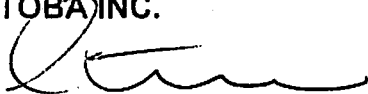


THE ATTACHED DOCUMENT IS APPROVED BY THE REPRESENTATIVE OF EACH
OF THE PARTIES TO THE TREATY LAND ENTITLEMENT FRAMEWORK
AGREEMENT AND THE INDEPENDENT CHAIR OF THE TREATY LAND
ENTITLEMENT IMPLEMENTATION MONITORING COMMITTEE, ON THE 15th
DAY OF MARCH, 2002

TREATY LAND ENTITLEMENT COMMITTEE
OF MANITOBA INC.



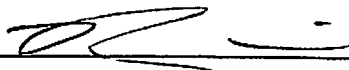
HER MAJESTY THE QUEEN IN RIGHT
OF CANADA



HER MAJESTY THE QUEEN IN RIGHT
OF MANITOBA



INDEPENDENT CHAIR



REACHING AGREEMENTS
BETWEEN ENTITLEMENT FIRST NATIONS
AND
MUNICIPALITIES

GUIDE AND CHECKLISTS FOR THE IMPLEMENTATION OF
THE FRAMEWORK AGREEMENT
TREATY LAND ENTITLEMENT MANITOBA

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FOREWORD

Between 1871 and 1910, Canada entered into seven treaties with First Nations in Manitoba. These treaties provided, amongst other things, that Canada would set apart reserves for the signatory First Nations in the amounts set out in the per capita land provision of the relevant treaty. For a variety of reasons, not every First Nation that entered into a treaty received the full amount of reserve land to which it was entitled, thereby creating an outstanding treaty obligation. The land required to meet the treaty obligation set out in the per capita land provisions of treaties is generally known as treaty land entitlement (TLE).

As of May 1997, 31 First Nations in Manitoba had submitted claims against Canada asserting that they did not receive all of the land to which they were entitled under treaty. Of the claims that have so far been accepted by Canada as being valid, 26 have resulted in treaty land entitlement settlement agreements.

The Island Lake First Nations TLE Agreement of March, 1994 involves the Garden Hill, Red Sucker Lake, St. Theresa Point and Wasagamack First Nations. Three other individual agreements have been signed by the Long Plain First Nation (August, 1994), the Swan Lake First Nation (March, 1995) and the Roseau River Anishinaabe First Nation (November, 1995).

On May 29, 1997, a comprehensive agreement covering 19 First Nations was signed by the Treaty Land Entitlement Committee Inc. (TLEC) on their behalf, Canada and Manitoba. The First Nations entitled to receive the benefit of the Framework Agreement Treaty Land Entitlement Manitoba (Framework Agreement) are the Barren Lands, Brokenhead Ojibway, Buffalo Point, Fox Lake, God's Lake, Manto Sipi Cree (formerly God's River), Mathias Colomb Cree, Nisichawayasihk Cree (formerly Nelson House), Northlands, Norway House Cree, Opaskwayak Cree, Bunibonibee Cree (formerly Oxford House), Rolling River, Sapotaweyak Cree, Sayisi Dene, Shamattawa, War Lake, Wuskwi Sipiik Cree and York Factory First Nations (the Entitlement First Nations). A twentieth Entitlement First Nation is also now entitled to share in the benefit of the Framework Agreement as the Marcel Colomb First Nation was created from the Mathias Colomb Cree Nation in 1999. Accordingly, 20 Entitlement First Nations are now entitled to participate in the Framework Agreement.

Amongst other matters, the Framework Agreement sets out the responsibilities and processes that will be followed in the fulfilment of the outstanding land obligation owed to the 20 Entitlement First Nations. In total, 445,417 hectares (1,100,626 acres) of additional land is to be set apart as reserve. Of that amount, the Government of Manitoba is to provide 399,008 hectares (985,949 acres) of Crown Land for Selection by Entitlement First Nations. The Government of Canada contributed \$76 million dollars to the settlement. A portion of the monies contributed are to be used for the purchase of up to 46,409 hectares (114,677 acres) of land from willing sellers by six Entitlement First Nations that do not have sufficient Crown Land available for Selection in their treaty or traditional territories.

The Framework Agreement also outlines the principles for the Selection of Crown Land and the Acquisition of Other Land by the Entitlement First Nations. The Framework Agreement specifically contemplates that an Entitlement First Nation may Select or Acquire land within a Municipality or Northern Community. In such cases, an Entitlement First Nation may be required to enter into a Municipal Development and Services Agreement with the Municipality or Northern Community, or an agreement with Manitoba and Canada.

This guidebook has been prepared by the TLEC, Manitoba and Canada, pursuant to the Framework Agreement, in order to assist Entitlement First Nations that are entitled to participate in the Framework Agreement, Municipalities and Northern Communities with the processes involved in Selecting or Acquiring land in a Municipality or Northern Community and the steps involved in meeting and negotiating any required agreements between them. In addition, this guidebook may be of assistance to other First Nations that have entered into separate TLE settlement agreements.

(NOTE: This guidebook is intended for information purposes only and does not constitute legal opinion or advice and should not be substituted in lieu of them. This guidebook is subject to amendment without any prior notice.)

THIS DOCUMENT IS APPROVED BY THE REPRESENTATIVES OF EACH OF THE PARTIES TO THE FRAMEWORK AGREEMENT AND THE INDEPENDENT CHAIR OF THE IMPLEMENTATION MONITORING COMMITTEE, ON THE DAY OF , 2002.

TREATY LAND ENTITLEMENT COMMITTEE OF MANITOBA INC.

HER MAJESTY THE QUEEN IN RIGHT OF CANADA

HER MAJESTY THE QUEEN IN RIGHT OF MANITOBA

**INDEPENDENT CHAIR,
IMPLEMENTATION MONITORING COMMITTEE**

CHAPTER 1

RECOMMENDED PROCESS WHERE AN ENTITLEMENT FIRST NATION SELECTS OR ACQUIRES LAND IN A RURAL MUNICIPALITY

Entitlement First Nation Letter

1. The Entitlement First Nation must give notice in writing to Canada, Manitoba and the Municipality of its intention to request that the land be set apart as Reserve.
2. This notice should take the form of a letter addressed to the Reeve of the Municipality. A copy of the letter should be sent to:
 - the Director of the Land Entitlement and Claims Implementation Office, Indian and Northern Affairs Canada, Manitoba Region, 1100-275 Portage Avenue, Winnipeg, Manitoba, R3B 3A3;
 - the Executive Director of the Aboriginal Affairs Secretariat, Manitoba Aboriginal and Northern Affairs, 200-500 Portage Avenue, Winnipeg, Manitoba, R3C 3X1;
 - the Executive Director of the Treaty Land Entitlement Committee of Manitoba Inc. (TLEC), 202-52 Donald Street, Winnipeg, Manitoba, R3C 1L6; and
 - the Chief Administrative Officer (CAO) of the Municipality.
3. The letter should include the following information:
 - A legal description of the land or a map, or both;
 - A request from the Entitlement First Nation that the Municipality set out any concerns it may have with respect to setting of the land apart as a Reserve in writing within 90 days of the date of receipt of the letter;
 - Advice that if the Municipality does not provide a reply within 90 days, the land may be set apart as Reserve without any further notice to the Municipality;
 - The name of a contact person and telephone number at which he or she can be reached; and
 - Where the Entitlement First Nation intends to use the infrastructure of the Municipality or requires services provided by the Municipality, a request that the Municipality enter into negotiations with a view to concluding a

Municipal Development and Services Agreement. In such instances, the Entitlement First Nation must also advise the Municipality that if negotiations are not commenced within 90 days of receipt of the notice, the land may be set apart as Reserve without a Municipal Development and Services Agreement.

