

THE ITAB/FNTC AND OPEN MARKET HOUSING ON FIRST NATION LANDS

PREPARED BY THE

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TAXATION
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EXECUTIVE SUMMARY

First Nation open market housing refers to an unrestricted housing market on First Nation lands that uses long-term leasehold tenure. In this type of unrestricted housing market, members, non-members, and even non-First Nations can purchase long-term leasehold interests in reserve land.

The business case for open market housing on First Nation lands is strong:

- Four houses can be built on reserve through the open market approach for every one house built using the social housing approach. An open market home is about eight times less costly over 50 years than a social home.
- Individual equity in an open market house is at least six times higher than a social house located on communal land or a home on a certificate of possession. First Nation housing backlogs can be reduced by up to 25% through qualified buyers.
- Each \$1 million in open market housing leads to 15 employment opportunities. The maintenance of open market housing is borne by the owner who has an incentive to protect and enhance their property value. The maintenance cost subsidy for open market homes is therefore effectively zero.
- Open market homeowners will pay property taxes to First Nations to pay for local services (water, sewer, police, fire, etc). The local servicing costs of an open market home to other governments are thus effectively zero.

The Indian Taxation Advisory Board (ITAB) is the most suitable institution to provide supportive services to First Nation open market housing systems for four reasons:

1. Manny Jules, the chairman of the ITAB, is a strong advocate for open market housing. Manny Jules was the principle architect of Sun Rivers open market housing system on reserve. ITAB possess much of the expertise and experience to help First Nations establish open market housing developments.
2. Open market housing will involve property taxes. It is probable that the First Nation currently collecting property taxes will be most interested in open market housing. The ITAB has a strong and well-known track record as a national First Nation institution for promoting and implementing First Nation property tax systems. In particular, the ITAB has a great deal of experience in developing model laws and certifying First Nation administrative systems to implement these laws.
3. The ITAB has conducted comprehensive research into the process required to implement open market systems on First Nation lands. This research and accompanying open market housing process map is the basis for this paper.



4. The ITAB and Manny Jules were the principle advocates for the First Nation Fiscal and Statistical Management Act (FSMA) that was enacted in March 2005. In April 2006, the ITAB will become the First Nation Tax Commission (FNTC). Given this pending transition these dual organizations will be referred to ITAB/FNTC throughout this document. The FNTC has a legislative mandate to promote open market housing, economic development and property taxation (see s. 29 of the FSMA).

The ITAB/FNTC is already able to offer a number of services in support of open market housing. An evaluation of the ITAB/FNTC current capacity to offer open market housing services was conducted with a Shuswap Nation Tribal Council open market housing pilot project. A focus group approach was used. The focus group involved proponents of the SNTC pilot project, ITAB staff and board members and outside experts in open market housing development.

This focus evaluation suggests that the ITAB/FNTC has considerable existing capacity to offer a number of services but will also have to develop a number of model agreements and laws to offer comprehensive open market housing support. This evaluation is summarized in the table. It has been divided into the elements of an open market housing process identified in this paper:



FOCUS GROUP ITAB/FNTC OPEN SERVICE EVALUATION SUMMARY TABLE

Open Market Housing Element	The ITAB/FNTC Service	Service Ready	Service in Development
Stage I - Initiation			
Community Initiative			
Advocacy	Provide the main advocate with a range of presentation and communication materials. Develop a concept paper.		✓
Local Administrative Structure	Assess structure and determine ability to coordinate. Range of services from models & samples to coaching & mentoring.	✓	
Market Research	Recommend survey method (phone, mail, personal interview, etc.). Provide samples studies/questionnaires, descriptions & best practices.	✓	
Economic Strategy	Provide an investment climate assessment/checklist. Make model regional agreements available. Provide a list of requirements for public private partnerships.	✓	
Review Potential Companies Options	Provide a sample financial model, reviewed by residential developers. Provide investment readiness assessment. Provide roster of certified experts.		✓
Request for Proposal	Provide a number of best practices based on review FN, municipal, and federal RFPs. Make a database of RFPs available. Provide a sample RFP.		✓
Outside Developer's Initiative			
Developer Approaches Community	Role is limited. Can recommend experienced consultants to the developer.	-	-
Preliminary Negotiations	Make trained facilitators and facilitation products available to FNs to help implement partnership with residential developers.	✓	
Stage II - Preparation			
Due Diligence	Simply recommend qualified experts. Or can provide list of questions to ensure developers' qualifications. Provide a roster of certified developers.		✓
Set Terms	Provide a database of terms based on FN leases for with residential developers. Make a roster of appraisers and mediators available. Provide legal advice.		✓
Formal Agreement to Proceed	Provide sample protocols and resolutions based on the Sun Rivers model and other FN residential developments and reviewed by focus group.		✓
Long-Term Leasehold Tenure: (i) Designation Process	Provide a business case to support the creation of a land designation secretariat to expedite the DIAND process.		✓
Long-Term Leasehold Tenure: (ii) FNLMA	Provide model FN land code clauses based to support long-term leases for residential developments.		✓
Stage III - Concurrent Processes			
Local Revenue and Services	Provide considerations to guide negotiations, a statement of principles, a description of benefits, ground rules for negotiations, and software.	✓	
Head Lease, Sublease & Homeowner Agreement	Provide legal and financial advice during negotiation of leases. Make a database of terms available and a model sublease pre-approved by DIAND/DOJ and lenders.		✓
Development Agreement	Provide a model agreement based on other FN agreements and a panel of residential developers. Make a database of terms available. Offer legal advice.		✓
Heritage Resource Protection	Recommend the KIB model heritage resource protection law and provide support to implement it.		✓
Environmental Approval	Provide a list of environmental approval criteria. Make a roster of registered professionals with FN environmental assessment experience available.		✓
Infrastructure Financing	Provide an infrastructure financing model. Offer a capital planning course. Make a roster of professional engineers available.		✓
Open Market Housing Authority	Identify institutional gaps and recommend framework to fill in those gaps. Assist in development of strategy and business lines.	✓	
Stage IV - Finalization			
Construction	None	-	-
First Nation Land Registry	Provide a business case for a FN land registry. Offer a legislative development plan. Make a list of criteria for the FN land registry legislation.		✓

The focus group recommended that the ITAB/FNTC develop a workplan and proposal to complete all the services in development and be able to offer a comprehensive package in support of open market housing. A workplan and proposal to complete the services in development within 7 months is attached.



INTRODUCTION

Construction of the Sun Rivers development on Kamloops Indian Band lands began in 1999. There are now nearly 300 homes in Sun Rivers, a championship golf course and several businesses. Once completed, the Sun Rivers development will generate at least \$750 million in residential investment. It will create at least 5,000 employment opportunities.

Perhaps most impressively, about a dozen First Nation families have moved to Sun Rivers. They have long-term leasehold tenure on reserve. Their homes are increasing in value. They are meeting their mortgage requirements. They are paying property taxes to the Kamloops Indian Band. This represents an important element of the First Nation housing solution.

The Shuswap Nation Tribal Council (SNTC) is proposing to do a model development on Sun Rivers to sell homes to interested SNTC members. Results of the SNTC's market survey suggest about 25% of SNTC members are interested and able to take advantage of this opportunity.

The Sun Rivers development began in 1994. The principal architects of Sun Rivers were then Chief Manny Jules and the administrator of the Kamloops Indian Band, Ken Scopick. McCarthy Tetterault was responsible for drafting the development agreement and other elements of the legal framework. Fiscal Realities provided economic advice to the developer and the community.

Establishing the legal framework to support Sun Rivers cost over \$3 million and took 4 ½ years of process. This is too long and too expensive for almost all First Nations.

The Indian Taxation Advisory Board (ITAB), led by its chairman Manny Jules, is proposing to develop a comprehensive package of services, model laws and agreements, and training to ensure that the technology associated with the Sun Rivers development can be efficiently and cost effectively transferred to other interested communities.

In April 2006, the ITAB will become the First Nation Tax Commission (FNTC). The FNTC will continue to support First Nation open market housing developments from this time forward. In this document ITAB/FNTC refers to the First Nation property tax institution from November 2005 into the future.

This paper describes all the elements of establishing a Sun Rivers type development in any First Nation community. It contains an ITAB/FNTC proposal for turning this knowledge into products, processes, and training that can be provided to interested First Nations.



FIRST NATION OPEN MARKET HOUSING

First Nation open market housing refers to an unrestricted housing market on First Nation lands that uses long-term leasehold tenure. In this type of unrestricted housing market, members, non-members, and even non-First Nations can purchase long-term leasehold interests in reserve land. There are at least seven advantages to an open market housing approach:

1. In the next 25 years, four houses can be built on reserve through the open market approach for every one house built using the social housing approach. The one time federal cost of an open market home is estimated to be \$50,000 based on a one time new First Nation homebuyer mortgage support program (\$25,000 per household) and a \$25,000 a unit servicing allowance. The cost of a social house is estimated to be \$200,000 based on \$100,000 construction, \$50,000 in local services costs over 25 years and \$50,000 maintenance costs over 25 years. Moreover, a social house is often rebuilt in 25 years so the open market home is about 8 times less costly over 50 years.
2. Individual equity in an open market house is at least 600% higher than a social house located on communal land or a home on a certificate of possession. The current price of leasehold tenure homes in Sun Rivers is actually 10 times the current price of a certificate of possession home on the Kamloops Indian Band.
3. Open market homebuyers will have a stake in the economy. Their ability to repay mortgages will depend on sustainable income and employment. Their productivity and contribution to the Canadian economy will be similar to other Canadians. Their reliance on transfers from the federal government will be similar to other Canadians.
4. First Nation Housing backlogs can be reduced by up to 25% through qualified buyers. This is supported by a market survey by the Shuswap Nation Tribal Council.
5. Each \$1 million in open market housing leads to 15 employment opportunities. This figure is based on standard residential construction employment multipliers.
6. The maintenance of open market housing is borne by the owner who has an incentive to protect and enhance their property value. The maintenance cost subsidy for open market homes is therefore effectively zero.
7. Open market homeowners will pay property taxes to First Nations to pay for local services (water, sewer, police, fire, etc). The local servicing costs of an open market home to other governments are thus effectively zero.

THE INSTITUTIONAL FRAMEWORK TO SUPPORT OPEN MARKET HOUSING

Open market housing represents a transformative change for First Nations. The experience of the ITAB suggests that this type of change requires three essential elements:



First Nation Leadership - There should be a strong First Nation advocate for open market housing. This provides First Nation political legitimacy to open market housing. This in turn reduces the costs of promoting and implementing open market housing.

Independent First Nation Expertise – There needs to be independent First Nation advice for implementing open market housing. This must originate from a First Nation institution or organization. These organizations and institutions must have recognized expertise and experience in a particular policy area.

