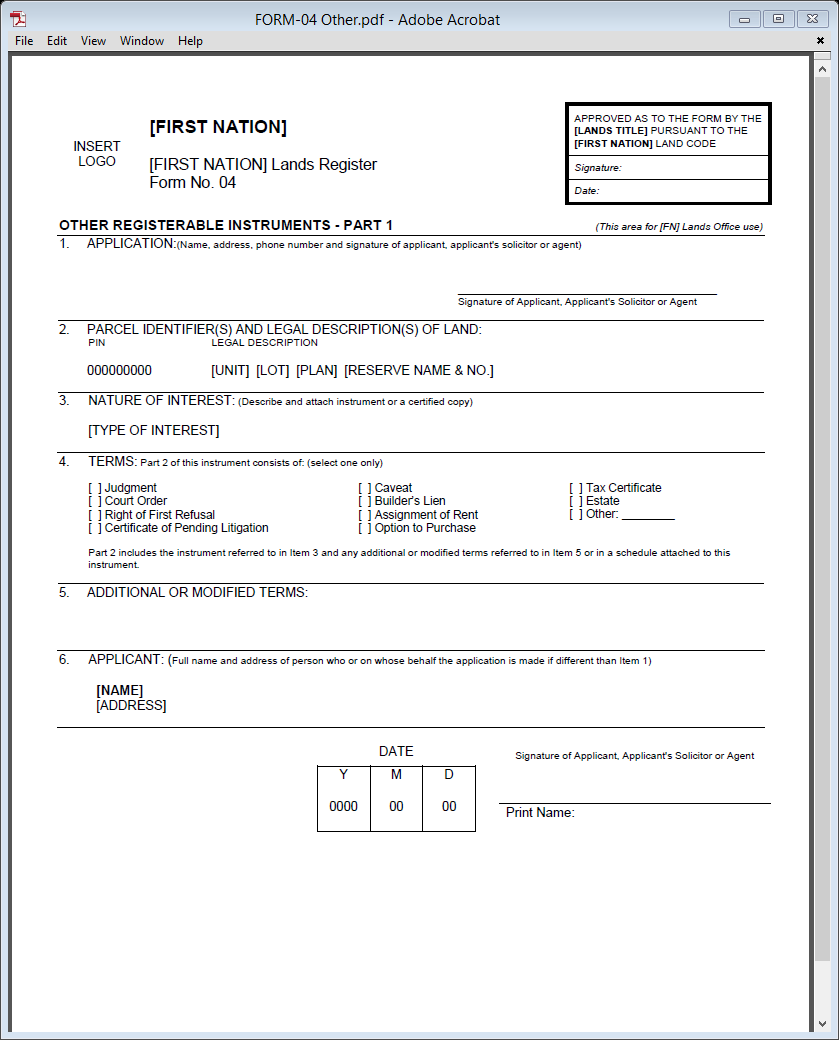


FORM-03 Mortgage

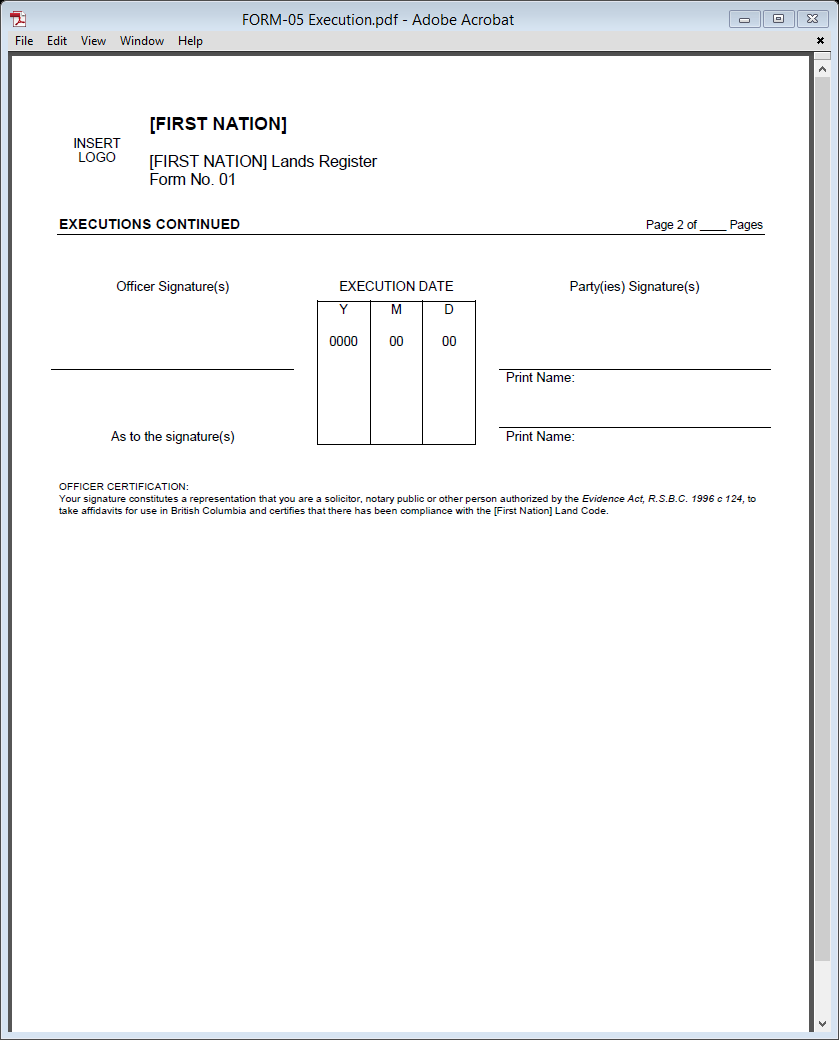




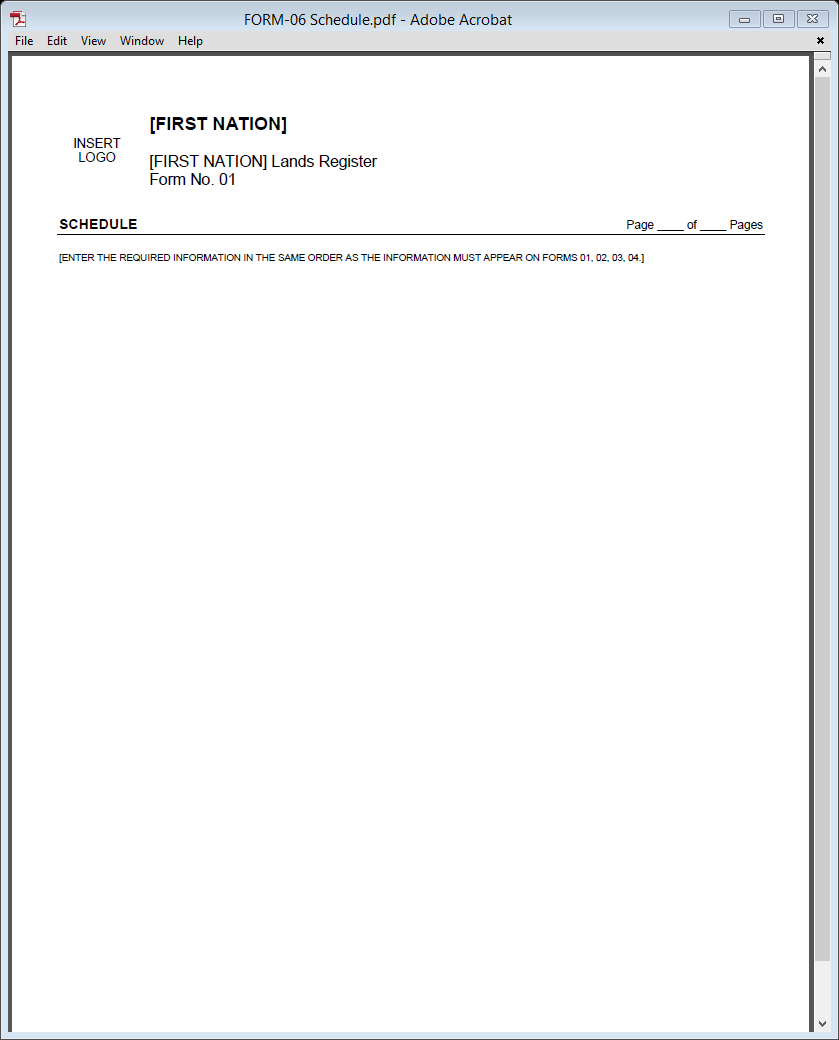
FORM-04 Other



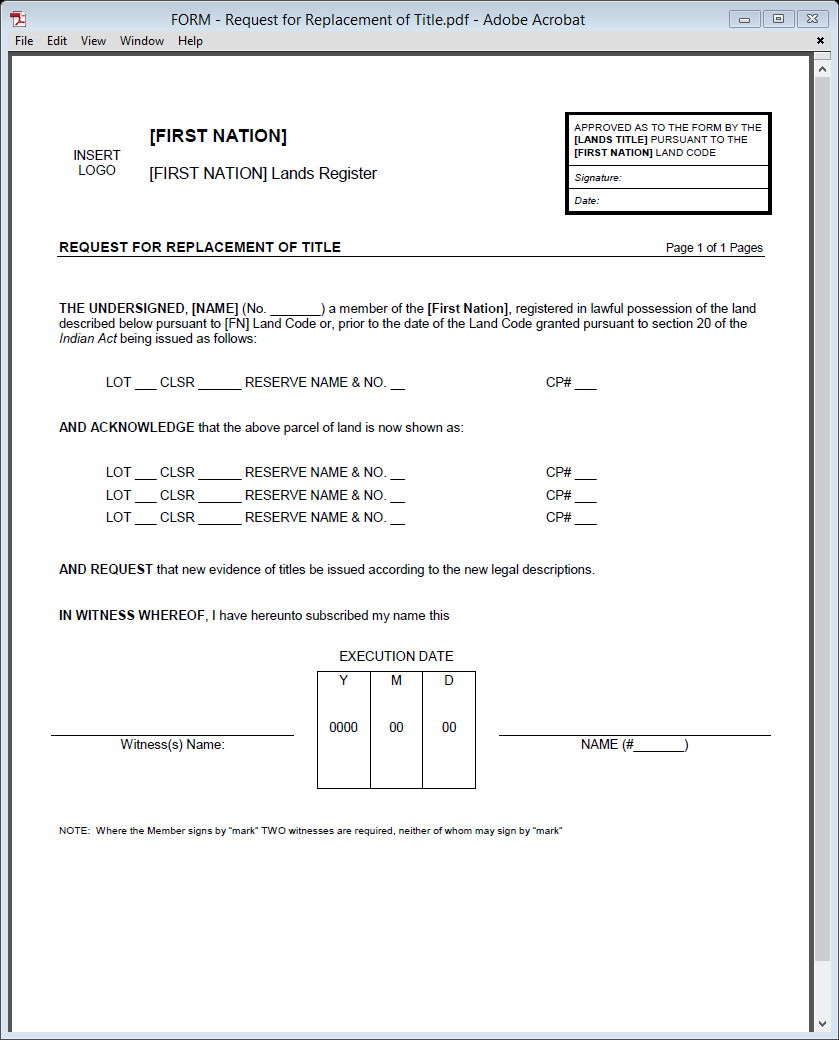
FORM-05 Execution



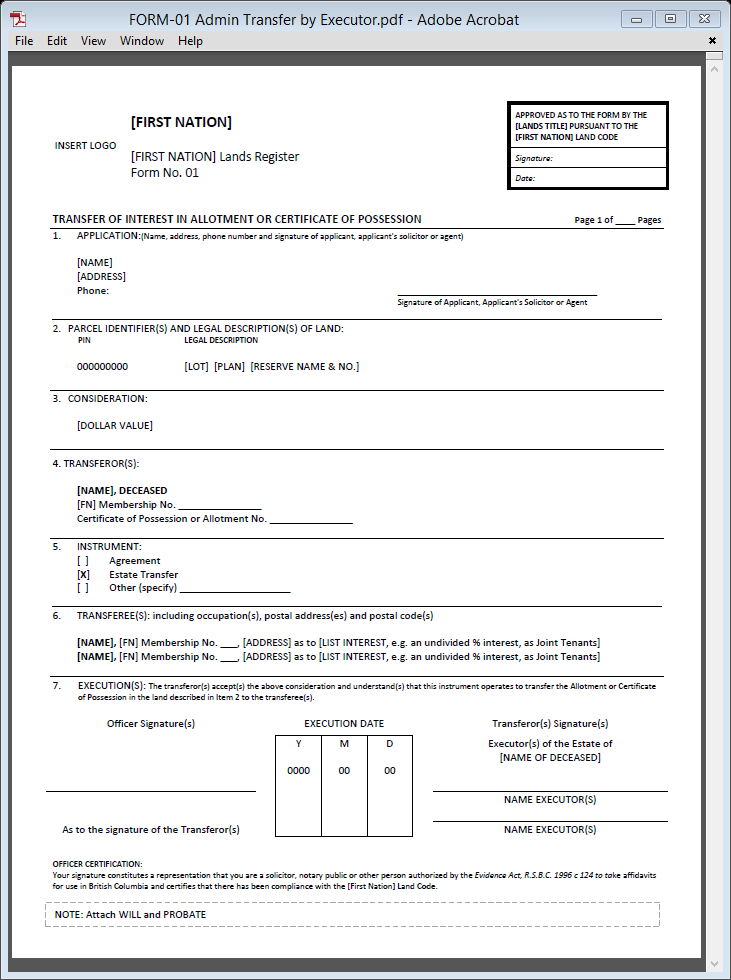
FORM-06 Schedule



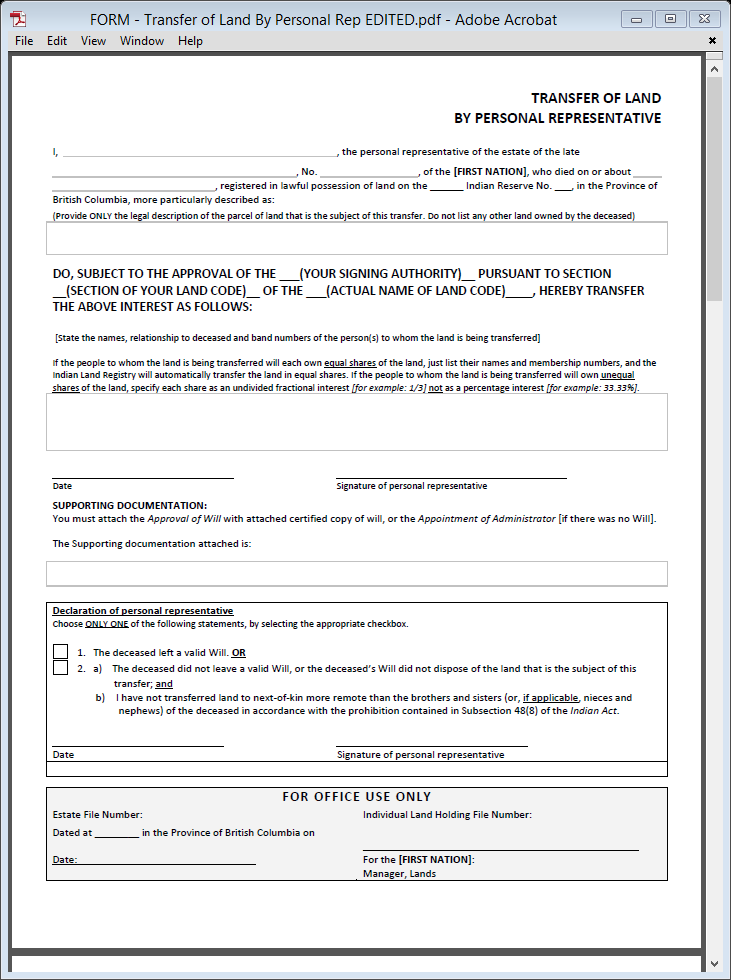
FORM – Request for Replacement of Title



FORM – Admin Transfer by Executor of Estate



FORM – Transfer of Land by Personal Representative



**HOW TO COMPLETE THE “TRANSFER OF LAND BY PERSONAL REPRESENTATIVE” FORM**

*\*\*\*Please note that a separate form must be completed for each parcel of land being transferred\*\*\**

The numbers below refer to the **red, bolded numbers** on the previous page. If you do not already have a copy of the Parcel Abstract Report for the land from the First Nation Land Registry System, you should obtain it before you complete the *Transfer of Land* form. To request a Parcel Abstract Report, contact the Land Governance Officer at **[First Nation]** Land Governance office.

|  |  |
| --- | --- |
| 1. The full name(s) of the appointed personal representative(s) (= the executor(s) or administrator(s)) of the estate. 2. The full name of the deceased. The name must match the name of the deceased as shown in the First Nation Lands Registry. Contact the **[First Nation]** Land Governance office, if clarification is required. 3. The deceased’s band membership number as stated in the First Nation Lands Registry. 4. The deceased’s date of death (month, day and year). 5. The legal description of the land. Include the Lot number, Block number (if any), survey plan type if the land has been surveyed (e.g. “CLSR” or “RSBC”), and the name and number of the reserve. |  |

For example:

* + “Lot 5-3 Plan 79221 CLSR, Tzeachten Indian Reserve # 13”.

If the description of the land is not based on a survey plan, then state the description of the land that was used in the original allotment of the land by Band Council Resolution (“BCR”), and refer to any applicable sketch (e.g. “Fry sketch”).

For example:

* + “The land as described on the BCR dated October 14, 1956 which is registered under number 12345 in the First Nation Lands Registry.”
  + “The land as shown on the sketch attached to the BCR dated July 16, 1972 which is registered under number 456789 in the First Nation Lands Registry.”
  + “10 acres more or less, as described in the BCR dated November 3, 1949 which is registered under number 567890 in the First Nation Lands Registry.”

1. The full name(s) and band membership number(s) of the person(s) to whom the land is being transferred (called the “transferee(s)”). If the land is being transferred to more than one person in unequal shares, state the fractional share of the land that each transferee is to receive.

For example:

* + “An undivided ½ interest to Jane Jack, No. 123(02), an undivided ¼ interest to Joseph Jim, No. 345(01), and an undivided ¼ interest to Thomas Jim, No. 678(01), as tenants in common.”

If you do not specify the share that each person is to receive, the First Nation Lands Registry will assume that each person you name is to receive an equal share. For example:

* + If you say: “Jane Jack, No. 123(02), Joseph Jim, No. 345(01), and Thomas Jim, No. 678(01), as tenants in common.” Result is: Jane Jack, Joseph Jim, and Thomas Jim each get an undivided 1/3 interest in the land as tenants in common. (And if you name 4 people, they’ll each get a ¼ interest … etc.).

Note to First Nations in Quebec

The legal principles of tenant in common and joint tenancy do not exist in Quebec Civil Law. Please see the explanation provided in the Definitions section above in Attachment B.

1. The date (month, day and year) that the *Transfer of Land* form was completed and signed.
2. The signature(s) of the appointed personal representative(s) of the estate.
3. Supporting documentation: You must list and attach a copy of the *Approval of Will* that has a copy of the Will attached to it [the Will does not get registered in the First Nation Lands Registry and cannot be viewed by the public]. If there was no Will, you must list and attach a copy of your *Appointment as Administrator* of the estate.
4. Declaration: choose ONLY ONE of the 2 options. If the deceased left a valid Will, choose the first option. If the deceased did not leave a valid Will, or the Will did not deal with the land you are transferring here, review Instruction #11 below, then select the second option.

|  |
| --- |
