

FIRST NATIONS INFRASTRUCTURE INSTITUTION

Background

Canada and First Nations both have an urgent need to develop a joint strategy to increase First Nation productivity. One area of great potential is to improve the productivity of First Nation lands. Where markets are not working, the value of First Nation lands can be less than 10% of the value of similar non-First Nation lands. First Nations are constrained by high transaction costs, nearly four to six times higher than on non-First Nation lands. These high transaction costs arise because the legal and administrative framework to facilitate investment on First Nation land is largely missing. Its absence is a result of the Indian Act. Whereas the legislative and administrative frameworks for federal and provincial governments have evolved responsively over the last 140 years, the Indian Act has remained virtually unchanged

During the last 30 years, First Nations have begun to legislate their way back into the Canadian economy. It started in 1988 with the first change to the Indian Act ever led by a First Nation – the Kamloops amendment. This allowed First Nations to collect property tax on their lands. Once First Nation governments derived revenues from economic activity, they began to pursue more economic activity on their lands. This meant pursuing other legislation to fill the legal and administrative gaps created by the Indian Act which include:

- The First Nations Land Management Act
- The First Nations Goods and Services Tax Act
- The First Nations Fiscal and Statistical Management Act
- The First Nations Oil and Gas Management Act and
- The First Nations Commercial and Industrial Development Act

Missing in these legislative initiatives is an institutional framework to support First Nation infrastructure.

With infrastructure, even the most well situated First Nations have been slow to develop their economic potential because they cannot plan, develop and finance infrastructure at the level required by business. The infrastructure gap on First Nations lands is well documented, with some analysts estimating the deficit at \$25 to \$30 billion and others as high as \$45 billion. Preliminary research suggests the gap is a result of the current approach applied to First Nation infrastructure development being generally more expensive, taking more time and being less durable than that of other governments.

First Nations are working with the First Nations Tax Commission (FNTC) to advance the concept of a First Nations Infrastructure Institution (FNII) as a new element of the *First Nations Fiscal Management Act* (FMA) in response to the significant infrastructure gap on First Nation lands.

In concept, FNII could provide the following services:

- **Support Projects with Standards and Laws** – Help with implementing standards and laws required to support infrastructure projects and improve economic development. This will save participating First Nations time and money and help ensure First Nation infrastructure is at national standards.
- **Assess and Support Development** – Assess infrastructure project readiness and develop infrastructure development plans so First Nations can build the legal and administrative capacity to manage the infrastructure cycle from planning to construction to operation, maintenance and replacement.
- **Infrastructure Planning Support** – Support integrated infrastructure planning (economic, capital, financing) and provide capacity to complete these planning elements of infrastructure development. This will help interested First Nation access available federal resources.
- **Project Management** – Help First Nations build capacity to efficiently manage and build infrastructure projects. In some cases FNII could also provide project management services.
- **Training and Certification** – Offer certified training and systems for First Nation administrations to support the operation of sustainable infrastructure systems through the Tulo Centre of Indigenous Economics.
- **Advocacy** – Advocate for and develop new FMA revenue streams within an improved fiscal framework to finance infrastructure projects.
- **Risk Assessment and Management** – Assess infrastructure risks and develop risk management strategies to improve access to financing.

The creation of the FNII would help First Nations develop more sustainable economic infrastructure on their lands, and will benefit from provincial precedents and models such as Infrastructure Ontario which provides similar services and support to health, education and local government infrastructure projects in that province.

Summary

Conditions of the FNII would be as follows:

- A preliminary review of First Nation infrastructure by the FNITC has identified there are gaps in planning (lack of integration between plans), project management (insufficient experience or expertise), financing (underutilization or inaccessibility of fiscal tools or insufficient fiscal capacity), and supporting legal frameworks (missing or inadequate laws) facing many First Nations;
- The current FMA and its three institutions (FNITC, First Nations Financial Management Board [FMB] and First Nations Finance Authority [FNFA]) provide a vehicle to support increased fiscal sustainability for infrastructure; and with the advent of FNII, could effectively contribute to the construction of greater cost-effective economic infrastructure;

- The federal government has committed to a series of significant investments in infrastructure to support a better future for Indigenous Peoples (Almost \$4.7 billion in planned infrastructure investments over the next five years include education infrastructure (\$969 million), social infrastructure (\$1.2 billion), green infrastructure (\$2.2 billion), and community infrastructure (\$255 million)); and
- First Nations are working with the FNTC to advance the concept of a First Nations Infrastructure Institution as a new element of the *First Nations Fiscal Management Act*.

THE CHAMBER RECOMMENDS

That the Federal Government:

1. develop supporting legislation for a First Nations Infrastructure Institution dedicated to improving the process of developing infrastructure on First Nations lands.

Submitted by the Sun Rivers Golf Community