



# BEST PRACTICES GUIDE: Creating Resort Partnerships with First Nations

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Best Practices Project



Western Economic Diversification Canada  
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## Foreword

In June 2003 the Premier established the British Columbia (BC) Resort Task Force to help resorts and resort communities realize their full potential. In July 2004, the BC Resort Task Force presented its “Recommendations of the BC Resort Task Force Report” to the Minister of State for Resort Development. Key recommendations to Government formed the “BC Resort Strategy and Action Plan,” released November 2004.

Strategic directions within the “BC Resort Strategy and Action Plan” included the development of a set of best practices tools to build common understanding between resort developers, communities and First Nations.

The Best Practices Project, which commenced in the summer of 2004 and concluded in the summer of 2006, involved the development of three products:

1. Transitions: Planning, Servicing and Local Governance in BC’s Resort Communities;
2. Best Practices Guide for Resort Development; and
3. Best Practices: A Guide to Creating Resort Partnerships with First Nations.

This report is the third volume of the three-part series and identifies best practices in resort planning, development and on-going operation in partnership with First Nations. It provides suggestions and sources of information to assist the resort industry and First Nations communities work together to build a competitive advantage in the global resort industry.

This guide is written for First Nations and resort developers/operators who wish to partner while developing new or expanding existing facilities. There is often a high learning curve for both First Nations and developers, and this guide is intended to provide introductory steps toward long-term partnerships. First Nations’ Chiefs and Councils, cultural leaders, economic and business development staff, consultants, and program managers will discover ways other First Nations have prepared their governance systems and communities for business, and what developers have said was helpful to establishing good business relationships with First Nations.

Developers and operators who want to work with a First Nation will find useful tips and solutions to building these business relationships, plus gain the advice of others on best practices.



*This guide is a reflection of the experience, wisdom and insight of leaders of First Nations, businesses and developers. They kindly shared with our team – O’Neil Marketing & Consulting, Brian Payer & Associates, and Brent Harley & Associates Inc., and the Resort Planning Group - their experiences, challenges, ideas and successes for the benefit of others. For this we are grateful.*

## Getting the Most from this Guide

This guide draws on the experiences of First Nations and their partners to provide guidelines in developing First Nation-Business partnership for resort development. The guide is intended to benefit both the First Nation and the developer.

Case studies illustrate how other First Nations and their partners overcame internal and external challenges to create successful business relationships; what tools were used to secure partnerships – including protocol and partnership agreements; how cultural considerations such as values, beliefs and decision making systems were understood; and what methods of communication were successful within the partnership and to other stakeholders (i.e., First Nation community members, shareholders, local communities and governments).

**Chapter One – Introduction:** Includes a summary of the best practices identified throughout the guide, and a list of resources, reports and studies that may be helpful to have at hand while developing partnerships.

**Chapter Two – A Guide for First Nations:** Sets out an eight-step First Nation-business partnership model, and comprehensively details each step, from *Getting Started* through to *Preparing for Change and Expansion*. The guide outlines how First Nations can communicate with partners and advances ways to jointly operate the business, covering employment and training, management structures, accountability and planning.

**Chapter Three – A Guide for Developers:** Sets out the same eight-step model from the developer's perspective. This chapter sites Appendix I, which includes a history and overview of First Nations in BC, and a glossary of terms for communicating with and understanding First Nations.

**Chapter Four – Case Studies:** Illustrates ventures that have shown leadership in First Nation – business partnerships.

# Contents

## FOREWORD

## GETTING THE MOST FROM THIS GUIDE

## CONTENTS

<b>CHAPTER ONE: INTRODUCTION .....</b>	<b>1</b>
Introduction.....	1
Summary of best practices.....	1
<b>CHAPTER TWO: A GUIDE FOR FIRST NATIONS.....</b>	<b>5</b>
First Nation- Business Partnership Model.....	6
Step 1: Getting Started.....	6
Step 2: Finding, Selecting and understanding your developer Partner .....	16
Step 3: Negotiating the Partnership .....	20
Step 4: Celebrating The Business Agreement.....	24
Step 5: Operations and Staffing .....	25
Step 6: Staying Connected .....	31
Step 7: Preparing for Change or Expansion .....	32
<b>CHAPTER THREE: A GUIDE FOR DEVELOPERS .....</b>	<b>35</b>
First Nation- Business Partnership Model.....	36
Step 1: Getting Started.....	37
Step 2: Finding, Selecting and understanding your first nations Partner.....	39
Step 3: Negotiating the Partnership .....	45
Step 4: Celebrating The Business Agreement.....	47
Step 5: Operations and Staffing .....	47
Step 6: Staying Connected .....	53
Step 7: Preparing for Change or Expansion .....	55
<b>CHAPTER FOUR: CASE STUDIES .....</b>	<b>58</b>
Osoyoos First Nation.....	59
Sliammon First Nation and the Lund Hotel .....	62
Kinbasket Development Corporation .....	64
Coastal First Nations Turning Point society (CFNTP).....	67
<b>APPENDIX .....</b>	<b>69</b>
<b>CREDITS.....</b>	<b>74</b>



## Best Practices: A Guide to Creating Resort Partnerships with First Nations

### Chapter One

### Introduction

## INTRODUCTION

The BC tourism industry generated \$9.4 billion in 2004, placing the tourism industry as the third largest earner of export dollars to the province. As a key economic sector, tourism represents one in 14 jobs and is targeted to generate more than \$18 billion by 2015. Hallmark events such as the 2010 Olympic and Paralympic Winter Games in Vancouver and Whistler, and the growth of niche markets such as cultural, educational and outdoor adventure tourism, have made British Columbia a choice destination for tourists.

Through the BC Resort Task Force, strategies are being prepared to grow the tourism industry even more. This guide – part of a series designed to guide tourism developers in building, operating and expanding resorts – focuses on partnering with First Nations in resort development.

This guide is both a testimony to existing First Nation-business partnerships that have demonstrated how to build long-lasting, sustainable, mutually beneficial relationships; as well as a guide to show others how to create their own First Nation-business partnerships.

Good business partnerships are about balancing corporate, social and environmental responsibility, as well as ensuring prosperity for both partners. For First Nations, business partnerships can contribute to a future that involves First Nations in a mutually respectful manner, incorporating First Nation values and principles and enabling them to be part of a vibrant, strong economy. For the developer, partnering with a First Nation can capitalize on the growing international interest in Aboriginal tourism.

Good partnerships continually demonstrate how they:

- communicate with each other and the stakeholders/First Nations community they represent;
- ensure appropriate time is allowed so ideas are understood and supported;
- measure their performance;
- look for ways to improve and make changes to achieve goals and learn from others' successes and challenges.

A number of First Nations in British Columbia have already developed or are in the process of developing business partnerships. This guide is a culmination of the experiences and lessons learned by First Nations and their business partners in resort development, other tourism operations, forestry, mining, manufacturing, municipal development, and other industries.

## SUMMARY OF BEST PRACTICES

From interviews and reviewing completed First Nation/developer projects, the following list represents best practices of good partnerships.

### *All parties should:*

- Use protocol agreements and memorandums of understanding to start a relationship.
- Recognize that the partnership will evolve and change over time.
- Establish long-term vision and strategic guidance early in the planning process.
- Host cross-cultural training sessions in order to understand each partner.

- Design governance models to achieve fair and equal representation from each partner.
- Establish policies that respect both good business practices and First Nations values.
- Adopt hiring practices that remove barriers and support First Nations and local employment.

***First Nations should:***

- Establish policies for business development procedures.
- Let business conduct business, and the First Nations government manage the government. Keep politics out of business but ensure that political and business structures work together to fulfill the First Nation's goals and vision.
- Establish a separate business entity that is responsible for business activities. Ensure there is a relationship and accountability structure with the First Nation government and community members.
- Prepare a Code of Ethics for development of lands and resources and use of culture.
- Keep the First Nation members informed and involved; be certain to celebrate successes and milestones with them.
- Develop human resources strategies with the Band's employment, education and human resources departments.

***Developers should:***

- Directly involve First Nations in the early planning of the business.
- Understand the history and complexity of the First Nation community and the uniqueness of each individual Nation and Band.
- Work with an advisor or consultant if uncertain or uncomfortable approaching a new relationship with a First Nation.
- Prepare strategies for building relationships with First Nations and ensure this strategy is endorsed and enforced in all operations.
- Utilize the knowledge and wisdom of First Nations Elders to provide guidance on environmental issues and concerns. Their historical and traditional knowledge can help avoid approval delays.
- Incorporate First Nations culture into milestones within the partnership.

***CONTRIBUTIONS FROM EACH PARTNER***

Each party brings assets and skills that have the potential to create partnership synergy for a long-term business relationship with benefits for the First Nation, the developer, and the local community. The following exhibit outlines some of the contributions each partner brings to the table and how the local area can benefit.

Exhibit 1 – First Nations/Developers Contributions Model

## CONTRIBUTIONS FROM PARTNERS



## RESOURCES, REPORTS AND STUDIES

Many reports, studies and websites were resources for this guide, and are referred to throughout the document. Some of the resource material or models are described in the text. It may be useful to have some of this resource material at hand when reviewing this guide.

- “The Power of Partnerships: New Opportunities for Aboriginal People and Ontario Businesses” Publications Ontario, Tel. (416) 326-5300
- Institute on Governance – [www.iog.ca](http://www.iog.ca)
- The *Harvard Project on American Indian Economic Development* – [www.ksg.harvard.edu/hpaied/](http://www.ksg.harvard.edu/hpaied/)
- Bull Houser & Tupper, Legal Brief on Haida Case “Update on First Nations Consultation Duties” [http://www.bht.com/news/content/Haida\\_consultation.htm](http://www.bht.com/news/content/Haida_consultation.htm) or PDF version [http://www.bht.com/news/content/logging\\_contract.pdf](http://www.bht.com/news/content/logging_contract.pdf)
- Delgamuukw and Treaties: An Overview – [www.delgamuukw.org/research/treatiesoverview.pdf](http://www.delgamuukw.org/research/treatiesoverview.pdf)
- Aboriginal Human Resources Development Council of Canada (AHRDCC) – [www.aboriginalhr.ca](http://www.aboriginalhr.ca)



## Best Practices Guide: Creating Resort Partnerships with First Nations

- First Nations Tax Commission – [www.fntc.ca](http://www.fntc.ca)
- First Nations Finance Authority – [www.fnfa.ca](http://www.fnfa.ca)
- First Nations Financial Management Board – [www.fnfmb.com](http://www.fnfmb.com)
- First Nations Land Management Act – <http://laws.justice.gc.ca/en/ShowTdm/cs/f-11.8//en>
- First Nations Statistics – [www.firststats.ca](http://www.firststats.ca)
- *A Practical Guide to Implementing Aboriginal Employment Partnerships*, Aboriginal Workforce Participation Initiative – [www.ainc-inac.gc.ca/ch/awpi/gde/intrdctn\\_e.html](http://www.ainc-inac.gc.ca/ch/awpi/gde/intrdctn_e.html)

### Protocol Agreements

- General Protocol Agreement on land use planning and interim measures between several BC north coast First Nations and the Province of British Columbia – <http://www.davidsuzuki.org/files/finalprotocol.pdf>
- First Nations Tourism Accord between the First Nations Summit and the Council of Tourism Associations (COTA) – [www.fns.bc.ca/pdf/cota-fns%20mou%20december%201997.pdf](http://www.fns.bc.ca/pdf/cota-fns%20mou%20december%201997.pdf)



## Best Practices: A Guide to Creating Resort Partnerships with First Nations

### Chapter Two

### A Guide for First Nations

## FIRST NATION– BUSINESS PARTNERSHIP MODEL

There are seven steps to developing a partnership with a resort developer. For the First Nation, the common thread that links each step is the application of its cultural values, principles and protocols.

Exhibit 2 – Steps to Developing a First Nation-Business Partnership



### STEP 1: GETTING STARTED

Partnering with a developer can bring economic wealth, employment opportunities and an increased standard of living to the First Nations community. It will, however, take persistence, patience and staying power to see the project completed from construction to daily management.

***BEST PRACTICES:** Set the Stage for Success. Adopt an attitude of “never give up” – staying power and persistence are key “tools” to success.*

A partnership with a resort developer also has to have good First Nations leadership and buy-in from the First Nations Community. The First Nation must see the development in a positive light; one that will bring economic benefits to the band and that will increase their standard of living without sacrificing their cultural values.

#### **FIRST NATIONS LEADERSHIP**

Developing a partnership must first start with sound First Nations leadership. There must be high standards in financial management, decision-making, accountability and communication. Commitment to these standards is often demonstrated through a “Code of Ethics”, Conflict of Interest guidelines, policies, procedures and operating transparency, such as a functioning “open door policy” that the First Nation should adopt. The First Nation should:

- Make all decisions based on the vision and long-term goals of the community.
- Develop clear criteria for all parts of the business and Band operations (in other words, First Nation Governance).

- Ensure elected leaders play a strategic role in following their rules diligently and treating everyone fairly inside and outside the community.
- Establish the Rules of the Game or “Governing Constitution” so it is clear that everyone, including leadership, is being treated fairly based on the rules. The rules should be communicated to the community regarding:
  - what are the rights, obligations and authority of different people and groups;
  - how, when and where authority can be exercised;
  - how disputes are settled; and
  - how rules can be changed.

The First Nation needs to demonstrate that fair business practices are a part of their operations, and that there is stability in the community and commitment to the project.

***BEST PRACTICES:** A good governance principle is the belief “The First Nation does not owe its membership dependency, it owes them opportunity and a chance to become independent.”*

First Nation leadership empowers its members to be responsible for their own destiny, and Chief and Council accept their role to govern as responsible, honest and capable elected representatives.

### ***FIRST NATIONS POLITICS***

One question that needs to be answered is, “Should business be separate from politics?” As a tribal council Director of Planning and Development put it, “The mixture of business and politics is as deadly as drinking and driving...it can kill a business.” How can this be avoided? The solution lies not so much in separating business and politics, but in designing a system where they complement each other.

A key challenge is melding governance and economic development. With its governance role – the political component – the First Nation is responsible for the well-being of its citizens today and for the next seven generations<sup>1</sup>, cultural preservation, creation of a thriving economy, and sustaining the land and resources within traditional territory.

First Nations who have made economic development a priority realize the importance of creating a business structure where economic initiatives continue and business survives, separate from Band governance in case political leadership changes (i.e., Chief and Council). The business structure must ensure however, that management maintains accountability to its First Nation members.

The *Harvard Project on American Indian Economic Development*<sup>2</sup> offers useful guidelines on how First Nations can separate business from politics through effective governance. When leaders assume their position in government, they ensure the implementation of the First Nation or community vision supported by the community; effectively supporting and enabling business to flourish and succeed.

### ***FIRST NATIONS CONTACT POINT***

Developers and other potential partners have said that it is difficult to know whom to contact in a First Nation organization. The First Nations that have established processes for partnership development have a major advantage: with the systems in place, they indicate they are ready, willing and capable of doing

business...exceptional qualities in any business partnership. The following exhibit outlines the benefits and disadvantages of various first contact points within the First Nation community.

Exhibit 3 – First Nation First Contact Point

First Contact	Role	Benefit	Disadvantage
<b>Chief and Council</b>	<ul style="list-style-type: none"> <li>• Approve review</li> <li>• Assess opportunity against First Nation development principles and policies</li> <li>• Identify a person or department to work with developer</li> </ul>	<ul style="list-style-type: none"> <li>• Enforces to developers the governance of the First Nation</li> <li>• Gives message of authority, governance and importance of initiative</li> </ul>	<ul style="list-style-type: none"> <li>• Increased demand on Council time and resources</li> <li>• Council may postpone review of opportunity due to other priorities</li> <li>• Business opportunities can be lost due to delays</li> <li>• Council may not have experience to determine if business opportunity is feasible</li> </ul>
Recommended approach to minimizing disadvantages: <ul style="list-style-type: none"> <li>• Identify a Council member responsible for first contact – i.e., portfolio holder</li> <li>• Train front-line staff / receptionist to direct calls to Council member responsible for business</li> <li>• Contract consulting and/or legal services</li> </ul>			
<b>Director of Economic Development, Business Opportunities and Partnerships</b> or <b>Business Development Corporation / Committee / Entity</b>	<ul style="list-style-type: none"> <li>• Ambassador / Liaison to Nation on business</li> <li>• Pre-qualify business opportunity by applying the First Nation's principles and policies</li> <li>• Introduce and present opportunity to Chief and Council for approval</li> <li>• Facilitate other Nation review and approval processes</li> <li>• Work with partner on project coordination</li> <li>• Report to the Chief and Council on progress</li> </ul>	<ul style="list-style-type: none"> <li>• Quickly determines if opportunity is appropriate, saving resources</li> <li>• Demonstrates First Nation's commitment to business</li> <li>• Reduces demands of Chief and Council</li> <li>• Project continuity as Developer has a person to work with in case Chief and Council change</li> </ul>	<ul style="list-style-type: none"> <li>• Project may be viewed as unimportant due to lack of leadership involvement at early stages</li> </ul>

If Council is the first contact, a First Nation advisor should attend the preliminary meetings with the developer. Then, as soon as Council agrees to entertain the project, a First Nations contact or “Scout” should be identified for the developer to work with. The Scout is responsible for identifying and reviewing business opportunities, facilitating project reviews, implementing policies and procedures, introducing the developers when the time is right, and after the project has been approved, providing updates to Chief and Council.

The Council should give the Scout direction on how to assess and review projects to be brought forward to the decision makers. A preliminary screening of projects by the First Nations’ Scout could ensure the appropriate projects are ready for a meeting between the Chief and Council and senior developer representatives for discussion and direction. Sometimes this preliminary screening will be nothing more than a first impression, but it can often be a good indication of how well the partnership will work.

***BEST PRACTICE:*** *An important lesson shared by many First Nations is to go with your first instinct. “If there is something from the beginning that doesn’t add up, then don’t keep pursuing the relationship no matter what the name of the company is. Find someone else,” said a Kitasoo First Nation representative. Other First Nations share similar perspectives and experiences.*

Whichever point of first contact – Chief and Council or Scout, others must know what the required approach is. Train your First Nation’s staff, especially the telephone operator/receptionist how to screen and direct these business inquiries, and promote this process outside your First Nation (e.g., to Chamber of Commerce, business contacts, etc.).

## ***STAGES TO CREATING EFFECTIVE PARTNERSHIPS***

There are five key stages to creating effective partnerships with resort developers. The First Nation should ensure all are completed so a firm foundation will be in place on which to grow the partnership.

- STAGE 1:** Create a Code of Ethics;
- STAGE 2:** Prepare Protocols;
- STAGE 3:** Establish Business Structures;
- STAGE 4:** Establish a Vision and set Goals; and
- STAGE 5:** Build a Team.

### ***STAGE 1: CREATE A CODE OF ETHICS***

The First Nation Code of Ethics defines the morality or behavior of the First Nations leadership, its government, departments, staff, and citizens. It outlines how interactions, communication and future decisions will be made, and in many ways is a promise to the First Nation’s citizens and others.

Key to a Code of Ethics is continuity and consistency. For example, the Code of Ethics of the **Kitasoo / Xaixais First Nation** (a small village on Swindle Island located on the mid-coast of BC) anticipates changes in leadership. Should a new Chief and Council be elected, there is a commitment that the new leadership will support ongoing initiatives. Elements of a Code of Ethics are:

- 1. Open, comprehensive, community consultation process** – develop the Code of Ethics in a process that involves everyone – all members living on and off reserve, and staff. Leadership participation is mandatory.
- 2. Equally binding** – applies to all First Nation departments and/or businesses.
- 3. Public relations** – defines how the First Nation and businesses will relate to the public.
- 4. Accountability** – First Nation government and band-owned businesses must be fully accountable and responsible to its citizens, for example, permitting open viewing of financial records.
- 5. Government consistency and continuity** – if there is a change in political leadership, government operations and initiatives continue (i.e., government staff retain employment, and ongoing initiatives are supported).
- 6. Code applies to everyone** – including First Nation leadership and members living off reserve.