Federal Mandate for Open Market Housing - There needs to be a federal mandate for open market housing. This means that the federal government must have the mandate and resources to support an open market system.

The ITAB/FNTC is proposing to help transfer the “technology” needed to establish open market housing for interested First Nations. The ITAB is the appropriate vehicle to facilitate this technology transfer for five reasons:

- The ITAB Chairman Manny Jules is a strong advocate for open market housing. He is a well-known leader throughout Canada and is regularly invited to dozens of First Nation communities every year to make presentations on matters relating to on reserve developments and taxation. Manny Jules represents a non-DIAND “champion” of open market housing to sell the idea to First Nations, government, and the private sector.
- The ITAB knows the Sun Rivers development intimately and has the expertise and experience to help First Nations establish open market housing developments. Manny Jules is the Chairman. Ken Scopick is the COO. McCarthy Tetterault and Fiscal Realities are both contractors to the ITAB. The ITAB has provided advice to a number of communities about Sun Rivers.
- Open market housing will involve property taxes. It is probable that the First Nation currently collecting property taxes will be most interested in open market housing. The ITAB has a strong and well-known track record as a national First Nation institution for promoting and implementing First Nation property tax systems. The ITAB/FNTC’s role in open market housing would be similar to the role it has played in transferring the technology needed to establish property tax systems.
- The ITAB and Manny Jules were the principle advocates for the First Nation Fiscal and Statistical Management Act (FSMA) that was enacted in March 2005. In April 2006, the ITAB will become the FNTC. The FNTC has a legislative mandate to promote open market housing, economic development and property taxation (see s. 29 of the FSMA).



- The ITAB has directed a ten-year research project into the root causes of First Nation economic under development. This research has been cited by the Auditor General as evidence, has appeared in numerous newspaper articles, was the principle rationale for the design of the FSMA, and has been utilized in presentations and speeches made by the National Chief, the Minister of Indian Affairs, and even the 2003 Throne Speech. Some findings from this research are summarized in Appendix A.

THE OPEN MARKET HOUSING PROCESS

The ITAB research identified the process for developing open market housing systems on First Nation lands. A map of this process is illustrated below.



Establishing Open Market Housing Systems on First Nation Lands

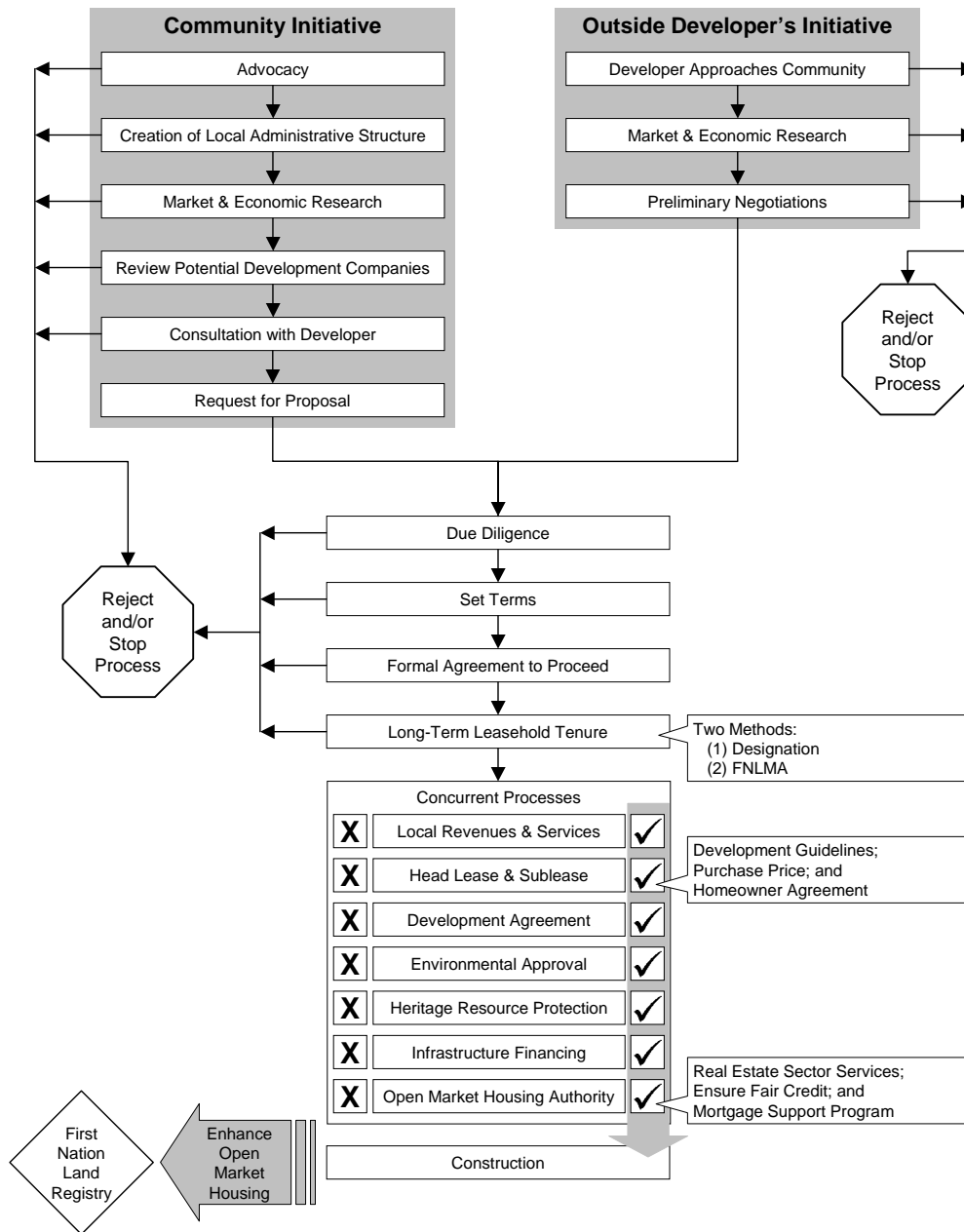


FIGURE 1. PROCESS MAP – ESTABLISHING OPEN MARKET HOUSING SYSTEMS ON FIRST NATION LANDS

This figure will be broken down into four stages for discussion:

Stage I – Initiation

Stage III – Concurrent Processes

Stage II – Preparation

Stage IV – Finalization



STAGE I – INITIATION

Project initiation can occur two ways, as the community's initiative, or as an outside developer's initiative.

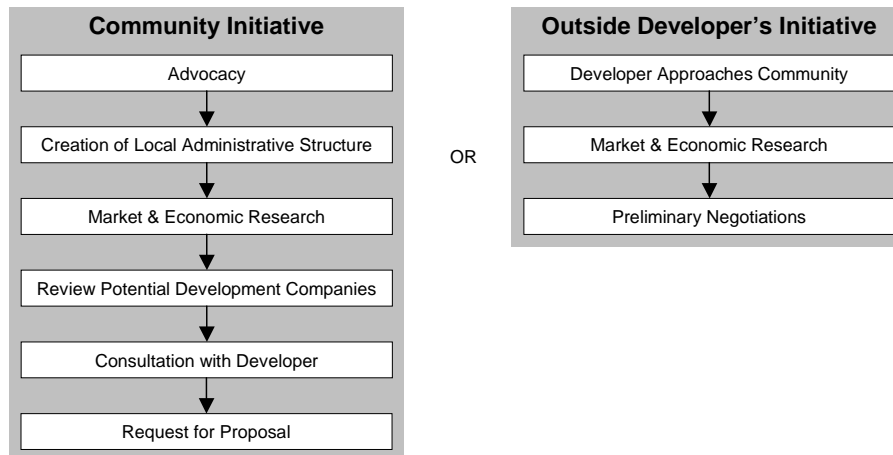


FIGURE 2. STAGE I – INITIATION

The steps involved when this is a community initiative will be described first. The steps required when this process is driven by an outside developer will be described second. After the initial stage, the steps that follow are the same, regardless of which party initiates the process.

COMMUNITY INITIATIVE

A community might take the initiative to introduce open market housing for a number of reasons including at least:

- To meet excess housing demand within community and region;
- To attract investment and improve economic opportunities;
- To create equity for First Nation persons; and
- To implement authority over local revenues and/or housing.



ADVOCACY

Establishing systems of open market housing on reserves throughout Canada will require a strong advocate. This champion must present the concept to First Nations in a clear manner. The advocate must be able to provide the necessary details to give First Nation leaders confidence in the approach. Accurate information must be available through the advocate. For example, it will be important to provide accurate and detailed information about how the system works, the foundation it is based on, and how it differs from restricted market based housing using certificates of possession.

The ITAB/FNTC Service: The ITAB/FNTC will encourage communities to consider open market housing on reserve. Its chairman, Manny Jules, will make presentations to communities on request.

CREATION OF LOCAL ADMINISTRATIVE STRUCTURE

There are at least three types of First Nation organizations that may be interested in open market housing on reserve; a tribal council, a specific community or an existing First Nation development company. In all cases, there must be an administrative structure to support and coordinate research and preliminary negotiations and provide technical support to the chief and council, or the tribal council, or the board of directors during the development process.

If there is an individual with development experience in the organization then they are usually the best coordinator. If such an individual does not exist then outside support should be considered.

The ITAB/FNTC Service: The ITAB/FNTC could assess the administrative structure and determine its ability to coordinate this project. This assessment will determine the nature of the products or services that the ITAB/FNTC could provide. In some cases, the required services need only include models, samples from similar developments that are adapted to this development. In other cases, ITAB/FNTC services could include coaching or mentoring to help the administrative structure support the development. The ITAB/FNTC might suggest some model administrative governance structures depending on the circumstances. Still in other cases, the ITAB/FNTC could recommend an outside consultant to help build the necessary administrative support for open market housing on reserve.



MARKET RESEARCH

A market assessment is necessary to determine the demand for open market housing. Components of demand include the following: the local population's willingness and ability to grant long-term leasehold interests in reserve land, the type and size of housing demanded, appropriate pricing points and location.

The ITAB/FNTC Service: The information required to estimate demand can be obtained through surveys. The ITAB/FNTC will assess the situation to determine the nature of the service it will provide. For example, it could recommend a survey method (i.e. telephone, mail, etc.). It might provide samples, descriptions, and best practices. It is important to design an appropriate survey, one that will provide all of the necessary information, from an appropriate sample, through an unbiased mechanism.

ECONOMIC STRATEGY

The economic assessment is critical. It will evaluate, and perhaps recommend changes to, the economic strategy of the region. Open market housing cannot survive in areas without a sufficient level of economic activity. A suitable economic strategy will help attract investment and employment opportunities. This will enable residents to obtain sustainable employment opportunities and meet mortgage obligations.