4. The letter may also include the following information:

- The intended land use of the Entitlement First Nation, if known;
- A request for disclosure of the intended use of adjacent land of the Municipality; and
- If the Entitlement First Nation has any concerns, or would like to discuss the use of infrastructure of the Municipality by the Entitlement First Nation or the need of the Entitlement First Nation for services provided by the Municipality, a suggestion that the parties meet to discuss the issues.

Notice from Manitoba Conservation

5. Either before or after receiving the letter from the Entitlement First Nation, the Municipality will also receive a notice and, if available, a map regarding the land from Manitoba Conservation. This does not constitute notification from the Entitlement First Nation.

Response by Municipality

6. The Municipality should send a copy of the Entitlement First Nation's letter to its Municipal Services Officer.

7. It is important that the Municipality respond to the Chief and Council of the Entitlement First Nation by letter within 90 days of receiving the letter from the Entitlement First Nation.

- It is recommended that the Municipality send a copy of its letter to the representatives of Canada, Manitoba and the TLEC, listed in #2 above.

8. The letter should include the following information:

- The concerns of the Municipality, if any (for example, servicing needs, by-law compatibility, etc.);
- The name of a contact person and the telephone number at which he or she can be reached; and

- If the Entitlement First Nation or the Municipality have any concerns, or either party would like to discuss the use by the Entitlement First Nation of the infrastructure of the Municipality or need of the Entitlement First Nation for services from the Municipality, a suggested date and place for an initial meeting.
9. The Municipality may also wish to include the following information in the letter to the Entitlement First Nation:
- The intended use of adjacent land by the Municipality, if known; and
 - The Regional or District Plan, Zoning By-laws and other applicable By-laws of the Municipality.

Meetings

10. It is suggested that the contact persons of the Entitlement First Nation and Municipality meet as soon as possible and in advance of an initial meeting of Councils to discuss their respective issues and potential agenda. (See Appendix A for a list of matters that an Entitlement First Nation and Municipality may wish to discuss.)
11. It is suggested that the Entitlement First Nation and the Municipality arrange an initial meeting of the Council members of each party within four to six weeks of the Entitlement First Nation receiving the letter from the Municipality to discuss any issues, proposals and opportunities. (Note: expect questions, be prepared with a proposal, invite assistance and do not expect resolution of major issues in one meeting.)
12. Canada, Manitoba and the TLEC are willing to provide support and to attend the meetings held by the Entitlement First Nation and Municipality, if requested to do so. Manitoba is required by the terms of the Framework Agreement to use its best efforts to assist Entitlement First Nations and Municipalities in the negotiation of issues relating to Municipal Development and Services Agreements. The TLEC is similarly required by the terms of the Framework Agreement to provide support and assistance in the negotiation of a Municipal Development and Services Agreement to Entitlement First Nations that execute a Treaty Entitlement Agreement. While Canada is not obligated under the Framework Agreement to assist the parties in the development of a Municipal Development and Services Agreement, an Entitlement First Nation and Municipality may wish to consult with Canada in the process of developing a Municipal Development and Services Agreement.
13. It is anticipated that where issues arise or a Municipal Development and Services Agreement is required, the Entitlement First Nation and Municipality will have to meet on an ongoing and frequent basis to conclude negotiations.

14. It is recommended that both parties keep a written record of all meetings and negotiations and copies of all correspondence exchanged.

Potential Outcomes

15. The Entitlement First Nation and Municipality may reach a consensus that there are no outstanding issues and, therefore, there is no need for an agreement. They must notify Canada, Manitoba and the TLEC, at the addresses listed in #2 above.
16. The Entitlement First Nation and Municipality may reach an agreement. They should provide Canada, Manitoba and the TLEC with a draft agreement prior to its execution. The Entitlement First Nation and Municipality should also have the draft agreement reviewed by their own legal counsel prior to its execution.
17. The Entitlement First Nation and Municipality may have outstanding issues and be unable to reach an agreement causing negotiations to stall. The parties may wish to seek assistance in reaching an agreement from:
 - The TLEC, Manitoba and/or Canada; or
 - An independent third party.

(See Appendix B for the excerpt from the Framework Agreement that governs the Selection or Acquisition of land in a Municipality which is not in an Urban Area (s. 3.07).)

CHAPTER 2

RECOMMENDED PROCESS WHERE AN ENTITLEMENT FIRST NATION SELECTS OR ACQUIRES LAND IN A CITY, TOWN OR VILLAGE (URBAN AREA)

Entitlement First Nation Letter

1. The Entitlement First Nation must give notice in writing to Canada, Manitoba and the City, Town or Village of its intention to request that the land be set apart as Reserve.
2. This notice should take the form of a letter addressed to the Mayor of the City, Town or Village. A copy of the letter should be sent to:
 - the Director of the Land Entitlement and Claims Implementation Office, Indian and Northern Affairs Canada, Manitoba Region, 1100-275 Portage Avenue, Winnipeg, Manitoba, R3B 3A3;
 - the Executive Director of the Aboriginal Affairs Secretariat, Manitoba Aboriginal and Northern Affairs, 200-500 Portage Avenue, Winnipeg, Manitoba, R3C 3X1;
 - the Executive Director of the Treaty Land Entitlement Committee of Manitoba Inc. (TLEC), 202-52 Donald Street, Winnipeg, Manitoba, R3C 1L6; and
 - the Chief Administrative Officer (CAO) of the City, Town or Village.
3. The letter must include a request that the City, Town or Village immediately enter into negotiations with a view to concluding a Municipal Development and Services Agreement or reaching a consensus that one is not required and should include the following:
 - A legal description of the land or a map, or both;
 - The provisions of the Additions to Reserves Policy respecting Municipal Considerations (See Appendix C.);
 - Schedule "D" of the Framework Agreement Treaty Land Entitlement Manitoba (See Appendix D.); and
 - The name of a contact person and telephone number at which he or she can be reached.

4. The letter may include information regarding the intended land use of the Entitlement First Nation, if known.

Notice from Manitoba Conservation

5. Either before or after receiving the letter from the Entitlement First Nation, the City, Town or Village will also receive a notice and, if available, a map regarding the land from Manitoba Conservation. This does not constitute notification from the Entitlement First Nation.