## ***STAGE 2: PREPARE PROTOCOLS***

A Protocol is a set of rules or standards defining the etiquette of diplomacy and affairs. In First Nations, this protocol has historically been oral only. Protocol agreements outline the exchange of information, including timing, format and sequencing among other businesses and relationships. Common elements in a protocol agreement First Nations should consider when partnering with a developer are listed below:

### ***Components of a Protocol Agreement***

- Who the agreement applies to and the Guiding Principles
- Purpose of the Protocol Agreement
- Goals and Objectives
- Roles, Obligations and Responsibilities
- Lead Contact / liaison
- Roles and Responsibilities for each Party in the Agreement - including the development, implementation, review of the plans; areas of special responsibility; and authority. This should include procedures for:
  - gathering and sharing formal and informal labour market information; conflict/dispute resolution;
  - regular reviews and amendments; setting clear objectives, responsibilities, targets and timeframe in the event of potential job losses, i.e., putting into place an action plan; how to identify and involve additional partners when required; reporting requirements; monitoring and evaluating progress; engaging or approaching others; information sharing – internal and external communications; approval/acceptance of the Protocol Agreement; and may also include arrangements for funding.

Depending on the nature of the development, protocol agreements should be developed early between:

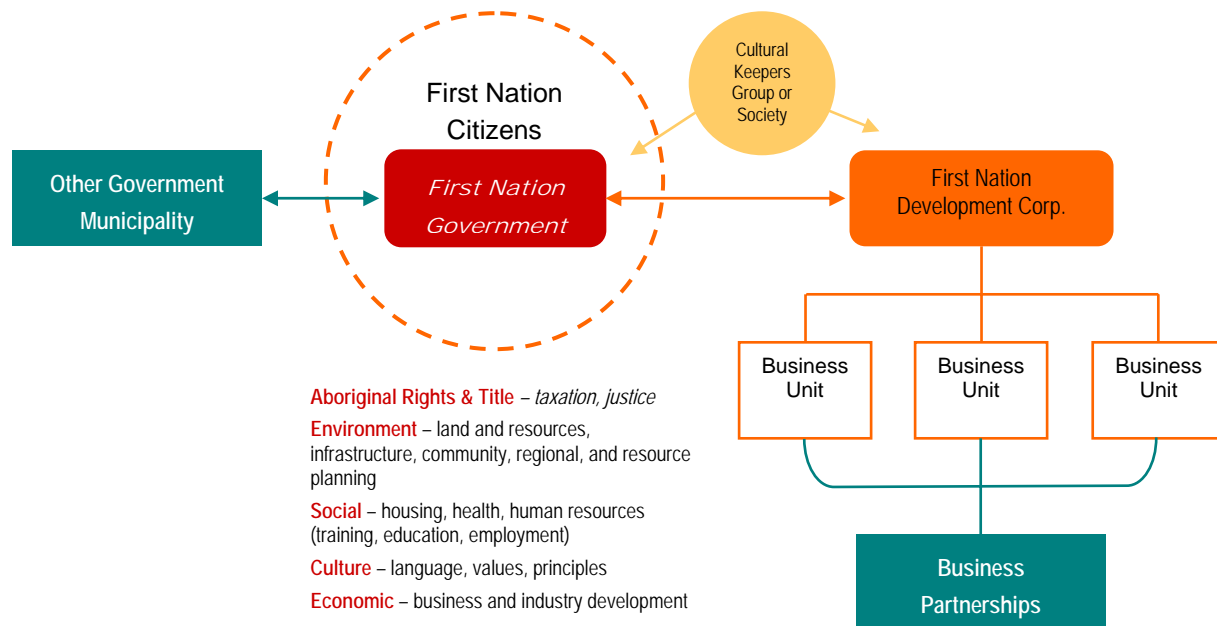
First Nation (Tribal) member Bands; neighbouring First Nations; Local governance authorities – municipal and regional governments; Provincial government; Federal government; and others – industry organizations and business partners.

## ***STAGE 3: ESTABLISH BUSINESS STRUCTURES***

Many First Nations have opted to use a legally incorporated company as the way to differentiate the relationship between its political structure and its business initiatives, and to separate culture from business. The **Kwakwaka'wakw First Nations** separated business from its cultural operations, the **U'mista Cultural Center and Museum** at Alert Bay, through the creation of the **Wi'la'mola Project**. Wi'la'mola is the business arm of the Cultural Center and the partnering entity with Nimmo Bay Resort, and the Kwakwaka'wakw First Nation retains the position of government. Separating the culture and business in this manner helps a First Nation maintain its principle of “not selling its culture.”

The roles and relationship of these business entities to the First Nation's government are illustrated in Exhibit 4. Often there are two levels – A First Nation Development Corporation, and business units. The Development Corporation has a direct relationship with the First Nation government, and either a direct or indirect relationship with the cultural advisors. It has obligations to the First Nation and its citizens, and is often solely comprised of recognized representatives of the First Nation. When skills or experience are lacking, outside non-voting advisors can be added.

Exhibit 4 – First Nations Development Corporation Model



## BOARD OF DIRECTORS

A separate and legally recognized business structure is an essential tool for First Nations to demonstrate their commitment to business. A Board of Directors should be set up that is separate from the government representatives (the Chief and Council), and the Board should include some outside business professionals who can add experience to the Board.

Two things are essential for establishing a workable business structure that is transparent and free of unnecessary interference and that complements the political system:

1. Make it easy for others to do business with you. Let them know that you are open to do business. Establish a process for contact, review and approval of business proposals. Identify a person in your organization responsible for partnerships and/or First Nations-Business relationships.
2. Establish appropriate business structures with good systems, policies and structures, and become educated on how your future business partners may operate.

The type of business structure will vary depending on the business purpose and needs. It could be set up as an incorporated company, society, limited partnership, non-profit corporation or other entity. The business entity should be registered either provincially or federally.

The First Nations Development Corporation’s Board of Directors has a few options for its composition. The type of board structure is determined by considering the community’s characteristics, business skills, decision-making systems, vision and priorities.



Exhibit 5 – First Nation Business Development Corporation Boards

Type	Board Characteristics	Benefit	Examples
<b>Band Leadership</b>	<ul style="list-style-type: none"> <li>• Consisting of current Chief and Council and past Chiefs</li> <li>• Non-voting advisors participate on the board</li> <li>• Non-voting experts advise Directors</li> <li>• Directors all Aboriginal</li> </ul>	<ul style="list-style-type: none"> <li>• Community leadership with business and Band management and development experience</li> <li>• Builds and gains from the reputation of past leadership</li> </ul>	Osoyoos First Nation Development Corporation, <i>Oliver</i>
<b>Tribal Corporation</b>	<ul style="list-style-type: none"> <li>• Appointed representative of each of the Tribal Nation member First Nations (Bands)</li> <li>• Non-voting advisors support the board</li> <li>• Directors may not be Aboriginal – directorship is determined by each Band</li> </ul>	<ul style="list-style-type: none"> <li>• Nations’ and communities’ visions and ethics are incorporated into operations</li> </ul>	Ktunaxa Development Corporation, <i>Cranbrook</i>
<b>Community Board</b>	<ul style="list-style-type: none"> <li>• Community elects Board members</li> <li>• One position is appointed by the Band – usually the Chief</li> <li>• Expertise added by advisor appointments – non-voting position</li> <li>• Directors all Aboriginal</li> </ul>	<ul style="list-style-type: none"> <li>• Community feels sense of ownership to Band Development Corporation</li> <li>• Business is permitted to operate without political influence</li> <li>• Chief and Council representative fulfill role of accountability to leadership and community, and ensure practices are consistent with community vision</li> <li>• Expertise added as required</li> </ul>	Sliammon First Nation Development Corporation, <i>Powell River</i>
<b>Business Skills</b>	<ul style="list-style-type: none"> <li>• Focus is Directors with relevant business skills and experience</li> <li>• Not necessary for Directors to be Band members or Aboriginal</li> </ul>	<ul style="list-style-type: none"> <li>• Board expertise and skills high</li> <li>• Increases success of business initiatives</li> </ul>	Shuswap First Nation Development Corporation, <i>Invermere</i> Tahltan Nation Development Corporation, <i>Dease Lake</i>

A Board of Directors with approximately five to seven members is often preferred, as it can usually deal with issues quickly and effectively. Large boards can be cumbersome, while boards that are too small may lack depth of experience and be too insular. An effective board is also comprised of people who possess skills, knowledge, experience and a network of contacts that complement other board members and add value to the board.

Exhibit 6 – Board Member Skills and Experience

<ul style="list-style-type: none"> <li>• Business</li> <li>• Financing and investment</li> <li>• Legal</li> </ul>	<ul style="list-style-type: none"> <li>• Accounting</li> <li>• Economic development</li> <li>• Human resources</li> </ul>	<ul style="list-style-type: none"> <li>• Management</li> <li>• Political</li> <li>• Reserve land development</li> </ul>	<ul style="list-style-type: none"> <li>• Culture</li> <li>• Boards</li> <li>• Industry specific</li> </ul>
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Board structures vary with each partnership depending on percentage of ownership. For example, the **Osoyoos Indian Band Development Corporation** holds three of the six available Board of Director seats for Nk'Mip Cellars Ltd. and 51% ownership in the company. The **Hupacasath** and **Ucluelet First Nations** hold 30% of the shares of the Eagle Rock companies; however, they hold two seats of a seven-member board, one of them being the Chair position.

In some First Nation communities, there is a second tier of business activity, called Business Units, which do not need to be formally registered entities with ownership shared by the First Nation and non-Aboriginals. A Business Unit can be an extension of the Development Corporation, owned solely by the Development Corporation, or it can be a business activity that is confirmed through an agreement between two separate entities.

### **Best Practices in Setting up and Operating a Development Corporation:**

**Get Legal Assistance** – i.e. for set up, registering the business or establishing a corporate vision.

**Keep the Number of Board of Directors Relatively Small** – the ideal number is five to seven.

**Hold a Board Training Session or Workshop** – to orient the new directors and ensure they understand their role, the purpose of the development corporation, its plans, and goals.

**Develop Conflict of Interest Policies** – have directors declare their acceptance of these upon joining the Board by signing an appropriate document.

**Involve the First Nations Community** – invite community members to be volunteers on special projects.

**Hold Development Corporation Annual General Meetings** – to inform the community of the progress of the Development Corporation...this is a good way to demonstrate accountability. These sessions should be fun and interactive.

### ***STAGE 4: ESTABLISH A VISION AND SET GOALS***

“Should we or shouldn’t we?” This question has been asked often when deciding to partner with a development project. The answer may lie in the long-term vision that defines where the First Nations community wants to be in five or 10 years, and where it desires or needs to be in seven generations. First Nations leadership must have a clear vision that is supported by strategic thinking and long-term ideas, and be willing to take actions beyond the status quo in support of that vision. The vision and goals of a First Nation community are intrinsically linked.

The most common elements of First Nations’ goals are listed below, and should form a foundation on which to build both the First Nations community vision, and more detailed goals for attaining that vision.

- Self-governance
- Cultural revival – language preservation, traditional values/ ethics
- Economic development
- Self-reliance, decreasing dependency
- Education
- Employment
- Quality of life

## Best Practices Guide: Creating Resort Partnerships with First Nations

A clear vision gives First Nations leadership the essential guidance to make informed decisions about social, cultural and economic development based on direction from their citizens. Tasks required to engage in a visionary process are described in Exhibit 7.

### Exhibit 7 –The First Nations Visionary Process

Task	
<b>1.</b> Create a First Nations community participation and communications plan	Allow for different ways the community can give input – e.g., at community meetings, through a questionnaire or home visits with community members to interview and gather their comments.
<b>2.</b> Get youth involved	This helps create ownership and commitment by youth and helps foster future leaders.
<b>3.</b> Schedule the First Nation community sessions	Depending on the size of the community, there may be more than one session to gather ideas. If possible, provide a meal, and hold sessions at times that are convenient for your Band members (e.g., evening and weekend sessions). Consider holding additional sessions with Band members employed at Band businesses and government offices.
<b>4.</b> Ensure community members are informed	The announcement should state where, when, why, who to contact, and how they can participate. Let people know the purpose of the session – to let community members share their ideas and express their concerns about the future of their Nation. Also let them know how the information will be used, what the project stages are and when each will be finished.
<b>5.</b> Promote the session	Send out information about the sessions in your community newsletter or in a flyer. Deliver the notices house-to-house.
<b>6.</b> Starting the session	Open the session with an opening prayer and / or welcome – it should reflect your community’s culture and protocol.
<b>7.</b> Make it comfortable for people to express their views, ideas and concerns	Create a comfortable environment where everyone in attendance shares his or her views. Do not have people write their ideas down if literacy is a concern; instead have your facilitator record comments on flip charts or ask people to draw pictures of their ideal community and to describe it.
<b>8.</b> Be specific with your questions	Ask participants what they’d like their First Nation community to look like in the future (e.g., 10 years) on topics such as – employment, cultural development, social well-being, and First Nation business ownership.
<b>9.</b> Collect information	List and determine the status of the community’s assets – financial, human resources, physical, natural resources such as land, water, forest, fauna, and culture.
<b>10.</b> Share communications with community members	Assign one or two community members the task of going to key family members who could not attend the community meetings to ask questions on developing a community vision. These house-to-house sessions can be done by youth.
<b>11.</b> Get leadership commitment	Have the First Nation leadership evaluate the community input and develop a vision statement with long-term goals for the community. Invite a few community members (they may be family or clan leaders) to participate.
<b>12.</b> Go back for community endorsement and support	Invite the community to adopt the goals and vision statement through a presentation at another community session. Bands can do this at a regular Band meeting, at a Tribal annual general meeting, or at a special session.

## **STAGE 5: GETTING FIRST NATION COMMUNITY BUY-IN**

First Nations that have successful economic development and have built partnerships with developers have said that the key to motivating the community was to show a “whole bunch of small successes” to gain the community’s confidence. This approach gradually enables the development of larger projects.

- Start with a number of small business projects to help the community grow and accept change.
- Look for opportunities that can provide seed money such as a forestry contract in traditional territory. Use knowledge from these to build other ventures.

***BEST PRACTICES:** Focus on generating “cash flow” as a measure of success. Cash flow gives a First Nation the ability to develop other businesses and expand existing ones. Diversifying the First Nation’s income sources were stated as a formula for success.*

“We need to start believing that we are capable of making decisions on our own and believe in our abilities,” said a First Nations leader. Many First Nations have already developed the capacity within their communities to assess and capitalize on business opportunities. For those who haven’t, contracting outside expertise can give projects an objective perspective and add credibility – both of which are essential for generating support and confidence in projects by others who analyze, approve, invest and promote the development.

### **EXAMPLE: Small Successes = Big Future**

*When “J” class fishing licenses became available, the Kitasoo First Nation purchased one and used it to generate the money they needed to fund other projects, such as the processing plant. These other projects became “stepping stones” to larger developments.*

## **STEP 2: FINDING, SELECTING AND UNDERSTANDING YOUR DEVELOPER PARTNER**

### **KNOW YOUR ASSETS**

Before finding a development partner, the First Nations community needs to clearly understand what assets the First Nation brings to the partnership table. This can give the First Nation a good idea of their own strengths, and insight into the type of assets their partner will need to have. The asset assessment should include:

- **Human resources** – specialized skills, training, experience or education, population growth, mobility;
- **Physical resources** – buildings, equipment (e.g., loaders, logging trucks, boats, vehicles), water and sewage services, electrical, roads, other infrastructure;
- **Natural resources** – land, water, access, minerals, forests, gas, hot springs, water falls, mountains, glaciers, flora, fauna, weather/climatic conditions; and
- **Cultural resources** – language, art, traditions and practices, food preparation, heritage sites, history, unique characteristics.

### ***KNOW WHAT YOU ARE LOOKING FOR***

Before finding a partner, it is essential that the First Nation community know what they are looking for. The following key questions should be answered before looking for or selecting the right partner: Who can help us achieve our goals? In what ways are our goals compatible? Are our values compatible? How do we strengthen and complement one another? Can we work together? Some steps to answering these questions are below:

- set your own principles and agenda for developments in your territory before seeking partners and commencing negotiations;
- determine what components of a potential partnership will give the First Nation longevity;
- have a good idea of the desired outcome based on long-term vision, goals, objectives and values;
- have a good understanding of or seek legal direction on First Nation rights relating to consultation and accommodation requirements;
- keep informed and updated on legal proceedings that affect or involve First Nations;
- determine the Bands strengths in advance of negotiating;
- identify the goals, values and initiatives you have in common with a prospective partner;
- develop a physical development plan or land use study to identify strengths and weaknesses;
- do an assessment of surrounding developments to see where and how the Band can become a participant in economic development to benefit the First Nations community;
- canvass the First Nations community for input on its strengths and weaknesses;
- establish a good relationship with different financiers; and
- build a connection with the media in your area.

It is also extremely important to be willing to learn more about projects, opportunities, business practices and other information in order to make informed decisions.

***BEST PRACTICES:*** *“It is not good business practice to leave things we know little about, to our business partners. We must be responsible enough to learn what we don’t know.” - Kinbasket Development Corporation representatives.*

### ***FINDING A PARTNER***

Finding a good partner can be as simple as talking with a friend you have known since high school, meeting someone at a local planning session and finding you have things in common, watching a television news story, reading a newspaper – or as difficult as finding a needle in a haystack. Look for a partner that has common interests, but remember that the elements that keep you together are **trust** and **respect**. These are more easily formed between people who know each other.

An example of this was when the **Sliammon First Nation** found its business partner in an old classmate. David Formosa and many of the Sliammon Band Council members went to high school together. They knew each other well when the discussions about buying the historic Lund Hotel began. David’s honesty about the challenges of resort operations and ownership solidified the trust the Sliammon Band Development Corporation had in David, and led the Band to decide he would be a good partner.

Finding every partner is not going to be this easy. This is when relationships with others, business connections and due diligence come into play.

The **Kinbasket Development Corporation** entered into its first partnership with a company that had provided past services to the Band and had expressed interest in working with the First Nation Development Corporation. Later, when the joint development was ready to expand and needed new investment, the developer understood a partner with other skills was needed. The developer graciously withdrew and introduced the Band to new partners. At a later date, the original partner teamed up with the Band on another expansion.

Band members or leaders should speak to others in the industry and government, and let them know that you are looking for partners and/or investors. Local governments and their economic and business development agencies can facilitate introductions. Agreements between First Nations and local governments have established points of contact for developers looking to explore a business opportunity with a First Nation.

First Nations should connect as board members, volunteers and members of regional initiatives, and expand their network. They should establish relationships with key people and organizations in the area to build the First Nations profile, knowledge of contacts, support for initiatives and a united front for regional development.

There are also intermediaries who may be able to help. Private sector intermediaries could include accountants, lawyers and consultants who might be able to provide suggestions and make introductions. Federal and provincial programs also have staff that can help with contacts and advice. For example, the Federal *Aboriginal Workforce Participation Program* and the British Columbia *Aboriginal Employment Partnership Initiative* would be two good places to start.

A more direct approach would be to first know what you are looking for in a partner and the type of development it is agreed upon would be of benefit to the First Nations community. Then the next step would be to search for partners. This could involve using requests for proposals; researching databases, resource lists and directories; advertising for partners; and hiring consultants to help with the search.