The ITAB/FNTC Service: The ITAB/FNTC already provides its comprehensive economic strategy research to all interested First Nations. Two research products are particularly useful. One is an investment climate assessment/checklist to identify what elements of a comprehensive strategy are present and which are required. The ITAB/FNTC would conduct this assessment to help interested First Nation develop their investment facilitation strategy.



The other research product is the ITAB/FNTC study of partnerships relating to the private sector and other governments. The ITAB/FNTC has identified a number of model regional agreements and the requirements of successful public private partnerships for infrastructure. The ITAB/FNTC recognizes that First Nations must become part of their regional economies and contribute to their regional competitive advantages if they hope to develop sustainable economies. The ITAB/FNTC will help First Nations assess their relationship with their regional economies and identify opportunities for partnerships. The ITAB/FNTC will also provide specific examples of successful regional and private partnerships for interested First Nations to use as models.

In the event that a First Nation organization interested in open market housing wishes to conduct a comprehensive economic strategy, the ITAB/FNTC will recommend experienced consultants.

REVIEW POTENTIAL DEVELOPMENT COMPANIES OPTIONS

Once the First Nation has an idea of the number of housing units required and the scale of the project, it can put the project to tender, form a partnership with a development company or become its own development company. It is prudent for the First Nation organization in all cases to develop a preliminary financial model/pro forma to assess profit opportunities. It is equally prudent to understand the factors that can impact those potential profits – most notable among these are the high costs of doing business with First Nations and the closely related perceived high financial risk associated with First Nation organizations and individuals.

The ITAB/FNTC Service: The ITAB/FNTC will provide a sample financial model for the First Nation to modify for their circumstances. It will also provide a series of recommendations based on its investment readiness assessment to reduce costs and financial risks for businesses. The ITAB/FNTC will also recommend consultants to the First Nation organization to support their partnership evaluation process.

REQUEST FOR PROPOSAL

After identifying an appropriate development company and determining the appropriate type of relationship, the First Nation may approach the developer and make a request for a proposal. The parties will discuss the First Nation's criteria for the development based on the information learned from the market study. The two parties will determine if the developer will be able to design a residential plan that meets the criteria.



The ITAB/FNTC Service: The ITAB/FNTC will provide a sample RFP. It will also provide a series of recommendations based on the market study to improve the RFP, resulting in a more attractive and more suitable proposal received from the developer. The ITAB/FNTC will provide a set of best practices developed through surveying municipal models and Public Works Canada.

OUTSIDE DEVELOPER'S INITIATIVE

The second path the initiation stage may take will now be described.

DEVELOPER APPROACHES COMMUNITY

It is quite possible that once developers recognize the potential of open market housing on reserve, they will approach First Nations with proposed projects.

The ITAB/FNTC Service: The role of the ITAB/FNTC will be more limited in this case. If asked for assistance from a developer, the ITAB/FNTC will recommend experienced consultants.

MARKET AND ECONOMIC RESEARCH

The development company may independently conduct market and economic research. Or, the development company may conduct the market and economic research in partnership with the First Nation.

The ITAB/FNTC Service: If the First Nation participates in the market and economic research, the ITAB/FNTC can provide the services mentioned above.

PRELIMINARY NEGOTIATIONS

Depending on the findings, this may proceed to preliminary negotiations, in which the parties will talk more in depth about such things as the master development plan, subdivision plans, development guidelines, the property taxation and servicing relationship, the timeline etc.

The ITAB/FNTC Service: The ITAB has a long history of facilitating mutual gains agreements between First Nations property tax authorities, other governments, crown corporations and the private sector. The ITAB/FNTC has a number of experienced facilitators who have been trained by the Consensus Building Institute at Harvard. The ITAB/FNTC would, if requested, utilize its trained facilitators and facilitation products to help First Nations implement their partnership with the developer. Here are a few examples of agreements the ITAB/FNTC has facilitated.



First Nation Tax Authorities and Taxpayers – One of the reasons the ITAB was founded was to help reconcile interests between First Nation tax authorities and their taxpayers. ITAB policies recognize the interests of First Nation tax authorities to increase the value of their lands and taxpayers to increase the value of their properties. This common economic interest is reflected in ITAB model laws, assessment appeal procedures and tax rate setting policies.

Kamloops Indian Band and City of Kamloops – The KIB and the city of Kamloops both benefit from economic development within the region. The ITAB utilized this mutual interest to facilitate a political protocol where the two councils meet twice a year to address mutual concerns. It has also formed the basis for a sewer agreement that includes revenues to work on joint projects.

First Nation Tax Authorities and CPR – CPR wants to receive the same tax treatment on First Nation lands as they do off First Nation lands. First Nation tax authorities want to collect tax revenues from CPR. The ITAB facilitated a federal regulation that allowed First Nations to collect tax revenues from CPR at the same tax rates paid by CPR on adjacent off First Nation land.

Adams Lake Indian Band and District of Salmon Arm – Wal-Mart wanted to build on an Adams Lake reserve and wanted more certainty in the water and sewer agreement between Adams Lake and the District. Salmon Arm wanted to add transportation services to the existing agreement. The ITAB facilitated an amendment to the existing agreement to include transportation services and greater certainty over water and sewer.



STAGE II – PREPARATION

This figure illustrates the four steps required in the second stage of establishing open market housing on reserve. At this point in the process, the First Nation and the developer have probably concluded their preliminary negotiations.

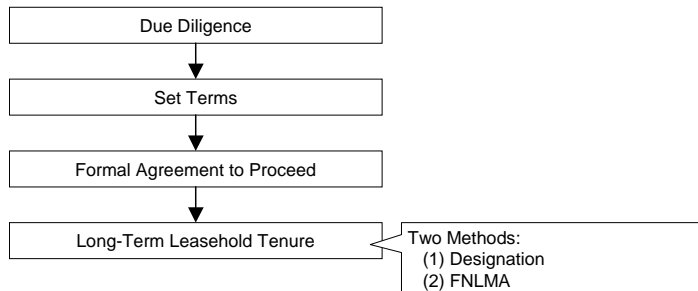


FIGURE 3. STAGE II – PREPARATION

DUE DILIGENCE

Once the First Nation and the developer understand the objectives of both parties, they will conduct due diligence. The developer will verify the viability of the project. The First Nation will ensure the developer is competent, as well as verifying the land value of the proposed site.

The ITAB/FNTC Service: The ITAB/FNTC service depends on whether the ITAB/FNTC is actively facilitating this partnership. If so, the ITAB/FNTC will help the parties conduct due diligence research as part of the facilitation process, including a checklist of required developer qualifications. If the ITAB/FNTC is not helping to facilitate this partnership then it will recommend qualified experts to conduct due diligence if requested.

SET TERMS

The terms of the development and the partnership need to be specified. These include prices for lands, development processes and covenants required by each party. These are the essence of the agreement between the First Nation organization and the developer. These should be established in a facilitated process by a facilitator with experience in developments.



The ITAB/FNTC Service: The ITAB/FNTC will provide facilitation services, or recommend qualified experts or provide descriptions of common terms in other agreements depending upon the request of the First Nation organization.

FORMAL AGREEMENT TO PROCEED

The Chief and Council or Tribal Council or Board of Directors of the First Nation organization and the development company should have a formal decision to proceed.

The ITAB/FNTC Service: The ITAB/FNTC could provide sample resolutions and/or protocols to support the formal decision.

LONG-TERM LEASEHOLD TENURE

The ability to grant long-term leasehold interests in reserve land is the keystone of the open market approach. It is critical for the First Nation to have the capacity to grant long-term leases to members, non-members, and non-First Nations. For the system to work, these leasehold interests must be long-term and must be tradable. These two features cause lease values to approach outright purchase values. In addition, it is important for the head leaseholder to be able to grant long-term sublease interests. Finally, it is crucial for financial institutions to view these sublease interests as secure.

The First Nation can follow one of two methods to achieve this: (i) Land Designation; or (ii) The First Nation Land Management Initiative.

LAND DESIGNATION PROCESS

First Nations' lands are defined as "reserves" under the Indian Act. The legal title to reserve land is held by Her Majesty the Queen in Right of Canada, as represented by the Minister of Indian Affairs and Northern Development Canada. The Minister is represented by DIAND. This relationship and the type of land to be developed will affect the structure of the lease. Without a proper lease, open market residential development will not be viable.

There are three types of reserve land:

1. General reserve land is for a First Nation as a whole.



2. CP land is reserve land that has been allotted to an individual First Nation member under a certificate of possession.
3. Designated land is reserve land that has been designated or set aside by the First Nation community for the purposes of granting leases or other interests therein.

DIAND policy restricts the maximum term of a lease of CP land to 49 years. Designated land can be leased for a maximum term of 99 years, the longest term DIAND permits.

In the past, most designations were granted for specific leases in favour of specific tenants. Recently, more and more First Nations are designating lands in advance so that they are in position to participate in economic opportunities as they arise, without having to go through the designation process each time. The following discussion applies if the First Nation has not already completed the designation process.

This figure illustrates the land designation process; managed by DIAND’s lands officer.

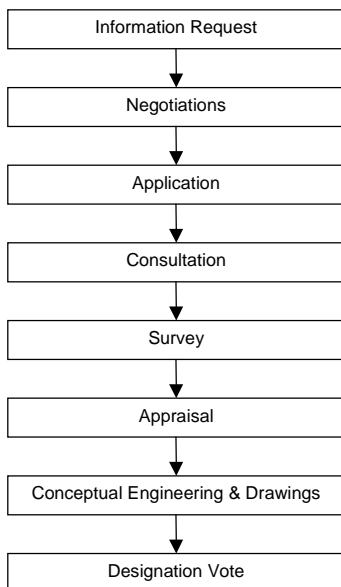


FIGURE 4. THE FIRST NATION LAND DESIGNATION PROCESS

The land designation process begins with a request for information from the First Nation community to the DIAND regional office. The First Nation and developer then negotiate the terms, use and rent for the proposed designation lands.



At this point, the First Nation makes an application to DIAND to request to lease the lands. This is DIAND's formal invitation to participate.

The consultation phase is an opportunity for the First Nation, DIAND and the proponent to discuss the specific project requirements and assess the project's feasibility. Public Works Canada may also be involved in this part of the designation.

A survey of the land to be leased and permitted must be developed. The proponent pays for the cost of the survey. The survey involves DIAND and the federal Department of Natural Resources. After the area has been legally surveyed, an appraisal of the land is conducted. The appraisal is conducted to demonstrate that the proposed area is being used to its full potential and to determine an appropriate market rent for the land.