Response by City, Town or Village

6. The City, Town or Village should send a copy of the Entitlement First Nation's letter to its Municipal Services Officer, where applicable.
7. It is important that the City, Town or Village respond to the Chief and Council of the Entitlement First Nation by letter immediately upon receipt of the letter from the Entitlement First Nation.
 - It is recommended that the City, Town or Village send a copy of its letter to the representatives of Canada, Manitoba and the TLEC, at the addresses listed in #2 above.
8. The letter should include the following information:
 - The concerns of the City, Town or Village (for example, servicing needs, by-law compatibility, etc.);
 - The name of a contact person and the telephone number at which he or she can be reached; and
 - A suggested date and place for an initial meeting.
9. The City, Town or Village may wish to include the Development Plan, Zoning By-laws and other applicable By-laws of the City, Town or Village with its letter.

Meetings

10. It is suggested that the contact persons of the Entitlement First Nation and the City, Town or Village meet as soon as possible and in advance of an initial meeting of Councils to discuss their respective issues and potential agenda. (See Appendix A for a list of matters that an Entitlement First Nation and City, Town or Village may wish to discuss.)
11. It is suggested that the Entitlement First Nation and the City, Town or Village arrange an initial meeting of the Council members of each party immediately

after receipt by the Entitlement First Nation of the letter from the City, Town or Village to discuss any issues, proposals and opportunities. (Note: expect questions, be prepared with a proposal, invite assistance and do not expect resolution of major issues in one meeting.)

12. Canada, Manitoba and the TLEC are willing to provide support and to attend the meetings held by the Entitlement First Nation and the City, Town or Village, if requested to do so. Manitoba is required by the terms of the Framework Agreement to use its best efforts to assist Entitlement First Nations and Cities, Towns and Villages in the negotiation of issues relating to a Municipal Development and Services Agreement. The TLEC is similarly required by the terms of the Framework Agreement to provide support and assistance in the negotiation of a Municipal Development and Services Agreement to Entitlement First Nations that execute a Treaty Entitlement Agreement. While Canada is not obligated under the Framework Agreement to assist the parties in the development of a Municipal Development and Services Agreement, an Entitlement First Nation and City, Town or Village may wish to consult with Canada in the process of developing a Municipal Development and Services Agreement.
13. It is anticipated that where issues arise or a Municipal Development and Services Agreement is required, the Entitlement First Nation and City, Town or Village will have to meet on an ongoing and frequent basis to conclude negotiations.
14. It is recommended that both parties keep a written record of all meetings and negotiations and copies of all correspondence exchanged.

Potential Outcomes

15. The Entitlement First Nation and City, Town or Village may reach an agreement. They should provide Canada, Manitoba and the TLEC with a draft agreement prior to its execution. The Entitlement First Nation and City, Town or Village should also have the draft agreement reviewed by their own legal counsel prior to its execution.
16. The Entitlement First Nation and City, Town or Village may have outstanding issues and may be unable to reach an agreement causing negotiations to stall. The parties may wish to seek assistance in reaching an agreement from:
 - The TLEC, Manitoba and/or Canada; or
 - An independent third party.
17. In the event that the City, Town or Village refuses to enter into an agreement, the Entitlement First Nation must give the City, Town or Village further written notice that:

- The City, Town or Village must provide Canada, Manitoba and the Entitlement First Nation with written reasons for refusing to enter into an agreement; and
- In the event the City, Town or Village fails to provide such reasons within 60 days of receiving the further notice, Canada may set the land apart as Reserve without any further notice to the City, Town or Village.

(See Appendix B for excerpt from the Framework Agreement that governs Selections and Acquisitions of land in a City, Town or Village (Urban Area) (s. 3.06).)

CHAPTER 3

RECOMMENDED PROCESS WHERE AN ENTITLEMENT FIRST NATION SELECTS OR ACQUIRES 25% OR LESS LAND IN A COMMUNITY OR INCORPORATED COMMUNITY (NORTHERN COMMUNITY)

Consultation

1. Before Selecting or Acquiring land within a Northern Community, an Entitlement First Nation must consult with the Council of the Northern Community about the Selection or Acquisition and the intent of the Entitlement First Nation to request that the land be set apart as Reserve by Canada. (See Appendix B for the definition of "Northern Community".)
2. It is recommended that to initiate the consultation, the Entitlement First Nation should contact the Northern Community requesting a meeting.
3. Following the initial consultation between the Entitlement First Nation and the Northern Community, the Entitlement First Nation may proceed to Select or Acquire land within the Northern Community.
4. The Entitlement First Nation must give notice in writing to the Northern Community, Manitoba and Canada of its intention to request that the land be set apart as Reserve.
5. This notice should take the form of a letter addressed to both the Mayor of the Northern Community and the Executive Director of the Aboriginal Affairs Secretariat, Manitoba Aboriginal and Northern Affairs, 200-500 Portage Avenue, Winnipeg, Manitoba, R3C 3X1. A copy of the letter should be sent to:
 - the Director of the Land Entitlement and Claims Implementation Office, Indian and Northern Affairs Canada, Manitoba Region, 1100-275 Portage Avenue, Winnipeg, Manitoba, R3B 3A3;
 - the Executive Director of the Treaty Land Entitlement Committee of Manitoba Inc. (TLEC), 202-52 Donald Street, Winnipeg, Manitoba, R3C 1L6; and
 - the Community Administrator of the Northern Community.
6. The letter must include the following information:
 - Confirmation that the Entitlement First Nation has consulted with the Northern Community;

- A map of the Northern Community clearly indicating the area to be Selected or Acquired;
 - A request for the Northern Community to set out in writing any concerns that it may have with respect to setting the land apart as a Reserve within 90 days of the date of receipt of the letter from the Entitlement First Nation;
 - Advice that if the Northern Community does not provide its reply within 90 days, the land may be set apart as Reserve without any further notice to the Northern Community;
 - The name of a contact person and telephone number at which he or she can be reached; and
 - Where the Entitlement First Nation intends to use the infrastructure of the Northern Community or requires services provided by the Northern Community, a request that the Northern Community enter into negotiations with a view to concluding a Municipal Development and Services Agreement between the Entitlement First Nation and Northern Community. In such a case, the Entitlement First Nation must advise the Northern Community that if negotiations are not commenced within 90 days of the date of receipt of its notice, the land may be set apart as Reserve without a Municipal Development and Services Agreement.
7. The letter should also include the following information:
- The intended land use of the Entitlement First Nation, if known;
 - A request for disclosure about the intended use of adjacent land by the Northern Community; and
 - If the Entitlement First Nation has any concerns, or would like to discuss its use of infrastructure of the Northern Community or its need for services provided by the Northern Community, a recommendation that the Entitlement First Nation and the Northern Community (and Local Government Development Division of Manitoba Aboriginal and Northern Affairs) meet to discuss the issues.
8. Where the Entitlement First Nation intends to have all or substantially all of the land in the Northern Community (more than 25% of the area comprising the Northern Community) set apart as Reserve, the Entitlement First Nation must enter into an agreement with both Canada and Manitoba.

