

PROTOCOL AGREEMENT

BETWEEN

The Penticton Indian Band of the Okanagan Nation ("PIB")

AND

Osoyoos Indian Band of the Okanagan Nation ("OIB")

AND

Lower Similkameen Indian Band of the Okanagan Nation ("LSIB")

AND

The Regional District of Okanagan-Similkameen ("Regional District")

WHEREAS the PIB, LSIB and OIB are three of seven Indian Bands (Lower Similkameen Indian Band, Upper Similkameen Indian Band, Osoyoos Indian Band, Penticton Indian Band, Westbank First Nation, Okanagan Indian Band and Upper Nicola Band) who together form the Okanagan Nation; and,

WHEREAS the Okanagan Nation is comprised of the original inhabitants and stewards of this beautiful Okanagan Region, whose aboriginal title was never surrendered or extinguished; and,

WHEREAS the Regional District also has a responsibility to steward the Okanagan Region for the mutual prosperity and well-being of aboriginal and non-aboriginal residents alike; and,

WHEREAS the Regional District is a local government exercising jurisdiction and authority delegated by the Province pursuant to the *Local Government Act* RSBC 1996, c. 323; and,

WHEREAS the Okanagan Nation, of which PIB, LSIB and OIB are members, exercises inherent jurisdiction and authority to practise and maintain the ancient Okanagan culture, traditions and values, which include systems of governance, law and social organization which continue to evolve. The PIB, LSIB and OIB also exercises jurisdiction delegated by the federal government pursuant to the *Indian Act*, R.S.C. 1985, c. I-5; and,

WHEREAS the Regional District recognizes that the Okanagan Nation, of which PIB, LSIB and OIB are members, has distinctive constitutional rights, including Aboriginal title and Aboriginal rights that flow from their prior and organized occupation of their territory, and that give rise to

corresponding constitutional obligations on the Crown, including upholding the honour of the Crown through meaningful reconciliation, accommodation and consultation; and,

WHEREAS this protocol coincides with the adoption by the United Nations General Assembly of the Declaration of the Rights of Indigenous Peoples on September 7, 2007, recognizing Indigenous Peoples' rights to their lands, and rights to self-determination, to maintain and strengthen their political, legal, economic, social and cultural institutions, to participate in decisions that could affect their rights, to maintain and strengthen their distinctive spiritual relationships with their territories and uphold their responsibilities to future generations and to the conservation and protection of their territories; and,

WHEREAS the Parties celebrate their cultural differences, while recognizing that they have overlapping and mutual interests, and that their decisions impact one another; and,

WHEREAS the Parties acknowledge their mutual interest and responsibility to ensure the proper stewardship of the ecosystems in the region, for their grandchildren and great-grandchildren to come; and,

WHEREAS the Parties have in the past worked in isolation of one another within their respective jurisdictions, and now wish to establish a Government to Government relationship to identify, consult and address common concerns and mutual interests, and such other issues of importance to either Party as may arise in the future.

THEREFORE in the spirit of mutual respect and cooperation, the Parties agree as follows:

1. PURPOSE

1.1 The Purpose of this Protocol Agreement is to provide a framework for

- a) formalizing a Government to Government relationship;
- b) recognizing and celebrating diversity, while cooperating with each other to achieve mutual prosperity;
- c) consultation, communication, information sharing, education, and cooperation between the Parties; and
- d) collaborative decision making or negotiations in appropriate areas of common interest.

2. COMMITMENTS

2.1 The Parties commit to:

- a) implementing this Protocol Agreement in the spirit of respect, trust, transparency and co-operation;
- b) stewardship of the land, waters and ecosystems of the Region for the benefit of future generations;
- c) building a trusting relationship in which the parties can seek agreement on future social, economic and environmental goals and priorities for the region through accountability and transparency in communications and decision making;
- d) developing a working relationship that will foster cooperation, identify common concerns and interests, establish formal communications and optimize the region's diverse interests in planning for the future;
- e) educating about Aboriginal title recognition, including consultation and accommodation; and
- f) educating about Regional District roles, services and potential partnerships.

3. COOPERATION

- 3.1 The Parties will meet semi-annually to exchange information, discuss common social, economic and environmental objectives, identify issues of concern and coordinate efforts to address those issues.
- 3.2 The Parties will meet as required to address issues raised by either Party of mutual concern which engage the purpose and commitments set out in this Agreement.
- 3.3 The Parties will consider joint responses to the provincial and federal governments on issues of mutual concern or interest.
- 3.4 The Parties will notify each other, as early as possible in their respective decision making processes, regarding decisions which will likely affect one another, and matters of potential concern or impact to the other Parties.
- 3.5 The Parties will share all relevant information in a timely manner with each other, and conduct discussions transparently and openly.

