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MUNICIPAL LANDS PROVISIONS
OF AN
AGREEMENT-IN-PRINCIPLE

TUNGAVIK FEDERATION OF NUNAVUT (TFN)
ABORIGINAL CLAIM

JANUARY, 1984

ABORIGINAL RIGHTS AND
CONSTITUTIONAL DEVELOPMENT SECRETARIAT

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MUNICIPAL LANDS PROVISIONS
OF AN
AGREEMENT-IN-PRINCIPLE

January 21, 1984
Ottawa, Ontario

PART 3 - MUNICIPAL LANDS

Municipal Status

- 3.1 Before the date of the settlement legislation coming into effect, all communities (to be identified by way of Schedule) shall be afforded, under the applicable Territorial Ordinance, corporate municipal status and the power to control and administer their legal and equitable interests and estates in land.

Application of By-laws

- 3.2 Subject to Subsection 3.18, from the date the settlement legislation comes into effect, all lands located within the municipal boundary of a municipality, with the exception of lands identified as Crown lands pursuant to Paragraph 3.2(b), shall be subject to application of municipal by-laws.

Definition of Municipal Lands

- 3.3 At the date the settlement legislation comes into effect, all lands within a municipal boundary shall be Municipal Lands with the following exceptions:
- (a) Inuit lands falling within municipal boundaries as identified in the Final Agreement;
 - (b) Crown lands falling within municipal boundaries and consisting of:
 - i) lands required at present, or in the reasonably foreseeable future, for federal or territorial government facilities or operations (including lands required for the N.C.P.C.);

- ii) the beds of water bodies and the water rights connected therewith; and
 - iii) a 100' strip along certain shorelines; all to be identified in the Final Agreement.
- (c) lands encumbered with third party interests in the form of an estate in fee; and
- (d) the subsurface estate to lands.

3.4 Where, at any time subsequent to the settlement legislation coming into effect, a municipality acquires any of the lands or interests described in Subsection 3.3, such lands or interests shall be ~~considered to be~~ Municipal Lands for all further purposes.

Right to Acquire From Crown

3.5 Where, in the period following the settlement legislation coming into effect, the Crown determines that land is no longer needed for federal or territorial purposes within a municipal boundary and such land has been declared to be surplus the Crown shall convey an estate in fee simple to the municipality in exchange for nominal consideration.

Procedure for Determining Municipal Boundaries

3.6 As soon as practicable, the municipalities, the Tungavik Federation of Nunavut and the Federal and Territorial Governments shall undertake a process to define appropriate long-term boundaries. Such a process shall be synchronized with, but not prejudicial to,

the Inuit land identification process, with the objective that municipal boundaries for all municipalities shall be described by way of Schedule to the Final Agreement.*

3.7 It is agreed that the municipal boundary of each community referred to in Subsection 3.1 should be drawn in such a way as to provide the municipality with sufficient lands, based on current and future needs:

- (a) to encompass the projected expansion requirements of the community;
- (b) to encompass the community water supply;
- (c) to encompass the solid waste disposal areas;
- (d) to encompass resource areas sufficient to provide a supply of granular, quarrying and earth construction materials for the community;
- (e) to encompass existing or proposed community transportation and communication networks;

* The Parties acknowledge:

- (i) the current Block Land Transfer Program is intended to serve an objective consistent with the objective of these Provisions;
- (ii) the government intends to continue the Block Land Transfer Program and to continue to indicate to the communities that the Block Land Transfer Program is subject to the terms of the Final Agreement and Settlement Legislation; and
- (iii) the Territorial Government invites TFN to play an active role in the Block Land Transfer Program but recognizes that such role shall in no way limit the application of these Provisions.

- (f) to encompass community airstrips and docking areas;
- (g) to encompass a necessary buffer area around the perimeter of the projected urban community to control development and discourage unorganized development;
- (h) to encompass areas contiguous to the community that are actively utilized by the community on a continuous or seasonal basis for recreational or other purposes and which have property development implications; and
- (i) to encompass areas unique to an individual community that may arise on a case by case basis and which may be required by a community in the conduct of its municipal responsibilities.