### ***FIRST STEPS TO CONTACTING DEVELOPERS***

A first step could be to invite developers to learn and experience the Bands culture first hand in customized events and ceremonies; introduce them to your Nation's organization, departments and staff; educate them on your history, culture, values and beliefs; teach them words and place names in your language; share your vision, goals, and plans.

Who attends introductory sessions is just as important as having them. Attendance is a demonstration of each other's commitment to the relationship. First Nations should make sure Chief and Council, Hereditary Chiefs, Elders and house leaders are in attendance. They should invite the developer's senior representatives and decision makers – Chair, President, Vice-President, Chief Executive Officer, Chief Operating Officer, etc.

Once you have been introduced to each other's culture a logical next step would be to determine how communication will be conducted. This is usually outlined in a protocol agreement. To confirm your protocol agreement, put the protocol in writing and have it witnessed in a First Nation feast and/or ceremony.

## ***SELECT THE RIGHT PARTNER***

Even though your intuition may tell you that the developer you have met with is ideal, it is always good practice to find out more about them before formalizing the partnership.

Conduct due diligence in evaluating the partner and business proposal. Use your technical advisors or hire consultants to do this for you.

Due diligence often comes down to common sense, but involving outside advisors can produce additional information, provide an objective perspective that could be difficult for those closely involved in a project, and give the project credibility that financiers will consider in their evaluation of any financing applications. Other suggestions:

- Learn about the potential developer by conducting due diligence on the organization.
- Do not rush the process – good relationships and getting to know someone takes time.
- Talk to other businesses and organizations that deal with or have dealt with the developer. Ask for suppliers' names, client names and anyone else they have come in contact with to find out their opinion of the company.
- Look at their corporate philosophy, vision and strategy to see how they match yours.
- Find out what other businesses initiatives they are – or have been – involved with, and who they have been associated with.
- Ask to speak with their staff to see what they think of the company and how they are treated.
- Find out what charities they support (an indication of their sincerity as a company).
- Look at their environmental record and the policies, practices and procedures they have in place to protect the environment.
- Check out who has invested in their other projects, as well as who has been on past boards.
- Check into the developer's community initiatives.
- Investigate the company's capacity to enter into a lasting partnership – ask to see financial statements.
- Have your lawyer check all legal matters.
- If they have international connections such as a subsidiary or parent company, or have worked internationally, look at their reputation and experience abroad. Get to know the international team as well.

### **EXAMPLE: A Review of the Developer**

*The Hupacasath First Nation and Ucluelet First Nation entered into a Letter of Understanding confirming they would work together on the Eagle Rock project. After this, the First Nations signed a Letter of Intent with Polaris who provided the First Nations with “no strings attached” money to undertake a “due diligence” review of Polaris.*

*Polaris provided the funds because they knew they would not be able to move forward with the project unless the First Nations understood and endorsed the project.*

*Following the review, a partnership was formed. A series of agreements were signed including confidentiality, business arrangements that outlined corporate powers, environmental impacts and benefits, etc. An overall protocol agreement also outlined how the project would proceed.*



Additional things the First Nation should consider are the developer's:

- demonstrated values and ethics;
- compatibility of the corporate culture with First Nation's values and ethics;
- demonstrated respect for First Nations' governments and people;
- recognition of the "assets" the First Nation brings to the table; and
- willingness to work towards a "win-win" partnership.

**Exhibit 8 – Qualities of a good Corporate and Aboriginal partner**

Qualities of a Good Partner		
Aboriginal Partner	Essential Qualities	Corporate Partner
<ul style="list-style-type: none"> <li>• Respect for corporate values</li> <li>• Respect for corporate decision process</li> </ul>	Respect	<ul style="list-style-type: none"> <li>• Respect for First Nations values</li> <li>• Respect for First Nations decision process</li> </ul>
<ul style="list-style-type: none"> <li>• Partnership helps attain FN goals</li> <li>• Fits with FN community strategy</li> </ul>	Motivation	<ul style="list-style-type: none"> <li>• Partnership helps attain business goals</li> <li>• Strategic fit with corporate priorities</li> </ul>
<ul style="list-style-type: none"> <li>• Willingness to share goals</li> <li>• Willingness to allocate resources</li> <li>• Willingness to sustain effort</li> </ul>	Commitment	<ul style="list-style-type: none"> <li>• Willingness to share goals</li> <li>• Willingness to allocate resources</li> <li>• Willingness to sustain effort</li> </ul>

Source: *A Practical Guide to Implementing Aboriginal Employment Partnerships*, Aboriginal Workforce Participation Initiative.

### STEP 3: NEGOTIATING THE PARTNERSHIP

Before starting negotiations, the First Nation should feel that they will be equal and successful, especially when an agreement is to be signed. Case studies have indicated that "it is all about personal relationships". A strong and respectful personal relationship between partners elevates the association from simple consultation and negotiation to a relationship. Often, the personal relationship is maintained by the passion and energy of individuals.

Many First Nations felt that when they demonstrated they were a "government," negotiations were more successful. As one leader said, "As a government, we don't whine at the negotiating table, we speak like a government. We bring power to the table." This power has proven beneficial in various stages of negotiations. For example, a legal decision requiring government to adequately accommodate and consult with First Nations where the First Nation asserts rights and title, enabled the **Hupacasath** and the **Kitasoo First Nation** to negotiate fair agreements with developers.

#### ***UNDERSTAND FIRST NATION'S EQUITY AND ITS VALUE***

Worldwide tourism trends indicate there is growing traveller interest in educational, adventure, cultural and Indigenous tourism. Aboriginal cultural images are being used more frequently to differentiate one tourism product or region from another and to give products a marketing edge. Canada's and British



Columbia's tourism agencies have responded by highlighting Aboriginal cultural tourism as priorities in their marketing strategies.

***BEST PRACTICES: Don't undersell the equity advantages a First Nation brings to the negotiating table, particularly as it pertains to non-cash equity.***

Resorts that have a partnership with First Nations; and especially those that contain First Nations culture as part of the resort experience can use this relationship in their own marketing campaign. Media and public relations campaigns that promote the partnership benefit the business and, in turn, benefit First Nations and non-First Nations investors.

### EXAMPLE: Cultural Assets

*The Gitga'at First Nation helped King Pacific Lodge build the appeal of the lodge by incorporating the Tsimshian culture and history of the First Nations people in the Lodge's programs. The Tsimshian addition has become an invaluable asset to the marketing of King Pacific Lodge.*

First Nations contribute a great deal of equity to the business partnership. *Equity* in a First Nations context includes cash, reserve land, value placed on access to traditional lands that have yet to be resolved through treaty (or other agreement), human resources, equipment, negotiation leverage as a result of involving the First Nation, culture, and access to natural resources.

Whether a First Nation has or does not have an established business reputation, the outstanding question is, "Do First Nations have something of value to enter a partnership?" The answer is yes...the value lies primarily in Aboriginal rights and title, culture, human resources, and political capital.

Aboriginal rights and title provide the First Nation with the power to manage the use of lands and resources within its traditional territory. These have been reinforced in the Canadian court system, in the Canadian Constitution and in law. This represents significant equity and value that the First Nation brings to the table for companies hoping to develop resorts in a First Nation's territory. When the partnership is developed properly, provincial and federal government approval processes may be accelerated. A poor partnership with First Nations could result in provincial and federal government bodies demanding the developer to conduct additional studies, thereby increasing the developer's costs and timelines.

Before the First Nation enters into any partnership, they should consider options for managing their reserve land and traditional territory and the resources that they contain. The following gives some helpful information for carrying this out:

- Start planning early. Complete a detailed land use study as a first step to the land designation process (see [www.ainc-inac.gc.ca/ps/lts/pdf/ch5\\_e.pdf](http://www.ainc-inac.gc.ca/ps/lts/pdf/ch5_e.pdf) on land designation process)
- Consider other options for on-reserve land management. The federal *First Nations Land Management Act* offers an alternative to the land designation process. (see [www.ainc-inac.gc.ca/nr/prs/j-a2002/2-02125\\_e.html](http://www.ainc-inac.gc.ca/nr/prs/j-a2002/2-02125_e.html))
- Identify all land resources including anything that can be moved, removed, altered or sold (e.g., land, soil, gravel, trees, minerals, etc.)
- Know the requirements and timelines of various government agencies regarding First Nations lands.

Establish protocol arrangements with surrounding stakeholders, including industry associations, before seeking financial support or approaching government for support for any partnership you may be considering.

### **EXAMPLE: First Nations Equity in Three Different Partnerships**

*1. The U'mista Cultural Center, through consultation with the surrounding Kwakwaka'wakw First Nations, determined that one of their biggest assets was their culture. They realized that non-Aboriginals in the area were profiting from selling their First Nation culture and history. Wi'la'mola was created as the tourism branch and economic arm of U'mista to oversee the development of the cultural aspects of tourism, including the traditional use of land and waterways and to maintain control of cultural sharing with the owners of the culture, the Kwakwaka'wakw First Nations.*

*2. King Pacific Lodge uses the Tsimshian Culture as a major marketing feature of the resort. Any cultural content at the lodge is delivered by the Tsimshian and is considered by King Pacific as a major contributor to the facility's success. The Tsimshian, as well as many other First Nations, do not sell their culture, but recognize there is value in sharing it.*

*3. The Hupacasath and Ucluelet First Nations negotiated 30% shares of Eagle Rock Materials Ltd. and Eagle Rock Aggregates Ltd., the marketing arm of the organization. In addition, they negotiated 50% of employment to be First Nations and that after 25 years the First Nations will have the option to increase their ownership holdings up to 50%. The project is expected to extend over 100 years. The equity that the First Nations brought to the negotiating table was access to the land, human resources and political leverage to speed up government approvals.*

### ***PROCUREMENT OF GOODS AND SERVICES***

The construction and operations phases of a development provide the primary opportunity to bring lasting benefits to First Nations through the procurement of goods and services. Procurement policies provide a means for increasing the economic benefits to the First Nations community and promote business development and entrepreneurship.

***BEST PRACTICES:*** *Establish a strong relationship with a bank to build the creditability of the First Nation Company and the First Nation Government. This builds "equity" to take to any relationship with a developer.*

Before construction begins, the developer and First Nations should conduct activities designed to maximize the acquisition of Aboriginal goods and services, such as:

- Work with the developer to compile a list of the goods and services that will be required for construction and operations, including contracting. This list should contain an estimate of the frequency and value of the goods or services.

- For contracts that will likely be given to larger contractors, the First Nation should prepare a list of Aboriginal businesses, summarizing the goods and services that could be provided and made available to major contractors. At the same time, the resort partners should also make available to the Aboriginal businesses a list of the major contractors that contains their contact information, types of goods and services to be acquired and timing. If possible, request the developer hold a reverse tradeshow where the contractors set up information tables for the First Nation businesses.
- The First Nation should promote opportunities to supply goods and services to the developer through print materials (e.g., brochures, newsletters, posters, flyers) and through the First Nation employment, education and business development departments.
- Establish a procurement system for the partnership and include these in Requests for Proposals and contractor agreements. Be certain to have enforcement and support systems in place for sub-contractors – support to help them fulfill the procurement requirements, and enforcement to make sure they comply with them.
- The First Nation should consider hosting community information sessions on business and employment opportunities – these sessions should have representatives from the First Nation’s employment, education and business services departments, as well as from the developer

One way to ensure First Nations suppliers are given priority to deliver products or services is by a “Within Price Margin Range” system. This involves:

- A First Nation company is defined as a business having majority Aboriginal ownership and control. A First Nation company (either Band or Band member owned) must qualify as an approved supplier, based on their past performance and ability to deliver.
- The First Nation supplier must provide comparable or better quality products or services compared to the next competitor.
- If the First Nation bid is within 10% of the lowest qualified bid, the First Nation bidder will be selected; however if it is 10% or higher, then the contract will be awarded to the lowest qualified bidder. If there is a tie between a First Nation and non- First Nation supplier, then the First Nation supplier will be awarded the contract.

### ***NEGOTIATION APPROACHES***

Before a First Nation becomes involved in a large project with a developer, they may wish to consider starting the partnership with a small project, as this could be a test to see if the partnership will work, which in turn would minimize risk. Conversely, the First Nations Band may wish to start with small projects with a number of developers and eventually work towards a larger long-term project with one of them or with a new developer, once the Band has gained more experience.

***BEST PRACTICES: Focus on a series of small successes in the short-run rather than one large project over a long period that has the potential for failure. Small successes pave the way for getting into larger projects and give the First Nations community and others confidence to support bigger partnerships.***

When negotiating with a developer on either a small or large project, Bands should remember that interest-based negotiating recognizes that what is most important is **why** the parties want something – not **what** they want. The Band should ask questions and listen closely, not so much to what issues the developer may propose or discuss, but to the reasons why they are doing so. Once the reason behind the developer's stance is identified, it may become much easier to try to reach common interests.

When common interests are established, they can be used to build an agreement that is fair, durable and to which there is meaningful commitment by both the parties.

### *Negotiating Principles*

First Nations should:

- Set their own principles and agenda for developments in their territory before seeking partnership and entering negotiations.
- Be steadfast with their values, rights, goals and objectives.
- Start negotiating at a fair point. A too high or low offer to the developer can quickly end negotiations.
- Ensure the goals and values of the developer overlap with the First Nation. This doesn't mean they have to mirror each other, but rather that there are sufficient similar goals and values.
- Be aware that environments evolve. Be practical and anticipate change by building a review and evaluation process into any agreement.

### **THE LEGAL AGREEMENT**

The legal agreement establishes the framework within which everything happens, from starting the relationship to operating to expansion, as well as what happens when the partnership dissolves. It should address:

- Partnerships – the roles/responsibilities of each party, voting methods, management structure etc.;
- Changes in Partnerships – adding partners; assignment of ownership rights; dissolving the partnership;
- Capital contributions – what, how much, who and when;
- Financial terms – investments, deposits, trust, debt financing, borrowing, use and distribution of profits/losses, currency, annual reports, cheque signing authority, remuneration, compensation for services in addition to a share of profits;
- Mediation / Arbitration;
- Employment – training, hiring, termination, priorities, advancement, management and authority;
- Procurement of First Nations goods and services;
- Expansion – how it will be approached, when it must take place, who will finance;
- Sale of assets and shares, including cultural assets;
- Enforcement and penalties for non-compliance;
- Activities outside the partnership – participating in competing initiatives;

## **STEP 4: CELEBRATING THE BUSINESS AGREEMENT**

First Nation cultural ceremonies can be used to celebrate a new partnership, accomplishments throughout the development and/or the completion of the project. One example of this is when the **Shuswap First Nation** at Invermere involved their non-Aboriginal partners in an Eagle ceremony

honouring two dead eagles and asking the Creator to nurture the land they were about to develop, an unwritten bond was created.

Another example is when the **Wi'la'mola Protocol Agreement** was signed during a traditional ceremony with Nimmo Bay Ltd. and a number of other non-Aboriginal tourism operators in the area. The ceremony signified the parties' commitment to the agreement in front of a large number of Aboriginal witnesses...and provided a way for community members to feel connected to the development.

## STEP 5: OPERATIONS AND STAFFING

Partnerships with developers can increase employment opportunities to the First Nation communities, and the First Nation community can provide a source of available workers for the developer. The First Nation population in Canada is young (more than half the population is under 25 and one-third are aged 14 and under) and are steadily closing the education gap between themselves and other Canadians. As Canadian baby boomers retire, this could also open up employment opportunities for First Nations. In addition, because First Nation reserves are sometimes isolated, the First Nation community is able to provide a close source of workers for resort developments.

One method of guaranteeing First Nations are given the best opportunity for employment and economic development is to ensure that the roles and responsibilities of key partners are understood. The following exhibit, taken from: *A Practical Guide to Implementing Aboriginal Employment Partnerships*, Aboriginal Workforce Participation Initiative, gives some examples:

Exhibit 9 – Roles and Responsibilities of Key Partners

Roles and Responsibilities of Key Partners	
Partner	Partnership Role
<b>Developer/Employer</b>	<ul style="list-style-type: none"> <li>• Reviews workforce, employment systems/procurement to identify barriers/opportunities</li> <li>• Takes steps to remove barriers</li> <li>• Prepares the workplace for qualified FN employees</li> <li>• Communicates to FN communities and training organizations the types of skills and qualifications the organization needs</li> <li>• Takes proactive measures to improve FN workplace recruitment/retention/advancement</li> <li>• Informs FN community and businesses about goods and services needed</li> <li>• Assists FN suppliers to capture contract opportunities</li> <li>• Works with the unions to address barriers to FN's in the collective agreement</li> </ul>
<b>First Nations Community</b>	<ul style="list-style-type: none"> <li>• Identifies candidates for employment</li> <li>• Encourages and supports FN to obtain necessary workforce education and skills</li> </ul>
<b>First Nations Training Organizations</b>	<ul style="list-style-type: none"> <li>• Develops cost-efficient program for FN participants that are geared to the needs of the workplace</li> </ul>
<b>Unions</b>	<ul style="list-style-type: none"> <li>• Opens up opportunities for FN people through FN-specific provisions in the collective agreement</li> </ul>
<b>Governments</b>	<ul style="list-style-type: none"> <li>• Facilitates the process of partnership formation</li> <li>• Provides advise and assistance to partners</li> </ul>

## **PRIORITIES IN HIRING**

Within most First Nation partnerships, management training is a priority; however, in many instances management training is viewed as a long-term goal. Mentor training has been a successful method of building management skills for First Nations employees and continues to be the method of choice. Critical to this process is the cross-cultural awareness workshops for the trainers, so that their responsibility lies with both managing and teaching/training.

### **EXAMPLE: First Nations Hiring Targets**

*The St. Eugene Mission Resort in Cranbrook established hiring targets in all its business units. The golf course exceeded Aboriginal hiring targets in its maintenance operations, employing Aboriginals in 26 of 30 positions. However, it has been difficult to attract Aboriginals to the front-line positions. The Ktunaxa Nation has re-focused its strategy and with its new partners has been able to fill some of the management positions with qualified Aboriginals. Its new partners, the Samson Cree First Nation and Mnjikaning First Nation, also brought in a new labour pool from their own operations.*

A First Nation should seek to secure employment throughout all aspects of the development and operations: in entry level, junior and upper management; in construction, maintenance and supplies. These requirements are usually detailed in a partnership and management agreement, which should include regular monitoring and review.

### **EXAMPLE: Career Days for Development Futures**

*King Pacific Lodge holds regular career fairs for Band members, where job openings and management positions are highlighted to encourage Band members to work for the company.*

*The Ktunaxa Nation Council and its Ktunaxa Independent School System (KISS) worked with the St. Eugene Development Team to identify employment and career opportunities with the resort. A Human Resources Development Plan was prepared, and the KISS worked with individuals to develop Individual Career Plans to match with employment opportunities. Resort employment opportunities are provided to the Ktunaxa's employment department, which promotes it to the Bands and other Aboriginal agencies in the area.*

For example, the **Hupacasath First Nation** negotiated an Employment Agreement with Polaris Minerals for 50% of the labour to be Aboriginal. Polaris is fully committed to the agreement as long as the First Nation trains the workers to the requirements of the job descriptions.

Nk'Mip Cellars Ltd. has training programs in place for **Osoyoos First Nation** members and, like many other partnerships – such as the relationship between King Pacific Lodge and the **Gitga'at First Nation** – holds job fairs in the community to encourage more members to apply for jobs, take the training programs offered by the company, or sign up for mentoring for future employment in management positions.