The penultimate phase of the land designation process is the conceptual engineering study and conceptual drawings. The study and drawings are reviewed by DIAND technical services and written approval is provided before the final phase of designation – the community vote. For the designation to be approved, at least 51% of the eligible electors must vote with at least 51% voting in favour. In the event that less than 51% of the eligible voters participate, then a second vote must be held.

The designation should be clear and as general as possible. Ambiguities in the designation will create uncertainty for the developer, sublease holders, and financial institutions. Also, the designation should be for an indefinite term.

The ITAB/FNTC Service: The ITAB/FNTC has significant experience with the process. The ITAB/FNTC will provide support to help expedite the DIAND process. DIAND staff members with an understanding of the open market housing system and the designation process could be seconded to the ITAB/FNTC to support interested First Nations during the designation process. It is noteworthy that comparable municipal zoning processes are much shorter than the First Nation designation process.

THE FIRST NATION LAND MANAGEMENT INITIATIVE

It is possible for a First Nation to grant long-term leasehold interests in reserve land without going through the costly and time consuming process of land designation. The First Nation can adopt the First Nation Land Management Act and develop a land code.



The First Nation Land Management Act is the formal legislation that ratifies and brings into effect the Framework Agreement on First Nation Land Management. The Framework Agreement provides First Nations with the opportunity to opt out of the land administration sections of the Indian Act, and to establish their own regimes to manage their lands and resources. A First Nation signatory to the Framework Agreement exercises its land management option by following the steps outlined below:

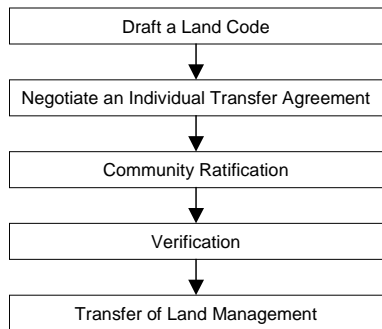


FIGURE 5. THE PROCESS FOR ADOPTING THE FRAMEWORK AGREEMENT FOR FIRST NATION LAND MANAGEMENT

1. Draft a Land Code

The community drafts a Land Code, which will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act. The Minister of INAC will no longer be involved in the management of the First Nation's reserve lands. The Land Code does not have to be approved by the Minister.

The Land Code is drafted by the First Nation community and contemplates, among other things, the following matters:

- Identifies the reserve lands to be managed by the First Nation;
- Sets out the general rules and procedures for the use and occupation of these lands; and
- Describes the procedure for the First Nation to grant interests in land or acquire lands for community purposes (i.e. granting of long-term leasehold interests in land).



2. Negotiate an Individual Transfer Agreement

Each community must negotiate an Individual Transfer Agreement with the Minister of INAC. This agreement deals with matters such as the following:

- The reserve lands to be managed by the First Nation;
- The specifics of the transfer of the administration of land from Canada to the First Nation; and
- The developmental and operational funding to be provided by Canada to the First Nation for land management.

3. Community Ratification

In order for the First Nation to assume control over its lands, the Land Code and the Individual Transfer Agreement must be ratified by the adult members of the First Nation. All members of the First Nation who are at least 18 years of age, whether living off-reserve or on-reserve, have the right to vote on the Land Code and the Individual Transfer Agreement.

4. Verification

An independent person selected jointly by the First Nation and Canada, called a Verifier, will confirm that the community ratification process and Land Code are consistent with the Framework Agreement. The Verifier will monitor the community ratification process to ensure that the rules are followed.

5. Transfer of Land Management

If the community ratifies the Land Code and Individual Transfer Agreement, control over First Nation land and resources is transferred from under the Indian Act to the First Nation's land laws and administration.



A Note on the Legal Status of First Nations Land

Reserve lands under the Indian Act are held by Her Majesty and are set apart for the use and benefit of a First Nation. This does not change under the Framework Agreement on First Nation Land Management. These lands remain a federal responsibility under section 91(24) of the Constitution Act, 1867. In addition, the First Nation's lands will be protected against surrender for sale.

While First Nations will not be able to sell their land, they will be able to lease or develop their lands and resources, subject to any limits imposed by their own community in laws and Land Codes.

Canada will maintain a First Nations Land Register to record all documents respecting interests in the reserve lands.

The ITAB/FNTC Service: The ITAB/FNTC will help work with First Nations that have, or are currently drafting land codes in order to develop model clauses that support long-term leases for residential developments. These model clauses will be available to First Nations drafting land codes.



STAGE III – CONCURRENT PROCESSES

Once the First Nation is in a position to grant long-term leasehold interest in reserve land, a series of processes can begin concurrently. This figure illustrates the “checklist” of processes that must be complete in Stage III – Concurrent Processes.

Concurrent Processes		
<input checked="" type="checkbox"/>	Local Revenues & Services	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Head Lease & Sublease	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Development Agreement	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Environmental Approval	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Heritage Resource Protection	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Infrastructure Financing	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	Open Market Housing Authority	<input checked="" type="checkbox"/>

Development Guidelines; Purchase Price; and Homeowner Agreement

Real Estate Sector Services; Ensure Fair Credit; and Mortgage Support Program

FIGURE 6. STAGE III – CONCURRENT PROCESSES

LOCAL REVENUE AND SERVICING AGREEMENT

Residential developments require infrastructure (i.e. water, sewer, drainage, roads, curbs, lighting and telecommunications) and on going local services (i.e. water and sewer treatment, garbage collection, police and fire protection, and road maintenance). The construction of infrastructure is dealt with during the negotiation of the development agreement (another of the concurrent processes discussed later). Local services are funded from a number of sources including support from the federal government, local improvement charges, development cost charges, user fees and property taxes. This is the bailiwick of the ITAB/FNTC.

This figure describes a typical relationship between a First Nation, homeowners, a developer, and other service providers, regarding property taxation and local services.



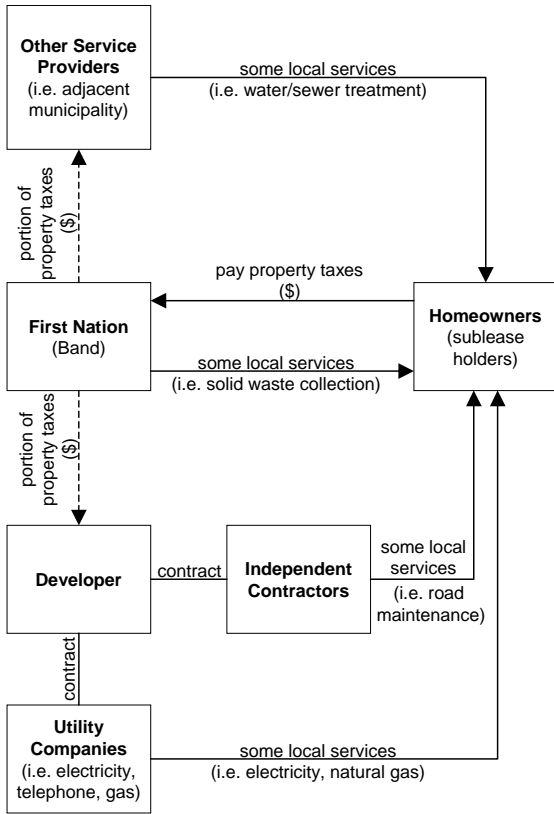


FIGURE 7. AN EXAMPLE OF A LOCAL REVENUE AND SERVICING ARRANGEMENT

The First Nation and the developer must reach an agreement regarding which local services the developer will provide, standards, schedules, payment, etc.

For example, the developer may be responsible for providing services such as road maintenance and some utilities. The developer can contract with the appropriate utility companies and independent contractors for these services.

The First Nation may already provide some local services to the rest of the reserve, such as garbage collection. In this case, the new residential development may be included within the service area.

The First Nation may already have an agreement with an adjacent jurisdiction for some local services, such as water and sewer service on reserve. The First Nation may negotiate with the provider to include the new residential development in the service area.



The First Nation pays for these services through the collection of property taxes and other local revenues. The ITAB/FNTC's interest in open market housing is partly because it will expand the First Nation property tax base.

At this point, the First Nation must finalize agreements with other service providers it plans to use.

ITAB/FNTC Services: The ITAB/FNTC has extensive knowledge in this area, enabling it to provide a great deal of expert support. First, the ITAB/FNTC will help the First Nation establish its property tax system if this system does not exist. Second, the ITAB/FNTC will help the First Nation develop a service agreement with developers or other jurisdictions. In this regard, the ITAB will offer the following services to facilitate a formal service agreement:

- Considerations for Guiding Negotiations – This lists mutual interests that should guide negotiations such as community partnership and sustainable communities and suggests a creative, non-adversarial and mutual gains tone to negotiation.
- Principles Statement – Starting Point for Successful Agreements - This lists a series of principles that should be agreed to by the parties to guide the long-term business relationship that will be developed through the service agreement.
- On-going Benefits of Service Agreements – This describes three long-term benefits from service agreements. They are building blocks for an improved relationship; they are foundation for joint initiatives and they are models for other communities.
- Setting Ground Rules for Service Agreement Negotiations – This lists nine ground rules that the ITAB/FNTC has identified to guide the actual service agreement negotiation process. Some of the rules relate to negotiating meeting logistics, others refer to negotiator responsibilities and others relate to meeting conduct and contact with the media. These rules follow from the principles statement.
- Water and Sewer agreement Backgrounder – The primary interest of First Nations in service agreements is access to water and sewer infrastructure from the other jurisdiction. This note discusses the pricing and financing considerations associated with water and sewer agreements based on previous ITAB/FNTC facilitated service agreements.
- Service Agreement Software – The ITAB/FNTC developed the service agreement software in 1996 to help facilitate the calculation of fair service agreements. To that point, significant resources were spent on matters relating to service price calculation. The software contains four algorithms for estimating service prices. To ensure that it is used effectively, the ITAB/FNTC requires training before the software is used. It is distributed to users after the training is complete.



DEVELOPMENT OF THE HEAD LEASE, SUBLEASE, AND HOMEOWNER AGREEMENT

THE HEAD LEASE

Another concurrent process is the development of the head lease. Typically, the lease is negotiated between DIAND, on behalf of the First Nation, and the developer.¹

When DIAND is involved, this figure illustrates their role in the lease approval process. First, DIAND and Public Works review an environmental assessment of the project. During the environmental assessment review, paid for by the developer, the First Nation can have input on archaeological impacts.

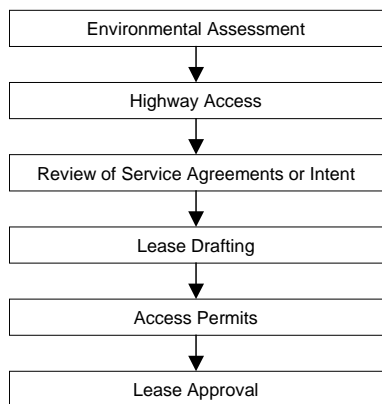


FIGURE 8. THE DEVELOPMENT OF A HEAD LEASE PROCESS

Second, highway access must be negotiated, where applicable. Where highways are a provincial right of way, an Access Permit or Letter of Intent must be obtained from the Provincial Ministry of Highways.