3.6 The Parties will consider and, by mutual agreement, invite the provincial and/or federal government or industry to attend meetings from time to time, as and when appropriate.

3.7 The Parties will consider whether they want to recommend to the Province of British Columbia that it establish a seat for a representative of the Okanagan Nation of the Regional District Board.

4. **JOINT COUNCIL**

4.1 The Parties will establish a Joint Council composed of:

- a) the Chief of the Penticton Indian Band;
- b) one representative appointed by the Regional District;
- c) one representative appointed by the Municipalities who join the Accord and Protocol, or Electoral Areas, upon their request and by agreement of the Parties;
- d) one representative agreed to by the Okanagan Nation Alliance and the Regional District;
- e) the Chiefs of the Okanagan Nation Bands who join the Accord and Protocol.

4.2 The Parties shall maintain an equal number of Okanagan Nation and non-Okanagan Nation seats on the Joint Council and may each appoint such people from time to time as needed to achieve this objective, and will develop procedures for the timing, location and record-keeping of meetings.

4.3 The Joint Council will meet bi-annually in the fall and spring to identify and address issues of common concern and to make recommendations to the Parties.

4.4 The Joint Council will meet on an emergency basis, upon receiving written notice by either Party of an issue that engages the purpose and commitments set out in this Agreement.

4.5 The Parties, with or without the assistance of the Joint Council, may enter into agreements in relation to specific issues and projects, including:

- a) land use planning and development, including the incorporation of traditional ecological knowledge;
- b) environmental protection;
- c) cultural and heritage protection;
- d) health care;
- e) housing;
- f) employment;
- g) drug use;
- h) economic opportunities and collaboration on projects of mutual interest and benefit;
- i) revenue sharing;
- j) delivery of services to Reserves; and
- k) harmonization of bylaws.

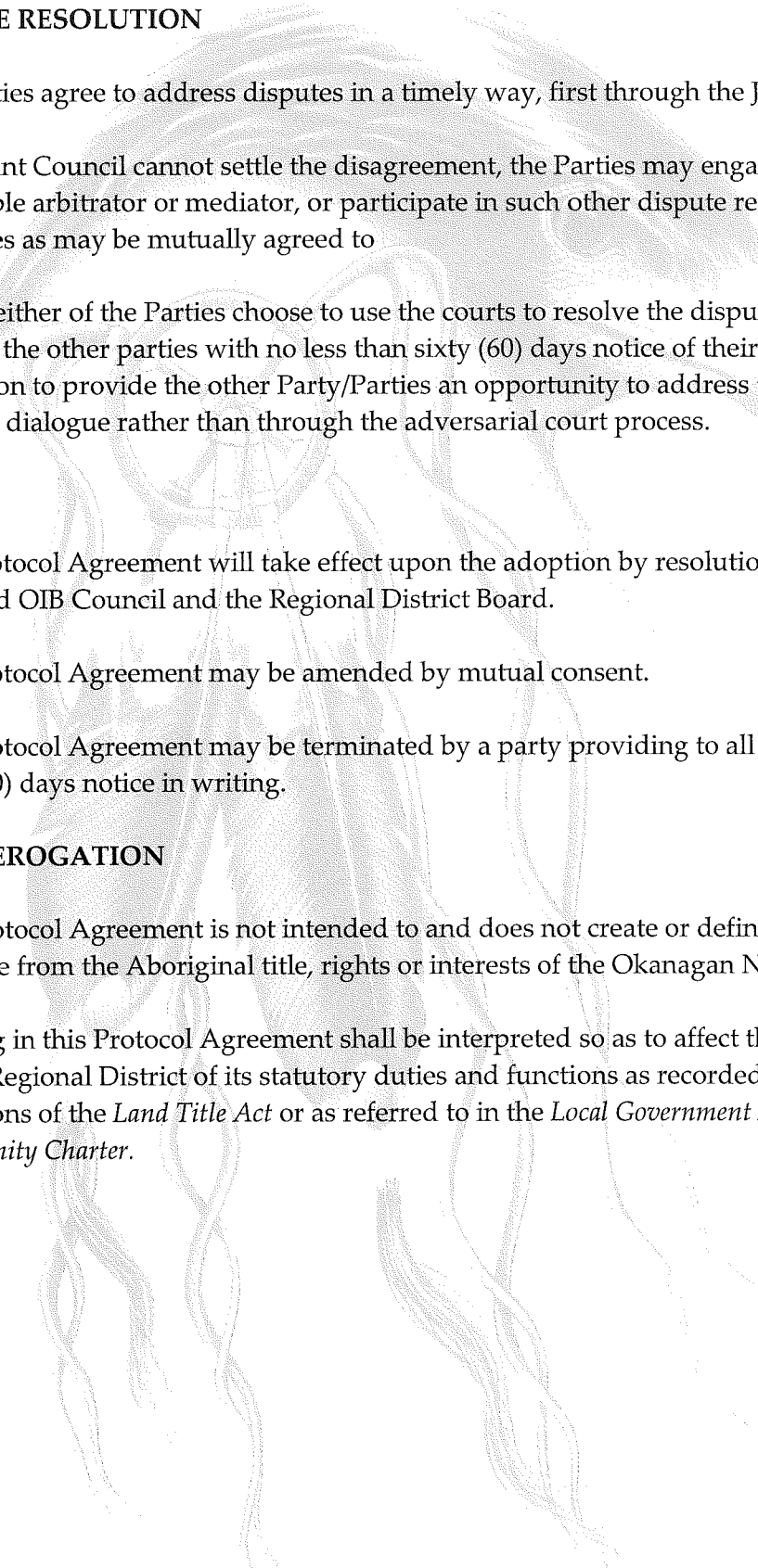
4.6 The Joint Council may establish working groups to assist the work of the Joint Council.