3.8 Nothing in these provisions shall be construed so as to prevent the further extension of a municipal boundary in the period subsequent to the settlement legislation coming into effect. Such further extension shall:

- (a) have no effect, in itself, on the title to lands;
- (b) not include Inuit lands without the written permission, conditional or otherwise, of a Designated Inuit Organization.*

*It is agreed that the parties shall address the issue of forced takings of Inuit lands for municipal purposes.

- 3.9 As of the date the settlement legislation comes into effect, all Municipal Lands belonging to the Crown shall be administered and controlled by the Commissioner for the use and benefit of the municipality in accordance with these Provisions. These Provisions shall not be construed so as to provide the Commissioner with any additional powers of administration and control over lands, the title to which vests in a municipality prior to the settlement legislation coming into effect.
- 3.10 As soon as practicable and, in any event no later than three years after the date of the settlement legislation, the Commissioner shall convey the fee simple estate to the built-up area of the municipality to the municipality. For greater certainty, the built-up area shall include, but shall not be restricted to, water reservoir and facilities, community dump sites, sewage lagoons and treatment plants, borrow pits for granular, quarrying and earth construction materials, and graveyards.
- 3.11 Upon request by the municipality, the fee simple title to any or all legally surveyed portions of Municipal Lands, other than those lands conveyed further to subsection 3.10, shall be conveyed forthwith to the municipality.
- 3.12 It is agreed that the Commissioner shall not create or dispose of any interests or estates in Municipal Lands without prior written permission of the municipality conditional or otherwise.

- 3.13 It is further agreed that following settlement legislation coming into effect the Commissioner shall not transfer administration and control of Municipal Lands to any Minister, Agent, or servant of the Crown:
- (a) without municipal approval, conditional or otherwise; or
 - (b) without the payment of compensation as provided for in the provisions respecting forced takings of Municipal Lands.

Limits on Alienation of Municipal Lands

- 3.14 (a) As soon as practicable after the date of settlement legislation, and within timeframes established in the Final Agreement, the Territorial Government shall conduct a referendum within each municipality to determine whether a majority of the municipal voters are in favour of restricting alienation of lands belonging to the municipality.
- (b) Where the results of a referendum are in favour of restricting alienation of Municipal Lands, the municipality shall not create any legal or equitable interest in Municipal Lands that results in any rights enduring for or arising more than 99 years in the future.
- (c) At any time after 20 years, the municipality may elect by referendum to remove the restriction on alienation.

3.15 Where a municipal plan is not in effect with respect to all or part of the Municipal Lands of a municipality, the municipality shall not create any legal or equitable interest or estate in the land or otherwise allow development to proceed on the lands, without the prior written permission of the Commissioner.

Administration of Municipal Lands

3.16 A municipality may at any time exchange undertakings or enter into agreements with the Commissioner whereby its administrative responsibilities as owner over all or part of its Municipal Lands may be temporarily discharged by the Commissioner.

Special Concerns

3.17 The following special concerns shall be addressed in negotiations towards the Final Agreement:

- (a) the creation of new municipalities where communities arise in the future;
- (b) the abandonment of municipalities and the disposition of their Municipal Lands as a consequence of abandonment;
- (c) problems of access; and
- (d) forced takings of Municipal Lands.

Saving Provisions

3.18 Nothing in this Section shall be interpreted so as to allow or prohibit a municipality imposing real property taxation on Inuit Lands. The tax status of Inuit Lands within municipal boundaries shall be addressed and resolved in the negotiations towards the tax provisions of the Agreement-in-Principle.

Interpretation

3.19 As used in this Section, a surface estate in lands includes granular, quarrying and earth construction materials.

Transitional Provisions

3.20 It is agreed that numerous problems exist with respect to legal descriptions and past surveys of built-up areas of municipalities. It is further agreed that the necessary remedial survey work shall be carried out expeditiously by territorial government.