| NOTE: If the land transfer is not in accordance with the terms of the Will (if the deceased left a valid Will), or with section 48 of the *Indian Act* (if there was no Will or the Will did not dispose of this parcel of land), you must provide documentation showing that all heirs/beneficiaries consent to the proposed land transfer (for example, an *Heirs/Beneficiaries Agreement* – this form may be obtained from INAC’s Estates Unit by calling 604.775.5100 or (toll free) 1.888.917.9977, or emailing [BCestates@INAC-aadnc.gc.ca](mailto:BCestates@inac-ainc.gc.ca)).  DO NOT LIST THIS ADDITIONAL SUPPORTING DOCUMENTATION ON THE TRANSFER FORM  (This is to maintain the privacy of your estate documents) |

1. If the deceased did not leave a valid Will, or the Will did not dispose of the land that is the subject of this transfer, **AND** the deceased’s closest surviving relatives were niece(s)/nephew(s), then the deceased’s land must be returned to the Band (see section 48(8) of the *Indian Act*). However, if the deceased’s closest surviving relatives included at least one brother or sister, as well as one or more niece(s)/nephew(s), the land may be transferred to the niece(s)/nephew(s), as well as to the brother(s)/sister(s), in shares as determined by section 48(6) of the *Indian Act*. Please call an Estates Officer at (toll free) 1.888.917.9977 for additional explanation if required.
2. The date (day, month and year) that the Declaration was signed by the Personal Representative.
3. The signature of the Personal Representative.

|  |
| --- |
| Please include a separate piece of paper on which you have written your name and mailing address, so that we can send you the new Certificate(s) of Possession (or other confirmation of the land transfer, in the case of the transfer of a parcel of land that has not been surveyed) to give to the transferees once the land transfer has been processed by the First Nation Lands Registry. |

**Note regarding terminology**

The First Nations Land Management Regime does not provide for individual ownership of land, but rather the acquisition of an interest or land right in the land that provides for possession, occupation and the use of the specific parcel of land.

**ATTACHMENT F – TYPES OF INSTRUMENTS WITHIN THE FNLRS**

The following are the instruments/documents available in the FNLRS, under a First Nation Land Code unique interest/land right (QC) may also be created directly related to that First Nation.

112 – Acceptance of a Transfer

081 – Act

001 – Addendum

002 – Admin Transfer

033 – Agreement

057 – Amendment

113 – Amendment to Designation

084 – Articles of Association

003 – Assignment

096 – Assignment – Partial

087 – Assignment of Rents

048 – Assumption Agreement

004 – BCR

210 – BCR Allotment

029 – Bank Assignment

072 – Builders Lien

207 – Bylaw

005 – Cancellation

006 – Caveat

007 – Certificate

204 – Certificate of Allocation

050 – Certificate of Lis Pendens

008 – Certificate of Title

056 – Consent

009 – Court Order

076 – Death Certificate

010 – Debenture

080 – Deed

111 – Default on Mortgage

011 – Delegation of Authority

088 – Designation

012 – Discharge

030 – Discharge Bank Assignment

203 – Dower Rights

013 – Easement/Servitudes (QC)

058 – Grant

213 – Grant of Entitlement Certificate

127 – Guardian Appointment

216 – Instrument of Grant

049 – Judgment

221 – Law

014 – Lease

042 – Letter

202 – Letter of Acknowledge

090 – Letter of Undertaking

031 – Licence

068 – Licence of Occupation

078 – Marriage Certificate

097 – Memo of Understanding

129 – Ministerial Guarantee

214 – Ministerial Loan Guarantee

015 – Ministerial Order

209 – Modification

070 – Modification of Lease

016 – Mortgage/Hypothec (QC)

126 – Mortgage/Hypothec (QC) Agreement

119 – Mortgage/Hypothec (QC) Amending Agreement

161 – Mortgage/Hypothec (QC) Guarantee

079 – Name Change

075 – Notice

124 – Notice of Application

100 – Notice of Mortgage/Hypothec (QC)

017 – OCPC

115 – Oil & Gas Lease Notice

116 – Oil & Gas Permit Notice

128 – Option Agreement

106 – Option to Lease

102 – Option to Purchase

095 – Partial Discharge

211 – Partial Discharge & Agreement

094 – Partial Relinquishment

150 – Partial Revocation

052 – Partial Surrender

018 – Permit

074 – Postponement

099 – Power of Attorney

212 – Promissory Note

019 – Prov OC

020 – Quit Claim

062 – R/W Agreement

046 – RS Plan

083 – Registrar’s Note

021 – Registrar’s Order

085 – Release

022 – Relinquishment

069 – Renewal

086 – Request

118 – Response to Notice

024 – Revocation

025 – Right of Way

061 – Sale Agreement

101 – Settlement Agreement

044 – Statutory Declaration

103 – Statutory Easement/Servitude (QC)