4.7 The Joint Council shall report to the Parties on issues of common concern and may make recommendations to the Parties.

5. EDUCATION

5.1 The Parties agree to sponsor and promote education forms to:

- a) permit the Regional District to gain an understanding of the Okanagan culture, history, Aboriginal title and rights, including laws and issues of concern to the PIB, LSIB and OIB and the Okanagan Nation;
- b) permit the Okanagan Nation to gain an understanding of issues of concern to the Regional Districts; and

- 
- c) permit the general public to gain an understanding about Aboriginal title recognition.

6. DISPUTE RESOLUTION

- 6.1 The Parties agree to address disputes in a timely way, first through the Joint Council.
- 6.2 If the Joint Council cannot settle the disagreement, the Parties may engage a mutually acceptable arbitrator or mediator, or participate in such other dispute resolution processes as may be mutually agreed to
- 6.3 Should either of the Parties choose to use the courts to resolve the dispute, they agree to provide the other parties with no less than sixty (60) days notice of their intention to file any action to provide the other Party/Parties an opportunity to address the conflict through dialogue rather than through the adversarial court process.


7. TERM


- 7.1 This Protocol Agreement will take effect upon the adoption by resolution of the PIB, LSIB and OIB Council and the Regional District Board.
- 7.2 This Protocol Agreement may be amended by mutual consent.
- 7.3 This Protocol Agreement may be terminated by a party providing to all other Parties sixty (60) days notice in writing.

8. NON DEROGATION


- 8.1 This Protocol Agreement is not intended to and does not create or define, abrogate or derogate from the Aboriginal title, rights or interests of the Okanagan Nation.
- 8.2 Nothing in this Protocol Agreement shall be interpreted so as to affect the performance by the Regional District of its statutory duties and functions as recorded under the provisions of the *Land Title Act* or as referred to in the *Local Government Act* or the *Community Charter*.

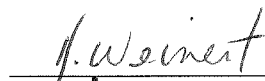
Signed this 21st day of June, 2013.

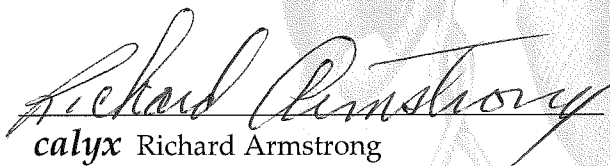

Nq'as m'ulhan Chief Jonathan Kruger
Penticton Indian Band


Mark Pendergratt, Acting-Chair
Regional District of Okanagan-Similkameen


kt'as p'el'mint Chief Robert Edward
Lower Similkameen Indian Band


Bill Newell, Chief Administrative Officer
Regional District of Okanagan-Similkameen


Ki lan na Chief Clarence Louie
Osoyoos Indian Band


calyx Richard Armstrong
Witness