Third, DIAND reviews the service agreements required for the development, or the letters of intent to provide services.

¹ Some First Nations have been granted statutory authority to negotiate their own leases in accordance with s. 53 of the Indian Act or the new First Nations Land Management Act.



Fourth, the lease drafted by the developer and the First Nation is then submitted to DIAND for review. This is an agreement between Her Majesty the Queen in Right of Canada as represented by the Minister of Northern and Indian Affairs, and the Development Company.

The head lease can take several forms:

A Long Term Head Lease with Periodic Rent Review Periods – Rent reviews are conducted periodically (i.e. every five years), and can be tied to fair market value. This creates uncertainty for sublease holders, with respect to the level of future rents. Therefore, this type of head lease is typically not suitable for residential developments.

A Long Term Fully Prepaid Head Lease – In this type of head lease, the developer pays the rent for the entire lease in full with one upfront payment. This typically provides the greatest security for purchasers of subleases and for financial institutions. However, it may be less favoured by the developer, due to the large financial outlay initially.

An Un-Prepaid Head Lease with Trust Fund – In this type of head lease a portion of each prepaid sublease goes into a trust, until the head lease is fully prepaid. This may not adequately address the concerns of sublease purchasers or financial institutions because at times, the trust won't have enough money to pay the head lease.

A Series of Head Leases – In this type of head lease the developer acquires a prepaid lease for the first phase of the development only. The lease has a series of options attached that allow the developer to acquire leases for subsequent phases as demand dictates. This creates the security of tenure required by sublease purchasers and financial institutions and is more attractive to the developer.

A Long Term Head Lease of a Single Parcel that Permits Development in Blocks – In this case, the developer acquires a lease for a large parcel of land, which can be subdivided off in blocks. The developer prepays the lease for first phase. Replacement head lease are required for each new block, allowing either the original developer, or new developers to develop each phase. Upon registration of the last replacement lease, the terms of all prior replacement leases and the residual head lease will be extended to the termination date of the last replacement lease. This is appropriate for projects with long term build out.



A Long Term Head Lease Prepaid by Parcels as Parcels are Subleased – In this type of head lease there is an initial prepayment and a series of future payments as subleases are sold. This type of lease is attractive to the developer and to the First Nation. However, it can create some uncertainty for sublease purchasers and financial institutions. Therefore, this type of head lease requires modification to build in a safety net. The safety net permits the portion of the head lease that has been prepaid to be subdivided off from the main parcel and assigned to the sublease holders through a homeowner association. CMHC can insure the financing of sublease purchases because of this safety net feature.

If approved, the lease will be finalized and entered into the Indian Lands Registry.

Fifth, access permits over community or locatee lands must be negotiated. Each permit requires an environmental assessment report, an appraisal, and a legal survey.

Obviously, the various forms of leases can be used whether or not DIAND is involved in the process. Generally, the developer's objective is to negotiate lease terms that will be acceptable to future sublease holders and financial institutions. The lease should also address which party will retain ownership of the improvements at the expiration of the lease. Owning the improvements at the end of the lease potentially enables the developer to negotiate the renewal of the lease, or the sale of improvements to the First Nation.²

The lease should also address the permitted uses. The lease should clearly and broadly define the permitted uses so that a tenant's proposed use is not dependant on the interpretation of ambiguous or narrow wording.

The lease can include a pre-approved form of sublease, allowing the developer to grant subleases. Therefore, the First Nation does not have to negotiate every single sublease. Subleases are discussed in the following section.

² Off-reserve Crown leases often provide that at the end of the term the landlord must elect to either renew the term of the lease or purchase the improvements.



The ITAB/FNTC Service: In the short term, the ITAB/FNTC will work with DIAND to develop a database of model head leases for participating First Nations and/or First Nation organizations. If requested, the ITAB/FNTC will assess the circumstances and recommend an appropriate head lease. The ITAB/FNTC will provide peer review of head leases. Persons from DIAND with expertise in head leases could be seconded to the ITAB to provide support and expedite this process. In the long term, the ITAB/FNTC advocates the development of a First Nation land registry that will replace and improve the current process.

THE SUBLEASE AND HOMEOWNER AGREEMENT

The sublease enables the homeowner to actually purchase a house and lot from the development company. The sublease addresses items such as the term of the sublease, the purchase price, the place of payment, taxes and charges, development guidelines, etc.

The development guidelines specify the type and standard of houses that may be constructed within the development. This allows the parties to ensure property values are maintained.

The homeowner agreement between the sublease holder and the developer describes the requirements for compliance with rules and laws respecting the use of the neighbourhood property, etc.

The ITAB/FNTC Service: The ITAB/FNTC will make sample sublease and homeowner agreements available upon request. Of particular importance are sublease arrangements that have the proven confidence of financial institutions so that mortgages can be provided to willing and able buyers of open market housing. The ITAB/FNTC will develop and provide a model sublease that has been pre-approved by DIAND, the DOJ, and financial institutions.

DEVELOPMENT AGREEMENT

During this time, the First Nation and the developer finalize the development agreement, which should include the following:

Zoning – This includes provisions to create and agree to a master development plan, which describes the permitted uses of the land, and the process to amend that plan.



Jurisdictional Matters – Provisions for dealing with conflicts between First Nation bylaws (existing and future) and the development agreement and conflicts between the head lease and the development agreement.

Development Approval Process – If the First Nation does not have a development approval process, provision for one could be included in the development agreement. This will clarify the application process for development, subdivision, building and occupancy permits.

Services and Facilities – The servicing agreement (discussed above) could be included in the development agreement. Provisions in the case of interruption of service should be included in the development agreement.

Construction of Infrastructure – The development agreement or the servicing agreement between the First Nation and the developer should include a description (plans and specifications) of any infrastructure the developer is to construct (on site or off). It should include specifics about payments, standards and warranties, and the phasing schedule for this infrastructure. It should also include details regarding the ownership of the infrastructure, and criteria for professional services used by the developer.

Parks – Provisions that require a certain portion of land to be dedication as park could be included in the development agreement.

Heritage Matters – First Nation lands are subject to a heritage survey prior to any development. The development agreement should include provisions addressing the cost contributions for heritage matters.

Cost Contributions – Provisions that specify the amount of future development cost charges and capital contributions will create certainty over future costs.

Latecomer Charges – Provisions for latecomer charges should be included for the benefit of the developer.

Property Taxation – Provisions that require assessments to be conducted in a manner similar to adjacent jurisdictions, rates to be comparable to those in adjacent jurisdictions, and grants similar to homeowner grants in adjacent jurisdictions will increase confidence in sublease purchasers.

Rights of Way – Provision for the requirement to grant rights of way to utility providers.



Dispute Resolution – There should be provisions for mediation and arbitration in the event of disputes.

The ITAB/FNTC Service: The ITAB will provide model development agreements upon request and if requested will facilitate the negotiation of a development agreement.

ENVIRONMENTAL ASSESSMENT APPROVAL

The Canadian Environmental Assessment Act requires an environmental impact assessment be conducted before a lease can be granted. An environmental assessment is a tool used to ensure that the adverse environmental effects of proposed projects are identified and mitigated where possible. Ideally, the assessment of environmental effects and provision for mitigation is an integral part of the project planning process.

The Canadian Environmental Assessment Agency is the federal authority responsible for environmental assessment.

First, the parties involved must be identified. The party identified as the “responsible authority” is required to:

- notify other federal parties to determine whether they may have responsibilities to ensure the conduct of an environmental assessment; and
- contribute expert information.

The responsible authority is required to plan the assessment. Determining how the assessment will be conducted involves the following:

- identifying the scope of the project;
- identifying the scope of the factors to be considered; and
- identifying the timelines.

Then qualified environmental assessment practitioners identify the potential environmental effects and measures to mitigate those effects. After this analysis, the findings are presented in a written report.

The responsible authority reviews the assessment report for adequacy and accuracy. The responsible authority may also have other parties review the report as well.



Based on the findings of the report, the responsible authority decides whether adverse environmental effects are likely to be significant. This decision is taken into account when determining whether the proposed project should proceed.

If the project is to proceed, the measures identified in the report to mitigate adverse environmental effects are incorporated into the design plans and implemented with the project. It is also possible for a follow-up program to be designed and implemented as well.

This figure illustrates this process.

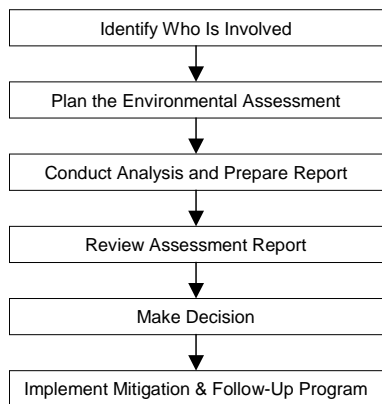


FIGURE 9. FEDERAL ENVIRONMENTAL ASSESSMENT PROCESS

Many projects will also require an environmental assessment by the appropriate provincial authority. In British Columbia, the appropriate authority is the Environmental Assessment Office (EAO). Its review process has four main elements:

1. opportunities for all interested parties to identify issues and provide input;
2. technical studies of the relevant environmental, social, economic, heritage and health effects of the proposed project;
3. identification of ways to prevent or minimize undesirable effects and enhance desirable effects; and
4. consideration of the input of all interested parties in compiling the assessment findings and making recommendations about project acceptability.



The review process is customized for each project. Typically, proponents work with the EAO and government agencies to identify information requirements, and to develop terms of reference for an application. Once a proponent submits an application, it is screened to ensure that the information requirements in the terms of reference have been addressed.

The EAO has up to 180 days to review an application. During this time, the EAO receives input from interested parties on the application and the proponent is given a chance to respond to the issues identified. The EAO prepares an assessment report, which is referred, along with the application, to three ministers for a decision on project approval. If approved, an environmental certificate is issued.

The federal and provincial processes are similar. When projects require both a federal and provincial environmental assessment review, attempts are made to coordinate the processes. Each government makes a separate decision at the end of the joint review.

The ITAB/FNTC Service: The ITAB/FNTC is aware that the First Nation Commercial and Industrial Act will be introduced in the House of Commons in the near future. This Act will allow First Nations to reference and contract provincial legislation and processes to support developments. Should this legislation pass, First Nations may wish to use this legislation to utilize the more experienced and efficient provincial environmental approval system in their province.