026 – Sub-lease

206 – Sub-sub-sub-lease

051 – Sub-sub-lease

027 – Surrender

040 – Survey Plan

105 – Time Sale Agreement

028 – Transfer

208 – Transfer of Admin & Control

215 – Transfer by Superintendent

092 – Treaty

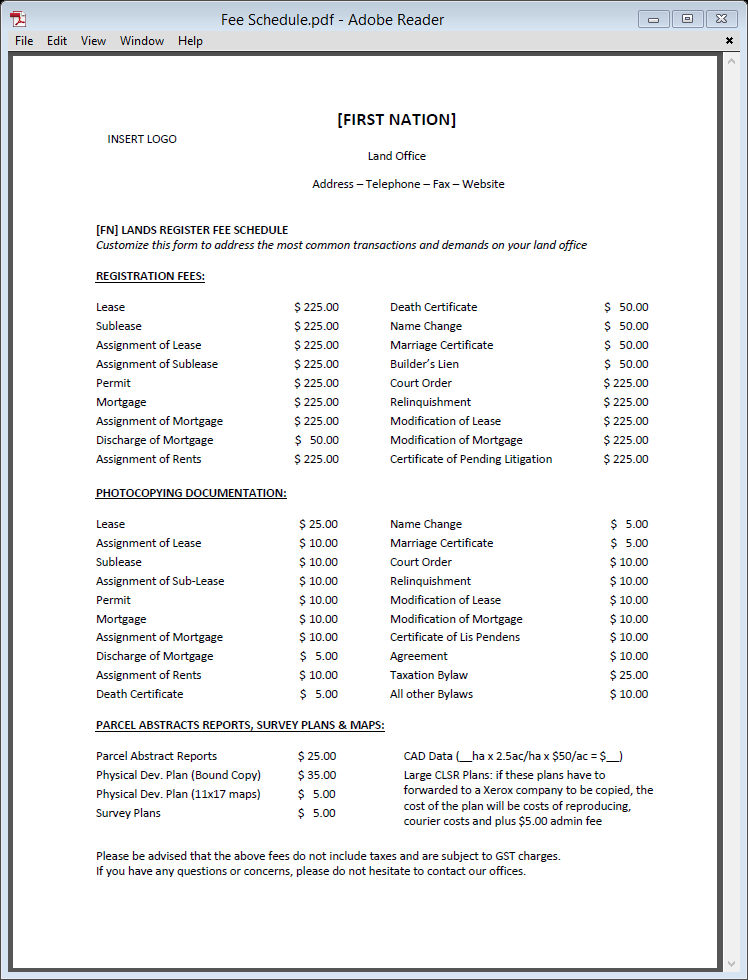
162 – Withdrawal

123 – Withdrawal of Notice

098 – Writ of Execution

122 – Writ of Summons

**ATTACHMENT G – REGISTRATION FEES**



**ATTACHMENT H – INDIVIDUAL LAND HOLDINGS & ALLOTMENTS**

**NOTE FOR FIRST NATIONS IN QUEBEC**

**All references to joint tenancy and tenancy in common in the following forms should be amended to reflect the Civil Law’s legal principle of co-ownership.**

**CP ORIGINAL**

|  |  |
| --- | --- |
|  |  |

**CP DATABASE**



**HOUSING ALLOTMENT FORM**

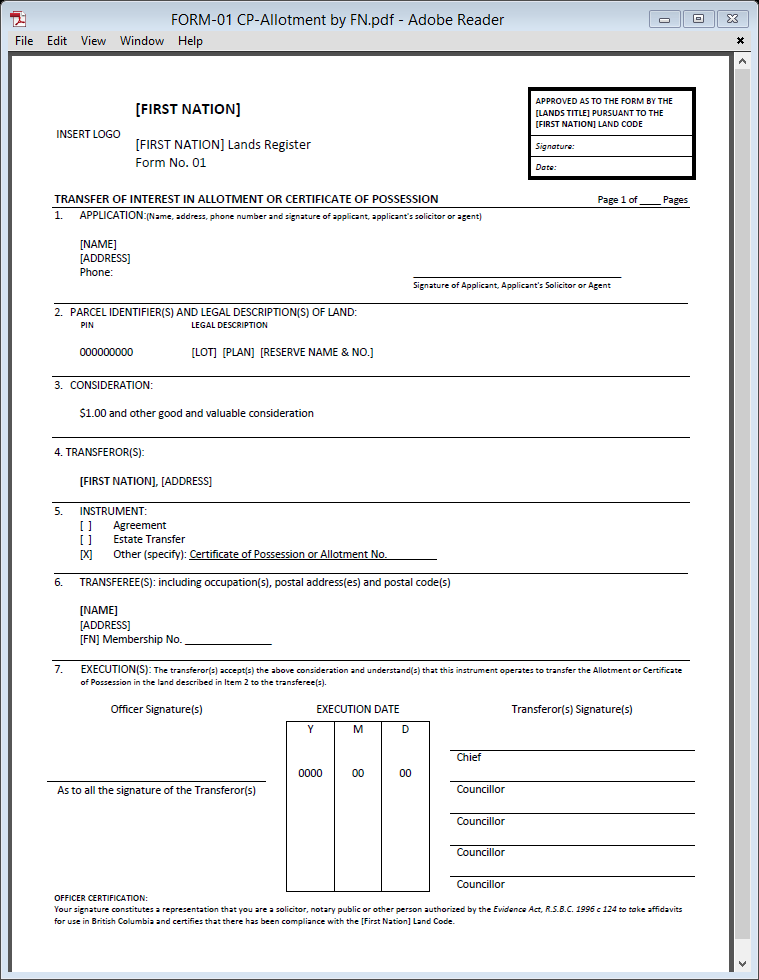
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **FIRST NATION HOUSING ALLOTMENT APPROVAL RECOMMENDATION FORM** | | | | | | | | | | | | | | | | |
| **PART ONE:**  **Housing Department** | | | | | | | | | | | | | | | | |
| Tenants Name: | | | | | | | | | | | | | | | Band Member No.: | |
| Civic Address: | | | | | | | | | | | | | | | Postal Code: | |
| Legal Description: | | | | | | | | | | Plan No.: | | | | | RESERVE NAME & No. | |
| Occupancy: | | From: | | | | | | | | To: | | | | | Original Occupant: ❑Yes ❑No | |
| Phase No.: | | | | | Mortgage/HYPOTHEC (qc) No.: | | | | | | Mortgagor/HYPOTHECATOR (QC): | | | | Balance owing: | |
| Rent Arrears: | | | | | Repairs/Reno.: | | | | | | Other: | | | | Total: $ | |
| Registration particulars: | | | | | Tenure: | | | | ❑ Individual | | | ❑ Joint Tenancy | | | ❑ Tenancy in Common | |
| Registered Name(s): | | | | | | | | | | | | | | | Band Member No.: | |
| Registered Name(s): | | | | | | | | | | | | | | | Band Member No.: | |
| **COMMENTS/RECOMMENDATIONS:** | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | Signature of Program Manager: | | | | | Date: | |
| **PART TWO** Finance Department | | | | | | | Complete Part Two, attach relevant documentation and forward entire form to Land Governance office | | | | | | | | | |
| Date | | | Program / Entity | | | | | Description / Detail | | | | | | | | Amount |
|  | | |  | | | | |  | | | | | | | |  |
| **COMMENTS/RECOMMENDATIONS:** | | | | | | | | | | | | | | | | **$** |
|  | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | Signature of Program Manager: | | | | | Date: | |
| **PART THREE**  Public Works / Utilities | | | | | | | | | Complete Part Three, attach relevant documentation and forward entire form to Land Governance office | | | | | | | |
| Date | | | | Water and/or Sewer | | | | | | | | | | | | Amount |
|  | | | |  | | | | | | | | | | | |  |
| Sewer: | ❑Yes ❑No | | | Water: | | ❑Yes ❑No | | | Has Right of Way been surveyed | | | | ❑Yes ❑No | | | **$** |
| **COMMENTS/RECOMMENDATIONS:** | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | Signature of Program Manager: | | | | | Date: | |
| **PART FOUR** Chief and Council | | | | | | | | | Attach copy of BCR and distribute form as per below | | | | | | | |
| ❑ Rejected | | | | ❑ Approved by BCR No.: | | | | | | | | | | Date of Council Meeting | | |
| **COMMENTS/RECOMMENDATIONS:** | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | Signature of Council Secretary: | | | | | Date: | |

**PARCEL OF LAND PURCHASE APPROVAL FORM**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **FIRST NATION LAND PURCHASE APPROVAL FORM** | | | | | | | | | | | | | | | | |
| **PART ONE:** Land Governance office | | | | | | | | | | | | | | | | |
| Locatee(s) Name: | | | | | | | | | | | | | | | Band Member No.: | |
|  | | | | | | | | | | | | | | |  | |
| C.P. No.: | | | | | | | | ❑ Individual | | | ❑ Joint Tenancy | | | ❑ Tenants in Common | | |
| Civic Address: | | | | | | | | | | | | | | | Postal Code: | |
| Legal Description: | | | | | | | | Plan No.: | | | | | | | Reserve Name & No. | |
| Any registered Easements/servitudes (QC) and/or Rights of Way | | | | | | ❑ Yes ❑ No | | | | If Yes, Please list: | | | | | | |
| Any unregistered Easements/servitudes (QC) and/or Rights of Way | | | | | | ❑ Yes ❑ No | | | | If Yes, Please list: | | | | | | |
| Appraisal: | | | | | | ❑ Yes ❑ No | | | | Waived by Locatee(s): | | | | | | |
| Name of Appraisal Firm: | | | | | | | | | | Date of Appraisal: | | | | | | |
| Fair Market Value: | | | | | | | | | | Copy on File: | | | | | | |
| Environmental Concerns: | | | | | | | | | | Intended Use: | | | | | | |
| **PART TWO** Finance Department | | | | | | | Complete Part Two, attach relevant documentation and forward entire form to Land Governance office | | | | | | | | | |
| Date | Program / Entity | | | | | | Description / Detail | | | | | | | | | Amount |
|  |  | | | | | |  | | | | | | | | |  |
|  |  | | | | | |  | | | | | | | | |  |
| *INTERNAL - Source of Money for Purchases of Interests/Land Rights (QC)* | | | | | | | *Code:* | | | | | | | | | **$** |
| Comments / Recommendations | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | |
| Signature of Program Manager: | | | | | | | | | | Date: | | | | | | |
| **PART THREE** Public Works / Utilities | | | | Complete Part Three, attach relevant documentation and forward entire form to Land Governance office | | | | | | | | | | | | |
| Date | | Water and/or Sewer | | | | | | | | | | | | | | Amount |
|  | |  | | | | | | | | | | | | | |  |
| Sewer | | ❑ Yes ❑ No | | | Water | | | | | | | ❑ Yes ❑ No | | | | **$** |
| Has Right of Way been surveyed | | | ❑ Yes ❑ No | | | | | | | | | | | | |  |
| Other Comments: | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | |
| **PART FOUR** Chief and Council | | | | Attach copy of BCR and distribute form as per below | | | | | | | | | | | | |
| ❑ Rejected | | ❑ Approved by BCR No. : | | | | | | | | | | | Date of Council Meeting | | | |
| Comments / Recommendations: | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | |
| Signature of Council Secretary: | | | | | | | | | Date: | | | | | | | |

**ACQUISITION OF INTEREST/LAND RIGHTS (QC) APPROVAL FORM**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **ACQUISITION OF INTEREST/LAND RIGHTS (QC) APPROVAL FORM** | | | | | | | | | | | | | | | | |
| **PART ONE:** Land Governance office | | | | | | | | | | | | | | | | |
| Locatee(s) Name: | | | | | | | | | | | | | | Band Member No.: | | |
| Purchaser Name: | | | | | | | | | | | | | |  | | |
| C.P. No.: | | | | | | | | ❑ Individual | | | ❑ Joint Tenancy | | | | ❑ Tenants in Common | |
| Civic Address: | | | | | | | | | | | | | | Postal Code: | | |
| Legal Description: | | | | | | | | Plan No.: | | | | | | Reserve Name & No. | | |
| Any registered Easements/Servitudes (QC) and/or Rights of Way | | | | | | ❑ Yes ❑ No | | | | If Yes, Please list: | | | | | | |
| Any unregistered Easements/Servitudes (QC) and/or Rights of Way | | | | | | ❑ Yes ❑ No | | | | If Yes, Please list: | | | | | | |
| Appraisal: | | | | | | ❑ Yes ❑ No | | | | Waived by Locatee(s): | | | | | | |
| Name of Appraisal Firm: | | | | | | | | | | Date of Appraisal: | | | | | | |
| Fair Market Value: | | | | | | | | | | Copy on File: | | | | | | |
| Environmental Concerns: | | | | | | | | | | Intended Use: | | | | | | |
| **PART TWO Finance Department** | | | | | | | Complete Part Two, attach relevant documentation and forward entire form to Land Governance office | | | | | | | | | |
| Date | Program / Entity | | | | | | Description / Detail | | | | | | | | | Amount |
|  |  | | | | | |  | | | | | | | | |  |
| *INTERNAL - Source of Money for Land Purchases* | | | | | | | *Code:* | | | | | | | | | **$** |
| Comments / Recommendations | | | | | | | | | | | | | | | | |
|  | | | | | | | | | | | | | | | | |
| Signature of Program Manager: | | | | | | | | | | Date: | | | | | | |
| **PART THREE Public Works / Utilities** | | | | Complete Part Three, attach relevant documentation and forward entire form to Land Governance office | | | | | | | | | | | | |
| Date | | Water and/or Sewer | | | | | | | | | | | | | | Amount |
|  | |  | | | | | | | | | | | | | |  |
| Sewer | | ❑ Yes ❑ No | | | Water | | | | | | | ❑ Yes ❑ No | | | | **$** |
| Has Right of Way been surveyed | | | ❑ Yes ❑ No | | | | | | | | | | | | |  |
| Other Comments: | | | | | | | | | | | | | | | | |
| **PART FOUR Chief and Council** | | | | Attach copy of BCR and distribute form as per below | | | | | | | | | | | | |
| ❑ Rejected | | ❑ Approved by BCR No. : | | | | | | | | | | | Date of Council Meeting | | | |
| Comments / Recommendations: | | | | | | | | | | | | | | | | |
| Signature of Council Secretary: | | | | | | | | | Date: | | | | | | | |