Notice from Manitoba Conservation

9. Either before or after receiving the letter from the Entitlement First Nation, the Northern Community will also receive a notice, and, if available, a map regarding the land from Manitoba Conservation. This does not constitute notification from the Entitlement First Nation.

Response by Northern Community

10. It is important that the Northern Community respond to the Chief and Council of the Entitlement First Nation by letter within 90 days of receiving the letter from the Entitlement First Nation.
 - It is recommended that the Northern Community send a copy of its letter to the representatives of Canada, Manitoba and the TLEC, at the addresses listed in #5 above.
11. The letter should include the following information:
 - The concerns of the Northern Community, if any (for example, servicing needs, by-law compatibility, etc.);
 - The name of a contact person and the telephone number at which he or she can be reached; and
 - If the Entitlement First Nation or the Northern Community have any concerns, or either party would like to discuss the use of the infrastructure of the Northern Community by the Entitlement First Nation or the need of the Entitlement First Nation for services provided by the Northern Community, a suggested date and place for an initial meeting between representatives of the Entitlement First Nation and Northern Community (and Local Government Development Division of Manitoba Aboriginal and Northern Affairs).
12. The Northern Community may wish to include the following information in its letter:
 - The intended use of adjacent land by the Northern Community, if known; and
 - The Basic Planning Statement or similar documents of the Northern Community, if any, and any applicable By-laws.

Meetings

13. It is suggested that the contact persons of the Entitlement First Nation and Northern Community (and a representative of Local Government Development Division of Manitoba Aboriginal and Northern Affairs) meet as soon as possible and in advance of an initial meeting of the Council members of the Entitlement First Nation and Northern Community (and Local Government Development Division of Manitoba Aboriginal and Northern Affairs) to discuss their respective issues and potential agenda. (See Appendix A for a list of matters that an Entitlement First Nation and Northern Community (and Local Government Development Division of Manitoba Aboriginal and Northern Affairs) may wish to discuss.)
14. It is suggested that the Entitlement First Nation and the Northern Community arrange an initial meeting of the Council members of the Entitlement First Nation and the Northern Community (and Local Government Development Division of Manitoba Aboriginal and Northern Affairs) within four to six weeks of the Entitlement First Nation receiving the letter from the Northern Community to discuss any issues, proposals and opportunities. (Note: expect questions, be prepared with a proposal, invite assistance and do not expect resolution of major issues in one meeting.)
15. Canada, the Aboriginal Affairs Secretariat of Manitoba Aboriginal and Northern Affairs on behalf of Manitoba and the TLEC are willing to provide support and to attend the meetings held by the Entitlement First Nation and Northern Community (and Local Government Development Division of Manitoba Aboriginal and Northern Affairs), if requested to do so. The TLEC is required by the terms of the Framework Agreement to provide support and assistance in the negotiation of a Municipal Development and Services Agreement to Entitlement First Nations that execute a Treaty Entitlement Agreement. While Canada is not obligated under the Framework Agreement to assist the parties in the development of a Municipal Development and Services Agreement, an Entitlement First Nation and Northern Community (and Local Government Development Division of Manitoba Aboriginal and Northern Affairs) may wish to consult with Canada in the process of developing a Municipal Development and Services Agreement.
16. It is anticipated that where issues arise or a Municipal Development and Services Agreement is required, the Entitlement First Nation and Northern Community (and Local Government Development Division of Manitoba Aboriginal and Northern Affairs) will have to meet on an ongoing and frequent basis to conclude negotiations.
17. It is recommended that the parties keep a written record of all meetings and negotiations and copies of all correspondence exchanged.

Potential Outcomes

(NOTE: A Northern Community that is not incorporated cannot enter into an agreement except with the written approval of the Minister of Aboriginal and Northern Affairs.)

18. The Entitlement First Nation and the Northern Community may reach a consensus that there are no outstanding issues and, therefore, there is no need for an agreement between them. They should notify Canada, Manitoba and the TLEC at the addresses listed in #3 above.
19. The Entitlement First Nation and the Northern Community may reach an agreement. Prior to its execution, the Entitlement First Nation and Northern Community should have the draft agreement reviewed by their own legal counsel and should provide Canada and the TLEC with a copy of the agreement. In addition, prior to its execution, the Northern Community must provide the agreement to the Local Government Development Division of Manitoba Aboriginal and Northern Affairs for approval by the Minister of Aboriginal and Northern Affairs.
20. The Entitlement First Nation and the Northern Community may have outstanding issues and may be unable to reach an agreement causing negotiations to stall, or the Local Government Development Division of Manitoba Aboriginal and Northern Affairs may have concerns about whether it would be appropriate for the Minister of Aboriginal and Northern Affairs to approve the agreement. The parties may wish to seek assistance in reaching an agreement from:
 - The TLEC, the Aboriginal Affairs Secretariat of Manitoba Aboriginal and Northern Affairs on behalf of Manitoba and/or Canada; or
 - An independent third party.

(See Appendix B for excerpt of the Framework Agreement that governs the Selection or Acquisition of land in a Northern Community (s. 3.08).)

CHAPTER 4

RECOMMENDED PROCESS WHERE AN ENTITLEMENT FIRST NATION SELECTS OR ACQUIRES MORE THAN 25% OF LAND IN A COMMUNITY OR INCORPORATED COMMUNITY (NORTHERN COMMUNITY)

Initial Considerations prior to Selection or Acquisition

1. If the intent of an Entitlement First Nation is that, ultimately, all or substantially all of the land in the Northern Community will be set apart as Reserve, there are a number of preliminary steps that must be taken by the Entitlement First Nation and other parties before the Entitlement First Nation may Select or Acquire the land. (See Appendix B for the definition of "Northern Community".)
2. According to the Framework Agreement, the Entitlement First Nation is deemed to intend that ultimately, all or substantially all of the land in the Northern Community will be set apart as Reserve where:
 - The Entitlement First Nation has declared by Band Council Resolution that its intent is ultimately to have all or substantially all of the land in the Northern Community set apart as Reserve; or
 - The Selection or Acquisition of the land, whether by itself or in combination with other Selections or Acquisitions of land by the Entitlement First Nation, would result in more than 25% of the area comprising the Northern Community being set apart as Reserve for the Entitlement First Nation.
3. To initiate the process, the Entitlement First Nation must provide notice in writing to the Northern Community, Manitoba and Canada of its intention to have all or substantially all of the land in the Northern Community set apart as Reserve.
4. This notice should take the form of a letter addressed to the Mayor of the Northern Community, the Executive Director of the Aboriginal Affairs Secretariat, Manitoba Aboriginal and Northern Affairs, 200-500 Portage Avenue, Winnipeg, Manitoba, R3C 3X1, and the Director of the Land Entitlement and Claims Implementation Office, Indian and Northern Affairs Canada, Manitoba Region, 1100-275 Portage Avenue, Winnipeg, Manitoba, R3B 3A3. A copy of the letter should be sent to:
 - the Executive Director of the Treaty Land Entitlement Committee of Manitoba Inc. (TLEC), 202-52 Donald Street, Winnipeg, Manitoba, R3C 1L6; and
 - the Community Administrator of the Northern Community.