Additionally, the ITAB/FNTC will work with DIAND to establish and publicize environmental approval criteria. The ITAB/FNTC will also develop a roster of registered professionals with First Nation environmental assessment experience, and make recommendations to First Nations if requested.

HERITAGE RESOURCE PROTECTION

Residential developments may impact elements of the First Nation heritage and require archaeological recovery.

Some British Columbia First Nations feel the Heritage Conservation Act is inadequate. Some First Nations have developed and implemented their own heritage management laws. These typically include a statement of cultural values, and a definition of heritage. In addition, these laws can address the following issues:



- the ownership of and responsibility for cultural heritage and heritage resources;
- the jurisdiction to make laws respecting all aspects of Aboriginal cultural heritage;
- rightful heirs of human remains found within First Nation territories;
- requirement for consultation and approval by the relevant First Nation;
- the requirement for involvement of elders in the interpretation of heritage sites;
- the requirement for employment of community members in all cultural heritage projects;
- guidelines for consistency in recording and reporting; and
- provision for archaeological work to be monitored and assessed by an individual selected by the First Nation.

The ITAB/FNTC Service: Upon request, the ITAB/FNTC will recommend the model heritage management law developed by the Kamloops Indian Band and is willing to provide support to implement it.

INFRASTRUCTURE FINANCING

The ITAB/FNTC has a strong interest in ensuring that First Nations have access to all infrastructure-financing tools. Improved First Nation infrastructure will attract investment and increase property tax revenues.

The First Nation Fiscal and Statistical Management Act

The FSMA legislation will help address the infrastructure deficit and some issues with respect to certainty over tax treatment and service provision. It is a good step towards improving the attractiveness of First Nation sites for investment.

Infrastructure planning and financing involves much more than debentures. In many instances for local governments, debentures provide only a fraction of the funding for infrastructure. In this regard it is important that the ITAB/FNTC ensures that First Nation governments have the same infrastructure financing tools as other local governments including - Property Taxes, Local Revenue Reserves, DCCs, Service agreements with other governments, Local Improvement Charges/Taxes, Debentures, Public Private Partnerships, and Federal and possibly Provincial Infrastructure Grants

Other local governments utilize some or all of these infrastructure-financing options depending upon the type of infrastructure being financed and the expertise and support provided to the local government to utilize these financing instruments. The table summarizes research into how local governments in Canada finance infrastructure.



How Infrastructure is Financed in Canada(%)							
Facility Type	General Tax Revenue	User Fees	Reserves	PPP	Debt Financing/Borrowing	Provincial Subsidies	Federal Subsidies
Bridges	27.4	0	7.6	2.3	27.6	28.9	6.1
Community & Social Services	25	5.1	15.6	7.8	25	17.7	3.7
Curbs	33.7	1.4	6.5	6.1	24.3	22.9	5.1
Hazardous Waste	31.3	28.1	5.4	1.1	23.5	7.4	3.3
Parks & Recreational Facilities	24.1	4.6	15.5	12.7	18.9	13.9	10.3
Public Buildings	29.9	2.8	16.6	6.8	35.1	5.7	3
Roads	26.8	1	7.3	4	24.2	28.6	8.1
Sanitary & combined Systems	14.4	21.1	18.7	1.7	26.7	13.4	4
Sewage Treatment	9.1	18.8	18.8	0	29.3	14.5	9.5
Sidewalks	36	1.1	7.8	8.4	26.1	14.2	6.4
Solid Waste	20.2	25.4	17.1	2	30.7	4.4	0.1
Storm Sewers	26.7	14.9	7.2	3.9	26.7	17.5	3.1
Transit	24.2	20.2	4.9	3.5	25.2	21.8	0.3
Water Distribution	4.3	33.1	19	1.8	27.3	9.1	5.5
Water Supply	3.2	31.2	21.7	1.7	31.9	7.4	2.9

Source: *The State of Infrastructure in Canada: Implications for Infrastructure Planning and Policy, 1995*

FIGURE 10. INFRASTRUCTURE FINANCING IN CANADA

Although this table is based on a 1995 study, it indicates four points clearly:

1. Private sector contributions are an important element in infrastructure financing.
2. Contributions from other governments are an important element in infrastructure financing.
3. Property taxes and property tax reserves are an important element in infrastructure financing.
4. An uncoordinated infrastructure financing approach focussing only on debentures will not relieve the First Nation infrastructure deficit.

The ITAB/FNTC Service: The ITAB/FNTC will provide a roster of professional engineers with appropriate First Nation experience. In addition, the ITAB/FNTC proposes to develop the following service in support of infrastructure financing:

Capital Planning – The ITAB/FNTC will accelerate the development of its capital planning course through the First Nation School of Taxation. It will also work to establish a linkage between land use planning, capital expenditure planning and capital financing. The relationship between the FNTC and the First Nation land management system would be more formalized to provide this support.



Policy Framework – The ITAB/FNTC will accelerate the development of the coordinated policy framework for reserve accounts, DCCs, Local Improvement Charges/Taxes, debenture financing, Public Private Partnerships and federal infrastructure grants.

Federal Infrastructure Support – As part of the FSMA, a commitment was made to the ITAB/FNTC to establish a specialized federal infrastructure program so that more First Nations could utilize the FSMA. The ITAB/FNTC will work to secure this commitment and develop the appropriate policy framework to support an FSMA federal infrastructure grant program as soon as possible.

Training – The ITAB/FNTC will continue work to develop training courses, guidelines and supportive administrative systems relating to DCCs, local improvement charges/taxes, service agreements, public private partnerships and federal infrastructure grant applications. These courses would all be offered through the First Nation School of Taxation.

OPEN MARKET HOUSING AUTHORITY

There are institutional gaps that prevent the development of open market housing on reserve. A regional open market housing authority can fill these gaps.

The housing authority will administer a Federal **Mortgage Support Program** so that low risk households receive a grant towards their down payment, improving the affordability of homes and the likelihood of obtaining mortgage financing.

The housing authority will ensure on reserve homebuyers receive **Fair Credit** from financial institutions. The housing authority will ensure appropriate income estimation is used by financial institutions. In particular, financial institutions should “gross up” First Nation household income when applying for mortgages (i.e. non taxable income up to \$50,000 is grossed up by as much as 17%, and non taxable income above \$50,000 is grossed up by a maximum of 25%). The housing authority will ensure financial institutions use appropriate gross up factors. In addition, the housing authority will educate financial institutions on the long-term leasehold tenure system, with respect to the security necessary to obtain mortgage financing.

The housing authority will provide **Real Estate Agency Services** such as sharing property information between potential buyers and sellers and the legal services required for real estate deals.



The ITAB/FNTC Service: The ITAB/FNTC can help to identify the institutional gaps in the on-reserve system, and recommend an appropriate institutional framework/housing authority to fill those gaps. The ITAB/FNTC can also assist in the development of the housing authority's strategy and business lines. The business lines will define how the housing authority will support the creation of a housing market. The ITAB/FNTC will provide model housing authority business plans and governance structures to interested First Nation on request.

The ITAB/FNTC is confident that these housing authorities will only be temporary. Once the existing financial, real estate and conveying private sectors become comfortable with open market housing on reserve, they will replace these First Nation housing authorities.



STAGE IV – FINALIZATION

After each of the processes on the checklist have been completed, stage IV may begin.

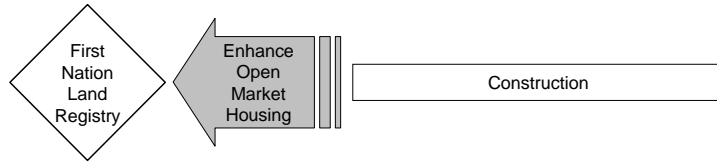


FIGURE 11. STAGE IV – FINALIZATION

CONSTRUCTION

Construction can commence after the First Nation finalizes service agreements and highway access, and the developer submits final design drawings to the lands officer, issues a performance bond, and obtains insurance certificates. Construction involves the execution of the development agreement.

After these houses are constructed, first purchased, then re-sold, an open market housing system exists.

FIRST NATION LAND REGISTRY

It is generally accepted that although leases can be traded on the open market their value is somewhat less than traded fee simple tenure. Some experts suggest that leaseholds are approximately 20% less valuable than fee simple. However, land tenure can be enhanced through a First Nation Land Registry. The ITAB/FNTC believes that a First Nation land registry system could raise the value of open market housing to its fee simple equivalent.

The current Indian Lands Registry is inadequate. It does not provide title certainty for any investor – First Nation or non-First Nation. This lack of certainty deters investment and creates more scope for disputes. In fact, a developer is required to agree that its lease is subject to any unregistered encumbrances and interests. Leases and other interests in land can be recorded in the Indian Lands Registry maintained by DIAND. However, there is no statutory requirement to register interests in land, no assurance as to title and no priority of registered interests. The current registry is poorly coordinated, including both electronic or hard copy surveys, which significantly increases the cost of and time for title searches. All of this deters investment.



The economic impacts of unclear property rights stemming from a poor land registry have been clearly explained in Hernando de Soto's *Mystery of Capital*. Many observers have pointed out the parallels of the situation described by de Soto in the developing world and First Nations.

The ITAB/FNTC is advocating the creation of an independent institution to manage a land registry that would more effectively support investment.

The ITAB/FNTC, like all the FSMA institutions, wants an improved land registry because it supports economic development through private investment. The absence of secure title is creating uncertainty for commercial and residential investors (including First Nation individuals interested in open market housing). This uncertainty means reduced investment and that means fewer jobs and ultimately less community wealth and resources. An independent institution managing a First Nations land registry would be a logical complement to the fiscal institutions. Title certainty will complement the greater certainty over tax and services that the institutions provide.

The ITAB/FNTC also has a unique practical interest in a First Nation land registry. It would help create a better tax system by supporting the registration of property tax liens. Recent disputes relating to taxpayers and First Nation tax authorities could have been more easily resolved with a system of registered liens.

The ITAB/FNTC would support the establishment of a land registry as follows:

Business Case – The ITAB/FNTC will produce a business case for a First Nation land registry. This will include a description of the current system's weaknesses and the consequences.

Legislative Development Plan – The ITAB/FNTC will help create a legislative development plan. It will identify a team of experts in the two land registry systems common in North America – the Torrens system and the Land Title Insurance system. The plan co-steered by First Nation institutions such as the ITAB/FNTC and the Lands Advisory Board who have the experience, capacity and policy framework to support the legislation development process. The plan would provide a work plan and estimated costs.