**FORM 01 – CP ALLOTMENT BY FIRST NATION**

**SAMPLE BCR**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **ALLOTMENT OF LAND IN AN INDIAN RESERVE** | | | | | | | |
|  | | WE THE COUNCIL OF THE \_\_\_First Nation  DO HEREBY RESOLVE to allot the following land to: | | | | | |
| (Insert name & band no. of Individual(s)) | | <enter name & band no.>  <enter name & band no.>  <enter name & band no.> | | | | | |
| (Please note whether Joint Tenants or Tenants in Common, if applicable) | | <please indicate tenancy> | | | | | |
|  | | Pursuant to Section \_\_\_ of the \_\_\_\_ Land Code: | | | | | |
| (Legal Description) | | Lot \_\_\_\_\_\_\_\_\_\_\_\_ Plan \_\_\_\_\_\_\_ Reserve Name \_\_\_\_\_\_\_ No. \_\_\_ | | | | | |
| (List all encumbrances/charges (QC)) | | Subject to:  <list all encumbrances/charges (QC)> | | | | | |
|  | | The Resolution was consented to at a duly convened meeting of the said council on the \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_. | | | | | |
|  | | | | | | | |
|  | Council Signature | |  | Council Signature |  | Council Signature |  |
|  | Council Signature | |  | Council Signature |  | Council Signature |  |















**ATTACHMENT J – SECRET BALLOT VOTING PROCEDURES**

**[XX] First Nation**

**Special Membership Meeting**

**Secret Ballot Voting Procedures**

Under the Law Enactment Procedures of the Land Code when Council refers the final draft law to a Special Membership Meeting for enactment by Electors by secret ballot the following procedures will apply for the voting process.

**Returning Officer:**

* Appointed by the Council
* Must sign the Oath of Office for Returning Officer form
* Returning Officer has the authority to select and appoint deputy returning officer(s)

**Before Opening the Poll:**

* Immediately before the poll opens the Returning Officer or the deputy must examine the ballot boxes in the presence of witnesses to ensure that they are empty. The boxes are then locked and must remain locked for the duration of the poll.

**Identity of Elector:**

* When a person presents themselves to the Returning Officer or the deputy at the polling station, their name must be verified on the Electors’ List before they are given a ballot.
* If a person’s name doesn’t appear on the Electors’ List they must satisfy the Returning Officer or the deputy that the person is an Elector. If the Returning Officer or the deputy is satisfied upon presentation of an Indian Status card that the person is an Elector, their name should be added to the Electors’ List during the poll, and that person should be permitted to cast a ballot in the same manner as any other Elector.

**Preparation of Ballots:**

* The Returning Officer shall prepare ballots setting out the question to be asked of Electors at the Special Membership Meeting.

**Issue of Ballot:**

* Once the Returning Officer or the deputy determined that a person is an Elector they will provide the person with a ballot.
* The Returning Officer or the deputy will initial the back of the ballot and fold it in a manner which will allow the initials to be visible but the front of the ballot will not be visible.

**Voting Procedures:**

* The Elector, upon receipt of a ballot shall proceed immediately to a polling booth inside the polling station and mark the ballot with an X or other mark indicating the Electors choice under the word “Yes” or “No” in the space opposite each question stated on the ballot. The Elector shall then fold the ballot so as to conceal their choice and expose the initials of the Returning Officer or the deputy on the back of the ballot.
* The Elector shall, upon leaving the polling booth, immediately return to the Returning Officer or the deputy and present the folded ballot. The ballot must be verified by the Returning Officer or deputy to be the same initialed ballot given without unfolding the ballot.

**Variations of Voting Procedures:**

* Aiding an Elector: If an Elector is unable to mark their own ballot the Returning Officer or the deputy may accompany the Elector to the polling booth and at the Elector’s request, mark the ballot according to their instructions in the presence of another Elector selected by the Elector as a witness. The ballot shall then be folded and returned to the Returning Officer or the deputy in the same manner as other ballots cast.
* Spoiled Ballot: An Elector who inadvertently spoils their ballot may return it to the Returning Officer or deputy to obtain another ballot. Upon receipt of the old ballot the Returning Officer or the deputy write the word “cancelled” on it, retain it and make note on the Electors’ List next to the Electors name. The Returning Officer or the deputy may then issue a new ballot to the Elector who should immediately proceed again to the polling booth to mark the ballot.
* Forfeited Ballot: When an Elector who has received a ballot refuses to vote, or leaves the polling station without giving the Returning Officer or the deputy the ballot. If this occurs, the Elector loses the right to vote and the Returning Officer or the deputy must mark the word “declined” on the Electors’ List beside that person’s name.

**Obstruction of Voting:**

* No person shall interfere or influence any Elector in marking his or her ballot or attempt to obtain knowledge of how another person may have voted. The only exception would be in the case of a request for the Returning Officer or the deputy to mark a ballot.
* The Returning Officer or deputy may request appointed security to remove any person from the polling station who creates an obstruction to voting.

**Closing the Poll:**

* At the designated time, the polling station should be closed. Any Elector who is inside the polling place at closing time and who has not voted, may do so without delay.

**Counting the Ballots:**

* The Returning Officer or the deputy will unseal the ballot box in the presence of witnesses and open it. Taking one ballot at a time from the box and proceed to examining the ballot papers, unfold in such a way that anyone present can see how each ballot is marked, upon acceptance of the ballot the vote mark will be called out.
* Volunteers from among the Electors present will keep a record of votes cast on the tally sheet as the votes are called.

**Rejected Ballots:**

As each ballot paper is read the Returning Officer or the deputy may reject ballots if:

* Ballot paper is not initialed by the Returning Officer or the deputy
* Ballot paper marked “cancelled” or “declined”
* Ballot paper is not marked
* Ballot paper marked for more than the number of votes required

**Record of Votes:**

* After the emptying of all the ballot boxes, the Returning Officer or the deputy will count the votes cast in favour of or against the question asked, record the number of votes cast in favour or against, record the total votes cast and the number of rejected ballots.

**Declaration of Results:**

* As soon as all the counted votes totaled the Returning Officer or the deputy will publicly declare the results of the vote.

**Notice of Results:**

* Within four (4) days the Returning Officer must sign and post in at least one conspicuous place on the reserve a signed statement showing the total number of votes cast, the number of votes cast in favour of and against the question submitted to Electors at the Special Membership Meeting and the number of rejected ballots.

**[XX] First Nation**

**Special Membership Meeting**

**OATH OF OFFICE FOR RETURNING OFFICER**

[Date]

Oath of Office for Returning Officer

I, [Name], hereby accept the office of Returning Officer for the vote by Secret Ballot to be held at the Special Membership meeting of [Date], and agree to maintain confidentiality in my capacity as Returning Officer.

In the capacity of Returning Officer, I will do my utmost to serve the Electors and Membership of the [XX] First Nation with impartiality, integrity, and honesty.

I solemnly swear that I will carry out my responsibilities honestly, conscientiously, and to the best of my abilities.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Commissioner for Oaths [Name of Returning Officer]

[XX] First Nation

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Ballot Example:**

|  |  |
| --- | --- |
| **[xx] First nation SECRET BALLOT** | |
| Please mark an “X” next to your choice  **Are you in favour of enacting  [Enter Law Name & No.]?** | |
| ❑ YES | ❑ NO |

**Tally example:**

**[Enter Law Name & No.] - TALLY SHEET**

“**YES**” BALLOTS “**NO**” BALLOTS “**REJECTED”** BALLOTS

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |  |  |  | 10 |  |  |  |  |  |  |  |  |  |  |  | 10 |  |  |  |  |  |  |  |  |  |  |  | 10 |
|  |  |  |  |  |  |  |  |  |  |  | 20 |  |  |  |  |  |  |  |  |  |  |  | 20 |  |  |  |  |  |  |  |  |  |  |  | 20 |
|  |  |  |  |  |  |  |  |  |  |  | 30 |  |  |  |  |  |  |  |  |  |  |  | 30 |  |  |  |  |  |  |  |  |  |  |  | 30 |
|  |  |  |  |  |  |  |  |  |  |  | 40 |  |  |  |  |  |  |  |  |  |  |  | 40 |  |  |  |  |  |  |  |  |  |  |  | 40 |
|  |  |  |  |  |  |  |  |  |  |  | 50 |  |  |  |  |  |  |  |  |  |  |  | 50 |  |  |  |  |  |  |  |  |  |  |  | 50 |
|  |  |  |  |  |  |  |  |  |  |  | 60 |  |  |  |  |  |  |  |  |  |  |  | 60 |  |  |  |  |  |  |  |  |  |  |  | 60 |
|  |  |  |  |  |  |  |  |  |  |  | 70 |  |  |  |  |  |  |  |  |  |  |  | 70 |  |  |  |  |  |  |  |  |  |  |  | 70 |
|  |  |  |  |  |  |  |  |  |  |  | 80 |  |  |  |  |  |  |  |  |  |  |  | 80 |  |  |  |  |  |  |  |  |  |  |  | 80 |
|  |  |  |  |  |  |  |  |  |  |  | 90 |  |  |  |  |  |  |  |  |  |  |  | 90 |  |  |  |  |  |  |  |  |  |  |  | 90 |
|  |  |  |  |  |  |  |  |  |  |  | 100 |  |  |  |  |  |  |  |  |  |  |  | 100 |  |  |  |  |  |  |  |  |  |  |  | 100 |
|  |  |  |  |  |  |  |  |  |  |  | 110 |  |  |  |  |  |  |  |  |  |  |  | 110 |  |  |  |  |  |  |  |  |  |  |  | 110 |
|  |  |  |  |  |  |  |  |  |  |  | 120 |  |  |  |  |  |  |  |  |  |  |  | 120 |  |  |  |  |  |  |  |  |  |  |  | 120 |

Counters Initials: \_\_\_\_\_\_\_\_\_\_\_\_ [Enter Date]

**Special Membership Meeting**

**Secret Ballot Voting Procedures**

**DIRECTIONS FOR VOTING**

1. Go into the polling booth.
2. Place an “X” or other mark in the space provided on the ballot opposite the question.
3. If you make a mistake with your ballot, return it to the Returning Officer who will give you another ballot.
4. Do not place any other mark any place on the ballot.
5. Do not mark more than one answer.
6. When you are done, fold the ballot so that the initials of the Returning Officer or the deputy can be seen (without showing how you voted), and hand the ballot to the Returning Officer or deputy.