## **DEVELOP AND TRAIN STAFF**

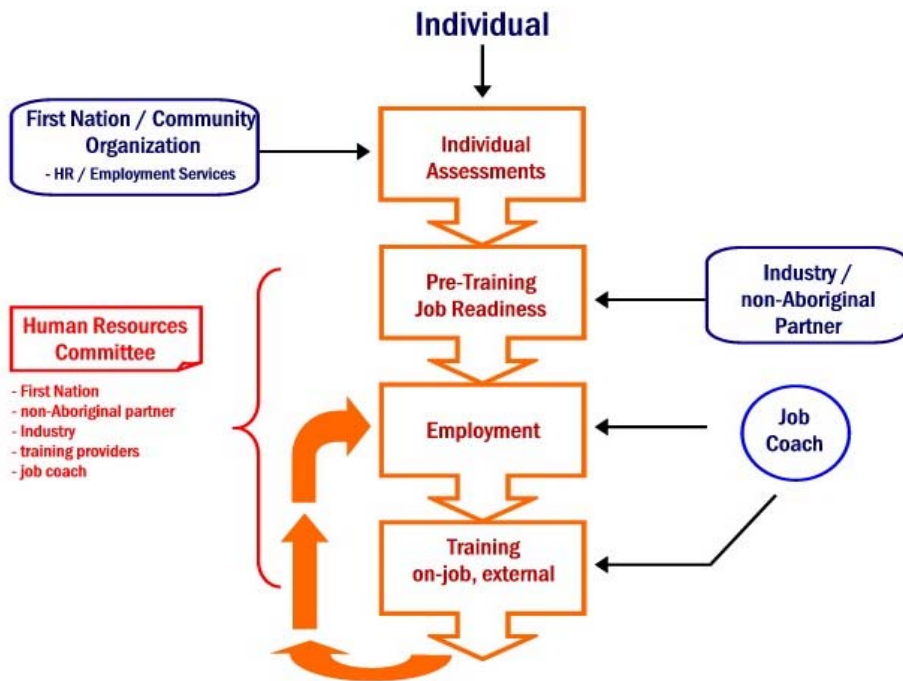
Whether the partnership is for a short-term, special project, or a long-term venture, the First Nations Band involved should have access to employment in entry-level and career related positions at all stages of the project. This practice has become a common element to agreements for First Nation partnerships.

The First Nation benefits as resort employment is used to fulfill Band employment and economic goals, while the developer benefits by having a stable source of employees close at hand. First Nations will be expected to contribute in planning and resources to enable their community to benefit from these employment opportunities.

The **Gitga'at First Nation**, with the help of the Coastal First Nations Turning Point organization declaration, was successful in negotiating a fair agreement for financial compensation with regional parties. They also negotiated a number of other development requirements directed by the Band; one of which is access to employment with the King Pacific Lodge.

Exhibits 10 and 11 outline the structure of an ideal Human Resources model and the responsibilities of each partner.

Exhibit 10 – Human Resources Structure





**Exhibit 11 – Responsibilities for Human Resource Development**

First Nation	Developer
Provide profiles of available labour	Training
Participate in the development of training plans	Information on employment – number of positions, qualifications
Access to training resources – financial, physical, trainers	Participate in training plan developments
Cultural components to training	Access to employment
Identify and coordinate applications	Training resources – financial, physical
Develop orientation program / manual	Monitoring of staffing
Advice on cultural aspects	Access to training resources – financial, physical, trainers
Supply employment support services – i.e., counselling services	Participate in development of orientation program / manual

The ongoing support of the Human Resources Committee and a Job Coach are essential to this structure. The responsibilities of each are listed below:

**Human Resources Committee** – consists of representatives of the partners (First Nations and Developer), especially the key lead for each partner, the project management and respective labour and/or human resources/employment counsellors. The committee:

- Recommends and sets goals and objectives;
- Provides overall direction on human resources and labour matters;
- Prepares strategies, communications and public relations plans;
- Establishes training partnerships;
- Develops hiring and interviewing processes, and participates on these in the initial hiring ONLY (does not participate after the management structure is in place);
- Identifies and develops funding opportunities for staff training and career development;
- Provides direction for project administration and management; and
- Establishes assessments and evaluation processes.



**Job Coach** – provides practical and moral support for the First Nation employee, and assists the supervisor/manager with addressing employment concerns. They are the daily and on-going liaison for the worker and supervisor/manager. Typical duties of the Job Coach are:

- Conducts initial interviews and assessment;
- Develops employability skills;
- Counsels and gives career advice;
- Assists project participants to overcome barriers to employment; and
- Provides liaison between workers and employers.

A Job Readiness Training Program, matched with a Job Coach, can improve the overall business success, increase employee retention, attract new employees and create a positive and more responsive work environment. Having a Life Skills<sup>3</sup> component also provides the trainee with personal skills development and planning to help deal with personal and employment related challenges.

### EXAMPLE: An Understanding Place to Work

*When the Resort Municipality of Whistler hired five members of the Lil'Wat First Nation to work as a trail crew in Whistler, they spent time educating both the First Nation members and resort staff. Whistler informed the First Nation about various community initiatives, including recreational and park planning in and around Whistler. They also trained the Whistler staff by inviting them to a Lil'Wat cultural experience, and once specific milestones were reached, to a celebration at the First Nation community.*

### **Components of a Job Readiness Training Program**

**Life skills training** – job readiness, proper apparel, anger management, self-awareness, problem solving, conflict resolution, working with authority, financial management, well-being and nutrition, dealing with alcohol and drugs, assertiveness, cross-cultural training and many other career preparation and personal growth issues.

**Workplace safety** – First Aid Level 1, WHMIS (Workplace Hazardous Materials Information System).

**Career planning and exploration** – assessment for career matching and planning of development path; may involve temporary placement.

**Hospitality training** – Tourism BC's *SuperHost*®, and Native Education Centre's *FirstHost*.

**Cultural awareness** – program developed by the First Nation.

**Workplace orientation** – on-site temporary employment to a similar work environment, workplace terminology, employer expectations.

## **KEEP FIRST NATIONS EMPLOYEES WORKING**

To keep First Nations employees working on or at the resort, the Band should consider encouraging the developer to implement employee incentive programs. For example, **Niigon Technologies** introduced programs that reflect the health values and priorities of the First Nation working with their company. The First Nation made “achievement of a healthy lifestyle” a priority, and Niigon’s operations reflect this in their fitness program. The program offers employee incentives to stop smoking and lose weight. At Niigon there is an on-site fitness centre, the cafeteria sells only healthy foods and offers non-fat menus at lower prices. People who lose weight earn rewards such as running shoes, and the smoking cessation program offers a financial incentive to those who quit smoking. Cash penalties apply if smoking starts again. Specialists on body and foot massage are brought into the community on a rotating basis, offering the Niigon employees and Moose Deer Point residents wellness services.

### **EXAMPLE: Consistent Human Resources Management**

*A way to address human resource issues and challenges faced by any resort development is to hire a Human Resources specialist. **Nk’Mip Cellars Ltd.**, encouraged by the **Osoyoos First Nation**, hired one to handle all issues related to the employees. In the past, there were several individuals within the Band who dealt with different staffing problems, which led to inconsistent staffing decisions. In a small community where everyone knows each other, this can cause problems. Having one person responsible for all issues, many of which are inter-related or similar, helps a company and First Nation consistently and fairly manage problems effectively for the best interest of employees, the business and community.*

## **Orientation**

At business start-up and for new employees, an employee orientation should be offered by the developer to improve both business and employee success. For new business where there is a sizeable group of employees starting at the same time, the orientation may be formal, with introductions to the owners, First Nation cultural ceremonies with feast, along with presentations on employee expectations, employer commitments, and an operations tour. After business start-up, individual employee orientation programs provided by management should introduce the employee to the business culture, provide on-site training and familiarization with the employment environment. The Job Coach should also be involved in the orientation program.

## **EMPLOYMENT PRACTICES**

Best practices in a First Nation partnership for terminating employment should not differ from any other business operation. Standard employment and termination practices for all employees, regardless of Aboriginal ancestry or Band membership should be carried out.

A **Human Resources and Orientation Manual** developed by both partners should reflect best business practices and outline how First Nation cultural activities will be considered. It should:

- Determine what cultural activities will be eligible for time off, and for whom.
- Decide if June 21 National Aboriginal Day<sup>4</sup> be considered a holiday. If so, will this be paid or unpaid?
- Decide if there will be recognition of employees who have cultural roles in the First Nation community.

### EXAMPLE: Empower Managers to Manage

*The Osoyoos First Nation reviewed the employment policies with its partners at the beginning of the relationship and applied the same Employment Policies to all the Band's ventures. Key to this is recognizing the Business Manager as having sole responsibility to hire, train, manage and terminate employment as required. "Managers are required to submit annual Human Resources Plans to the Board of Directors," said the Nk'Mip Culture and Heritage Centre Manager, adding, "When you're in business, the business success has to come first, and that means Managers need to be able to address employee matters without political interference."*

## STEP 6: STAYING CONNECTED

As important as relations are at the beginning of the project, maintaining the relationship with the developer on an ongoing basis is just as critical. For example, the **Kitasoo** and **Hupacasath First Nations** believe that the adage "a family that eats together stays together" is a fundamental way to maintain healthy relationships. These First Nations host community dinners and picnics and invite the developer to attend.

### **DEVELOP AN ADVISORY BOARD/STEERING COMMITTEE**

Setting up an Advisory Board or a Steering Committee is a good way to help to plan, develop and oversee the development project. The role of the board or committee is usually advisory, and can help the First Nation community be involved in various stages of the project. These include:

- Operational goals and objectives;
- Recommended implementation process;
- An implementation schedule;
- The appropriate ongoing monitoring and advisory role of the board or committee; and
- Sources of external assistance and funding.

"An Advisory Board has provided the First Nation community with a mechanism to share their thoughts and concerns. The Board or a representative attends Management Board meetings to be the eyes, ears and voice of the First Nation community even if they do not have a vote on the Board of Directors," said a First Nations leader. First Nations and their partners established an Advisory Board or Committee consisting of business experts, community Elders or individuals who are respected in the First Nation community for their wisdom to provide guidance on matters having an impact on the First Nation community.

## ***DEVELOP A COMMUNICATIONS STRATEGY***

Effective communications are essential to the success of any partnership. They help keep everyone informed about what is happening, build awareness about the partnership and its objectives, create understanding and make it more likely that the partners will work in a coordinated way.

***BEST PRACTICE:*** *Having all partners fully informed of the business operations makes any change easier to navigate, and allows for clearer and more concise decisions based on the values and perspectives of each partner.*

It is also important to communicate to the developer questions the First Nations might have about concepts or plans for the projects. Learning more about all aspects of the development project will make it easier for the First Nation steering committee or advisory board to communicate back to the First Nation community.

## **STEP 7: PREPARING FOR CHANGE OR EXPANSION**

As time passes, business partnerships will develop and mature, and some will grow apart. The best way to adapt to change is to review and assess the goals, objectives, and desired outcomes of the partnership; then make appropriate strategic decisions.

First Nations should keep informed of business operations and be proactive when changes occur. The key is to be fully aware of all aspects of the operation, and be involved in the First Nations community and other organizations that affect or influence the resort and tourism environments.

## ***ASSESS THE PARTNERSHIP REGULARLY***

It is up to the First Nation to pay attention to any changes and assess the health of the partnership on a regular basis. Examples of changes to monitor and address by First Nations are listed below:

- Potential changes in management, ownership structure or leadership of either of the partners (e.g., changes in First Nation leadership, (such as Chief and Council), changes in the developer's key board members, CEO, or business ownership and/or control (such as shareholders, new investors or financiers).
- Business and market changes presenting growth and expansion opportunities, or recessionary indicators.
- Access to additional working capital or funding sources.
- Changes in business philosophies, and/or values and beliefs.
- Changes in operating procedures and policies with or without appropriate authority approvals or without appropriate consultation between partners.
- Inability to follow through with commitments or reluctance or inability to address or resolve problems.
- Poor accountability skills.
- First Nations community development issues including social, cultural, employment, education and infrastructure.
- Lack of respect for the First Nation community.
- Government natural resource management policies and requirements.

As with most relationships, a commitment from each party to work through challenges in a transparent, open and respectful way demonstrates commitment to the partnership. Challenges should be brought forward through the partnership's Board of Directors or the First Nations leaders. The Board or First Nations should then determine who must take the lead to resolve the matter – is it the Board, resort manager, First Nation, Tribal Council, or other agency? If it is another agency, someone must be responsible for follow-up to ensure action is taken.

### ***OWNERSHIP CHANGES***

At times, the best way to maintain the relationship is to bring in new partners or change the relationship with one or more partners. This may be due to business expansion or other pressures. Regardless of the reason, it is good business practice to plan for change and to agree on a way that ownership changes complement and benefit all parties' futures. For example, the partnership agreement should contain processes for accepting additional partners.

Where ownership changes, it needs to be carefully managed from the perspective of the public, media and investors, so that messages given by the First Nations and developer are consistent and maintain the integrity of the relationship and each party. The success of an expansion, or in the case of partnership dissolution, the credibility of each partner, rests on the professionalism of communication.

To assist the process of an ownership change or expansion and reduce chances of misinformation getting out to the media or other parties (e.g., investors or financiers) the partners should:

- Involve legal and public relations advisors to help manage the change;
- Develop a public and media relations plan;
- Appoint a spokesperson from each partner and collaborate on how information will be managed;
- Cooperatively develop key messages for public and media relations;
- Start and maintain communication with First Nation members and shareholders at strategic times and, where possible, involve them in or gain their acceptance for the change;
- Celebrate expansions and additions of new partners involving the First Nations community and shareholders where possible; and
- If the change is in resort brand partners, transition must be smooth and precisely coordinated. This entails ensuring signs, uniforms, print materials; reservation systems, websites, and any place where the company names would be shown or promoted are changed simultaneously. Graphics and words should not be painted, boarded over or cut out – they should be replaced.

### ***ENDING THE RELATIONSHIP***

Typically, relationships end in one of two ways – amicably or with confrontation. When dissolving a partnership, a harmonious end leaves the parties feeling that this was the proper solution. An example of this is the **Ktunaxa Development Corporation**. They believe that a good partnership creates “win-win” for all, even if the partnership ends. However, confrontation can cause irreparable damage for a partner and, in particular, for the First Nation community. Unfortunately, in some situations going to court is the most appropriate method to conclude a relationship.

The decision to end a partnership needs to be based on *fact* and not on hearsay or rumors. If the evidence to end the partnership is supported by fact, then the decision to end must be made in a timely

manner. If the partnership agreement includes a termination clause, ending the partnership should not be an issue.

When ending the partnership, legal advisors are invaluable. The First Nations community should take the time to get legal advice on a communications strategy that includes media messages and the appointment of spokespeople. Establish a transition plan that outlines what actions need to take place within the resort facility to ensure a seamless change in ownership, and that addresses:

- **Staff** – how and when will they be informed of the change: Will they lose their jobs, have to take a cut in pay, be demoted?
- **Signs and Emblems** – do these need to be changed?
- **Management Board** – how will the Board be affected; if there are additions to ownership, will the First Nations control be diminished?
- **Outside Agreements** – what agreements exist with outside suppliers; are there obligations to maintain these, or do new agreements need to be drawn up?
- **Cultural Aspects** – how will these be managed; is ownership of cultural aspects clear to new or exiting partners?
- **Public Communications** – what will be the most positive, effective way to communication the end of the partnership?



## Best Practices: A Guide to Creating Resort Partnerships with First Nations

### Chapter Three

### A Guide for Developers

Developing a partnership between a First Nation and a resort developer should follow the same steps as any business partnership, however, because of First Nations' cultural values; developers need to be sensitive to the unique characteristics of this type of partnership.

A brief history of First Nation's culture can help provide context for developers considering a partnership with First Nations and give them a better understanding of how a First Nation Government works (See Appendix).

## FIRST NATION– BUSINESS PARTNERSHIP MODEL

There are seven core steps to developing a partnership or relationship with First Nations. If there is not a good understanding of First Nation cultural values, principles and protocols, the development timeline can drag, delaying the project beyond normal expectations. For developers, this means upfront development costs are higher, delayed timelines, and in the meantime, a potential business or market opportunity may be lost. Despite this, the benefits produced by combining partner strengths and contributions with First Nations outweigh the liabilities. The following steps provide a guide to create an environment for a harmonious, long-term and successful relationship.

Before getting started, it is strongly recommended that the developer read the Appendix in detail to get a good understanding of First Nation's history, culture, government and language.

### Exhibit 12 – Steps to Developing a First Nation-Business Partnership





## STEP 1: GETTING STARTED

Setting the stage for a partnership with First Nations begins with good preparation. In the partnerships examined for this guide, it was essential to: demonstrate knowledge and respect for First Nations culture, obtain the trust of First Nation's leaders and Band members and gain First Nation's community support.

### ***ESTABLISH A TEAM***

Even with small enterprises, starting a partnership with a First Nation should not be attempted without a strong team within your company. It is important to establish a team that provides multiple perspectives and credibility, which is essential for generating support and confidence in the project by others who analyze, approve, invest and promote the development. The team should contain expertise in legal, business, environmental, design and financial matters, and could include: lawyers; accountants; architects; tourism consultants; marketers; investment advisors; and other specialists.

It would also be a good idea to retain technical advisors or professionals for those areas that are outside the team's level of expertise. This is where First Nations consultants can prove invaluable, as they are knowledgeable in First Nations culture, values, governance structure and customs. They can:

- Assist with communication – They know how to effectively and respectfully approach a First Nation;
- Help a developer become respected and accepted by the First Nation;
- Understand the nature of the First Nations issues, rights and laws and can communicate them to the developer;
- Effectively communicate a business proposal to a First Nation; and
- Help articulate issues for both sides, which encourage greater understanding by all parties.

### ***CROSS-CULTURAL TRAINING***

In addition to hiring First Nations consultants, Cross-Cultural<sup>5</sup> training sessions are another great way for a company to learn more about how to work with First Nations.

Resort developers should work with First Nations to develop a two-way cultural workshop – providing information about the company and requesting the First Nation to teach your management and staff about the First Nation. The cultural workshop should include history, visions, goals, organizational structure, culture and an introduction to key people. Co-hosting cultural events with First Nations on an on-going basis could help to stay connected and promote a lasting relationship and encourage understanding.

### ***CREATE A FIRST NATIONS STRATEGY***

***BEST PRACTICE:*** “For us, Aboriginal development is simply a normal and sensible way of doing business.” – Syncrude Canada Ltd.

A number of companies know the importance of understanding First Nations “through First Nation eyes,” and stress the importance of each level of their organization having that same understanding.

A developer's business structure, policies and approach to First Nation Chief and Council is a signal to the First Nation of the sincerity of the companies intent to partner. A First Nations Strategy should be developed that focuses on every aspect of the partnership; including the development, planning, construction and completion stages, as well as on staffing, reporting and financial policy.

The strategy should be prepared with the involvement of the First Nation. This can be done with First Nation consultants, but imperatively with representatives of the First Nations whose territories are affected by the development. The participation of the First Nation will help build a strategy that reflects common values, needs, principles and plans.

Components of a First Nations Strategy should:

1. Recognize the importance of First Nations values: Learn the rituals and roles of people in the First Nation and understand how these may affect the business planning, staffing and operations.
2. Facilitate the reorganization of the company structure to include a position for a First Nations Strategy implementation and liaison manager. This position needs to have substantial authority to be respected (e.g., report directly to the President, Chair or Vice-President), or the position needs to be included in the duties of someone who does. If not, the First Nations (and other companies, partners, and suppliers) may view the position as inconsequential, questioning the developer's commitment to and respect for First Nations as well as the project, resulting in diminished relations.
3. Adapt company policies and programs to respect First Nations cultural values, visions and beliefs. This includes reviewing existing policies and plans for correct use of Aboriginal terminology.
4. Involve management and staff in First Nations activities: Participate in community, regional and national Aboriginal committees, events and projects; support First Nations initiatives; provide sponsorship and contributions – for example, First Nation's children's playgrounds.
5. Ensure senior executive and decision makers endorse the First Nation Strategy, committing to its long-term implementation and enforcement. This commitment demonstrates goodwill to First Nations.
6. Train management and staff on First Nation's culture and history by holding general information sessions, and cross-cultural sessions. Train First Nation employees on the company's business culture and why it is important to the success of the partnership.
7. Attend First Nation events, especially those you are invited to. The people in attendance should be senior decision makers and those who work directly on the development. Where possible, coordinate events that bring together the full development staff with the First Nation government. Host First Nation cultural events at your company (e.g., performances, lectures, meals, arts and craft sales, Elders talks), and recognize National Aboriginal Day<sup>6</sup>.