5. The letter should include the following information:
 - An indication that the Entitlement First Nation has declared its intent ultimately to have all or substantially all of the land in the Northern Community set apart as Reserve (this may take the form of a Band Council Resolution);
 - A map of the Northern Community clearly indicating the area that the Entitlement First Nation intends to Select or Acquire; and
 - The name of a contact person and telephone number at which he or she can be reached.
6. The Framework Agreement specifies that the Entitlement First Nation may not Select or Acquire land in that Northern Community until Canada, Manitoba and the Entitlement First Nation have entered into an agreement that addresses:
 - The timing of the Selection or Acquisition of land and the subsequent setting apart of the land as Reserve;
 - The transfer and operation of capital infrastructure and related costs;
 - The ongoing provision of social and public services to Members of the Entitlement First Nation and other persons ordinarily resident in the Northern Community and related costs; and
 - Other matters of the nature which may be addressed by a Municipal Development and Services Agreement if the land was located in a Municipality.
7. The Northern Community, Manitoba and Canada should each respond to the Chief and Council of the Entitlement First Nation by letter. It is recommended that the Northern Community, Manitoba and Canada send copies of their letters to each other and to the other representatives of Manitoba and the TLEC at the addresses listed in #4 above.
8. The letter should include the following information:
 - The name of a contact person and the telephone number at which he or she can be reached; and
 - A suggested date and place for an initial meeting.
9. It is suggested that the contact persons of the Northern Community and Entitlement First Nation, the representatives of the Local Government Development Division and Aboriginal Affairs Secretariat of Manitoba Aboriginal

and Northern Affairs and the representative of Canada meet as soon as possible to discuss their respective issues and potential agenda.

10. Before taking further steps, a determination must be made by the Entitlement First Nation and other parties as to whether the land that the Entitlement First Nation intends to Select or Acquire, in fact, constitutes more than 25% of the land within the Northern Community.
11. If the parties determine the land that the Entitlement First Nation intends to Select or Acquire constitutes 25% or less of the land within the Northern Community, then the process outlined in Chapter 3 of this Guide shall apply.
12. If the parties determine the land that the Entitlement First Nation intends to Select or Acquire constitutes more than 25% of the land within the Northern Community, then an evaluation shall be conducted by Canada, Manitoba, the Northern Community and the Entitlement First Nation which may include an evaluation of:
 - Manitoba's present infrastructure (roads, sewer, water, garbage and land fill);
 - Environmental conditions;
 - Present and future sources of operation and maintenance funding;
 - Transfer of capital infrastructure (including operating and related costs);
 - Ongoing provision of social and public services to Members of the Entitlement First Nation and other persons ordinarily resident in the Northern Community and related costs;
 - Third party interests, for example, third party mining interests, and the settlement of such interests; and
 - Other matters of the nature which may be addressed by a Municipal Development and Services Agreement if the land was located in a Municipality.
13. It is recommended that the representatives of Canada, Manitoba, the Entitlement First Nation and the Northern Community arrange an initial meeting of the Council members of the Entitlement First Nation, the Northern Community and the representatives of Manitoba and Canada within four to six weeks of the Entitlement First Nation receiving responses from the other parties to discuss issues, proposals and opportunities.
14. TLEC is willing to provide support and to attend the meetings held by the Entitlement First Nation, Northern Community, Manitoba and Canada, if

requested to do so. TLEC is required by the terms of the Framework Agreement to provide support and assistance to Entitlement First Nations that execute a Treaty Entitlement Agreement.

15. It is anticipated that the Entitlement First Nation, Manitoba, Northern Community and Canada will be required to meet on an ongoing and frequent basis in order to conclude negotiations.
16. It is recommended that all parties keep a written record of all meetings and negotiations and copies of all correspondence exchanged.

Potential Outcomes

17. The Entitlement First Nation, Manitoba and Canada may reach an agreement. If so, they should provide the Northern Community and the TLEC with a draft agreement prior to its execution. Each of the parties should also have the draft agreement reviewed by its own legal counsel prior to its execution.
18. The Entitlement First Nation, Manitoba and Canada may have outstanding issues, may be unable to reach an agreement and negotiations may stall. The parties may wish to seek assistance in reaching an agreement from:
 - The TLEC; or
 - An independent third party.

If the parties cannot reach an agreement then the land cannot be Selected or Acquired.

Selection or Acquisition of Land

19. If an agreement is reached between the Entitlement First Nation, Manitoba and Canada, the Entitlement First Nation may then make its Selection or Acquisition of land within a Northern Community. In making a Selection or Acquisition of land in a Northern Community, an Entitlement First Nation should bear in mind that the Framework Agreement sets out principles for the Selection and Acquisition of land:
 - An Entitlement First Nation cannot Select land that is private land or titled land, for example, an individual's house or school property that is owned by the Frontier School Division. Nor can it Select federal land or provincial land that is needed for provincial roads or airports;
 - It can Select land that is vacant land, or Crown Land under a Permit; and

- For an Entitlement First Nation that is entitled to Acquire land, an Acquisition of land in which a third party holds an interest may require the Entitlement First Nation to deal with the Canadian Mortgage and Housing Corporation, the Manitoba Housing Renewal Corporation, the local school division or another third party that will require settlement and/or an additional cost.

(See Appendix B for excerpt from the Framework Agreement that governs the Selection or Acquisition of Land in a Northern Community (s. 3.08).)

APPENDIX A

LIST OF MATTERS THAT AN ENTITLEMENT FIRST NATION AND MUNICIPALITY MAY WISH TO DISCUSS

- Services
 - water supply and water distribution systems
 - sewage systems and sewage disposal plants
 - garbage and waste disposal facilities
 - local roads and sidewalks, including construction, maintenance and repair, billboards and signs, survey monuments, landscaping, setbacks, trees, shrubs, weeds, grass, snow-clearing, obstructions, construction, repair and removal of fences and snow fences
 - local drains and drainage systems
 - fire protection
 - police protection
 - ambulance services
 - infrastructure
 - weed control
 - animal control
- Payment for services
 - method of determining cost
 - method of payment
 - cost-sharing of capital costs and upgrading of infrastructure
- Land use
 - planning, zoning, subdivision and development and building standards
 - activities in or on private property, including excavations and nuisances, such as noise, odours, unsightly property, fumes and vibrations
 - potential environmental impacts
- Notification and consultation
 - changes to plans, by-laws, services or terms of agreement
 - proposed developments
 - joint planning board
 - joint council meetings
- Dispute resolution
 - fact finding, meetings, mediation, arbitration, courts
 - determination of third party mediator or arbitrator
- General Terms of Agreement, including term and renewal, amendments, addresses of parties, traffic, parking and abandoned vehicles, licensing of businesses, trades and occupations, etc.