**Returning Officer’s Report**

**Special Membership Meeting Secret Ballot Vote**

1. Law for Enactment: TITLE
2. Date of Vote: DATE
3. Location of Vote: LOCATION
4. Time of Vote: TIME
5. Total Number of Electors: #
6. Number of ballots cast and counted: #
7. Total Number of votes cast in favour of the law enactment: #
8. Total Number of votes cast against the law enactment: #
9. Total Number of rejected ballots: #
10. Total Number of cancelled ballots: #
11. The following result has been publicly declared:   
      
    *[Enter Law Name & No.] has [not] been approved by a majority of Electors present at a Special Membership Meeting called to make a decision on whether or not to enact the law.*
12. The [Enter Law Name & No.] is in force as of the \_\_\_\_ day of \_\_\_\_\_\_\_, 20\_\_.
13. I, [Returning Officer], appointed to the position of Returning Officer on the \_\_\_ day of \_\_\_\_\_\_\_\_, 20\_\_\_ declare that the polling place was kept open between the hours of \_\_:\_\_\_ p.m. and \_\_:\_\_\_ p.m., that I have correctly counted the votes cast for each ballot and have performed all other duties require of me by the Secret Ballot Vote Procedures; and that a copy of this report will be posted in at least one conspicuous place on the reserve.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
Returning Officer

**ATTACHMENT K – SURVEYS**

**NOTE:**

* + INSERT – Roles and Process for an Administration (Section 31) Survey Plan (1 page)
  + INSERT – Interdepartmental Letter of Agreement (10 page)

**Note regarding terminology**

**This letter comes from an official site. All references to an “interest in land” should be read as references to interest/land right (QC).**

**REQUEST FOR SURVEY - Sample**

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **LOGO** | First Nation  **REQUEST FOR SURVEY** | | | | | | | | | | *For Internal Use Only:* | |
|
|
| **PART ONE:** To be completed by the Applicant | | | | | | | | | | | | |
| Lot NO.: | | | | | Plan NO.: | | | | | | Reserve Name & No.: | |
| Applicant’s Name: | | | | | | | | | | | | |
| Mailing Address: Postal code | | | | | | | | | | | Phone: | |
| Name of current locatee(s): | | | | | | | | | | | HELD UNDER CP No.: | |
|  | | | | | | | | | | |  | |
|  | | | | | | | | | | |  | |
| This description will be used in the following type of land transaction: | | | | | | | | | | | | |
| ❑ Update of existing title | | ❑ allotment | | | | ❑ transfer | ❑ Lease | | | ❑ Permit | | ❑ licence |
| From: | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
| TO: | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
| Applicant/Locatee(s) acknowledge that if he/she makes any changes to the Survey Request that alters the original cost of survey, the applicant will pay the additional charges. | | | | | | | | | | | | |
| Signature of Locatee(s): | | | | | | | | | | | Application Date: | |
|  | | | | | | | | | | |  | |
|  | | | | | | | | | | |  | |
|  | | | | | | | | | | |  | |
| ONCE part one has been completed please return to the Land Governance office for processing:  Address / Phone / Fax | | | | | | | | | | | | |
| **PART TWO:** To be completed by Lands OFFICE (attach copies of abstract and any relevant plans, sketches, descriptions, etc.) | | | | | | | | | | | | |
| conforms to land use plan ❑ Yes ❑ No | | | | possible encroachments/charges (QC) ❑ Yes ❑ No | | | | | other pending transactions ❑ Yes ❑ No | | | |
| other encumbrances/CHARGES (QC) ❑ Yes ❑ No | | | | Abstract & Sketch attached ❑ Yes ❑ No | | | | | Land Status Report ❑ Yes ❑ No | | | |
| Surveying Costs to be paid by: ❑ locatee ❑ Developer ❑ purchasER ❑ First Nation as per policy | | | | | | | | | | | | |
| Comments: | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
| approval by Lands MANAGER: | | | | | | | | Date: | | | | |
| **PART THREE:** To be completed by First Nation Public Works | | | | | | | | | | | | |
| Access ❑ Yes ❑ No | | | utility or third party Easements/SERVITUDES (QC) ❑ Yes ❑ No | | | | | servicing requirements ❑ Yes ❑ No | | | | |
| Zoning ❑ Yes ❑ No | | | ROaD dedication ❑ Yes ❑ No | | | | | construction requirements ❑ Yes ❑ No | | | | |
| Comments: | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
| approval by director of Public Works: | | | | | | | | Date: | | | | |
| **PART FOUR:** To be completed by First Nation Property Management | | | | | | | | | | | | |
| DCC’s ❑ Yes ❑ No | | | ❑ Yes ❑ No | | | | | ❑ Yes ❑ No | | | | |
| ❑ Yes ❑ No | | | ❑ Yes ❑ No | | | | | ❑ Yes ❑ No | | | | |
| Comments: | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
|  | | | | | | | | | | | | |
| approval by director of Property management: | | | | | | | | Date: | | | | |

**SAMPLE WORDING FOR GRANTING PERMISSION FOR THE SURVEYOR TO ENTER THE FIRST NATION RESERVE LAND TO CONDUCT A SURVEY**

WHEREAS it has been determined that a survey of \_\_*(the description/area to be surveyed)*\_\_ is required on the \_*(name of the Reserve)*\_ to \_*(the purpose/type of transaction)*\_,

AND WHEREAS the survey is to be contracted out to \_\_*(name of surveyor and company)*\_\_ and the resulting survey plan will be subject to the \_\_\_\_\_\_\_\_ First Nation’s review and approval,

THEREFORE BE IT RESOLVED that the Chief and Council of the \_\_\_\_\_\_\_\_ First Nation hereby grants permission for \_\_*(name of surveyor and company)*\_\_ to enter the \_*(name of the Reserve)*\_ to conduct the above-mentioned survey.

**NOTE:**

* + INSERT - Samples of Sketch

**ENCUMBRANCE/CHARGES (QC) CHECKLIST - SAMPLE**

|  |  |
| --- | --- |
| **File Number** |  |
| **Band Name/Reserve Name** |  |
| **Proposed Transaction & Land Description (include survey or sketch plan)** |  |
| **Parties to Proposed Transaction** |  |
| **Name of Requester** |  |

**PLEASE BE AWARE THAT ERRORS AND OMISSIONS MAY OCCUR WITH ALL INFORMATION SOURCES USED. BE ACCURATE AND THOROUGH AS MUCH AS POSSIBLE AND CROSS CHECK. IF YOU FIND ANY DISCREPANCIES IN THE FNLRS OR SURVEY RECORDS, PLEASE BRING IT TO THE ATTENTION OF THE**

**LANDS REGISTRAR.**

| **What to do next….** | **Y** | **N** | **N/A** | **Comments/Description** |
| --- | --- | --- | --- | --- |
| **(checked)** | | | | |
| **I. REVIEW FILE** | | | | |
| * 1. Review file that request was classified on. |  |  |  | e.g. E5643-Reserve #-Lot # for leases, E5600-7- for designations, E5670- for roads, etc. | |
| * 1. Check to see whether information on request form is adequate to locate area of proposed project. |  |  |  | If no, contact requester for more detailed land description and a sketch of the area. | |
| **II. REVIEW PLAN** | | | | |
| 1. Check e-RIP, NRCan RIP and Google Earth - if there is one for the reserve. Use legend for visual evaluation of encumbrances/charges (QC).   Note: e-RIP may not always be accurate as it is a visual representation of FNLRS information. Errors in FNLRS are replicated on e-RIP. E-RIP’s are no longer updated. |  |  |  | NRCan:<http://clss.nrcan.gc.ca/advancedplansearch-rechercheplanavance-eng.php>  Contact NRCAN for assistance.  Archived NrCan e-Rips re an invaluable source of information for research purposes as they show approximate location of cardexes where E-Rips may not. |
| 1. Has subject area been surveyed? Does survey show a different legal description than on request? |  |  |  | If Yes, check FNLRS to see if transaction was approved and registered in FNLRS.  **If No and there is/are un-surveyed interest(s)/land rights (QC) (cardex) in that area of the reserve, ask NRCan/or LABRC to provide a sketch showing the location and dimensions of the un-surveyed parcel(s).** |
| 1. Check whether lot or proposed survey has access to and from public road. If not, is there a R/W Agreement in place?   - Yes - No |  |  |  | Most transactions require access. |
| **III. REVIEW RESERVE GENERAL REGISTER** | | | | |
| 1. Print Reserve General Abstract.   *Note: If the land in question has already been described by a survey plan and a PIN exists in FNLRS, it may be sufficient to check the Reserve General for encumbrances/charges (QC) from the date of the last transaction on the Parcel Abstract.* **USE YOUR JUDGEMENT.** |  |  |  | From FNLRS – Reserve General Abstract report. |
| 1. Review all registered instruments and highlight the ones located near the proposed project area including un-surveyed instruments such as easements/servitudes (QC), permits, etc. They are potential encumbrances/charges (QC) since their exact location is un-known. List all encumbrances/charges (QC) by registration #.   *Note: Un-surveyed permits/easements/servitudes (QC) for distribution of utilities reflected on the Reserve General are not considered encumbrances/charges (QC) against individual parcels of reserve land. No need to list them by registration no. on the land status report - they are covered by a general statement under Comments.*  *Note: in some cases, it may be necessary to review, for example, the BC General Abstract as well. Instruments affecting multiple reserves are reflected on this Abstract.* |  |  |  | Documents can be retrieved from FNLRS. |
| **IV. REVIEW RESERVE PARCEL LAND REGISTER** | | | | |
| 1. Generate Parcel Abstract**, including former and forwarding PINs** if Lot exits in FNLRS. Encumbrances/charges (QC) are often reflected on previous or forwarding PINs. Review for encumbrances/charges (QC) and list them by registration #. |  |  |  | From FNLRS - Parcel Abstract Report. |
| 1. Print Evidence of Title report. Highlight all un-surveyed individual land holdings and locate them on the e-RIP and NRCan RIP (marked by red circle) to determine proximity to project area. List those that are located near the proposed project area.   *Note*: this step may not always be necessary since NRCan RIPs are pretty accurate in showing the approximate locations of un-surveyed holdings; e-RIPS not so much at this point.  **USE YOUR JUDGEMENT.**  If no NRCAN RIP is available for the reserve, make sure you do this step. |  |  |  | From FNLRS Evidence of Title report. |
| 1. If necessary, check all un-surveyed individual land holdings and confirm the location of the parcels with NRCan. List those that are located near proposed project area. |  |  |  |  |
| **V. PENDING TRANSACTIONS** | | | | |
| 1. Check with ILH Officer or Lands Clerk for any pending ILH transaction. 2. Check with Lands Management Assistant for any other pending transactions. |  |  |  | (allotments, transfers, estates)  (assignments, mortgages/hypothecs (QC), etc.)  Check WIP list, which includes:   * + Band, Reserve, Lessee, Use, Registration No., Surrender or CP holder   + Lot, Plan, Area, File No.   + Term Period   + Rent   + Journal   + Rent Review Due/ Notes |
| 1. **ADDITIONAL SOURCES OF INFORMATION**   *Note: the steps below may not be necessary for each encumbrance/charges (QC) check.* ***USE YOUR JUDGEMENT.***  *However, for a survey of a designation/leasing project or if the survey is for a First Nation that is involved in the Treaty process,* ***do include*** *these steps as well****.*** | | | | |
| 1. Check with Environmental Officer (EO) or Phase 1 or 2 ESA’s for environmental concerns. |  |  |  | 1) contaminated sites tracking system  2) CEAA tracking system  3) if EO is not able to assist, check with First Nation if they are aware of any environmental issues in proposed area. |
| b. Check with First Nation Property Manager, Maintenance Manager, and Administrator all internal administration departments. |  |  |  | This is a check for infrastructure such as water lines, sewage, etc. You may need to contact the appropriate District Engineer for your First Nation. |
| * 1. Check the Provincial Integrated Lands Resource Registry for the existence of roads, trails in the vicinity of the proposed area. BC, or other provinces,may have a claim for some un-surveyed roads/trails. Consult with NRCan and the First Nation. |  |  |  | <http://srmwww.gov.bc.ca/irp/ILRR.htm> . User ID and password can be obtained from the Admin. Assistant, Lands or see the Surveys & Land Records Officer. |
| * 1. BC One Call Centre 1-800-474-6886   Note: this step is usually not required. |  |  |  | For land encumbrances/charges (QC) such as power lines, telephone lines. |
| **VII. FILING** | | | | |
| 1. PA this checklist on reserve survey file together with Land Status Report. |  |  |  | Forms go to file |
| 1. Save Land Status Report. |  |  |  | Save document distribute along with a cover letter outlining the encumbrances and the associated FNLRS registration numbers |

|  |  |
| --- | --- |
| **VIII. INTERPRETATION FOR LAND TRANSACTION (IF APPLICABLE)** | |
|  | |
| **Land Governance Director/Land Governance Officer Name and Signature:** | **Date:** |