8. Research subjects such as legal jurisdiction over reserve lands that are the federal or provincial government's responsibility as well as the federal *Indian Act*, which spells out the government's fiduciary responsibility to First Nations people. The Internet provides access to information about First Nations, many of which were developed by First Nations Bands.
9. Design initiatives that fulfill or complement First Nation's long-term strategies, goals and vision (e.g., employment, education, youth, culture, language). For example: Develop Aboriginal employment and procurement strategies.
10. Extend benefits and programs to the First Nation community by hosting special events and offer sales promotions.
11. Report on the progress of the First Nations Strategy – prepare annual reports; speak at events.
12. Monitor the strategy with the assistance of First Nations, and revise it as needed.

## STEP 2: FINDING, SELECTING AND UNDERSTANDING YOUR FIRST NATIONS PARTNER

All lands in British Columbia are part of the traditional territories of one or more of the First Nations Bands in this province. The BC Treaty Commission, Indian and Northern Affairs Canada (INAC) ([www.inac.gc.ca](http://www.inac.gc.ca)) and the Province of British Columbia's Ministry of Aboriginal Relations and Reconciliation ([www.gov.bc.ca/arr](http://www.gov.bc.ca/arr)) should be able to help you identify which Bands are affected by your proposed development. INAC's Economic Development Program representatives may also be able to provide information on the development process and who the economic development representatives are in each of the First Nations that are supported by INAC's economic development programming.

With 198 First Nation Bands in British Columbia, some with overlapping territories, determining which First Nation to contact is not always an easy task. While there is an obligation to consult with and accommodate First Nations on matters related to land and resources, it is best to view contact with First Nations as an opportunity to build a mutually beneficial relationship rather than just another development requirement.

Developers should be proactive in approaching a First Nation; do not wait for government or others to tell you to. The earlier the contact is made, the better for the relationship and project. For example, when **Mount Baldy Resort** in the Osoyoos/Oliver area was preparing their master plan, they believed there would be higher development costs and delays if they did not approach the Osoyoos First Nation early in the planning process.

### *FIRST STEPS TO CONTACTING FIRST NATIONS*

The First Nations whose territories overlap and are involved in the British Columbia Modern Day Treaty Making Process have committed to clarifying amongst themselves how their overlapping lands and resources will be managed. Until this is completed, the developer should start by approaching the First Nation or Tribal office nearest to the proposed development. If the land in question is found to be in an overlapping territory, then contact with each of these First Nations may be necessary. Having a qualified First Nations consultant will help with early negotiations or developers could contact the provincial Treaty Negotiation Office ([www.gov.bc.ca/arr/negotiation](http://www.gov.bc.ca/arr/negotiation)).

Some developments may also require communication with the Tribal Nation. Contact with Tribal Councils commonly occurs when the development takes place on multiple sites, and/or the proximity of the development site is a significant distance from a Band, and/or the development site has significant cultural meaning to the Tribal Nation. The developers should:

1. Call the First Nation office or check the First Nations website or the Indian and Northern Affairs Canada website ([www.inac.gc.ca](http://www.inac.gc.ca) Community Profiles section) for updated information on the names of the current Chief and Council.
2. Contact the Business Development office, if there is one, to get direction on how to proceed.
3. Send a letter of introduction to the current elected Chief and Council requesting a meeting with the Chief or designated Council member and state the reasons for the meeting. You may also send a copy of the letter to the First Nation's Administrator and/or Economic/Business Development department.
4. Follow up with a telephone call after one to two weeks to confirm receipt of your correspondence and to schedule a meeting. It may be necessary to call a few more times and resend the correspondence.

### EXAMPLE: Understanding Each Other

*When the Resort Municipality of Whistler was negotiating issues surrounding the Olympics with the Squamish Nation in the Callaghan Valley, they did not understand why the First Nation was so persistent regarding naming rights. This seemed like a minor detail. Finally the question was asked, "Why is it so important?" The response was an enlightening surprise. Squamish Nation representatives said that if the traditional First Nation names were used, Band members would feel more comfortable traveling to these off-reserve sites, increasing their access to Whistler. Whistler then understood the importance of this issue to the Squamish Nation, and was able to accommodate them.*

### Things to avoid:

Some First Nations will require the first contact be with the Chief and Council only, while for others, contact with the Administrator or Economic/Business Development office will be acceptable. Contact with community members, especially those who hold a Certificate of Possession title<sup>7</sup>, to gain Band member pre-approval of a project before Council has reviewed it, can be disastrous. When a developer does this, required approvals can be delayed, thus increasing project costs. If Band members later feel they have been inadequately dealt with, future relations with the Band members and the community can turn sour for the developer. The responsibility for proposals for major developments ultimately lies with the First Nation's government; they are likely to have more expertise than the Band member to assess a project's viability.

When scheduling a meeting, find out if your presentation will be at a Band Council meeting or at a special meeting with Chief and/or Council (or their designate) and how much time you have been allocated. This will determine how formal the meeting will be. Usually Chief and Council meetings have a very tight agenda, so presentations must be kept short and concise, allowing a few minutes for questions. If a special meeting is set, then the presentation can be longer and more specific information about the project should be provided. For all presentations, you should know what you need or expect from the meeting, what the next steps are, and allow flexibility in your response.

The following can be used as a guide in preparing for the first meeting:

**Exhibit 13 – Getting Ready to Meet a First Nation**

Question	
<b>What do I wear to a meeting?</b>	“When in Rome, do as the Romans do.” Apply that in your meetings with First Nations. Casual to informal business attire (not a full business suit) is often appropriate and makes the meeting less formal, creating an environment that is more comfortable for getting to know each other.
<b>Do I bring a gift?</b>	Under normal circumstances it is not necessary; however, if this is your regular practice then do. As the relationship develops, natural opportunities may occur to gift. Often gifts are exchanged when agreements or other ceremonies are held to recognize development milestones.
<b>Where should I sit at the meeting?</b>	<p>Where you sit in a meeting or presentation will be determined by the community. There may be a person that greets you and guides you into the meeting at the appropriate time, then directs you on where to sit.</p> <p>Keep the number of representatives few and ensure they are the key leaders and decision makers (e.g., President, Vice-President, CEO, Senior Manager, and Project Manager) – this is very important for the first meeting with Chief and Council. In small communities, the meeting facility will often be small.</p> <p>In larger First Nations, there can be a large formal boardroom with recording equipment and transcribers.</p> <p>Depending on the First Nations protocol, you may be asked to sit at the table, and in seats designated for guests. Observing representatives should or may be required to sit at the perimeter or back of the meeting room. Be prepared by bringing your own presentation equipment, including a screen and extension cord.</p>
<b>What is protocol for speaking?</b>	Someone will Chair the meeting, usually the Chief or an elected/appointed First Nation leader or staff. The Chair will guide the process and notify you when it is time for you to present. The protocol may require that the Chief speaks before you. Be patient and selective in your communications. There is a tendency for persons inexperienced in communicating with First Nations to interrupt to make a point or give more information or answer a question before the speaker is finished. Also, do not assume that silence is a sign of approval or that more information is needed. Be patient. Silence is common; it gives the Chief and Council the chance to think about the presentation and to develop questions. Do not speak. Let the Chair manage the session.
<b>What is the appropriate way to open a presentation?</b>	Growing practice is to recognize the First Nation in your opening remarks with comments such as, “Chief, Council, Hereditary Chiefs, Elders, thank you for inviting us to attend your meeting. We appreciate this opportunity and want to extend our respect to your Nation for welcoming us into or allowing us in your traditional territory.” If there are other honoured groups in attendance, include them in your opening address.
<b>How do I address Chief and Council?</b>	Address the Chief and Council members formally beginning with their position “Chief” or “Councillor” followed by the name. For example, Chief Sophie Pierre or Chief Pierre, or Councillor Agnes McCoy or Councillor McCoy.
<b>Who else needs to know about the information?</b>	Where the First Nation has Hereditary Chieftainship or other authorities (e.g., Council of Elders, Clans), the elected Chief and Council may want your information passed on to them. Ask if additional copies should be provided and whether a presentation or meeting with others groups should be scheduled.

***KNOW YOUR PARTNER***

“Having some sort of history lesson about First Nations would have helped us to develop our relationship with the First Nation” said a forestry company official. Many companies have struggled with where to start when developing a business partnership with First Nations. It is important that the first encounter a developer has with the First Nation goes extremely well. Learn about First Nations history (the making of

land treaties; laws that prohibited Aboriginal cultural ceremonies, languages and participation in the economy; and the Indian residential schools issue, etc) and current conditions, so that the first meeting with the First Nation will begin with a solid foundation of understanding.

Developers should get background information on the First Nation before making contact, and learn about the First Nation’s culture and how it differs from other Bands throughout the province. The Internet is one source of this information. A number of First Nations have developed websites containing information on their Nation, culture, programs, development priorities and initiatives. Also, the INAC website ([www.inac.gc.ca](http://www.inac.gc.ca)) has profiles of each of the Bands and Tribal Councils in Canada. These profiles contain information on the governance system; current Chief and Council names; number of Band members with higher education; gender; on/off reserve residency; geography; reserve land location and size; and contact information.

***BEST PRACTICES:*** *Contact the First Nation before directed to by the Crown – the First Nation is more likely to see your genuine commitment. If a First Nation is aware of your project when the Crown refers it to them, they may see the developer’s expression of partnership as a true interest rather than an obligation.*

The following exhibit outlines some of the qualities that make a good Corporate or Aboriginal partner.

**Exhibit 14 – Qualities of a good Corporate and Aboriginal partner**

Qualities of a Good Partner		
Aboriginal Partner	Essential Qualities	Corporate Partner
<ul style="list-style-type: none"> <li>• Respect for corporate values</li> <li>• Respect for corporate decision process</li> </ul>	Respect	<ul style="list-style-type: none"> <li>• Respect for First Nations values</li> <li>• Respect for First Nations decision process</li> </ul>
<ul style="list-style-type: none"> <li>• Partnership helps attain FN goals</li> <li>• Fits with FN community strategy</li> </ul>	Motivation	<ul style="list-style-type: none"> <li>• Partnership helps attain business goals</li> <li>• Strategic fit with corporate priorities</li> </ul>
<ul style="list-style-type: none"> <li>• Willingness to share goals</li> <li>• Willingness to allocate resources</li> <li>• Willingness to sustain effort</li> </ul>	Commitment	<ul style="list-style-type: none"> <li>• Willingness to share goals</li> <li>• Willingness to allocate resources</li> <li>• Willingness to sustain effort</li> </ul>

Source: *A Practical Guide to Implementing Aboriginal Employment Partnerships*, Aboriginal Workforce Participation Initiative.

***PROTOCOL AGREEMENTS***

For First Nations, protocol is based on cultural values and traditions, and affects the way a company should communicate with the Nation, its leaders (elected, hereditary, cultural, family, clan system, or other). Because First Nations are traditionally oral societies, protocol for some may still be oral. Protocol is also intertwined with decision making in the community.

Important aspects of First Nations protocol are listed below.

- Understand that you are dealing with a “First Nations Government” and not “just” First Nations people.
- Be familiar with the respective roles of an elected Chief and Hereditary Chief, and the responsibility they carry on behalf of their Band membership. They are the governing people, carrying a huge responsibility to make decisions on behalf of their citizens today and seven generations from now.

- Keep in mind that First Nations leaders do not focus on today or next year; their decisions are based on the impact their decisions will have on future generations.

For developers that bring “full-blown” business plans to a First Nation, they should not expect to receive immediate buy-in or approval. Trust must be established first with the community before a request for the community’s approval is made. To gain that trust:

- Provide the opportunity for the First Nation to comment about the proposed project and express concerns until they feel they have been heard and understood;
- Involve the First Nation community at every opportunity, for example, at initial concept and information update meetings;
- Recognize that it takes time and energy to build trust with a First Nation community; and
- Use the power of traditional First Nation cultural events to sign important documents such as protocol agreements.

### **EXAMPLE: Invest in the Relationship Upfront**

*The Polaris Minerals Corporation approached the Hupacasath First Nation seeking approval from the First Nation to undertake some early investigation into whether there was any potential for mining aggregate from an area in the Hupacasath, Ucluelet and T’seshsat traditional territory.*

*“When Polaris Minerals approached us about doing some preliminary investigation and a feasibility study for mining aggregates in our traditional territory, it was to seek permission to do so.”*

*By starting with a series of steps to developing the proposal, Polaris’s respect for the First Nations and their Aboriginal rights and title as a First Nation government was demonstrated from the onset. Polaris’s reputation of high standard in environmental excellence gave the community comfort in meeting one of their important values of preserving the environment for future generations.*

*Following completion of the due diligence, the Hupacasath First Nation invited Polaris Minerals Corporation to make a number of presentations to the community regarding the project. At each presentation, Polaris allowed time to respond to questions asked by community members. Polaris also invested significant amounts of time with the First Nation’s community, including bringing community members to the site to make sure they fully understood the project.*

*Over a period of 1.5 years, the community built a strong relationship with most members of the Polaris Company, allowing Polaris to be welcomed in the community at any time, and even extended invitations to have Polaris executive’s fish with community leaders. Polaris involved the First Nations at every step throughout the development process, including naming the company “Eagle Rock.”*



The following table gives an outline of the key steps to presenting concepts to a First Nation.

**Exhibit 15 – Key Steps to Presenting Concepts to a First Nation**

Step	Action
1. Prepare a preliminary plan	Once asked by the First Nation to present your idea, lay out a preliminary plan in a way that asks for input from the FN leadership. A completed proposal could be viewed as a “fait de complété”, causing the presentation to be considered a formality instead of a relationship / partnership building initiative.
2. Present the full concept	Present the full development concept, not a completed proposal, to the First Nation. Allow <u>flexibility</u> in it, and identify ways that the First Nation can participate in each stage.
3. Acknowledge Aboriginal rights and title	Acknowledge the First Nation’s Aboriginal right and title to the resources or land that is part of the project. Be sure that the Ministry of Aboriginal Relations and Reconciliation has had a chance to review it.
4. Seek direction on procedures	Ask for direction on what First Nation protocol you need to follow to proceed to the next stage.
5. Keep all parties fully informed	Keep the First Nation and its members fully informed on the progress of the project and involve the FN leadership or designated decision makers at every step.
6. Comply with the law on First Nations accommodation and consultation	Comply fully with the precedent setting case law that requires full accommodation and consultation regarding land and resource issues affecting First Nations in their traditional territories. Be clear that here is a difference between “information sharing” and “consultation” with First Nations. Companies that don’t provide information in a comprehensive consultation process could set their development up for future problems with First Nations and the province.

**BEST PRACTICES:** Approach the First Nation early in the development process, allowing them time to carefully consider your proposal – do not expect a quick presentation will result in approval the next week. Early contact can significantly speed up the approval process.

**INVOLVE FIRST NATIONS IN THE PLANNING PROCESS**

Existing partnerships have found that involving the First Nation community in planning the development has produced better projects with greater support than if companies attempt to obtain approvals in the absence of this step. First Nations have unique and sacred knowledge that is not available in public libraries or any other type of government. In the concept stage, invite First Nations and community members into the planning process. Ask them to provide comments on the site, how existing facilities are used or how they’d like to see them used and/or what concerns they have. Involving the First Nation community will help them feel ownership and pride in the development.

**BEST PRACTICES:** In planning, the FN may be able to offer advice on traditional land uses or environmental considerations (e.g., ways to address tenure around sacred places) that could improve plans and/or reduce costs. Be certain to include the FN’s Cultural Keepers<sup>8</sup> in this process. They can reveal cultural concerns, as well as offer advice on such things as wildlife migration and gathering areas that can help to avert regulatory concerns in the future.

## *How do you incorporate First Nations into the planning process?*

- Invite First Nations cultural keepers to advise on aspects of your plan that they have expertise in. They can add valuable information on such things as environmental conditions and management. As with professional consultants, Elders and Cultural Keepers should be compensated with a honouraria, stipend or consulting fees for their involvement.
- Allow draft documents to be circulated to the First Nations Council and Committees for comments.
- Incorporate Band feedback on plans regarding best practices and proposed modifications.
- Address socio-economic concerns of the First Nation with economic impact studies, all with input from the First Nation.
- Invite First Nation representatives to brainstorming sessions and keep them up to date on progress.
- Consult any land use or traditional use plans that the First Nation may make available to you. For example, the Squamish First Nation has a land use plan that has been used by all levels of government in evaluating development proposals.

### **EXAMPLE: Involving First Nations to Plan from the “Right Side”**

*When the Ktunaxa/Kinbasket Tribal Council at the St. Mary’s First Nation outside of Cranbrook, BC, was developing the St. Eugene Mission Resort, FN community members were invited to a session to review plans for the replacement of the St. Mary’s bridge. The bridge was a favorite fishing spot for many FN members. Early design plans had the bridge walkway on a side of the bridge that would have caused fishing lines to tangle, making fishing off the bridge impossible. Engineers heard the community concerns and redrew the plans so that it better suited the community.*

It is important for developers to realize that making decisions with First Nation leaders without First Nation community support has proven disastrous to both the First Nations leaders and the developer. Community buy-in and support is a critical step to building a successful partnership agreement.

Involving the First Nation community in the initial planning stages will assist the developer by:

- Verifying that the development complies with First Nation policies, comprehensive community development and territorial plans;
- Coordinating new developments with educational, human resources and training plans;
- Identifying any environmental or social areas of concern, especially those with cultural or spiritual significance; since often this is sacred knowledge not recorded in public documents; and
- Facilitating a respectful relationship.

## **STEP 3: NEGOTIATING THE PARTNERSHIP**

Developers who have already established working partnerships with First Nations have said repeatedly, “it is all about personal relationships”. A strong and respectful personal relationship elevates the association with a First Nation from consultation and negotiation to a true partnership.

One way of achieving this is for developers to know what the points of *win-win* are in the negotiations and how to recognize them. For First Nations, this will be strongly influenced by Nation’s values and vision.

As part of negotiations, developers should know when to compromise with the First Nation in these areas.

For example, **Nk'Mip Cellars Inc.**<sup>9</sup> realized the First Nation “Chief and Council needed to fully understand what we were trying to accomplish, so their active involvement in the decision making process was important, in order to pass this information through to the community.”

### ***NEGOTIATING PRINCIPLES***

- Start negotiating at a fair point. If a First Nation doesn't feel they are being treated fairly, this can quickly end negotiations.
- Environments evolve. Be practical and anticipate change by building a review and evaluation process into the agreement.
- When a First Nation has both elected and Hereditary Chiefs, the First Nation's protocol may require that decisions affecting the First Nation will need to be made with the support of both.
- The goals and values of the developer and First Nation must overlap to have successful negotiations. This doesn't mean they have to mirror the other's, but rather that there are sufficient similar goals and values to work together.
- Understand that access to training and employment are very important for First Nations. Creation of independence and wealth fosters confidence in the Band members and freedom from social programs (i.e., social assistance).