Legislative Framework – A broad agreement on the framework for the legislation should be realized. Preliminarily the land registry legislation should:



1. Remove the authority of the Indian Act over land registry for those First Nation who opt-in.
2. Facilitate a land title guarantee.
3. Create an independent First Nation institution to operate a First Nation land registry so as to achieve economies of scale.
4. Facilitate the transition from the Indian land registry to the First Nation land registry.
5. Accommodate First Nations under the First Nation Land Management Act, self-government agreements or Treaties as well as those who are party to none of these agreements.
6. Ensure that the registration of the interests in land is a priority.
7. Contain a process for resolving competing interests in land.
8. Protect matrimonial property.
9. Include a requirement for surveys for all registered interests in land.
10. Integrate the land title system with land survey documentation.



EVALUATION OF ITAB/FNTC SERVICE DELIVERY CAPACITY

The Shuswap Nation Tribal Council (SNTC) is proposing to develop an open market housing pilot project on Sun Rivers. This pilot project was used to evaluate the ITAB/FNTC capacity to offer supportive services to open market housing developments.

The Sun Rivers development was chosen by the SNTC because it is an existing development using proven long term secure leases. Despite this obvious suitability, the SNTC still requires a number of services to build and sell open market homes.

The ITAB/FNTC focus group included some proponents of the SNTC pilot projects, ITAB/FNTC staff and a board member familiar with open market housing developments and outside experts. To accommodate schedules, the focus group was conducted through a series of meetings.

Each participant in the focus group was presented with this paper's open market housing process map and suggested ITAB/FNTC services. They were asked to

- Comment on the open market housing process map
- Discuss the proposed ITAB/FNTC services in support of open market housing
- Evaluate what the ITAB/FNTC could deliver in support of the SNTC housing pilot project and
- Make suggestions on how the ITAB could develop a comprehensive package in support of open market housing

In this regard, the focus group made four observations:

1. The detailed process map is an accurate representation of the open market housing development process.
2. The ITAB/FNTC is the appropriate institution to support open market housing given its experience, expertise, and the relationship between property tax and open market housing
3. The ITAB/FNTC has already developed a number of services to support open market housing.



4. The ITAB/FNTC should propose to develop a number of other services and models to offer a comprehensive package to support open market housing.

FOCUS GROUP EVALUATION SUMMARY

The following table summarizes the focus group evaluation of the services the ITAB/FNTC will provide to support First Nations in Phase I of an open market housing system. The ITAB/FNTC’s role is more significant when the community drives initiation. The table demonstrates the focus group’s consensus that some of the proposed services already exist, and some still need to be developed.

Open Market Housing Element	The ITAB/FNTC Service	Service Ready	Service in Development
Stage I - Initiation			
Community Initiative			
Advocacy	Develop a range of presentation and communications materials for main advocate.		✓
Creation of Local Administrative Structure	Assess structure and determine ability to coordinate. Range of services from models & samples to coaching & mentoring.	✓	
Market Research	Could recommend survey method. Provide samples, descriptions & best practices.	✓	
Economic Strategy	Investment climate assessment/checklist to identify missing elements. Model regional agreements and requirements for public private partnerships.	✓	
Review Potential Companies Options	Provide a sample financial model. Recommendations based on investment readiness assessment to reduce costs and financial risk.		✓
Request for Proposal	Sample RFP. Recommendations for RFP, resulting in a more attractive proposal. Best practices from municipal models & Public Works Canada.		✓
Outside Developer's Initiative			
Developer Approaches Community	Role is limited, but can recommend experienced consultants to the developer.	-	-
Preliminary Negotiations	Utilize trained facilitators and facilitation products to help First Nations implement their partnership with the developer.	✓	

TABLE 12. STAGE I SERVICES

The next table summarizes the elements and the ITAB/FNTC’s proposed support services in Stage II of the open market housing process. The focus group identified that all of the proposed services are in development.



Open Market Housing Element	The ITAB/FNTC Service	Service Ready	Service in Development
Stage II - Preparation			
Due Diligence	Can help conduct due diligence research as part of facilitation process or just recommend qualified experts. Checklist of developer's qualifications.		✓
Set Terms	Provide facilitation services, or recommend qualified experts.		✓
Formal Agreement to Proceed	Provide sample resolutions and/or protocols to support the formal decision.		✓
Long-Term Leasehold Tenure: (i) Designation Process	The ITAB/FNTC has significant experience and will provide support to help expedite the DIAND process.		✓
Long-Term Leasehold Tenure: (ii) FNLMA	Develop specialized model clauses for inclusion in the land code to support ability of the First Nation to grant long-term leasehold tenure.		✓

TABLE 13. STAGE II SERVICES

This table summarizes the ITAB/FNTC’s support services for the seven concurrent processes in Stage III. The focus group agreed that the ITAB/FNTC has significant experience with local revenue and servicing arrangements with First Nations and that the support services relating to this element of the process are ready to be offered. The focus group also recognized that the SNTC model for an open market housing authority could be considered part of the ITAB/FNTC package of services. Other concurrent services were identified by the focus group as in development.



Open Market Housing Element	The ITAB/FNTC Service	Service Ready	Service in Development
Stage III - Concurrent Processes			
Local Revenue and Services	Provide considerations to guide negotiations, a statement of principles, a description of benefits, ground rules for negotiations, and software.	✓	
Development of Head Lease, Sublease and Homeowner Agreement	Offer peer review of head leases. Provide a model sublease pre-approved by DIAND/DOJ and financial institutions.		✓
Development Agreement	Provide model development agreements and facilitate negotiations.		✓
Heritage Resource Protection	Recommend the KIB model heritage resource protection law and provide support to implement it.		✓
Environmental Approval	Establish and publicize environmental approval criteria. Develop roster of registered professionals with FN environmental assessment experience.		✓
Infrastructure Financing	Provide a capital planning course, coordinated policy framework, secure federal commitment, training courses, roster of professional engineers.		✓
Open Market Housing Authority	Identify institutional gaps and recommend framework to fill in those gaps. Assist in development of strategy and business lines.	✓	

TABLE 14. STAGE III SERVICES

The last table summarizes the evaluation of support services the ITAB/FNTC could offer with respect to the creation of a First Nation Land Registry. The development of a legislative base for a land registry is a service in development.

Open Market Housing Element	The ITAB/FNTC Service	Service Ready	Service in Development
Stage IV - Finalization			
Construction	None	-	-
First Nation Land Registry	Produce a business case, create a legislative development plan, produce criteria for the land registry legislation.		✓

TABLE 15. STAGE IV SERVICES



WORK PLAN

As per the focus group recommendation, the ITAB/FNTC has developed a workplan and proposal to complete the services in development and offer a comprehensive package of services to support open market housing. The ITAB/FNTC estimates that it will take 7 months and cost \$797,256. This work plan describes the work the ITAB/FNTC will undertake to develop all of the proposed services delineated as services in development in the tables above.

ADVOCACY

The ITAB/FNTC will ensure there are supportive documents for Manny Jules' open market housing presentations. This includes a slideshow presentation, frequently asked questions and answers, a concept paper and an overview of the process to implement open market housing.

REVIEW DEVELOPMENT COMPANY OPTIONS

The ITAB/FNTC will provide First Nations with a financial model to aid in the analysis of the viability of the project, and the choice between various development company options. The model will be adjustable to suit the specific project and reflect current financial conditions. The ITAB/FNTC will identify experts capable of advising the First Nation on cost assumptions appropriate for the model.

The ITAB/FNTC will create an investment readiness checklist, which will enable First Nations to conduct a preliminary assessment of their own capacity for development. The ITAB/FNTC can provide an assessment service, and make a series of recommendations based on its investment readiness assessment to reduce costs and financial risks for businesses. The ITAB/FNTC will also recommend consultants to the First Nation organization to support their partnership evaluation process. These experts will be familiar with the development process on First Nations lands. These experts will also understand the benefits and risks associated with the various forms a potential partnership could take.



REQUEST FOR PROPOSAL

The ITAB/FNTC will review RFPs issued by municipalities for residential developments. The ITAB/FNTC will review literature concerning the structure of municipal residential development RFPs for best results. The ITAB/FNTC will identify common terms and utilize legal experts to create a model RFP, as well as develop a database of sample RFPs. This will be available to First Nations to assist in the development of their own RFP.

DUE DILIGENCE

This ITAB/FNTC service applies when the ITAB/FNTC is actively facilitating this partnership. The ITAB/FNTC will help the parties conduct due diligence research as part of the facilitation process, including a checklist of required developer qualifications or it will recommend qualified experts to conduct due diligence if requested.

The ITAB/FNTC will conduct a focus group with First Nations and local governments experienced with residential developments to identify a best practices process to conduct due diligence. The ITAB/FNTC will utilize this due diligence process on interested developers to help develop a roster of certified developers available upon request.

SET TERMS

The terms of the agreement among the First Nation(s) and/or locatees and the developer will focus on prices and covenants. To support a fair pricing process, the ITAB/FNTC will develop the terms of references and policy framework to support a roster of appraisers. These appraisers can be used by First Nations, locatees and developers as requested to establish the terms of an agreement. The ITAB/FNTC will utilize three research sources to identify appropriate covenants. The Sun Rivers covenants will form the base for appropriate covenants. Covenants within selected residential development head leases will also be identified through Indian Land Registry research. Finally, the ITAB/FNTC residential development focus group will assess, comment and refine the covenants identified from the first two sources. To ensure that the term negotiations proceed efficiently, the ITAB/FNTC will also provide a roster of mediators to First Nations, locatees and developers upon request.



FORMAL AGREEMENT TO PROCEED

The ITAB/FNTC will develop sample protocols and resolutions to encompass the terms of the agreement and to provide certainty to participants. Sample protocols and resolutions will be based on the Sun Rivers model and will protocol agreements from other First Nation developments. Both of these samples will be reviewed and modified by the ITAB/FNTC residential development focus group.

LONG TERM LEASEHOLD TENURE

There are two options for a First Nation to establish the long-term leasehold tenure system necessary to support open market housing: (i) land designation; and (ii) the First Nation Land Management Act.

The ITAB/FNTC will develop two specific services in support of these options. First it will develop the business case to establish a land designation unit specializing in expediting this process for First Nation interested in market based housing. Second, it will develop model clauses for First Nation land codes to support long-term residential leases.

HEAD LEASE, SUBLEASE, AND HOMEOWNER AGREEMENT

The ITAB/FNTC will develop model head and sublease documents. It will begin by using the Sun Rivers head and sublease documents as models. It will identify nuances in this agreement through a review of sample leases in the designated land registry. The ITAB/FNTC will also review a sample of leases on certificate of possession lands and on crown lands. The ITAB/FNTC will work with legal experts to develop model head lease and sublease documents.

The model document will be reviewed by a panel of financial and First Nation leasing experts.

The financial experts will include representatives from private banks, CMHC and other lending institutions. They will ensure that the sample lease document creates a securitized interest in First Nation lands. In a sense, they will provide a pre-approval of the lease documents for securing mortgages.