**LAND STATUS REPORT (FOR SURVEYS ONLY) – Sample 1**

|  |  |  |
| --- | --- | --- |
| **LAND STATUS REPORT (FOR SURVEYS ONLY)** | | File No: |
| TO: Surveyor | | FROM: First Nation Land Governance Office / Manager |
| Name: | | Name: |
| Address: | | Address: |
| Phone: | | Phone: |
| Fax: | | Fax: |
| Indian Reserve: | | Band: |
|  | **Present Land Status**  *(If more than one parcel is being dealt with, please complete a separate form for each parcel.)*  The land is shown in the Indian Lands Registry as (Lot & Plan Number) | |
|  | The present land status is:  Band Land ⬜ Surrendered/Designated Land ⬜ I.L.H. ⬜ Not I.R. ⬜ | |
|  | The Registry shows the lands are held by:  CP ⬜ #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  NE ⬜ #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Cardex ⬜ #\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Permit/Lease ⬜ #\_\_\_\_\_\_\_\_\_\_\_\_\_ Name \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |
|  | Are there any encumbrances/charges (QC) such as easements/servitudes (QC), rights-of-way or mortgages/hypothecs (QC) that affect this land? No ⬜ Yes ⬜If yes, please give details and itemize attachments (\*see note below): | |
|  | Are there any un-surveyed interests/land rights (QC) in the vicinity of this land?  No ⬜ Yes ⬜If yes, please give details and itemize attachments (\*see note below): | |
|  | Are there any un-surveyed roads that may affect this land?  No ⬜ Yes ⬜If yes, please give details:  *\*Land Encumbrance Reports, Registration Numbers. OCPCs, Permits, etc.* | |
|  | PROPOSED LAND TRANSACTION  Will a transaction based on this plan be registered in the First Nations Lands Registry?  No ⬜ Yes ⬜If yes, what type of transaction is proposed? (Lease, Allotment, Transfer, Permit, etc.)  If a lease, state length of lease: | |
|  | If No, what will the plan be used for? | |
|  | Who are the parties to the proposed transaction? | |
|  | Are there any other pending transactions that might affect this parcel?  No ⬜ Yes ⬜If yes, give Details: | |
|  | **COMMENTS:** STANDARD HYDRO, TELECOMMUNICATION AND/OR GAS PIPELINE PERMITS MAY BE IN PLACE FOR THE ENTIRE RESERVE. SITE INSPECTION FOR UTILITIES DISTRIBUTION LINES IS RECOMMENDED BEFORE COMMENCEMENT OF SURVEY.  FOR RESURVEY AND SUBDIVISION OF EXISTING INDIVIDUAL LAND HOLDINGS INSTRUCTIONS RECEIVED IN THE FIELD NEED TO BE CONSIDERED CAREFULLY. IT IS RECOMMENDED THAT THE LANDHOLDER DISCUSS THE PROPOSED TRANSACTION(S) WITH First Nation LANDS MANAGER BEFORE COMMENCEMENT OF SURVEY TO ENSURE IT MEETS THE REQUIREMENTS OF THE INTENDED TRANSACTION(S).  ACCESS MAY NEED TO BE SURVEYED/DEPICTED ON PLAN (DISCUSS WITH FIRST NATION LANDS MANAGER).  (You may want to give details how the identified encumbrances/charges (QC) will impact the transaction the survey is requested for.) | |
|  | I have researched the following in the First Nations Lands Land Registry: Reserve General ⬜ Parcel Abstract ⬜ Pending/Received ⬜ e-RIP ⬜ | |
|  | Based on our records, the proposed survey/transaction :  ⬜ MAY be in conflict with existing registered/unregistered interests/land rights (QC).  Name Interests/land rights (QC):  ⬜ WILL be in conflict with existing registered/unregistered interests/land rights (QC).  Name Interests/land rights (QC):  ⬜ WILL NOT be in conflict with existing registered/unregistered interests/land rights (QC). | |
|  | **COMPLETED BY:**  Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  First Nation Land Governance Director (N.B. Expires one year from above date) | |
|  | FIRST NATION FILE NUMBER: | |
|  | Note:  The registration number of all encumbrances/charges (QC) should be noted on the report and additional details, if necessary, can be added to the Comment section. Copies of the Abstracts and copies of the documents don’t need to be attached unless requested by NRCan or the Surveyor. | |

**INSTRUCTIONS FOR COMPLETING LAND STATUS REPORTS - Sample**

**RATIONAL**

Before NRCan can issue survey instructions for a survey on Indian Reserve Lands, they need to know the status of the lands to be surveyed and the purpose of the proposed survey. The Interdepartmental Agreement respecting Legal Descriptions of Indian Lands describes 5 different forms of descriptions or plans that may be required for a particular land transaction. As well as these survey products, some surveys are required for purposes that will not result in a transaction being registered in the First Nations Lands Registry.

In addition NRCan must be assured that there is an administrative requirement for the survey and that the proposed survey does not conflict with existing registered interests/land rights (QC). This assurance is obtained by the Land Governance Director signing the form. (With the signature by the First Nation Land Manager, this assurance is obtained.)

The attached “Land Status Report” has been prepared to provide the NRCan with the information they require prior to issuing survey instructions

**INSTRUCTIONS**

TO The “To” section should be the name and address of the surveyor who will be conducting the survey.

FROM The “From” section should be the address of the First Nation completing this form.

***Note: If more than one registered parcel is involved, a separate report should be prepared for each parcel****.*

1. If the lands are registered in the First Nations Lands Registry, please give the lot and plan number or other description that is used in the Registry. Please include a copy of the abstract page and if the description does not refer to a recorded plan, a copy of the description and sketch referred to.

2. If the lands are band land, surrendered or designated lands, Indian Land Holding or not reserve, please indicate on this line. If the lands are designated or surrendered, please provide a copy of the surrender documents.

3. On this line, please give the lot and plan number of the parcel(s) of land to be surveyed. If no lot or parcel numbers exist, use the description that best identifies the lands. Attach a sketch if possible

4. Please give the instrument number and name of the persons holding the registered interest/land rights (QC).

5. If there are rights-of-way, easements/servitudes (QC), mortgages/hypothecs (QC) or other encumbrances/charges (QC) that affect this parcel, please indicate.

6. If there are any un-surveyed interests/land rights (QC) such as Cardex holdings in the vicinity of the parcel, please indicate.

7. Please provide details of any un-surveyed roads (check with Department of Highways), old abandoned roads, gazette notices, and highway plans that may show the old road location.

1. Please indicate if this plan will be used for a transaction to be registered in the Indian Lands Registry and indicate why the plan is required. Please be specific regarding the type of transaction, the length of lease, etc. or if a Section 29 plan is required.
2. Give the full names of all parties to any proposed transactions.
3. Are there other transactions pending such as a not yet registered head lease, an unapproved highway right-of-way or an estate settlement that may affect this survey?
4. Comments…

12/13. This section is your certification that you completed the land status report for the proposed survey. It also provides the name of a contact if the surveyor or the NRCan requires further information.

It is suggested that you keep a copy of this form so that you can refer to it when you are requested to approve the final survey plan.

**LAND STATUS REPORT (FOR SURVEYS ONLY) – Sample 2**

|  |  |  |  |
| --- | --- | --- | --- |
| **LOGO** | **LAND STATUS REPORT** | | FIRST NATION  ADDRESS |
|
|
| **PART ONE: PRESENT LAND STATUS** | | | |
| THE LANDS BEING DEALT WITH ARE KNOWN AS LOT: | | PLAN NO.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_ ❑ CLSR ❑ RSBC(R) | RESERVE NAME & NO.: |
| PRESENT LAND STATUS IS: ❑ LOCATEE ❑ FIRST NATION LANDS | | | |
| SHOWN IN THE FIRST NATION LANDS REGISTRY AS: | | |  |
| THE REGISTRY SHOWS THE LANDS HELD BY: | | | HELD UNDER CP NO.: |
| ARE THERE ANY REGISTERED ENCUMBRANCES/CHARGES (QC) (EASEMENTS/SERVITUDES (QC), ROW, ETC) THAT AFFECT THIS PARCEL?  ❑ YES ❑ NO | | |  |
| IF YES, LIST ENCUMBRANCES/CHARGES (QC): | | |  |
| ARE THERE ANY UNSURVEYED REGISTERED INTERESTS/LAND RIGHTS (QC) IN THE VICINITY OF THIS PARCEL?  ❑ YES ❑ NO | | |  |
| **COMMENTS:** | | |  |
| **PROPOSED LAND TRANSACTION:** | | | |
| WILL A TRANSACTION BASED ON THIS PLAN BE REGISTERED IN THE FIRST NATION LANDS REGISTRY?  ❑ YES ❑ NO | | | |
| IF NO, WHAT WILL THE PLAN BE USED FOR? IS IT REQUIRED? ❑ YES ❑ NO | | | |
| IF YES, WHAT TYPE OF TRANSACTION IS PROPOSED? (SPECIFY LENGTH OF LEASE, SUBLEASE, PERMIT, ETC.)  ❑ LEASE TERM: \_\_\_\_\_\_ YEARS ❑ SUBLEASE TERM: \_\_\_\_YEARS ❑ PERMIT TERM: \_\_\_\_\_\_\_\_\_ ❑ EASEMENT/CHARGE (QC) (ROW) ❑ ALLOTMENT/OR TRANSFER OF LAND | | | |
| ARE THERE ANY PENDING TRANSACTIONS THAT MIGHT AFFECT THIS PARCEL?  ❑ YES ❑ NO | | | |
| **COMMENTS:** | | | |
|  | | | |
| **CONTACT:** | | | |
| NAME, LAND GOVERNANCE DIRECTOR / LAND GOVERNANCE OFFICER | | | PHONE : 000-000-0000 |
| SIGNATURE: | | |  |
| **VERIFICATION: I HAVE REVIEWED THE PROPOSED SURVEY/LAND TRANSACTION AND HAVE SEARCHED THE FIRST NATION LAND REGISTRY RECORDS RELATING TO THE PARCELS AFFECTED BY THIS TRANSACTION. ACCORDING TO THESE RECORDS THE PROPOSED SURVEY/TRANSACTION WILL NOT CAUSE A CONFLICT WITH EXISTING REGISTERED INTERESTS/LAND RIGHTS (QC).** | | | |

**NOTE:**

* + INSERT - Land Status Report 3

**ATTACHMENT L – TIMBER CUTTING & REMOVAL PROCESS**

**Sample 1**

**(INSERT FIRST NATION NAME)**

**TIMBER CUTTING AND REMOVAL**

**PROCESS AND PERMIT POLICY**

The Land Governance Director will work with Council to apply to the provincial Ministry of Forests for a Timber Mark for the (insert First Nation name) Reserve. \*Note: each First Nation should consult with their legal counsel for provincial requirements

(insert First Nation name) Council authorizes the Land Governance Director to issue timber cutting or removal permits for cutting or removal of timber from (insert First Nation name) Lands provided the following requirements have been met:

1. The applicant applies for a timber cutting or removal permit to the Land Governance Director in the form specified by Council or the Land Governance Director;
2. The applicant provides a map showing the area where the timber is proposed to be cut or removed;
3. If requested by the Land Governance Director, the applicant provides a copy of an Environmental Assessment and an archaeological overview or assessment;
4. If the permit is for CP lands, the applicant provides a signed and witnessed letter from the CP Holder(s) consenting to:
   1. the proposed timber cutting or removal;
   2. a permit being issued by (insert First Nation name) for the cutting or removal of the timber; and
   3. any surplus timber being made available to (insert First Nation name) Members at no cost;
5. The applicant agrees in writing to only use qualified fallers and to follow all applicable safety standards and regulations;
6. The applicant agrees to either:
   1. cut the timber and donate it to Elders and community Members for firewood, in which case no Timber Fee applies; or
   2. carry out a timber cruise and pay the Timber Fee established by (insert First Nation name) on a per cubic meter basis to cut the timber for sale off of the Reserve;
7. For sale of timber under option 6(b), the applicant shall:
   1. provide a timber cruise from a certified professional to value the timber proposed for cutting or removal;
   2. ensure that all timber that is removed from the Reserve is scaled, stamped and licensed under the provincial system;
   3. pay the Timber Fee established by (insert First Nation name); and
   4. ensure that any non-marketable timber is made available to (insert First Nation name) members for fire wood.

**COUNCIL RESOLUTION #**

TIMBER CUTTING AND REMOVAL PROCESS AND PERMIT POLICY

**WHEREAS:**

A. (insert First Nation name) members have voted in favour of the (insert First Nation name) Land Code;

B. Section 3.1 and 3.3(e) of the (insert First Nation name) Land Code allow Council to make laws respecting fees, stumpage, or royalties to be paid to (insert First Nation name) for the removal or extraction of Natural Resources from (insert First Nation name) Lands, including the removal or extraction of minerals, gravels and timber from Community Lands and from Allotments or CP lands;

C. Section 9.14 of the (insert First Nation name) Land Code grants authority with the written consent of the CP holder, Permits or Licenses to occupy or take resources from CP lands; and

D. There is little valuable timber remaining on (insert First Nation name) Lands and it is likely most efficient to simply make any timber available to Members for cultural and fire wood use rather than implementing a system for sale and stumpage.