### ***LEGAL AGREEMENT***

An integral part of the partnership is the legal agreement. This builds the legal framework for the various components of the partnership, from planning, construction, start up, operations, expansion, as well as what happens when the partnership dissolves. It should address:

- Roles and responsibilities of each party;
- Changes in Partnerships – adding partners; assignment of ownership rights; dissolving the partnership;
- Capital contributions – what, who, how much and when it will be contributed;
- Financial terms – investments, deposits, trusts, debt financing, borrowing, use and distribution of profits/losses, currency, annual reports, cheque signing authority, remuneration; and compensation for services in addition to share of profits;
- Mediation / Arbitration / Enforcement and penalties for non-compliance;
- Employment – training, hiring, termination, advancement, management and authority;
- Procurement of First Nation's goods and services;
- Management structure;
- Expansion – how it will be approached, when it must take place, who will finance;
- Sale of assets and shares; including cultural assets;
- Activities outside the partnership – participating in competing initiatives; and
- Agreement amendments – voting levels.

## STEP 4: CELEBRATING THE BUSINESS AGREEMENT

First Nation cultural ceremonies can be used to celebrate a new partnership, accomplishments throughout the development and/or the completion of the project. For example, when the Shuswap First Nation at Invermere involved their non-Aboriginal partners in an eagle ceremony honouring two dead eagles and asking the Creator to nurture the land they were about to develop, an unwritten bond was created.

Another example is the **Wi'la'mola Protocol Agreement**, which was signed during a traditional ceremony with **Nimmo Bay Ltd.** and a number of other non-Aboriginal tourism operators in the area. The ceremony signified the parties' commitment to the agreement in front of a large number of Aboriginal witnesses...and provided a way for First Nations members to feel connected to the development.

Developers should be aware of the protocol of a First Nation cultural celebration. They often contain:

- Opening prayer;
- Welcome from each parties' top person – Chief and President/CEO;
- Signing ceremony – with witnesses (traditional witnesses in some First Nations);
- Feast – of foods reflecting the First Nation's culture;
- Gift exchange; and
- Traditional dancing and music.

### EXAMPLE: Traditional Witnesses to Agreements

*Being oral societies, many First Nations use “witnesses” as evidence of significant events. A witness ceremony with feast may be held to formalize a partnership. Witnesses will be named and held responsible for confirming to others that the event took place. The significance of these events should not be taken lightly. It is important for companies to realize that these “witnesses” are part of the binding contract. Being asked to be a witness is a great honour.*

## STEP 5: OPERATIONS AND STAFFING

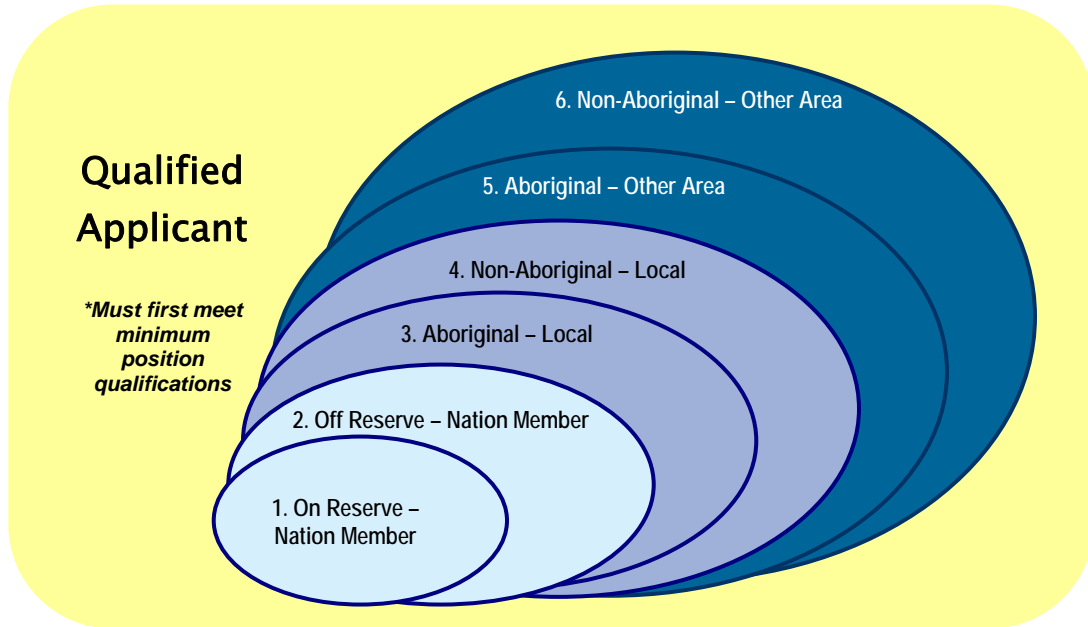
Unemployment is a primary concern for First Nations – in some locations; up to 80% of employable members are on some sort of social assistance program. Providing opportunities for employment and continually encouraging members to participate in these opportunities are part of the process of moving Band members from dependency to independence. The Osoyoos First Nation leadership has adopted the approach that members are either “at work, in school, or in treatment – everyone must be doing something” as part of their commitment to break dependency on social programs.

Developers who support hiring First Nations staff during construction or at their resort once it is completed, have a greater likelihood of being accepted.

### **PRIORITIES IN HIRING**

A strategy to reach First Nation's employment targets is the *ripple effect* for hiring employees, which follows the guidelines illustrated in Exhibit 16.

Exhibit 16 – Example of a First Nation Hiring Priority System



One method of ensuring First Nations are given the best opportunity for employment is to ensure that the roles and responsibilities of key partners are understood. The following table, taken from *A Practical Guide to Implementing Aboriginal Employment Partnerships*, Aboriginal Workforce Participation Initiative, could be very helpful.

Exhibit 17 – Roles and Responsibilities of Key Partners

Roles and Responsibilities of Key Partners	
Partner	Partnership Role
<b>Developer/Employer</b>	<ul style="list-style-type: none"> <li>• Undertakes a review of the workforce, employment systems and procurement to identify barriers and opportunities for First Nations employment</li> <li>• Takes steps to remove barriers</li> <li>• Prepares the workplace for qualified FN employees</li> <li>• Communicates the types of skills and qualifications the organization needs to FN communities</li> <li>• Takes proactive measures to improve FN recruitment, retention and advancement</li> <li>• Informs FN community and businesses about goods and services needed</li> <li>• Assists FN suppliers to capture contract opportunities</li> <li>• Works with the unions to address barriers in the collective agreement</li> </ul>
<b>First Nations Community</b>	<ul style="list-style-type: none"> <li>• Identifies candidates for employment</li> <li>• Encourages and supports FN to obtain necessary workforce education and skills</li> </ul>
<b>FN Training Organizations</b>	<ul style="list-style-type: none"> <li>• Develops cost-efficient programs for First Nation participants that are geared to the needs of the workplace</li> </ul>
<b>Unions</b>	<ul style="list-style-type: none"> <li>• Opens up opportunities for FN people through FN-specific provisions in the collective agreement</li> </ul>
<b>Governments</b>	<ul style="list-style-type: none"> <li>• Facilitates the process of partnership formation</li> <li>• Provides advice and assistance to partners</li> </ul>

## MANAGEMENT

Management participation is also of great interest to First Nations. Filling management positions is not always a concern for developers because management is usually brought in from other facilities or an outside source; however, access to management positions for Aboriginal people would be a great selling point for the development.

A developer should seek to secure an employment plan that benefits the Band throughout all aspects of the development and operations: in entry level, junior and upper management; in construction, maintenance and supplies. These requirements are usually detailed in a partnership and management agreement, which should include regular monitoring and review.

## MENTORING

Within most First Nation partnerships, management training is a priority; however, in many instances management training is viewed as a long-term goal. Mentor training has been a successful method of building management skills for First Nations employees and continues to be the method of choice. Critical to this process is cross-cultural awareness workshops for the non-

Aboriginal trainers, so that they have a good understanding of First Nations culture and values.

Some examples of this are **Nk'Mip Cellars Ltd.**, who has training programs in place for Osoyoos First Nation members and, like many other partnerships – such as the relationship between **King Pacific Lodge** and the Gitga'at First Nation – holds job fairs in the First Nation community to encourage more members to apply for jobs, take the training programs offered by the company, or sign up for mentoring for management positions. Also, the Hupacasath First Nation negotiated an Employment Agreement with **Polaris Minerals** for 50% of the labour to be Aboriginal. Polaris is fully committed to the agreement as long as the First Nation trains the workers to the requirements of the job descriptions.

Job descriptions and qualification levels required for each position should be based on the actual position needs, versus what the industry has set as a requirement. From the First Nation perspective, it is very important the resort doesn't create any false barriers to job entry. For example, if the job position requires a grade 12 education, and the Aboriginal applicant met this criterion as well as all other job qualifications, then a false barrier would be one where a non-Aboriginal was hired over the Aboriginal person because they had second year university training. Although the non-Aboriginal had more academic education, the available position only required a grade 12 education.

Many First Nations realize that it is important for the developer to hire qualified people to take on the available positions, even if it meant, "...these people were non-Aboriginal". Further, the practice of hiring

### EXAMPLE: Corporate Managers Orient FN Staff

*"We had to help our resort managers understand that their role was to teach our company culture to Band members, while at the same time acting as manager. They had dual responsibilities," said Nk'Mip Cellars Inc. Nk'Mip spent a considerable amount of time training their managers to become teachers. Having managers assume the educator's role helped to minimize frustration at the managerial level.*

*The managers are tasked with providing First Nation's training on such things as good work ethic – getting to work on time, phoning in when sick rather than not showing up without calling, and a number of other corporate culture requirements. Patience and tolerance are two key attributes instilled in the managers in order for this to be successful.*

people that have a good work attitude and commitment to quality and excellence became more important than education and work experience.

### ***DEVELOPING AND TRAINING FIRST NATION'S STAFF***

Whether the partnership is for a short-term special project, or a long-term venture, accessing and preparing Aboriginal people for employment in entry-level and career related positions has become a common element to partnerships. First Nations often seek employment terms to fulfill economic goals for their community. The developer on the other hand, can benefit by employing First Nations as a way of obtaining a readily available labour pool.

There are unique cultural and social considerations to hiring Aboriginal employees and the partnership agreement needs to reflect this.

One of the methods of ensuring First Nations fit in well with the development project is to make sure the developer has a Human Resources Committee, which includes First Nations representatives.

The ongoing support of the Human Resources Committee is essential to the success of First Nation's employment.

**Human Resources Committee** – consists of representatives of the partners (First Nations and non-Aboriginals), especially the key lead for each partner, the project management and respective labour and/or human resources/employment counsellors. The committee:

- Recommends and sets goals and objectives;
- Provides overall direction on human resources and labour matters;
- Prepares strategies, communications and public relations plans;
- Establishes training partnerships;
- Develops hiring and interviewing processes, and participates on these in the initial hiring ONLY (does not participate after the management structure is in place);
- Identifies and develops funding opportunities for employee training; and
- Establishes assessments and evaluation processes.

#### **EXAMPLE: An Understanding Place to Work**

*When the Resort Municipality of Whistler hired five members of the Lil'Wat First Nation to work as a trail crew in Whistler, they spent time educating both the First Nation members and staff. Whistler informed the First Nation on various community initiatives, including recreational and park planning in and around Whistler. The First Nation also trained the Whistler staff by inviting them to a Lil'Wat cultural experience, and once specific milestones were reached, to a celebration at the First Nation.*



**Job Coach** – The developer should also make a Job Coach available to the First Nation’s community to provide a liaison between the First Nation employees and the company. The Job Coach is the daily and on-going liaison for the worker and Supervisor/Manager. This person provides practical and moral support for the employee, and assists the supervisor/manager with addressing employment concerns. Typical duties of the Job Coach are:

- Conducts initial interviews and assessment;
- Develops employability skills;
- Counsels and gives career advice;
- Assists project participants to overcome barriers to employment;
- Provides liaison between workers and employers; and
- Prepares reports to the Steering Committee.

A Job Readiness Training Program, matched with a Job Coach, can improve the overall business success, increase employee retention, attract new employees and create a positive work environment. The Life Skills component provides the trainee with personal skills development and planning to help deal with personal and employment related challenges.

### ***Components of a Job Readiness Training Program***

- **Life skills training**<sup>10</sup> – job readiness, proper apparel, anger management, self-awareness, problem solving, conflict resolution, working with authority, financial management, well-being and nutrition, dealing with alcohol and drugs, assertiveness, cross-cultural training and many other career preparation and personal growth areas.
- **Workplace safety** – First Aid Level 1, WHMIS (Workplace Hazardous Materials Information System).
- **Career planning and exploration** – assessment for career matching and planning of development path; may involve temporary placement.
- **Hospitality training** – Tourism BC’s *SuperHost*®, and Native Education Centre’s *FirstHost*®.
- **Cultural awareness** – program developed by the First Nation.
- **Workplace orientation** – on-site temporary employment to a similar work environment, workplace terminology, employer expectations.

### **EXAMPLE: Career Days for Development Futures**

*King Pacific Lodge holds regular career fairs for Band members, where job openings and management positions are highlighted to encourage Band members to work for the company.*

*The Ktunaxa Nation Council and its Ktunaxa Independent School System worked with the St. Eugene Development Team to identify employment and career opportunities with the resort. A Human Resources Development Plan was prepared, and the KISS worked with individuals to develop Individual Career Plans to match with employment opportunities. Resort employment opportunities are provided to the Ktunaxa’s employment department, which promotes it to the Bands and other Aboriginal agencies in the area.*

Exhibits 18 and 19 outline the structure of an ideal Human Resources model and the responsibilities of each partner.

Exhibit 18 – Human Resources Structure

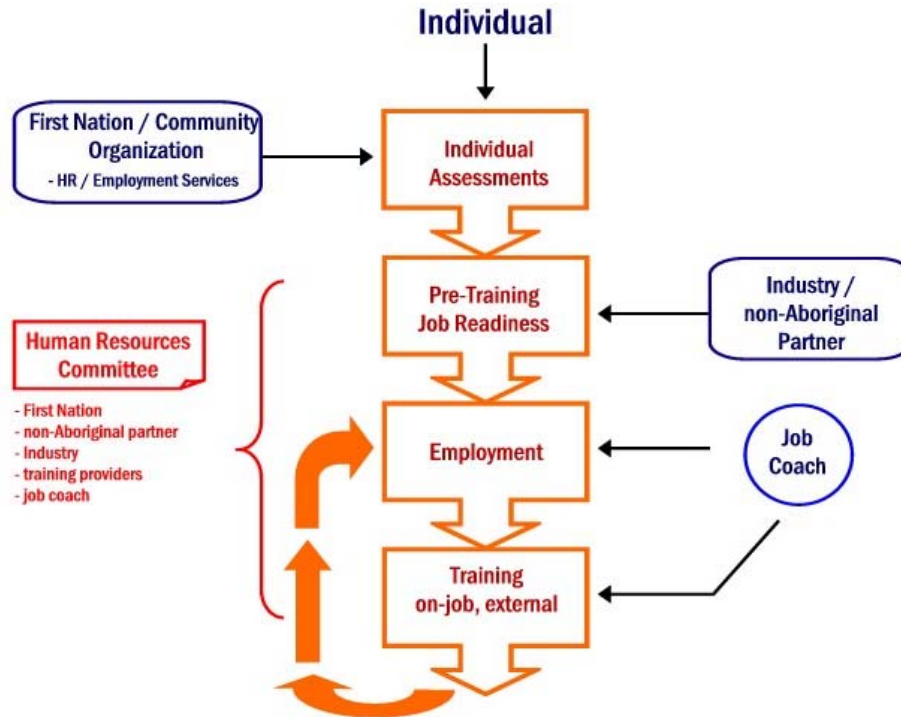


Exhibit 19 – Responsibilities for Human Resource Development

First Nation	Business Partner
Provide profiles of available labour	Training
Participate in the development of training plans	Information on employment – number of positions, qualifications
Access to training resources – financial, physical, trainers	Participate in training plan developments
Cultural components to training	Access to employment
Identify and coordinate applications	Training resources – financial, physical
Develop orientation program / manual	Monitoring of staffing
Advice on cultural aspects	Access to training resources – financial, physical, trainers
Supply employment support services – i.e., counselling services	Participate in development of orientation program / manual

## KEEPING FIRST NATION EMPLOYEES

At business start-up and for new First Nation employees, an employee orientation is a good way to improve both business and employee success. For new business where there is a sizeable group of First Nation employees starting at the same time, the orientation may be formal, with introductions to the owners, First Nation cultural ceremonies with feast, along with presentations on employee expectations, employer commitments, and a guided tour. After business start-up, individual employee orientation programs provided by management can introduce the employee to the business culture; provide on-site training and familiarization with the employment environment. The Job Coach should also be involved in any of the orientation programs.

One way to keep First Nation's employees is to implement employee incentive programs. For example, **Niigon Technologies** introduced programs that reflect the health values and priorities of the First Nation. The First Nation made "achievement of a healthy lifestyle" a priority, and Niigon's operations reflect this in their fitness program. The program offers employee incentives to stop smoking and lose weight. At Niigon there is an on-site fitness centre, the cafeteria sells only healthy foods and offers non-fat menus at lower prices. People who lose weight earn rewards such as running shoes, and the smoking cessation program offers a financial incentive to those who quit smoking. Cash penalties apply if smoking starts again. Specialists on body and foot massage are brought into the community on a rotating basis, offering the Niigon employees and Moose Deer Point residents wellness services.

Another way to ensure First Nation's continued employment is to incorporate First Nation cultural activities into the employment contract. For example:

- Determine what cultural activities will be eligible for time off, and for whom.
- Decide if June 21 National Aboriginal Day be considered a holiday. If so, will this be paid or unpaid?
- Decide if there will be recognition of employees who have cultural roles in the First Nation community.

Best practices for terminating First Nation's employment should not differ significantly from any other business operation. First Nations involved in successful businesses advocate following standard employment and termination practices for all employees, regardless of Aboriginal ancestry or Band membership.

### EXAMPLE: Consistent Human Resources Management

*A way to address human resource issues and challenges faced by any resort development is to hire a Human Resources specialist. Nk'Mip Cellars Ltd., encouraged by the Osoyoos First Nation, hired one to handle all issues related to the employees. In the past, there were several individuals within the Band who dealt with different staffing problems, which led to inconsistent staffing decisions. In a small community where everyone knows each other, this can cause problems. Having one person responsible for all issues, many of which were inter-related or similar, helped the company and First Nation consistently and fairly manage problems for the best interest of employees, the business and FN community.*

## STEP 6: STAYING CONNECTED

Maintaining the First Nation's relationship on an ongoing basis is just as critical as it was in the beginning stages of the partnership. The Kitsoo and Hupacasath First Nations believe that the adage "a family that eats together stays together" is a fundamental way to maintain a healthy relationship with the community

and its business partners. When these First Nations host community dinners and picnics, they expect representatives of the development to attend as a sign of continued good will.

It is important to keep the First Nations community connected to the development through various activities. The resort should provide continuous updates to the First Nations on operations, expansion plans, successes and challenges. Working relationships for approvals, referendums and decision making should also be established. Other developers have learned that in the absence of good information and understanding, First Nations are likely to make decisions that consequently may stall the expansion of the development or other favourable opportunities.