The First Nation leasing experts will include legal experts representatives of developers with experience on First Nations land and representatives of First Nations with development experience. They will review the model lease documents to ensure that they meet their interests.

DEVELOPMENT AGREEMENTS

These are perhaps the most complicated and important documents in support of open market housing. The ITAB/FNTC will develop a model development agreement document. The model agreement will contain sample provisions relating to the following:

- Zoning
- Jurisdictional Matters
- Development Approval Process
- Services and Facilities
- Construction of Infrastructure
- Parks
- Heritage Matters
- Cost Contributions
- Latecomer Charges
- Property Taxation
- Rights of Way
- Dispute Resolution

The ITAB/FNTC will utilize the Sun River development agreement as a template. Nuances and enhancements will be identified by residential development focus group. The ITAB/FNTC will also convene a panel of developers and First Nation experts to assess the sample development agreement.

HERITAGE RESOURCE PROTECTION

The ITAB/FNTC will provide a copy of the Kamloops Indian Band heritage resource management law for interested First Nations. The ITAB/FNTC will also ensure that interested First Nations can utilize the expertise of the Kamloops Indian Band to implement their model law and system. The ITAB will broker these arrangements through an agreement with the Kamloops Indian Band.



ENVIRONMENTAL APPROVAL

The ITAB/FNTC will work with DIAND representatives and appropriate provincial agencies to establish a list of environmental approval criteria, which it will provide to interested First Nations. Additionally, the ITAB/FNTC will develop a roster of registered professionals with First Nation environmental assessment experience. The ITAB/FNTC will conduct research and consult with experts in order to allow it to provide recommendations to First Nations to increase the probability of environmental approval.

INFRASTRUCTURE FINANCING

The ITAB/FNTC will help provide interested First Nation communities access to the infrastructure financing tools necessary to support an open market housing development. These include at least property taxes, reserve funds, development cost charges, local improvement charges, debentures and support from other governments. As part of its legislated mandate, the FNTC will develop the policy, standards and legislative framework to support these infrastructure-financing tools. In support of open market housing, the ITAB/FNTC proposes to develop a specialized capital planning course for the First Nation School of Taxation and to develop the policy framework so that interested First Nations can use these FSMA infrastructure financing tools with support from other governments. The ITAB/FNTC also proposes to create a roster of engineers who understand the requirements for market based housing to provide support to interested First Nation upon request.

FIRST NATION LAND REGISTRY

A legislated First Nation Land Registry will provide First Nation and other open market homebuyers with the certainty required to ensure a high return to their investment. The development of this legislation and supportive system could take up to three years. The ITAB/FNTC has developed a separate proposal in support of a legislated First Nation land registry.

BUDGET AND TIMELINE

The table below summarizes the budget and timeline for this proposal.



Work Plan Element	Cost per Unit	Number of Units	Estimated Cost	Time to Complete
Advocacy				2 months
Develop Model Concept Paper	\$1,000	7	\$7,000	
Create Presentation Materials	\$1,000	10	\$10,000	
Review Development Company Options				3 months
Develop Financial Model	\$1,000	6	\$6,000	
Developer Review of Model	\$5,000	2	\$10,000	
Create Investment Readiness Checklist	\$1,000	8	\$8,000	
Create Certified Roster of Experts	\$10,000	1	\$10,000	
Request for Proposal				4 months
Research Best Practices	\$640	10	\$6,400	
Identify Common Terms	\$1,000	4	\$4,000	
Develop Database of Agreements	\$1,000	5	\$5,000	
Create Model RFP	\$2,000	15	\$30,000	
Due Diligence				3 months
Create Question List to Developers	\$1,000	7	\$7,000	
Create List of Developer Qualifications	\$1,000	5	\$5,000	
Develop Certified Roster of Contractors	\$10,000	1	\$10,000	
Set Terms				3 months
Research of Lease Agreements	\$1,000	6	\$6,000	
Create Database of Terms	\$640	5	\$3,200	
Legal Advice	\$2,000	15	\$30,000	
Develop Roster of Appraisers	\$10,000	1	\$10,000	
Develop Roster of Mediators	\$10,000	1	\$10,000	
Formal Agreement to Proceed				1 month
Develop Model Protocols	\$1,000	5	\$5,000	
Develop Model Resolutions	\$1,000	2	\$2,000	
Designation/Land Management Process				2 months
BP for Designation Support Secretariat with the ITAB/FNTC	\$1,000	20	\$20,000	
Model Land Code Clauses for long-term leasing	\$2,000	20	\$40,000	
Head Lease & Sublease				6 months
Research	\$640	20	\$12,800	
Financial Advice	\$1,500	20	\$30,000	
Legal Advice	\$2,000	20	\$40,000	
Database of Terms	\$1,000	20	\$20,000	
Model Leases	\$2,000	40	\$80,000	
Development Agreements				6 months
Research	\$640	25	\$16,000	
Panel of Developers	\$5,000	2	\$10,000	
Database of Terms	\$1,000	5	\$5,000	
Model Agreement	\$2,000	50	\$100,000	
Legal Advice	\$2,000	10	\$20,000	
Heritage Resource Protection				1 month
Agreement with KIB	\$5,000	1	\$5,000	
Environmental Approval				3 months
Investigate Use of FNCIDA	\$640	20	\$12,800	
List of Environmental Criteria	\$1,000	15	\$15,000	
Roster of Registered Professionals	\$10,000	1	\$10,000	
Infrastructure Financing				5 months
Develop Infrastructure Financing Model	\$1,000	9	\$9,000	
Capital Planning Course Development	\$1,000	10	\$10,000	
Capital Planning Course Accreditation	\$6,000	1	\$6,000	
Infrastructure Funding Program Coordination	\$1,000	7	\$7,000	
Roster of Engineers	\$10,000	1	\$10,000	
Travel	\$2,500	30	\$75,000	
Administration of Contract			\$59,056	
Totals			\$797,256	7 months



APPENDIX A

THE ITAB/FNTC AND THE DIAND ECONOMIC DEVELOPMENT RESEARCH

Over the last six years, the Department of Indian Affairs and Northern Development's Research and Analysis directorate and the Indian Taxation Advisory Board (ITAB) have formed a partnership to conduct research into First Nation economic development. The ITAB wished to pursue research topics that would support the development of First Nation economies and help expand the First Nation property tax base.

The research has strongly indicated that First Nations economies have significant potential. Most have the capacity to attract private investment because they have at least one of the following competitive advantages: location, human resources, technological or innovative strengths, or access to natural resources. In other words, the ITAB/FNTC and DIAND research did not identify this pre-condition as the barrier to First Nation prosperity.

The barrier to prosperity on First Nation land is an inability to provide a public sector that supports economic development. As proof, one of the first findings of the DIAND/ITAB research was that the costs of doing business on the most advantaged First Nation lands was four to six times higher than it was off First Nation land. The costs of doing business are principally a function of economic and governance institutions and systems, land management regime, fiscal certainty, information and the economic infrastructure. A ITAB/FNTC and DIAND research study found all these factors uncompetitive or sub-standard for the majority of First Nations. Making these factors competitive would unlock the potential of First Nation economies.

This study analyzed four investment projects on reserve and compared them to projects off-reserve. It found that the lack of opportunities on reserve has resulted from the imposed system of First Nation governance, which has artificially raised the costs of doing business far beyond what prevails off-reserve. It can cost four to six times as much to put together a major investment project on reserve and it takes much longer to take a project from the proposal to operating stages. As a result, even favourably located reserves have low business presence and see potential investment diverted to adjacent jurisdictions even when these alternative locations are less favourably sited.



The study identified the following impediment to successful development:

1. Absence of regulatory harmony, certainty, and jurisdictional clarity. First Nation jurisdiction is not well enough established to allow them to develop the laws and regulations needed to eliminate investment uncertainty.
2. Incomplete separation of politics and administration. Because of resource limitations, qualified persons are often called upon to perform both political and administrative roles. This can create a perception of political influence on projects.
3. Poor access to financing. The financing problem is twofold. There is a problem financing infrastructure improvements and investors find their financing options more limited. This study found that most on-reserve projects must be financed through retained earnings, which reduces the pool of potential investors.
4. Non-competitive infrastructure. Most large investment projects on First Nation lands have required extensive infrastructure improvements. This creates a First Nation Catch-22. First Nation communities need the economic spin-offs these projects generate, however without these benefits the communities cannot afford the infrastructure improvements needed to attract these projects.
5. Reluctance of the Crown to take risk. DIAND has conflicting obligations. On one hand, it must improve the welfare of First Nation people. On the other hand, it must operate within the restrictions of the financial administration act and in an environment of scarce resources. Improving welfare often means crown investment and such investment carries risks, which are difficult to assimilate within the current federal fiscal regime. This problem manifests itself in the negotiation of lease documents and contributes to lengthy delays in approval times.
6. High search costs. It is often difficult for developers to obtain the information needed to analyze site suitability when First Nation lands are under consideration. If developers do not know how to search for sites on First Nations lands then even the most attractive First Nation sites will fail to attract investment. There is a pressing requirement for improved land development and statistical information to facilitate the investment process.



Lowering the costs of doing business with First Nations is in the interests of everyone and will lead to improved First Nation fiscal positions, greater economic opportunities and stronger healthier First Nation communities. Opportunities to lower the costs of doing business with First Nation exist.

The table below summarizes some general recommendations from the ITAB/FNTC and DIAND research to lower the costs of doing business.

Problem	Strategy
Poor quality information raises costs of preliminary assessment and consultations	<ul style="list-style-type: none"> • Consolidated Economic Studies • Regional protocols • Institutional support
Fiscal relationship creates investor uncertainty	<ul style="list-style-type: none"> • Support regional fiscal processes to create service and revenue certainty • Utilize fiscal institutions to support economic development
Lack of land use information lengthens zoning processes	<ul style="list-style-type: none"> • Investor friendly information systems • Community and regional land use plans • More FN authority in zoning process
Service agreements with other governments are difficult to negotiate	<ul style="list-style-type: none"> • FN property tax jurisdiction and service agreement support
Lease documents create uncertainty and are lengthy to negotiate	<ul style="list-style-type: none"> • Develop model documents and standards • Institutional support
Financing infrastructure on reserve is more complicated than off reserve	<ul style="list-style-type: none"> • Access to markets for FNs • FN DCCs policies and program • Federal support for infrastructure financing
Approval processes too slow for investors	<ul style="list-style-type: none"> • More FN authority in approval processes • Streamline existing methods
Some First Nations lack access to markets owing to isolation	<ul style="list-style-type: none"> • Expedite specific claims to improve land base • Model ATR process after municipal boundary expansion process where feasible

TABLE 16. ITAB/FNTC RECOMMENDATIONS TO LOWER THE COSTS OF DOING BUSINESS ON RESERVE