**NOW THEREFORE** the Council of the (insert First Nation name) First Nation, at a duly convened meeting, hereby authorizes the use of the attached Timber Removal Process and Permit Policy:

**A QUORUM** for the (insert First Nation name) First Nation consists of 3.

**DATED** this \_\_\_\_ day of \_\_\_\_\_\_, 2010.

**TIMBER PERMIT APPLICATION - Sample**

**(insert First Nation name) First Nation**

**TIMBER PERMIT APPLICATION**

This application is required to obtain approval and is to be completed by the applicant. Note: (insert First Nation name) First Nation reserves the right to reject the review of an incomplete application. The information below will be only used for the purpose for which it was obtained.

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **General Information** | | | | | | | | | | | | |
| Applicant Name: | | | | | | | | | Job Title: | | | |
| Company Name: | | | | | | | | | | | | |
| Directors & Officer of the Company: | | | | | | | | | Company Registry No.: | | | |
| Address, City, Province, Postal Code: | | | | | | | | | | | | |
| Email Address: | | | | | | | | | Phone # | | | |
| **Project Information** | | | | | | | | | | | | |
| Lot # | | | | | | | Project No.: | | | | | |
| Status Of Land: | | 🞏 CP Land | 🞏 Leased Land | | | 🞏 Reserve Land | | | | | 🞏 Designated/Surrendered Land | |
| Reason for Removal: | | 🞏 Diseased | 🞏 Dangerous | | | 🞏 Clearing Property to Develop | | | | | 🞏 Tree Topping/Limbing | |
| **Project Checklist** | | | | | | | | **Notes:** | | | | |
| Commencement Date of Requested Permit: | | | |  | | | |  | | | | |
| Duration of Requested Permit: | | | |  | | | |  | | | | |
| Land Status Report Attached: | | | | 🞏 Yes | 🞏 No | | |  | | | | |
| Legal Survey Drawing: | | | | 🞏 Yes | 🞏 No | | |  | | | | |
| Site Sketch Plan: | | | | 🞏 Yes | 🞏 No | | |  | | | | |
| Environmental Assessment: | | | | 🞏 Yes | 🞏 No | | |  | | | | |
| Silviculture Prescription: | | | | 🞏 Yes | 🞏 No | | |  | | | | |
| Harvesting Plan or Logging Plan: | | | | 🞏 Yes | 🞏 No | | |  | | | | |
| Cultural & Historical Site Assessment: | | | | 🞏 Yes | 🞏 No | | |  | | | | |
| Project Description: | | | | | | | | | | | | |
| **All applicants must read and declare the following:**   * I hereby declare that all of the above statements and information contained in this application and in the material submitted in support of this application are, to the best of my knowledge, true and correct in all respects. * I hereby consent to having the (insert First Nation name) First Nation conduct or cause to be conducted a personal credit investigation. * I hereby agree to ensure that all non-marketable timber will made available to (insert First Nation name) Members for firewood. * I hereby agree to only use qualified fallers and to follow all applicable laws and standards including safety standards and regulations. * I hereby agree to ensure that I have insurance and Workers Compensation Board coverage for any activity carried out in relation to this application. * I hereby agree to release and indemnify (insert First Nation name) First Nation from all claims and liability in relation to any activities carried out under a permit issued based on this application. | | | | | | | | | | |
| **Signature of Applicant:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | | | | | **Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |
| If the Applicant is not the CP-Holder, the CP-Holder must sign below.   * I hereby consent to this application:   **Signature of CP-Holder:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | | | | | | | | | **Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | |

**TIMBER PERMIT - Sample**

**First Nation**

**TIMBER PERMIT**

|  |  |
| --- | --- |
| Timber Permit#: |  |
| Date of Permit: |  |
| Agent/Applicant: |  |
| Owner or Registered Holder of CP: |  |
| Property Information/Legal Description (the ‘Lands’): |  |

**Terms and Conditions**

This Timber Permit is issued in accordance with the (insert First Nation name) Land Code and the (insert First Nation name) Timber Cutting and Removal Process and Permit Policy for the purpose of clearing land for development and is subject to the following terms and conditions:

1. The Permittee must ensure that any activity under this Permit is approved by all CP-holders for the Lands.
2. The Permittee must comply with the recommendations and mitigation measures set out in environmental report entitled \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and dated \_\_\_\_\_\_\_\_\_\_\_\_, attached as Schedule ‘A’ to this Permit.
3. The Permittee is entitled to harvest the following volumes and species of timber from the Lands:  
   whatever volume of timber of any type which is located on the Lands.
4. The Permittee is entitled to sell the following volumes and species from the Lands: None
5. The Permittee agrees to pay (insert First Nation name) First Nation a timber fee in the amount of $\_N/A for the harvest of timber under this permit
6. The Permittee agrees to make all timber harvested under this Permit available to (insert First Nation name) members for firewood Yes.
7. The Permittee must harvest timber in strict compliance with the sketch plan or harvest plan, entitled \_\_\_\_\_\_\_\_\_\_\_\_, attached to this Permit as Schedule ‘B’.
8. The Permittee must use only qualified fallers and follow all applicable safety laws, noise laws and all other applicable laws and standards.
9. The Permittee must be insured and carry Workers Compensation Board coverage for all activities under this Permit.
10. The Permittee must release and indemnify (insert First Nation name) against any loss or damage relating to any activity under this Permit.
11. This Permit is valid for one year from date of issue and, unless renewed, expires on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2012.

This Permit is issued under the authority of the *(insert First Nation name) Land Code* and the *(insert First Nation name) Timber Cutting and Removal Process and Permit Policy*:

Approved By:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name Date

Land Governance Director

**Sample 2 – Opaskwayak Cree Nation**

**OPASKWAYAK CREE NATION**

**Timber Permit Process**

**Authority**

Section 32 of the OCN Land Code provides for granting of interests and licences.

Subsection 6.5(g) of Governing Use and Occupancy of OCN Lands provides for permits such as

timber that requires a Band Council Resolution approved by absolute majority of Council.

**Process**

1. Proponent contacts the Land Governance office requesting for harvesting of merchantable timber.
2. Land Governance office reviews with the Proponent a forest inventory plan to check for merchantable timber.
3. Proponent is advised of requirements for a permit:

* Complete application for harvesting of resources. Harvest quantity is identified here. You go with your inventory plan. Class 4 is most merchantable.
* cutting plan to be appended to the permit. Prepare and complete cutting plan prior to commencement period of permit. Cutting specifications require stump cut low enough to minimize waste and not higher than 30 centimeters. a purchase agreement between the proponent and the buyer to be appended to the permit.
* a forestry inventory plan to appended to the permit. Outlines the approximate cut area that would be your land description of area.
* an environmental assessment impact and mitigation plan is appended to the permit. Federal laws need to be looked at and referenced if applicable, i.e.: SARA. (You may need to use expertise in the environment portion. Use local knowledge, scientific knowledge from INAC/Environment, Tribal Council)
* stumpage fees and restoration fees apply. These fees are based on provincial rates.
* period (usually short term) to provide for the harvesting and clean-up.
* remedial action.
* dispute resolution.
* monitoring for compliance.

1. The Land Governance office reviews or double checks the application and all its supporting documentation, e.g. cutting plan, purchase agreement (this is to ensure all relevant information has been provided by the proponent in order to proceed with the application).
2. The Land Governance office prepares package for the Land Authority Board Meeting (Issue Sheet stating the particulars of the applicant, including purpose and area applied for, type of interest, duration of interest, applicable fees). A draft Band Council Resolution is also appended to the Issue Sheet).
3. The Board reviews the information/application and makes a decision based on the information prepared by the Land Governance office.
4. If the decision is to proceed, an Issue Sheet to the Chief and Council is prepared based on the Board’s recommendation. A Band Council Resolution goes with this.
5. Land Manager presents the Issue to Council and answers any questions (if any).
6. Upon approval from the authority(ies), the Land Governance office advises the proponent in writing of the decision, and requests for the proponent to attend the office to sign the permit. (May be at this point you can go over the permit (in summary) again so as to ensure compliance).
7. The First Nation authority signs the permit.
8. Application for Registration is prepared based on the document. (Make sure all appendices are attached to the Permit including the Band Council Resolution).
9. Send to First Nation Land Registry.
10. Upon receipt of the registered document from FNLRS, disperse document to the proponent (in writing).
11. Monitor through desk and field work.

**PLEASE NOTE:** We were fortunate to base our timber inventory completed by Forestry Canada in 1995. If First Nations don’t have forest inventory data/plan, then the First Nations Forestry Service should be contacted. For our own forestry projects such as thinning the underbrush, its proposal based. Perhaps, the First Nations should look into a proposal for forest inventory and management plan.

**Sample 3**

**McLeod Lake Indian Band**

**Forest Management Planning and Cutting Permit Approval Process**

Feb 9, 2009 – Draft

**Table of Contents**

1. Introduction
2. Definitions
3. MLIB Forestry Planning Review Process
   1. The Forest Development Plan
   2. FDP Public Review Period
   3. The Site Plan
   4. Lands Advisory Committee Review
   5. Summary
4. Issuing a Cutting Permit
   1. Application for a Cutting Permit
   2. The Site Plan
   3. Preliminary Review of the Proposed Site Plan
   4. Lands Advisory Committee Review and Stumpage Determination
   5. Expedited Review Process
   6. Extraordinary Review Process
   7. Cutting Permit Approval
   8. Cutting Permit Registration
   9. Harvest Completion Report
5. **Introduction**

This McLeod Lake Indian Band (MLIB) Forestry Management Planning and Cutting Permit Approval Process document has been created to provide a mechanism for forestry planning and timber harvesting on MLIB reserve lands.

The McLeod Lake Indian Band has enacted its own Forest Practices Code to govern forestry management on its reserve lands. The authority to enact this legislation comes from the Treaty 8 adhesion agreement and from the Land Code enacted under the Framework Agreement on First Nations Land Management.

The McLeod Lake Forest Practices Code (2003) was agreed to as a term of the treaty in order to ensure that all forest practices on reserve lands are carried out in accordance with principles of sustainable forest use for the benefit of present and future Band members. To do this, the Forest Practices Code addresses the following areas of forest management: planning and site plans, protection of forest resources, forest roads, harvesting practices, silviculture, riparian areas, fire use, wildfire prevention and control, cutting permit applications and cutting permits, investigations and enforcement, penalties, stumpage, timber marking policy, administrative matters, annual reporting and audits.

The McLeod Lake Indian Band Land Code was enacted in 2003 under the Framework Agreement on First Nation Land Management and provides the Band’s fundamental land and natural resources law. Part 7 of the Land Code applies to forest resources and implements the Forest Practices Code in the following terms:

“29.1 Forest practices on Band land will be regulated in accordance with

Article 6 of the McLeod Lake Indian Band Treaty No. 8 Adhesion and

Settlement Agreement.”

“29.2 For greater certainty, the Band will conduct forest practices on Band

Land in accordance with:

a. the McLeod Lake Indian Band Forest Practices Code;

b. the McLeod Lake Indian Band forest development plans;

c. the principles of sustainable development; and

d. any applicable legislative requirements.”

This process is designed to remain consistent with environmental and cultural values and to guide the Land Manager and the Lands Advisory Committee, who are responsible for overseeing natural resources development on MLIB lands. It also attempts to accommodate both the collective interests of all band members and individual commercial interests.

1. **Definitions**

**Allowable Annual Cut (AAC)** means the rate of timber harvesting established by McLeod Lake Indian Band for McLeod Lake Indian Band Reserve Lands.

**Cutting Permit (CP)** means a permit that has been issued by the McLeod Lake Indian Band for the harvesting or salvaging of timber on McLeod Lake Indian Band Reserve Lands.

**Forest Development Plan (FDP)** means an operational plan that illustrates where proposed forest harvesting and related development such as road building is to take place on McLeod Lake Indian Band Reserve Lands over a five-year period.

**Harvest** means removal of timber and includes timber salvaging.

**Land Manager** includes a Designate who has been appointed by the Land Manager or Council to perform assigned tasks when the Land Manager is unavailable or otherwise requires assistance.