### **EXAMPLE: Empower Managers to Manage**

*The Osoyoos First Nation reviews the employment policies with its partners at the beginning of the relationship and applies the same Employment Policies to all the Band's ventures. Key to this is recognizing the Business Manager as having sole responsibility to hire, train, manage and terminate employment as required. "Managers are required to submit annual Human Resources Plans to the Board of Directors," said the Nk'Mip Culture and Heritage Centre Manager, adding, "When you're in business, the business success has to come first, and that means Managers need to be able to address employee matters without political interference."*

## **COMMUNITY RELATIONS ACTIVITIES**

The developer should sponsor, support and/or develop programs that show the social commitment to the First Nation community today and long into the future. Initiatives that benefit the entire Band rather than a select few, and those that leave a long-term legacy are the best programs to champion, such as:

- Celebrate key milestones with the Band. Sponsor events like First Nation community BBQs, sports tournaments, community fairs, feasts and celebrations where good news can be shared with the community and shareholders.
- Host annual general meetings to report to the First Nation community on business operations and provide a chance for community members to ask questions and provide input for new developments and offer ideas.
- Establish an Advisory Board of well-respected Band members who will be responsible for communicating concerns from the First Nation to the company and back again.
- Get involved, be seen. Demonstrate commitment to the First Nation community by having representatives attend and participate in First Nation community meetings, consultations, events and celebrations.
- Consider building playgrounds, contributing to Elders training, constructing First Nation community facilities, offering leadership programs, supporting language and cultural programs and dance troupes, improving the natural environment, funding social development programs, and investing in education and skill development.

## **MARKETING**

Worldwide tourism trends indicate there is growing traveller interest in educational, adventure, outdoor, cultural and Indigenous tourism. Aboriginal cultural images are being used more frequently to differentiate one tourism product or region from another, to give products a marketing edge. Canada's and British

Columbia's tourism agencies have responded by highlighting Aboriginal cultural tourism as priorities in their marketing strategies.

Resorts that have a partnership with First Nations and especially those that contain First Nations culture as part of the resort experience can use this relationship in their own marketing campaign. Media and public relations messages promoting the partnership benefit the business and, in turn, benefit First Nations and non-First Nations investors.

One example of this is the Gitga'at First Nation who helped **King Pacific Lodge** build the appeal of the lodge by incorporating the Tsimshian culture and history of the First Nations people into the Lodge's programs. The Tsimshian addition has become an invaluable asset to the marketing of King Pacific Lodge. Other strategies could include:

- Building relationships with local and regional media, distribute media releases regularly – look for human interest stories.
- Looking for opportunities to support area initiatives – sponsor events, donate to non-profit organizations.
- Hosting events for the general public.
- Distributing editorials to small print media including Aboriginal media, government publications, and industry journals.
- Offering special promotions for locals.
- Exhibiting at tradeshow open to the general public.
- Delivering presentations to local and regional groups on the development project.
- Ensuring Aboriginal cultural photographs are approved by the First Nations; ideally, take new photographs and have releases signed by the models.

## **STEP 7: PREPARING FOR CHANGE OR EXPANSION**

As time passes, business partnerships will develop and mature, and some will grow apart. By reviewing and assessing the goals, objectives, and desired outcomes of the partnership, both parties can anticipate and adapt to change. The key is to be fully aware of all aspects of the business operation, and be involved in the First Nations community and other organizations that affect or influence the resort and tourism environments.

### ***ASSESS THE PARTNERSHIP REGULARLY***

A number of indicators suggest even a small change can affect the partnership. It is up to the developer to pay attention to any changes and assess the health of the partnership on a regular basis.

Examples of changes to monitor and address by the developer are listed below:

- Potential changes in management, ownership structure or leadership of either of the partners (e.g., changes in First Nation and company leadership, such as Chief and Council, key board members, CEO, or business ownership and/or control – shareholders, new investors or financiers).
- Business and market changes presenting growth and expansion opportunities, or recessionary indicators.

- Access to additional working capital.
- Changes in business philosophies.
- Changes in operating procedures and policies without appropriate authority approvals or without appropriate consultation between partners.
- Inability to follow through with commitments.
- Differing values and beliefs.
- Poor accountability skills.
- Reluctance or inability to address or resolve problems.
- Community development including issues in social, cultural, employment, education and infrastructure.
- Government (First Nation and other government) natural resource management policies and requirements.

As with most relationships, a commitment from each party to work through challenges in a transparent, open and respectful way demonstrates dedication to the partnership. Challenges should be brought forward through the Board of Directors. The Board should then determine who must take the lead to resolve the matter – is it the Board, resort manager, First Nation, Tribal Council, or other agency? If it is another agency, someone must be responsible for follow-up to ensure action is taken.

### ***OWNERSHIP CHANGES***

At times, the best way to maintain the relationship is to bring in new partners or change the relationship with one or more partners. This may be due to business expansion or in response to other pressures. Regardless of the reason, it is good business practice to plan for change and to agree on a way that ownership changes complement and benefit all parties' futures.

Where ownership changes, it needs to be carefully managed from the public, media and investor perspectives, so that messages given by the Aboriginal and non-Aboriginal parties are consistent and maintain the integrity of the relationship and each party. The credibility of each partner rests on the professionalism of communication.

To assist the process of an ownership change or expansion and reduce chances of misinformation getting out to the media or other parties (e.g., investors or financiers) the partners should:

- Involve legal and public relations advisors to help manage the change;
- Develop a public and media relations plan;
- Appoint a spokesperson for each partner and collaborate on how information will be managed;
- Cooperatively develop key messages for public and media relations;
- Start and maintain communication with community members and shareholders at a strategic time and, where possible, involve them in or gain their acceptance for the change;
- Celebrate expansions and additions of new partners by involving the First Nation community and shareholders where possible; and
- If the change is in resort brand partners, transition must be smooth and precisely coordinated. This entails ensuring signs, uniforms, print material, reservation systems, websites, and any place where

the company names would be shown or promoted are changed simultaneously. Graphics and words should not be painted, boarded over or cut out – they should be replaced.

### ***ENDING THE RELATIONSHIP***

Typically, relationships end in one of two ways – amicably or with confrontation. When dissolving a partnership, a harmonious end leaves the parties feeling that this was the proper solution. The Ktunaxa Development Corporation believes that a good partnership creates “win-win” for all, even if the partnership ends. Confrontation can cause irreparable damage for a partner and, in particular, for the First Nation community. Unfortunately, in some situations going to court is the most appropriate method to conclude a relationship.

The decision to end a partnership needs to be based on *fact* and not on hearsay or rumors. If the evidence to end the partnership is supported by fact, then the decision to end must be made sooner rather than later. The partnership agreement should include a termination agreement.

When ending the partnership, the partnership agreement and legal advisors should prove invaluable. The developer should take the time to develop a communications strategy that includes media messages and the appointment of spokespeople from each partner.

They should also establish a transition plan that outlines what actions need to take place to ensure a seamless change in ownership, and that addresses:

- **Staff** – how and when will they be informed of the change, will they lose their jobs, have to take a cut in pay, be demoted?
- **Signs and Emblems** – do these need to be changed?
- **Management Board** – how will the Board be affected; if there are additions to ownership, will First Nation’s control be diminished?
- **Outside Agreements** – what agreements exist with outside suppliers? Are there obligations to maintain these, or do new agreements need to be drawn up?
- **Cultural Aspects** – how will these be managed? Is ownership of cultural aspects clear to new or exiting partners?
- **Public Communications** – what will be the most positive, effective way to communicate the end of the partnership?





## Best Practices: A Guide to Creating Resort Partnerships with First Nations

### Chapter Four

### Case Studies

## OSOYOOS FIRST NATION

### *Building Economies Together*

The Osoyoos First Nation (Osoyoos Indian Band (OIB)), located in the South Okanagan Valley, has approximately 400 Band members and a land base of 32,000 acres. Under the leadership of Chief Clarence Louie, the Nation developed a vision and a set of goals in 1988 that has guided the Band to where it is today. One of these goals was to achieve economic self-sufficiency by the year 2005. In addition to the businesses of the Band, it also operates its own health, social, educational and municipal services.

The Chief and Council continue to work with their First Nation community members to “do whatever they must do to become a healthy and thriving community.” In honouring their culture and tradition, OIB members support the Chief and Council in their role and philosophy that “the Band does not owe its members dependency. It owes them opportunity and a chance to become independent.”

The Osoyoos Indian Band Development Corporation (OIBDC or Development Corporation) was central to the OIB vision and was incorporated in 1988 as the Band’s economic development arm. The Development Corporation was intended to be the vehicle to undertake businesses and establish business relationships and partnerships with outside investors. Nineteen years later, the OIBDC is a thriving corporation that has annual budgets in excess of \$14 million and operates 10 corporations that are involved in a variety of activities. A number of these businesses have strategic partners as part of the Band’s commitment to build both financial and human resource capacity.

The Osoyoos Indian Band and its Development Corporation realize that the ongoing success of its businesses is connected to the regional economy. The OIB and the Town of Osoyoos have developed a unique and mutually beneficial relationship over the past eight years. Before this relationship was established, two different approaches to economic development were operating, often resulting in the Town of Osoyoos and the OIB competing for the same project or funding. The Town of Osoyoos and the Osoyoos First Nation now operate cooperatively toward a common goal and vision. The activities of this partnership include:

- **Joint Fundraising for Area Projects** – the two now hold an annual joint fundraiser to raise money for a Tourist Gateway Centre at the US border, involving a salmon bake and a First Nations cultural experience;
- **Cooperative Marketing Program** – “Desert Wine Country” promotes the entire region and the costs are shared;
- **Quarterly Meetings** – of the Town Council and Band Council to discuss issues;
- **Shared Infrastructure** – the municipality extended infrastructure beyond its boundaries to service reserve lands; and
- **Consider Projects Together** – cooperation has led to a positive environment for outside investment, as projects are considered by the First Nation and local government in co-operation with each other, demonstrating a stronger regional economy and planning environment.

## Keys to Success

Having a vision that focused on long-term sustainability has been a key to the success of the OIBDC. The OIB set the vision for the First Nation, and the Development Corporation has been instrumental in fulfilling that vision for the community.

Another component of the visionary process involved the Band leadership evaluating and identifying economic opportunities for the Band. Agriculture and tourism have been clearly identified and have been the foundation for OIBDC projects.

Recognizing what skills and resources a Band does and does not have, is vital to a successful business. Where the OIB has the knowledge and confidence to pursue a business on its own, it has done so; however, when there was uncertainty and limited knowledge, they have opted to joint venture and bring in partners with the necessary skills and management capacity.

The OIB leadership fully understands that business success is achieved through the rigorous application of business principles. They continue to bring that message to the membership and the OIBDC continues to operate with the goal of “revenues must exceed expenses”.

## Essential Elements of Partnerships

The OIBDC has developed a number of strategic partnerships and joint ventures that contribute to its overall success. Some of the highlights of these partnerships include:

- Partners adopt the First Nation’s overall vision for the business partnership;
- Partners must be fully committed to the First Nation’s human resource development and capacity building within each business entity. In addition, partners are expected to implement special *train-the-trainer* programs for non-Aboriginal management. This helps non-Aboriginal managers understand that their role is to manage and train Aboriginal employees regarding all aspects of how to work for the company;
- The Board of Directors for each joint venture company must have equal representation from the Band and the joint venture partner. In the case of Nk’Mip Cellars, Vincor International and the OIBDC each provide three members to the Board. The Board of Directors for OIBDC is Chief and Council;
- Management training for Band members is part of company policy;
- In the partnership agreements, there is a clear understanding that when the OIBDC management capacity reaches a stage where they can manage and operate on their own, the First Nation will exercise their buy-out clause to take over the business; and
- The OIB is very diligent about developing strategic partnerships and relationships with the surrounding community, municipalities, businesses and organizations.

### ***LESSONS LEARNED***

1. Establish strategic alliances with regional planning bodies (i.e., local municipalities and regional districts) to coordinate regional plans, maximize and leverage developments, and to build a consistent marketing concept for the area.
2. Support Board's and Band's management in operations and staffing matters.
3. Ensure the developer holds regular meetings with managers, and shareholders (i.e., First Nation community members, Town Council members, ect) to provide information on ongoing performance and to keep everyone informed and up-to-date.
4. Have a First Nation's policy of continuing education and training, and teach the philosophy that "cradle to grave education" never stops. In addition, ensure that every First Nation member has the right to training and to learn about all aspects of business and community development.
5. If and when possible, appoint a Human Resources person to be responsible for HR matters and to ensure they are addressed effectively, fairly and efficiently, and that the long-term vision of human resources development of "recruit, train and retain" is continued.
6. Monitor on a regular basis the effectiveness of business activities. Encourage activities to increase profits through strategic spending, such as advertising.

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## SLIAMMON FIRST NATION AND THE LUND HOTEL

### *A Partnership Built on Friendship*

The Sliammon First Nation has negotiated several joint ventures over the years, and through its business arm owns its own construction company and recently purchased a shellfish processing facility. The Sliammon Business Development Corporation manages the resources of the First Nation while keeping its business separate from its political structure, the Band government.

One of the most prominent relationships the Sliammon First Nation has is with the Lund Hotel. The hotel is a win-win relationship between the Sliammon First Nation and local businessman David Formosa. David, a former schoolmate with many of Sliammon's leaders, is also a successful Powell River business owner with experience in the food and beverage industry, finance and resort development.

Sliammon Business Development Corporation representative said, "We went to school with David, we knew him well, there was trust." This long-term friendship, along with David's business experience, laid the foundation for building a partnership with David; first as a member of the Development Corporation's Board of Directors, and next as co-owner/operator of the Lund Hotel.

Originally constructed in 1895, the Lund Hotel was rebuilt in 1918 after the original building was destroyed by fire. The hotel closed its doors and sat empty for numerous years. Members of the Development Corporation approached David in 1999 with the prospect of renovating and reopening the development, which now includes a hotel, gas station, marina, grocery store and restaurant.

The project would not have got off the ground without the contribution and vision of the First Nation and the capital David offered. Ownership is split at 51- 49, with the First Nation having the majority – mostly to accommodate funding program requirements.

The hotel is managed by David to remove Band political interference with the day-to-day operations. With this arrangement, any concerns or complaints from the Sliammon First Nation are dealt with at the business level and not referred to Chief and Council. This is important in a community where Chief and Council have been changing with each election – the establishment of a firm business structures protects the business from political interference and volatility. Management has a direct reporting structure to the Development Corporation. David cannot buy or sell the land; he must submit annual budgets; get approval for any expenditure over \$50,000; and make his best effort to hire First Nations employees.

Operating a resort with First Nations and First Nation employees has presented some unique and ongoing challenges in the Lund Hotel management:

- Since Sliammon culture included fish, First Nations employees request unique cultural considerations on clam harvesting days.
- There are no hiring percentages for Aboriginals as they can be impossible to meet, so there have been community concerns that there aren't enough Aboriginal employees.
- Tolerance and patience are exercised while the First Nations develop a better understanding of the skills required to operate a growing business.
- Applications for employment are brought before the Development Corporation, who then makes recommendations.

The future of the Lund Hotel is promising. Its cash flow has grown every year and the hotel recently finished buying out its partner in the adjacent gas station. As the partnership continues and capacity and expertise grows, the Sliammon First Nation may soon become the full owners of the Lund Hotel.

### ***LESSONS LEARNED***

1. Seek expertise outside of the organization or First Nation community if that expertise does not exist within.
2. Developers should understand and learn First Nations cultural philosophy and respect their values.
3. The First Nations Band should separate business roles from politics, allowing the business to operate day-to-day without political interference.
4. The First Nations Band and the developer should develop a business agreement that clearly outlines the expectations and requirements of each partner.
5. The partnership should help develop the management capacity of the First Nation. There should be a transition period in place for the developer's management to transfer skills to Band members.

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## KINBASKET DEVELOPMENT CORPORATION

### *Partners with Vision*

The Shuswap First Nation near Invermere, in the southeast corner of British Columbia, recognized in the early 1990s that their reserve was in the middle of growing provincial tourism activity. With the expansions of Fairmont Hot Springs, Radium Hot Springs and Panorama Resort, development in the area was booming. They also knew that both the Band and the neighbouring municipality needed water and sewage services. The Band recognized that having jurisdiction over designated lands as a First Nations Government would provide longevity of both investment and taxation revenues. The Band decided to identify opportunities.

They started by undertaking a physical development plan that focused primarily on land use. It identified the Band's strengths and needs, and determined their best course of action would be to capitalize on their assets by developing businesses on-reserve. This study provided the appropriate supportive documentation with which to apportion and designate a 500-acre site for development as part of the Band's economic strategy.

At the same time, the Regional District of East Kootenay (RDEK) had struggled with providing water and sewage services to lands neighboring the Band's for over 30 years. Additional services were needed to meet current demand, address environmental concerns, and enable future development.

This common need for water and sewage services connected the Band to the RDEK. The Shuswap First Nation proposed an on-reserve water and sewer system with enough capacity to meet both current and future Band requirements, plus those of neighbouring communities. It would turn the Band into a service provider to the RDEK and give the Band the infrastructure it needed to pursue its own residential and commercial developments.

To develop the water and sewage system, the Band had many major hurdles to cross. "We had to convince Indian and Northern Affairs Canada (INAC) to do things that they hadn't done before." INAC had to allow for a broader physical development plan than solely servicing the Band's short-term residential needs. It had to allow for servicing "non-Band" economic and residential developments on and off-reserve. Also, it had to navigate through the *Indian Act* Land Designation process, which requires community approvals, environmental and site studies, and more, including a detailed listing of how any natural resources (e.g., timber and minerals) would be disposed.

Key to the land designation was including future developmental projects. "You have to let INAC know every possible thing you will do." Including these future developments in the designation process saved the Band time and money. It meant they would not have to go through other land designation approvals for future expansion, which could have taken months or years for each designation. The partnership with the RDEK was confirmed through a "Contract for Services" and continues to be the bond between the Aboriginal and non-Aboriginal community. Their relationship has expanded to where the Band's on-reserve airport is the contracted RDEK Regional Airport and provides fire protection to the reserve. The relationship is reciprocal. The Shuswap First Nation purchases services from the RDEK – for example, regional hospital, regional landfill, recreation facilities and library services.

The relationship with the RDEK provided the experience and confidence for the First Nations Band to enter into other partnerships to undertake both commercial and residential developments on-reserve.

The Band formed the Kinbasket Development Corporation (KDC) to manage the water and sewer services and to continue with implementing the Band's economic development plans. The first development was *Black Forest Heights*, a 64-unit residential development. In order to undertake this



project, KDC needed to identify a partner to help finance and build the project. They assessed a number of developers before they found the right one.

A major challenge was that neither KDC nor their partner had developed on-reserve before, although each had a proven track record including financial capacity and a sound reputation. Throughout the development, both parties worked with INAC on the residential development process and learned together the trials of developing reserve lands. The development's success encouraged KDC to expand their scope and vision for other ventures. Other lands were leased for commercial developments, including a hotel. With market demand driving development, KDC and their partner both realized that neither had the financial capacity or experience to move to the next stage. Through mutual agreement to dissolve their partnership, KDC and the existing partner searched for and found a second partner, Stone Creek Properties, which had the financing and experience to develop the Eagle Ranch property and golf course.

Key elements to all the Band's developments were the recognition of its strengths, and the uniqueness of the powers and authorities of a First Nation government. At the same time, the KDC recognized they did not have the experience to manage many of these developments on their own, or the financial resources. Further, they knew that being a government meant that they could continue to benefit and generate revenue from developments on-reserve, even if they did not own them. This factor meant, "The Band counts on these resources as part of our long-term development plan." A lesson learned was the realization that in order for the Band to profit from taxation authority and water and sewage services, the lease agreements had to require "*build out*" within a reasonable period. The Band and KDC are currently reviewing their partnership agreements to ensure the development plans continue as scheduled.

KDC has since brought back their original partner, as well as taken on a number of others that complement the development team. The new partners include an architectural firm, a resort partner and Northrock Developments, all of which have access to financing for future developments. Each partner brings complementary expertise that helps to facilitate KDC developments.