APPENDIX B

EXCERPTS FROM THE FRAMEWORK AGREEMENT THAT GOVERN THE SELECTION OR ACQUISITION OF LAND IN A RURAL MUNICIPALITY, URBAN AREA OR NORTHERN COMMUNITY

- 1.01 (64) "Northern Community" means a "community" or "incorporated community" as defined in *The Northern Affairs Act*;
- 3.06 Specific Principles for Selection or Acquisition of Land in an Urban Area
- (1) Where an Entitlement First Nation Selects or Acquires land in an Urban Area, the Entitlement First Nation shall:
 - (a) give Canada, Manitoba and the Municipality notice in writing of the intention of the Entitlement First Nation to request that the land be set apart as Reserve; and
 - (b) provide the Municipality a copy of:
 - (i) the provisions of the Additions to Reserves Policy respecting "Municipal Considerations"; and
 - (ii) Schedule "D" of this Agreement.
 - (2) With respect to the setting apart of land as Reserve in an Urban Area:
 - (a) the practice of the Manitoba regional office of the Department of Indian Affairs and Northern Development relating to the application of the Additions to Reserves Policy in Urban Areas set out in Schedule "D" will apply; and
 - (b) Schedule "D" may be amended by Canada from time to time, but any amendment to that practice will apply to land to be set apart as Reserve in an Urban Area in accordance with this Agreement only with the written agreement of the parties.
 - (3) Land Selected or Acquired by an Entitlement First Nation in an Urban Area shall not be ineligible to be set apart as Reserve due to a claim by a Municipality or a School Division alleging a loss of Municipal and School Taxes.
 - (4) Nothing in this Article shall oblige Canada or Manitoba to pay any costs incurred by any Entitlement First Nation or any Municipality arising out of a Municipal Development and Services Agreement.

3.07 Specific Principles for Selection or Acquisition of Land in a Municipality

- (1) Where an Entitlement First Nation Selects or Acquires land in a Municipality which is not in an Urban Area, the Entitlement First Nation shall:
 - (a) give Canada, Manitoba and the Municipality notice in writing of the intention of the Entitlement First Nation to request that the land be set apart as Reserve;
 - (b) request the Municipality to set out any concerns it may have with respect to the setting apart of the land as Reserve within 90 days of the date of receipt of that notice;
 - (c) advise the Municipality that should the Municipality not provide its comments within the 90 day period, the land may be set apart as Reserve without further notice to the Municipality;
 - (d) where the Entitlement First Nation intends to use the infrastructure of the Municipality, or requires services provided by the Municipality, request the Municipality to enter into negotiations with the Entitlement First Nation with a view to concluding a Municipal Development and Services Agreement; and
 - (e) where the Entitlement First Nation intends to use the infrastructure of the Municipality, or requires services provided by the Municipality, advise the Municipality that if negotiations are not commenced within 90 days of the date of receipt of the notice referred to in Paragraph (a), the land may be set apart as Reserve without a Municipal Development and Services Agreement.
- (2) Where a Municipality expresses concerns about the land being set apart as Reserve, the Entitlement First Nation shall make reasonable efforts to address the concerns of the Municipality.
- (3) Where a Municipality advises the Entitlement First Nation that it intends to enter into negotiations on a Municipal Development and Services Agreement, the Entitlement First Nation shall make reasonable efforts to conclude a Municipal Development and Services Agreement with the Municipality.
- (4) Land shall not be ineligible to be set apart as Reserve under this Agreement due to:
 - (a) subject to Subsection (2), the failure or inability of an Entitlement First Nation to satisfy the concerns of a Municipality;

- (b) subject to Subsection (3), the failure of the Entitlement First Nation and a Municipality to enter into a Municipal Development and Services Agreement; or
 - (c) a claim by a Municipality or School Division alleging a loss of Municipal and School Taxes.
- (5) Nothing in this Section shall oblige Canada or Manitoba to pay any costs incurred by any Entitlement First Nation or any Municipality arising out of a Municipal Development and Services Agreement.
- (6) The parties may develop Agreed Forms of Municipal Development and Services Agreements or a checklist of items to be addressed in a Municipal development and Services Agreement.

3.08 Specific Principles for Selection or Acquisition of Land in a Northern Community

- (1) Subject to Subsection (2), an Entitlement First Nation may Select or Acquire land in a Northern Community, provided:
- (a) the Entitlement First Nation gives Canada, Manitoba and the Northern Community notice in writing of the intention of the Entitlement First Nation to Select or Acquire the land; and
 - (b) consultation about the Selection or Acquisition and the intent of the Entitlement First Nation to request that the land be set apart as Reserve by Canada has first occurred with the community council, the local committee or the incorporated community council (as the case may be) of the Northern Community.
- (2) Where the intent of an Entitlement First Nation is ultimately to have all or substantially all of the land in the Northern Community set apart as Reserve, the Entitlement First Nation may not Select or Acquire land in that Northern Community until Canada, Manitoba and the Entitlement First Nation have entered into an agreement which addresses:
- (a) the timing of the Selection or Acquisition of land and the subsequent setting apart of the land as Reserve;
 - (b) the transfer and operation of capital infrastructure and related costs;
 - (c) the ongoing provision of social and public services to Members of the Entitlement First Nation and other persons ordinarily resident in the Northern Community and related costs; and

- (d) other matters of the nature which may be addressed by a Municipal Development and Services Agreement if the land was located in a Municipality.
- (3) Where the intent and purpose of the Selection or Acquisition in a Northern Community is not ultimately to have all or substantially all of a Northern Community set apart as Reserve, Section 3.07 shall apply with necessary modifications.
 - (4) For the purposes of Subsections (2) and (3), the intent of an Entitlement First Nation shall be deemed to be ultimately to have all or substantially all of the land in the Northern Community set apart as Reserve where:
 - (a) the Entitlement First Nation has declared by Council Resolution that its intent is ultimately to have all or substantially all of the land in the Northern Community set apart as Reserve; or
 - (b) the Selection or Acquisition of the land, whether by itself or in combination with other Sections or Acquisitions of land by the Entitlement First Nation, would result in more than 25 per cent of the area comprising the Northern Community being set apart as Reserve for the Entitlement First Nation.
 - (5) The parties may develop Agreed Forms of agreements of the nature referred to in Subsection (2) or a checklist of items to be addressed in those agreements.
 - (6) Where land is Selected by an Entitlement First Nation within eight kilometers of the boundary of a Northern Community, Manitoba will not confirm whether the Selection is eligible to be set apart as Reserve in accordance with the Principles until the Minister of Northern Affairs of Manitoba has consulted with the community council, the local committee or the incorporated community council (as the case may be) in accordance with subsection 9(2) of *The Northern Affairs Act*, which consultation shall be undertaken forthwith upon Canada providing to Manitoba the documents referred to in Subsection 6.02(4).

