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**TITLE:** Additions to Reserve Policy and Process Reform

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**SUBJECT:** Claims and Land Rights

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**MOVED BY:** Chief Joe Miskokomon, Chippewas of the Thames First Nation, ON

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**SECONDED BY:** Chief Nelson Genaille, Sapotaweyak Cree Nation, MB

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**DECISION:** Carried by consensus

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**WHEREAS:**

- A. The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) affirms in Article 28 the right to redress for Indigenous Peoples, including "lands, territories and resources."
- B. Adding additional reserve land has benefited First Nations both in terms of economic development and in allowing for community growth.
- C. The federal government's policy on Additions to Reserve (ATR) contains many barriers to the creation of reserves which frustrate the implementation of claims and impede First Nation economic and social development.
- D. The Government of Canada has acknowledged the need to change the ATR policy and process to make it more effective and transparent.
- E. The Political Agreement of November 2007 between the Assembly of First Nations (AFN) and the Government of Canada makes specific provision for a review of policies and practices related to ATR.
- F. A joint AFN / Canada technical working group (JWG) was established in late 2009 with representatives from AFN and Canada which has included technical representatives from key regions across Canada.
- G. The JWG has been meeting regularly to scope out issues related to revising the ATR policy including:
  - (i) Creating a new ATR category entitled "Tribunal Decisions" for land proposals resulting from a positive decision of the Specific Claims Tribunal to re-acquire or replace specific claims land;

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- (ii) Transforming and expanding the approach to “Community Additions” to ensure that these proposals are considered on their merits thereby placing an onus on Canada to justify why such a proposal would not go forward;
  - (iii) Collapsing the current “New Reserve / Other” category into the “Legal Obligations” category to create a more transparent policy and process for these ATRs (e.g., landless band ATRs rarely succeeded).
- H. Along with an improved ATR policy the JWG is looking at companion legislation that would:
- (i) Examine extending the *Claims Settlement Implementation Acts* available to First Nations in Saskatchewan, Alberta and Manitoba to First Nations in other provinces and territories;
  - (ii) Examine other legislative changes that would make the ATR process more efficient and more transparent.
- I. The Chiefs Committee on Claims (CCoC) continues to provide oversight and direction to the work being carried out by the JWG.
- J. The Chiefs-in-Assembly have already passed a series of resolutions affirming the need for an improved process for ATR.

**THEREFORE BE IT RESOLVED that the Chiefs-in-Assembly:**

1. Support the continuation of the joint AFN / Canada technical working group (JWG) work to obtain positive changes to the Additions to Reserves (ATR) policy and process on issues that would include, but not be limited to:
  - (i) A renovation of the existing ATR policy and “Chapter 10” of Aboriginal Affairs and Northern Development Canada’s Lands Manual to make this policy and process more efficient, effective and transparent;
  - (ii) A revised ATR process that would ensure that the implementation all settlements agreements that include ATR commitments take precedence over other interests (e.g. municipal tax loss, etc.) and uphold the Honour of the Crown and respect the constitutional status of FN Aboriginal and Treaty rights
  - (iii) The cooperative examination of legislation, in accordance with the standard of Free, Prior and Informed Consent, that would both expand the current legislative models available in Saskatchewan, Alberta and Manitoba to First Nations in other provinces and territories, and include other legislative measures that, in conjunction with the revised ATR policy, make the process more efficient, effective and transparent.
2. Call on the CCoC to continue to report back to the Chiefs-in-Assembly as progress is made by the JWG.

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