### **LESSONS LEARNED**

1. The First Nation and Development Corporation need to focus on “building an economy.”
2. Look at non-conventional investments, such as water and sewer services, that can be sold off-reserve and provide long-term returns.
3. There is a long lead time for land development, so it is important to build in a Human Resources training strategy to run parallel with the land development to have trained employees ready when needed.
4. Look at the pros and cons of the federal *First Nations Land Management Act* as an alternative to going through the lengthy land designation process.
5. Set up a separate business arm from the Band to ensure the First Nations Government is able to exercise its authority and the business can operate for-profit.
4. The First Nation should maintain control of the land jurisdiction on designated land. This will give First Nations control over all sub-leases and the ability to make strategic decisions.
5. Make sure the legal agreements spell out all aspects of what is needed in the contract.
6. In the contract, ensure there are opting-out clauses and there are timelines for “build out” so the plans can stay on track and the Band can benefit from its governing authority.

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## COASTAL FIRST NATIONS TURNING POINT SOCIETY (CFNTP)

### *Building First Nations Governance*

Over a two-year period, the First Nations of the central and north coasts, including Haida Gwaii, were engaged in extensive informal talks with the David Suzuki Foundation (Foundation). This dialogue was focused on problems regarding the sustainability of First Nations communities in this geographic region and the need for more local control of the land and resources. Of particular concern were the over-logging and other unsustainable forest harvest practices that were happening in the area as well as the crippling effect of collapsed industries and unemployment, especially on the Band's young people. Based on these discussions, First Nations' leaders challenged the Foundation to fund a meeting with them to "formally explore possible common ground with respect to stewardship principles and joint approaches to resolving mutual problems." This was welcomed by the David Suzuki Foundation. The conference, "Turning Point – A special millennium gathering of Central and North Coast First Nations with the David Suzuki Foundation to discover and celebrate our unspoken principles, the Common Ground, which Unites us" was held on March 6 and 7, 2000.

Although, initially wanting to sign a protocol agreement with the Foundation, the First Nations decided to produce a "Declaration" among themselves as a starting point. The Declaration defines the First Nations' principles and responsibility to their culture and their people to "protect and restore our lands, water, and air for future generations." It states... "We will support each other and work together as the original people of the North Pacific Coast, standing together to fulfill these commitments". The declaration's signing in June 2000 was witnessed by Aboriginal leaders and Aboriginal organization representatives as well as the David Suzuki Foundation, including David Suzuki.

The Declaration binds the partnership with First Nations and shapes the relationship with the David Suzuki Foundation and future partnerships. Consequently, the declaration led to the creation of the Coast First Nations Turning Point Society (CFNTP). It, along with the declaration, prescribes how the CFNTP will proceed with future partnerships.

The overall goal of the Coastal First Nations is "to create a brighter future for our communities by working together to achieve a bold vision – responsible restoration of land, water and resource management practices on the Coast that are ecologically and economically sustainable." This vision has generated directives for the First Nations members to:

1. Develop regional forestry, fisheries and tourism strategies and partnerships;
2. Develop business strategies on forestry, fisheries and tourism for individual First Nations;
3. Increase and develop capacity in resource management, business management and technical skills in the resource sector;
4. Decrease the amount of industrial logging and fishing practices;
5. Implement ecosystem-based management practices;
6. Demonstrate an alternative to conflict based land and marine use planning; and
7. Share the Coastal First Nations regional strategic approach with others.

By working together, the Coastal First Nation Turning Point Society has secured funds from non-government organizations that previously its member First Nations may have competed for. The CFNTP works on behalf of its members; each First Nation chooses to be a member of the CFNTP and to sign the Declaration. Membership is not solicited.

CFNTP has been able to facilitate the fulfillment of some of its members' goals and established other relationships that have become the catalysts for Band developments.

On April 4, 2001, a General Protocol Agreement on Interim Measures and Land Use Planning was signed with the BC Government, which committed the parties to implementing Ecosystem-Based Management and developing interim measures in forestry and tourism. On November 2, 2002, an Interim Measures Framework agreement was signed with the federal government to agree to work together on marine use planning, economic measures and cooperative management arrangements.

Through these framework agreements, each First Nation has developed comprehensive Land Use Plans that define the protection and development areas of their traditional territories.

### ***LESSONS LEARNED***

1. A central organization provided "common ground" to facilitate different First Nations collectively undertaking similar initiatives.
2. Working together helped to level the playing field for First Nations with the provincial and federal governments, industry and other groups, such as environmentalists. This brought strength to First Nations' government in negotiations and required the acknowledgement of First Nations Government.
3. Critical elements essential to a solid organization are: clear political vision; strategic thinking; partnership building; and leaderships' willingness to get appropriate technical and professional advice.
4. Capacity is built from knowledge of process at the government level and from the First Nations leadership and Band members.
5. Strategic partnerships increase effectiveness, eliminating competition for limited government funding.
6. Membership must be voluntary and the organization must work for all its members.

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# APPENDIX

## *HISTORY OF FIRST NATIONS IN BC*

British Columbia is the most culturally diverse province in Canada in terms of First Nation Bands. One-third or 197 of Canada's 614 First Nation Bands are in British Columbia; each having its own governance. Provincially, there are roughly 30 tribal nations and more than a dozen Aboriginal languages with several dialects spoken. Most of these languages are considered endangered. Although there are some similarities, each First Nations' culture is distinct.

First Nations governance systems can be based on legislated, traditional or custom structures that recognize their leaders through an elected, appointed or hereditary process. A First Nation may also have both elected Chiefs and Council and Hereditary Chiefs that fulfill different roles in the governance of their community, culture, lands and resources.

Adding complexity to the governance structure is the organization of the social system. A First Nation may be organized into houses or clans, but not all First Nations have these types of societies. They are more common in coastal First Nations and sedentary Bands. Most of these societies are based on matriarchal systems where women play a significant role in leadership and decision-making.

Even Bands belonging to the same Nation can differ from neighbouring Bands. While they may share the same history, cultural practices, beliefs and language as other members, each Band does not necessarily have the same governing structure, decision-making systems, communication processes or business environment.

Since First Nations are so complex and unique this can pose difficulties for developers when they try to create effective business partnerships, as the approach the developer must take with each First Nation Band may differ.

## *BANDS, LANDS AND TREATIES*

First Nations Bands are located in all regions of British Columbia in remote, rural and urban centers on lands called Indian reserves. Sometimes a Band can have more than one Indian reserve under its jurisdiction. Indian reserves, as defined by the *Indian Act*, are lands held in trust by the federal government for the specific use of an Indian Band. The *Indian Act*, first passed in 1876, is federal legislation that sets out certain federal government obligations and regulates the management of Indian reserve lands, Indian moneys and other resources. The *Indian Act* dictates how the First Nation can use reserve lands and resources, and outlines how the First Nation will govern itself.

### **Legislative Amendments:**

A major amendment to the *Indian Act* in 1951 removed obsolete sections and added sections regarding First Nations' rights and title, governance, and self-determination. The federal *Constitution Act, 1982* recognized and affirmed the existence of Aboriginal and treaty rights in section 35. In 1985 Bill C-31<sup>11</sup> was passed which amended the *Indian Act* to remove sections that forced First Nations to lose their status as "Indians" under the *Indian Act* (Canadian enfranchisement). Those who had previously lost their

Indian status, to be registered in the Canadian Indian Registry, and to reside among their people on Indian reserves, were now reinstated as Indians within the Canadian system. Once Bill C-31 was passed, there was an increase in the demand for land, housing and resources to support the return of First Nations to their reserves.

In 1988, Bill C-115, commonly called the “Kamloops Amendment”, recognized First Nations’ property taxation authority on reserves, and there was a withdrawal of federal and provincial governments’ property taxation over reserve land of Bands registered to exercise property taxation authority. The majority of BC First Nations now exercise property taxation similar to the provincial government, regional districts and municipalities (see Indian Taxation Advisory Board [www.itab.ca](http://www.itab.ca) for list of Bands, and the First Nations Tax Commission [www.fntc.ca](http://www.fntc.ca)). A few Bands also have a partnership with Revenue Canada, which acts as the Band’s agent for the collection and sharing of federal sales taxes applied to on-reserve purchases.

Other new federal legislation and systems being developed in partnership with First Nations provide First Nations the opportunity to exercise greater control over their land, resources, citizenship and finances. Two new Acts: the *First Nations Fiscal and Statistical Management Act* and the *First Nations Land Management Act*; and Acts presently before Parliament: the *First Nations Tax Commission Act*, and the *First Nations Financial Authority Act*, will enable and expand the authority of First Nations governments. The creation of a central First Nations Lands Registry and the Indian Lands Registry databases improve the registration of reserve land designation, while protecting the interests of the First Nation, its citizens, developers and investors. The *First Nations Gazette* is a semi-annual publication by the Indian Taxation Advisory Board that publishes property tax laws pertaining to First Nations. (See [www.inac.gc.ca](http://www.inac.gc.ca) for information on the *Indian Act* and other legislation and [www.usask.ca/nativelaw/publications](http://www.usask.ca/nativelaw/publications) for the First Nations Gazette).

### **Traditional Territories:**

While it is easier to understand the authority a First Nation government has over their reserves, for many businesses and the general public, there is uncertainty regarding First Nations’ interests over non-reserve lands, often referred to as traditional territories. Traditional territories are lands the First Nations people have historically occupied. In the 1800s when treaties were being signed with First Nations throughout Canada, the treaty making process in BC was blocked in 1854 by the provincial government and the Hudson’s Bay Company. Treaties did continue to be signed in other parts of Canada until the early 1900s when treaty making essentially ended.

Since 1854, treaty settlement with BC First Nations remained at a standstill until 1996 when the provincial *Treaty Commission Act* was passed. This Act launched the Modern Day Treaty Making Process, providing a means for defining the relationship between First Nations and the federal and provincial governments; the exercise of governance; and the use and benefits of the land and resources. Presently in BC, 140 of the 197 First Nations are currently negotiating treaties. Participating First Nations are members of the First Nations Summit ([www.fns.bc.ca](http://www.fns.bc.ca)).

A number of court cases in the past 20 years have attempted to address land and resource matters, define the relationship between governments and First Nations, as well as describe Aboriginal rights and title. Recent court cases have legislated the Provincial Crown to “consult and accommodate” First Nations on all decisions regarding Crown land that resides within First Nations traditional territory. ([www.blakes.com/english/publications/AI/March2005/crownsduty.asp](http://www.blakes.com/english/publications/AI/March2005/crownsduty.asp)). The provincial Ministry of Aboriginal Relations and Reconciliation ([www.gov.bc.ca/arr](http://www.gov.bc.ca/arr)) is the ministry responsible for treaty

negotiations, and is a good resource for developers wishing to gain information on land and resource use within First Nation traditional territories.

### ***THE FIRST NATION POPULATION***

In British Columbia, 4.5%<sup>12</sup> of the population is First Nation, and the average Band population is low in comparison to Bands in Ontario and Alberta. The majority of BC Bands have less than 500 members. This often means that small communities have few Band staff and leaders to respond to community needs and business opportunities. Some Bands also have limited business experience.

While the First Nation population base is low, its members are young and the birth rate is high. This contrasts to British Columbia and Canada's rates as reported by BC Stats 2001 and Census Canada 2001, respectively. The median age for the First Nation population in BC is 26.8 years (24.7 years in Canada), while the median age of the non-First Nation population is 38.4 years both in BC and nationally. The First Nation population birth rate is 1.5 times greater than the rest of Canada. This is reflected in the composition of most BC First Nation communities, which have at least 40% of their population under the age of 25. In 2001, 48% of British Columbia's First Nation population was less than 25 years old, compared to 31% of the non-First Nation population...offering a readily available labour force for developing businesses.

### ***CONSULTATION AND ACCOMODATION***

The Province has a legal obligation to consult and accommodate First Nations on all decisions regarding Crown land residing within traditional territories. This requirement is a Supreme Court decision based on legal recognition of unextinguished Aboriginal rights and title. In recent years, First Nations have been more active in exercising these rights.

The developer is not exempt from consulting and accommodating First Nations. The recognition of First Nation rights should be incorporated into the developer's planning process, and ideally in the development's ongoing operations. Negotiating the value of these rights can be expected to take additional time; however, without this consideration, necessary approvals may be delayed or rejected, which could increase development costs. On the other hand, by ensuring First Nations have the opportunity to participate in planning and possible ownership of a development, a supportive environment can be created which often benefits the First Nations, the proponent, and the business.

### ***SPEAKING THE SAME LANGUAGE – FIRST NATIONS TERMINOLOGY***

When communicating with First Nations people in British Columbia, it can be difficult to know what terms to use. The following list will help with communications.

"Aboriginal people" is a collective name for the original peoples of North America and their descendants. The Canadian Constitution (*The Constitution Act, 1982*) recognizes three groups of Aboriginal peoples – Indians, Métis and Inuit. These are three separate peoples with unique heritages, languages, cultural practices and spiritual beliefs.

- **Common Names:** Aboriginal people(s), First Peoples, Indigenous people(s), Native people(s)
- **Narrowly defined groups of Aboriginal people:** First Nation, Indian, Innu, Métis, Eskimo, Inuit
- **Terms associated with communities and community organization:** Band, Tribal Council, tribe, reservation, reserve



The following list contains definitions that will be helpful to the developer.

- **Aboriginal people** – Use when referring to all the Aboriginal people in Canada collectively, without regard to their separate origins and identities OR when referring to more than one Aboriginal person.
- **Aboriginal peoples** – use “peoples” to emphasize the diversity of people within the group known as Aboriginal people.
- **non-Aboriginal people** (not peoples) – refers to anyone who is not an Aboriginal person. Note that the “non” stays lowercase and Aboriginal is capitalized.
- **Band** – is a body of Indians for whose collective use and benefit lands have been set apart, or money is held by the Crown (federal government), or declared to be a Band for the purposes of the *Indian Act*. Sometimes used in reference to a community. Today, Bands prefer to be known as First Nations (e.g., Musqueam First Nation). In writing, capitalize this word.
- **Band Council** – is the governing body for a Band. It usually consists of a chief and councillors. Band Councils may be elected or selected through a traditional process (e.g., hereditary leadership system).
- **Aboriginal Nations** – defined by the Royal Commission on Aboriginal Peoples (RCAP) in its final report, it means “a sizeable body of Aboriginal people with a shared sense of national identity that constitutes the predominant population in a certain territory or collection of territories.”
- **Elected Chief or Council** – are elected through a voting or appointment system either defined by the *Indian Act* or through a federally approved “customs” system developed by the Band.
- **First Nation** – used to refer to a Band or all the Bands that share the same geographic, political or cultural and linguistic lines (and people descending from that cultural group). First Nation is often used to reinforce indigenous rights and titles, as well as the right of a people to govern themselves.
- **Hereditary Chief** – leadership passed on through generations genetically; a hereditary Chief is born into the role and often must complete cultural ceremonies to receive the title Chief. A hereditary Chief may have responsibility for overseeing the sustainability of select lands and resources within the traditional territory.
- **Indian** – a legal term defined in the *Indian Act*. Indian collectively describes all the Indigenous people in Canada who are not Inuit or Métis, and otherwise recognized as Aboriginal in the *Constitution Act*, 1982, that specifies that Aboriginal people in Canada consist of the Indian, Inuit and Métis peoples. There are three categories of Indians in Canada: Status Indians, Non-Status Indians and Treaty Indians.
  - **Status Indians** – Status Indians are people who are entitled to have their names included on the official list of the federal government Indian Register. The *Indian Act* specifically defines who can be registered as a Status Indian: “a person who, pursuant to this Act, is registered as an Indian or is entitled to be registered as an Indian.” Only Status Indians are entitled to certain rights and benefits under the law.
  - **Non-Status Indians** – are people who consider themselves Indians or members of a First Nation but are not legally entitled to be registered as Indians under the *Indian Act*, either because they are unable to prove their status or have lost their status rights. Non-Status Indians are not entitled to the same rights and benefits available to Status Indians; however, they may be eligible for programs designated for Aboriginal people (this includes Métis and Inuit people).
  - **Treaty Indian** – is a Status Indian who belongs to a First Nation that signed a treaty with the Crown. In British Columbia, the majority of First Nations have not signed treaties.

- **Tribal Council** – is a group made up of several Bands that represents the interests of those Bands and may administer funds or deliver common services to those Bands. Membership in a tribal council tends to be organized around geographic, political, or cultural and linguistic lines.

### *Using these Terms*

The term “Indian” is considered outdated; however, it is used when referring to the *Indian Act*. The preferred term is “First Nation,” instead of “Indian” except when using the term in the following ways:

- in direct quotations;
- when citing titles of books, works of art, etc.;
- in discussions of history where necessary for clarity and accuracy;
- in discussions of some legal / constitutional matters requiring precision in terminology;
- in discussions of rights and benefits provided on the basis of “Indian” status; and
- in statistical information collected using these categories (e.g., the Census).

**Capitalize** – “Indian,” “Status Indian,” “Non-Status Indian,” “Treaty Indian”, “Band”, and “First Nation”. The term is acceptable as both a noun and a modifier.

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## END NOTES

<sup>1</sup> A generation is the average interval of time between the birth of parents and the birth of their offspring. One generation is normally considered 25 years, therefore seven generations is 175 years.

<sup>2</sup> [www.ksg.harvard.edu/hpaied/](http://www.ksg.harvard.edu/hpaied/)

<sup>3</sup> Life Skills Training is a program developed to prepare people for employment. Certified Life Skills Trainers are available in Aboriginal communities – the local First Nation may have people on staff to offer this training.

<sup>4</sup> National Aboriginal Day was proclaimed by the Governor General in 1996 as part of Canada's Celebrate Canada! Celebrations. On June 21 each year, it is a chance for Canadians to celebrate the unique culture of the original people. Many First Nations recognize this as a holiday giving their employees the day off and close government operations.

<sup>5</sup> There are First Nations Cultural workshops available delivered by Aboriginal people that provide information on the history from contact to today, cultural aspects of First Nations in British Columbia, as well as organization and political structures. These sessions can be adapted to fit with Executive's schedules where the facilitator adapts the presentation of a 1 or 2 day session to a two-hour crash course.

<sup>6</sup> National Aboriginal Day was proclaimed by the Governor General in 1996 as part of Canada's Celebrate Canada! Celebrations. On June 21 each year, it is a chance for Canadians to celebrate the unique culture of the original people. Many First Nations recognize this as a holiday, giving their employees the day off and closing government operations.

<sup>7</sup> Certificate of Possession (CP), issued by the Minister of Indian and Northern Affairs Canada, is equivalent to a "Location Ticket" (sometimes referred to as a "Locatee"). It is evidence of an individual Band member's right to possess particular land in a reserve. A First Nations person may lawfully be in possession of land on a reserve without having a Certificate.

<sup>8</sup> Cultural Keepers are the people identified by the community to be knowledgeable of and responsible for keeping the most valued aspects of the culture alive. Since First Nations cultures differ, the Cultural Keepers will also differ. They may be the Elders, language teachers, hereditary Chiefs, clan or house leaders, general community members, and may be represented by a cultural committee, society or other structure.

<sup>9</sup> Nk'Mip Cellars Inc. is a joint venture between the Osoyoos First Nation Development Corporation and Nk'Mip Cellars Inc. International.

<sup>10</sup> Life Skills Training is a program developed to prepare people for employment. Certified Life Skills Trainers are available in Aboriginal communities – the local First Nation may have people on staff to offer this training.

<sup>11</sup> Bill C-31 defines who can be registered based on ancestry, blood quantum and Indian ancestry lineage from generation to generation. A person being of Canadian Aboriginal ancestry does not necessarily qualify to be registered in the Canadian Indian Registry.

<sup>12</sup> BC Stats, 2001 ([www.bcstats.gov.bc.ca/data/cen01/abor/ap\\_main.htm](http://www.bcstats.gov.bc.ca/data/cen01/abor/ap_main.htm)) population total Aboriginals 170,240 vs. 3,698,850 non-Aboriginals.