APPENDIX C

EXCERPTS FROM ADDITIONS TO RESERVES POLICY RESPECTING MUNICIPAL CONSIDERATIONS (To the extent that there is any inconsistency between the Additions to Reserves Policy and Schedule "D" of the Framework Agreement, Schedule "D" Applies)

NOVEMBER 1991

9.1.2 Definitions

<u>Addition to Reserve:</u>	The granting of reserve status to land which is generally contiguous (adjacent) to an existing reserve.
<u>Band:</u>	A group of Indians which has been granted band status by the Minister, pursuant to section 17 of the <i>Indian Act</i> (the Act).
<u>New Reserve:</u>	The granting of reserve status to land which is not generally contiguous to an existing reserve.
<u>Reserve Community:</u>	The locality in which band members reside on a reserve, comprised of physical infrastructure, permanent services and installations.
<u>Urban Municipality:</u>	City, town or village or other built-up area.
<u>Rural Municipality:</u>	Municipality which falls outside the definition of an urban municipality

9.3.2.2 Municipal Considerations

Where land to be granted reserve status is located within the boundaries of a municipality (either rural or urban, see definitions under section 9.1.2), the municipality must be informed in writing of the proposal and asked to identify its views and concerns (if any) in a written response. Normally, the issues which the region can expect to be raised are:

- i) measures to compensate for the municipality's tax loss once the land attains reserve status;
- ii) arrangements for the provision of, and payment for, municipal services;

- iii) by-law application and enforcement on the reserve (band by-laws which relate to activities which may affect neighbouring municipal lands or residents should be consistent with the municipality's by-laws); and
- iv) a joint consultative process for matters of mutual concern (such as land use planning) and a dispute resolution mechanism, where possible.

Any reasonable concerns of the municipality (rural or urban) with respect to the above-noted issues must be addressed, e.g., by means of a letter from either the mayor or city manager or by way of a municipal resolution or, where requested by the municipality, through a written agreement between the municipality and the band (the department will not normally be a party to such agreements). Prior to the execution of a band-municipality agreement by the parties and before further processing of a proposal by the region, the agreement should be reviewed by the Department of Justice, the HQ Additions Committee and the ADM of Lands, Revenues and Trusts (LRT).

A reserve will not normally be established where a municipality has requested a formalized agreement with a band but an agreement has not been reached. However, the DM may choose to proceed with a proposal in the following circumstances:

- a) the Department of Justice advises there is a legal obligation to proceed; or
- b) the band is prepared to enter into an agreement on the concerns raised by the municipality, the municipality is unwilling to respond in good faith and any of the following conditions exist:
 - i) the proposed reserve does not adjoin an urbanized/developed area and is not located in an area which is covered by an approved urban use development plan; or
 - ii) the land has traditionally and up to the present time been used for Indian purposes, or was once part of an Indian reserve which was surrendered and remains unsold; or
 - iii) the proposal involves an addition to an existing reserve, as opposed to the creation of a new one.

APPENDIX D

SCHEDULE "D"

PRACTICE OF THE MANITOBA REGIONAL OFFICE OF THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT RELATING TO THE APPLICATION OF THE ADDITIONS TO RESERVES POLICY IN URBAN AREAS

1. Practice of the Manitoba Region of DIAND

- 1.01 The Additions to Reserves Policy of the Department of Indian Affairs and Northern Development is found at Chapter 9 of its "Land Management Manual".
- 1.02 This Schedule sets out the practice of the Manitoba Regional Office of the Department of Indian Affairs and Northern Development in applying the Additions to Reserves Policy with respect to land an Entitlement First Nation proposes be set apart by Canada as Reserve where that land is located in an Urban Area.

2. Definitions

2.01 In this Schedule:

- (a) **"Acquire"** means to purchase or otherwise obtain title to Other Land which an Entitlement First Nation wishes to be set apart as Reserve in accordance with the Framework Agreement;
- (b) **"Canada"** means Her Majesty the Queen in right of Canada;
- (c) **"Crown Land"** means land which is owned by, or is under the administration and control of, Manitoba and is within the Province of Manitoba, but does not include:
 - (i) land that at the date on which the Framework Agreement was executed is administered by Manitoba on behalf of a "local government district" as defined in *The Local Government Districts Act* under a "Memorandum of Understanding" between the Minister of Municipal Affairs and the Minister of Mines and Natural Resources of Manitoba dated May 11, 1964; or
 - (ii) land with or without improvements of value which is owned by, or is under the administration and control of, Manitoba which has been used or occupied, is no longer required and is declared surplus by Manitoba;
- (d) **"Department"** means the Manitoba Regional Office of the Department of Indian Affairs and Northern Development;
- (e) **"Entitlement First Nation"** means a "band" of Indians, as defined in the *Indian Act*, listed in Schedule "A" of the Framework Agreement which has executed a "Treaty Entitlement Agreement" (as defined in the Framework Agreement);

- (f) **"Framework Agreement"** means an agreement entered into among Treaty Land Entitlement Committee of Manitoba Inc., on its own behalf and as general partner on behalf of TLEC Limited Partnership, Canada and Manitoba dated May 29, 1997;
- (g) **"Manitoba"** means Her Majesty the Queen in right of Manitoba;
- (h) **"Minister"** means the Minister of Indian Affairs and Northern Development or the Governor-in-Council;
- (i) **"Municipal Development and Services Agreement"** means an agreement between an Entitlement First Nation and a Municipality, concluded in anticipation of a parcel of land located in the Municipality being set apart as Reserve and which may provide for, among other matters:
 - (i) the ownership of infrastructure (including sewer and water facilities, roads, sidewalks and waste disposal sites) located on the land after the land is set apart as Reserve;
 - (ii) the continuation or extension of services, (including sewer and water, garbage collection, snow removal, fire protection, policing, public utilities, infrastructure maintenance and other similar municipal services) to that land after the land is set apart as Reserve;
 - (iii) the rates of payment or the means of determining rates of payment for the actual and direct costs incurred by the Municipality in permitting the Entitlement First Nation to use its infrastructure (in the event that the infrastructure should remain the property of the Municipality) or in providing services to that land (in the event the Municipality is to provide services) and the timing and enforcement of payment for the use of that infrastructure and the provision of those services;
 - (iv) any need for joint planning and development between the Entitlement First Nation and the Municipality;
 - (v) the maintenance of reasonably compatible use of that land and of adjoining land in the Municipality by the enactment of bylaws for zoning and development; and
 - (vi) the resolution of disputes between the Entitlement First Nation and the Municipality;
- (j) **"Municipal and School Taxes"** means all taxes levied in respect of land and improvements by a Municipality or a "school division" or "school district" as defined in *The Public Schools Act*, including taxes, charges or levies against occupants of the land and grants-in-lieu of taxes paid by either Canada or Manitoba;
- (k) **"Municipality"** means a "municipality" as defined in *The Municipal Act* or "local government district" as defined in *The Local Government Districts*

Act in which land Selected or Acquired by an Entitlement First Nation is located;

- (l) **"Other Land"** means land that is not Crown Land and as further defined in the Framework Agreement;
- (m) **"Reserve"** means land which is set apart by the Minister for the use and benefit of an Entitlement First Nation as a "reserve" as defined in the *Indian Act*;
- (n) **"Select"** means to identify Crown Land that the Entitlement First Nation wishes to be set apart as Reserve in accordance with the Framework Agreement; and
- (o) **"Urban Area"** means land within the boundaries of a "city", "town" or "village" as defined in *The Municipal Act*.