**McLeod Lake Indian Band Reserve Lands** means all lands that have been set apart for the use and benefit of the MLIB Band under Treaty 8. Legal title for these lands rests with the Crown in right of Canada.

**Site Plan (SP)** means a detailed plan for forest harvesting operations including cut block and road development at the site-specific level.

1. **MLIB Forestry Planning Review Process**

There are two main steps to forest harvesting on MLIB land. The first step involves two levels of planning: broad strategic plans known as Forest Development Plans which set out the Band’s general approach to utilizing its commercial forest resources, and more specific Site Plans which determine actual harvesting activities on individual sites. The second step involves issuing legally binding permit documents which give a proponent the legal authority to carry out forest harvesting operations according to Band law and policies.

***3.1. The Forest Development Plan***

The MLIB Forest Development Plan (FDP) is a five-year operational plan that projects where proposed harvesting and road related development will take place over a five-year period. All harvesting, including salvage, Christmas trees and firewood cutting during that period must be consistent with the Forest Development Plan. The FDP is prepared by the Band’s Registered Professional Forester and is guided by the principles of sustainable resource management. After going through a 60 day public review and amendment period it is recommended for approval by the Lands Advisory Committee and is ultimately approved by a Band Council Resolution.

The minimum requirements for an FDP are set out in the MLIP Forest Practices Code. In the 2003 version of the Code these requirements include:

[Insert list from Forest Practices Code]

***3.2. FDP Public Review Period***

A draft FDP must be made available for a minimum 60-day public review period. Every band member 18 years of age or older are sent a copy of the FDP at their last known address. If applicable, the members will also be notified in writing that supporting material and maps will be available for review at the Natural Resource Centre.

The public review process is intended to allow Band members an opportunity to provide information regarding values such as cultural heritage, sustenance use, recreation or environmental issues. This information can be incorporated into the planning process to help identify mitigating actions that will avoid harming identified values.

Band members may submit comments regarding the FDP to the band Forestry Department, in writing or by email. The comments are reviewed by the Forestry Department and forwarded with recommendations to the Lands Advisory Committee for consideration.

All comments, including a summary of any revisions to the FDP that were made in response to these comments will be included in the final submission of the FDP to Council.

The Lands Advisory Committee may choose to extend the public review period to ensure that band members have adequate opportunity to review the plan and provide comment.

***3.3. The Site Plan [Ryan and Kienan to revise before next LAC meeting]***

Once an FDP is formally approved, all timber cutting will be done in accordance with individual Site Plans that are consistent with the FDP. A Site Plan is a detailed plan for each cut block and road development. It is prepared or overseen by a Registered Professional Forester and may describe one or more cut areas. It is designed to illustrate the existing conditions in the proposed harvest area as well as the details of the proposed harvesting operation in accordance with standards adopted by MLIB. The Site Plan captures site specific information as it relates to the ecology, geology and hydrology of the proposed harvest activity, as well as the intended form of harvesting and special measures such as including leave trees or “patches” and reforestation prescriptions.

This information is used to review the operation’s compatibility with its environment and to assess how the harvesting will impact values such as soils, riparian areas, habitat, recreation and cultural use and visual quality. The duration of any given Site Plan for a cut block is from the start of pre-harvest development until the cut area returns to ‘free to grow status’ as defined by the Site Plan. A Site Plan created for road development is in effect for as long as the road remains in use.

The following information must be included with an MLIB Site Plan:

* An appropriately scaled Site Plan map (1:5000 or 1:10,000 depending upon opening size) that indicates where the proposed development is located on the current FDP map and including the following features:
  + North Arrow - Bridges and culverts
  + Legend - Landings
  + Contour lines - Terrain features
  + Block boundaries - Forest Cover information
  + Established roads - Elevation
  + Proposed roads - Skidding/yarding direction
  + Labeled and classified water - Existing infrastructure – buildings, camps, etc.

courses (e.g. W1 wetland, S4 stream etc.)

The map must be stratified and labeled to indicate areas where:

* different harvesting methods will be used, including “no harvest” areas
* wildlife tree patches will be created, and
* riparian areas exist, labeled RMZ for riparian management zone, RRZ for riparian reserve zone and buffer zones.

The map must also indicate the presence of fish-bearing streams, heritage sites and habitats requiring protection.

A summary table of all blocks covered by the Site Plan must also be included. The table is to include the size of each cut block, volume by tree species, and the proposed Silviculture system to be used. For example:

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Cut Block # | Area (ha) | Volume (m3) | | | | Total vol (m**3**) | Silv System |
| Sx | Pl | Fdi | At |
| 101 | 29.5 | 2300 | 4700 | 500 | 0 | 7500 | Clear Cut with Reserves |
| 102 | 18.7 | 1500 | 5100 | 300 | 0 | 6900 | Clear Cut with Reserves |

The Site Plan must also include details on the harvesting methods to be used as well as the proposed season of operations, including:

* Silviculture system- clear cut, clear cut with reserves, selective, partial cut, etc.
* Equipment to be used
* Season
* Rationale for opening size
* Direction of skidding relative to water courses and other identified values
* Post-harvest prescription
* Slash disposal method
* Deactivation and rehabilitation plans for roads and landings
* Reforestation prescription
* Site preparation methods, if recommended
* Species composition and density
* Planting specific instructions – e.g. select high spots in low lying areas
* Forest health concerns – e.g. prevalence of gall rust, stem rust etc.
* Free growing requirements – spacing, density, height etc.
* Cultural use sites
* Wildlife habitat, including any habitats protected by the *Species at Risk Act* and provincial endangered species legislation
* Heritage sites
* Fisheries
* Community watersheds
* Recreation features
* Aesthetics and visual quality
* Additional comments which may include logging production, contingency plans etc.
* Canadian Environmental Assessment Act screening information

***3.4. Lands Advisory Committee Review***

Unlike the FDP, a public review is not required for individual Site Plans. However, it is the responsibility of the Lands Advisory Committee (LAC) and the Land Manger to ensure that development occurring on the reserve is done in accordance with the standards adopted by the MLIB and to ensure that the membership has a voice in development on reserve lands.

Site Plans for harvest operations under the MLIB FDP may therefore be reviewed by the MLIB Land Manager and the LAC. This review would provide the Land Manger and the LAC with an opportunity to assess the scope of proposed road and cut block developments, and to remain abreast of harvesting related development on MLIB lands. The LAC and the Land Manager may at any time request a site visit to a proposed road or cut block site.

***3.5. Summary***

The MLIB forestry planning process is summarized in Table 1, below.

Table 1: Roles and Responsibilities in the MLIB Forestry Planning Process

|  |  |
| --- | --- |
| **Party Responsible** | **Action(s) Required** |
| Forester | Compiles five-year Forest Development Plan (FDP) for MLIB reserve lands and submits FDP to Land Manager |
| Land Manager | Reviews FDP for completeness and requests further information from the Forester if necessary |
| Forester | Advertises and prepares the FDP for a 60 day public review period. Presents FDP to the membership, Chief and Council and the LAC |
| Band Membership | Within 60 days reviews the FDP and provides comments to the forestry department, the Land Manager or a member of the Lands Advisory Committee (LAC) |
| Land Manager and LAC | Reviews FDP and any comments, questions or concerns brought forward during the public review period |
| Land Manager and LAC | Coordinates site visits with the Forester if deemed necessary |
| Land Manager and LAC | Prepares written recommendations for referral to Chief and Council |
| Land Manager | Refers submission along with recommendations and public comments to Chief and Council |
| Chief and Council | Reviews FDP and LAC recommendations, and provides approval by Band Council Resolution (BCR) |
| Forester or other applicant for timber harvesting rights | Develops Site Plans for cut blocks and road development proposed under the current FDP and applies for cutting permit |
| Land Manager and LAC | Reviews Site Plans |
| Land Manager | Determines if proposed harvesting is within Allowable Annual Cut |
| Forester or other applicant and Land Manager | Proceed to permit phase |

1. **Issuing a Cutting Permit**

*4.1. Application for a Cutting Permit*

Any party may apply to the Land Manager for a permit to harvest timber, including salvage timber, Christmas trees and firewood, from MLIB reserve land. Unless otherwise permitted under MLIB law, the proposed harvesting must be consistent with an approved MLIB Forest Development Plan.

*4.2 The Site Plan*

An applicant must prepare a Site Plan in accordance with section 3.3 above setting out the proposed harvesting activities and submit the Site Plan to the Land Manager.

***4.3 Preliminary Review of the Proposed Site Plan***

The Land Manager will review the Site Plan to determine if it is complete. If additional information is required, the Land Manager will contact the Proponent and make a request for the necessary information.

***4.4 Lands Advisory Committee Review and Stumpage Determination***

The Land Manger and the LAC will review the Site Plan and, pending approval of the site plan will advise the applicant of the stumpage rate that has been set by the band. The LAC may require a deposit from the applicant. The Land Manager and LAC are also responsible for monitoring the screening of the harvesting proposal under the Canadian Environmental Assessment Act.

***4.5 Expedited Review Process***

The Land Manager may issue a Cutting Permit for an area that is not included in an approved FDP if, in the opinion of the Land Manager with the advice of the Lands Advisory Committee and the MLIB Forester, the cut block is of insufficient size to warrant an FDP amendment or if harvesting operations are of an urgent nature such as to reduce a threat to public safety or salvage dead and damaged timber.

***4.6 Extraordinary Review Process***

At the discretion of the Land Manager, Site Plans that are not consistent with an approved FDP may be submitted to a public review process. This process will proceed in the same way as a Forest Development Plan review and may result in amendment of the FDP, rejection of the application, or approval of the application in such form as may be acceptable to Council acting on the recommendation of the Lands Advisory Committee.

The public review period will be 60 days unless otherwise determined by the Land Manager who may choose to reduce or extend the public review period.

***4.7 Cutting Permit Approval***

A Cutting Permit is a legal contract between the applicant and the Band identifying the conditions of the authority to harvest timber from Band land.

The Land Manager will issue a Cutting Permit if satisfied that a Site Plan is consistent with the FDP and meets the management requirements of the Band. The Cutting Permit may consist of a signed letter approving the forest management operations as described in the Site Plan and the general direction in the FDP, or may be in such other form as MLIB determines. The Cutting Permit must reference both the approved Site Plan and Forest Development Plan.

***4.8 Harvest Completion Report***

A harvest completion report must be filed with the Land Manager following the completion of harvesting activities under a Cutting Permit. The Harvest Completion Report must include the following:

* A reference to the original site plan and cutting permit
* A description of and rationale for any deviations in activities described in the original Site Plan
* A summary of the actual scaled volume of timber by species for each block
* A schedule of all post-harvest surveys and other activities that are to be completed for a particular block
* GPS data of the final block boundary, location and status of roads and landings, streams, lakes and wetlands adjacent to blocks and retention patches

The cutting permit process is summarized in Table 2 below.

**Table 2**: Roles and Responsibilities in the MLIB Cutting Permit Application Process

|  |  |
| --- | --- |
| **Party Responsible** | **Action(s) Required** |
| Land Manager | Provides information about application requirements |
| Applicant | Completes the application and submits to the Land Manager |
| Land Manager | Reviews application for completeness and requests further information from the applicant if necessary |
| Applicant | Provides further information if requested and completes environmental screening in accordance with the Canadian Environmental Assessment Act |
| Land Manager and LAC | Reviews full application, coordinates site visit if deemed necessary. |
| Land Manager and LAC | Reviews and monitors environmental screening report |
| Land Manager | Drafts Cutting Permit, checks the status of timber mark, sets performance bond or security deposit if deemed necessary and determines stumpage for the permit. |
| Applicant | Executes Cutting Permit |
| Proponent | Submits Harvest Completion Report and finalizes stumpage payment as appropriate |

Notes for consideration:

* 1. May convert tables to flow charts
  2. Review INAC and BC cutting permit documents
  3. Ensure federal and provincial endangered species protection legislation is considered
  4. Consider including non-timber forest products

**ATTACHMENT M – MATSQUI FIRST NATION ENVIRONMENTAL ASSESSMENT LAW**

**ATTACHMENT N – SEMA:TH 2013 ENVIRONMENTAL MANAGEMENT PLAN**

**ATTACHMENT O – FIRST NATION LAND REGISTRY SYSTEM (FNLRS) USER GUIDE**

**FIRST NATION LAND REGISTRY REGULATIONS**

1. Related to the same question, if a community does signal that it has a LUP in place (rightly or wrongly), it falls off any list of potential funding assistance or pilot initiative for LUP work. Further, LUP “updating” is rarely considered as part of any funding assessment. [↑](#footnote-ref-1)