2.02 In this Schedule:

- (a) words or phrases which are defined under Section 2.01 have been identified in the text by the capitalization of the first letter of the words or the first letter of each word in phrases;
- (b) the definition of words or phrases which are defined under Section 2.01 in one tense shall apply to all tenses as the context so requires;
- (c) the singular includes the plural and vice versa; and
- (d) headings used in this Schedule are for ease of reference only and do not form part of this Schedule.

2.03 The following acts are referred to in this Schedule, and when described by the title set out in this Section shall be interpreted to include the act as cited in this Section:

- (a) acts of the Parliament of Canada:
Indian Act, R.S.C. 1985, c. I-5; and
- (b) acts of the Legislature of Manitoba:
The Local Government Districts Act, CCSM, c. L190;
The Municipal Act, CCSM, c. M225; and
The Public Schools Act, CCSM, c. P250.

2.04 All references to an act referred to in Section 2.03 shall include all regulations made in accordance with that act and any amendment, re-enactment or replacement from time to time of that act.

3. Obligations of an Entitlement First Nation

3.01 Where an Entitlement First Nation Selects or Acquires land in an Urban Area in accordance with the Framework Agreement, the Entitlement First Nation shall:

- (a) give the Department, Manitoba and the Municipality notice in writing of the intention of the Entitlement First Nation to request that the Minister set the land apart as Reserve;
- (b) provide the Municipality with a copy of this Schedule;
- (c) request that the Municipality, immediately following the giving of the notice referred to in Paragraph (a), enter into negotiations with the Entitlement First Nation with the objective of concluding a Municipal Development and Services Agreement, and:
 - (i) where the Entitlement First Nation and the Municipality thereafter enter into negotiations and reach agreement, the Entitlement First Nation shall enter into a Municipal Development and Services Agreement with the Municipality; or
 - (ii) where the Municipality refuses to enter into a Municipal Development and Services Agreement, the Entitlement First Nation shall give the Municipality notice in writing that:
 - A. the Municipality must provide the Entitlement First Nation, the Department and Manitoba with written reasons for refusing to enter into a Municipal Development and Services Agreement; and
 - B. in the event the Municipality fails to provide the reasons referred to in Clause A within 60 days of the notice, the Minister may set the land apart as Reserve without further notice to the Municipality.

4. Effect of Response by Municipality

4.01 Where an Entitlement First Nation has Selected or Acquired land in an Urban Area and the Entitlement First Nation and the Municipality enter into a Municipal Development and Service Agreement, the Department shall:

- (a) determine whether the land satisfies the Additions to Reserves Policy; and
- (b) thereafter, proceed in accordance with the provisions of the Framework Agreement.

4.02 Where an Entitlement First Nation has Selected or Acquired land in an Urban Area and has satisfied its obligations under Section 3.01 of this Schedule, but the Municipality refuses to enter into a Municipal Development and Services Agreement and:

- (a) the Municipality fails to provide written reasons for refusing to enter into a Municipal Development and Services Agreement within 60 days of receiving the notice referred to in Clause 3.01(c)(ii)A:

- (i) the Department may confirm that the land satisfies the requirements of the Additions to Reserves Policy; and
 - (ii) the Minister may, subject to the provisions of the Framework Agreement, set the land apart as Reserve; or
- (b) the Municipality provides written reasons for refusing to enter into a Municipal Development and Services Agreement and where, following a meeting between the Entitlement First Nation, the Department, Manitoba and the Municipality:
- (i) it is the opinion of the Department that the reasons of the Municipality for refusing to enter into a Municipal Development and Services Agreement are unreasonable or unfounded, the Department shall give notice in writing to the Municipality that:
 - A. in the Department's opinion the reasons of the Municipality for refusing to enter into a Municipal Development and Services Agreement are unreasonable or unfounded;
 - B. the Department will be confirming that the land satisfies the requirements of the Additions to Reserves Policy; and
 - C. the Department will be recommending to the Minister that the land be set apart as Reserve

provided that where, upon the Municipality receiving that notice, the Municipality agrees to enter into a Municipal Development and Services Agreement with the Entitlement First Nation, the Department shall not proceed in accordance with Clauses B or C and the Minister shall not proceed to set the land apart as Reserve until:

- D. a Municipal Development and Services Agreement has been entered into between the Municipality and the Entitlement First Nation; or
 - E. the expiration of 90 days from the date the Department gave the Municipality the notice
- whichever date occurs first; or
- (ii) it is the opinion of the Department that the reasons for the Municipality refusing to enter into a Municipal Development and Services Agreement are reasonable:
 - A. the Department shall give notice in writing to the Entitlement First Nation that in the Department's opinion, the reasons for the Municipality refusing to enter into a Municipal Development and Services Agreement are reasonable;
 - B. the Entitlement First Nation shall attempt to address the reasons the Municipality is refusing to enter into a Municipal Development and Services Agreement; and

- C. subject to Subparagraph (iii), the Department shall not confirm that the land satisfies the requirements of the Additions to Reserves Policy and the Minister shall not set the land apart as Reserve until the reasons the Municipality is refusing to enter into a Municipal Development and Services Agreement have been addressed in a manner satisfactory to the Municipality and a Municipal Development and Services Agreement has been entered into between the Entitlement First Nation and the Municipality; or
- (iii) it is the opinion of the Department that the reasons for the Municipality refusing to enter into a Municipal Development and Services Agreement are reasonable and the Entitlement First Nation has attempted to address those reasons with the Municipality in a manner which in the Department's opinion is reasonable but the Municipality thereafter refuses to enter into a Municipal Development and Services Agreement, the Department shall give notice in writing to the Municipality that:
 - A. in the Department's opinion, the Entitlement First Nation has made a reasonable attempt to address the refusal of the Municipality to enter into a Municipal Development and Services Agreement;
 - B. the Department will be confirming that the land satisfies the requirements of the Additions to Reserves Policy; and
 - C. the Department will be recommending to the Minister that the land be set apart as Reserve provided that where, upon the Municipality receiving that notice, the Municipality agrees to enter into a Municipal Development and Services Agreement with the Entitlement First Nation, the Department shall not proceed as set out in Clauses B or C and the Minister shall not proceed to set the land apart as Reserve until:
 - D. a Municipal Development and Services Agreement has been entered into between the Municipality and the Entitlement First Nation; or
 - E. the expiration of 90 days from the date the Department gave the Municipality the notice

whichever date occurs first.

5. Assertions of Loss of Municipal and School Taxes

- 5.01 An assertion by a Municipality that the setting apart of land Selected or Acquired by an Entitlement First Nation as Reserve will result in a loss of Municipal and School Taxes shall be deemed not to be a reasonable reason for a Municipality to refuse to enter into a Municipal Development and Services Agreement.