

Governance Pilot Project: Key First Nation

The constitution of the Key First Nation is a relatively brief document. It is accompanied however, by:

- the *Key First Nation Financial Management Act* (and associated regulations and policies)
- the *Key First Nation First Nation Citizenship Act*, and
- *An Act Respecting the Government Elections of the Key First Nation*

The constitution was developed by a Governance Committee. The Committee consulted with the membership both on and off reserve, organizing meetings in seven major urban centers located in four provinces. The package has not yet been submitted to the membership for ratification. The Key First Nation Constitution is founded on the autonomy and the treaty making history of the First Nation, which signed an adhesion to Treaty #4 in 1875. The Constitution is recognized as the basis for the First Nation government's authority, its jurisdiction and laws. It provides a framework for implementing the inherent right of self-government and the First Nation's treaty rights.

In the opening provisions of the constitution, the First Nation expresses its view of its inherent right of self-determination and the right to govern itself. It recognizes that certain rights and responsibilities rest with the people, including the responsibility to:

- respect and abide by the constitution, laws and policies,
- exercise ultimate authority in making and amending laws,
- participate in governance through legislative assemblies and membership meetings, and
- participate in leadership selection.

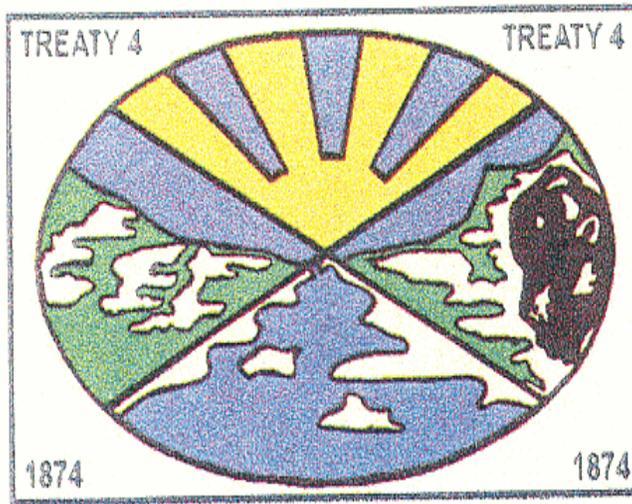
The core government structures and procedures of the First Nation are established. A Legislative Assembly, comprising all First Nation electors, is recognized. The roles of the Legislative Assembly are to review, ratify and amend laws. The Assembly also has a role in the review and monitoring of financial management and accountability, the management and development of land and resources, and providing guidance to Council and other government institutions. It is to meet at least twice a year.

A Council, or executive arm of government, also is established. This comprises a Chief and Councilors. The Chief is acknowledged as the traditional representative and spokesperson of the First Nation. Chief and Councilors are elected in accordance with *An Act Respecting the Government Elections of the Key First Nation*. Their primary function is to apply and follow the laws and policies of the First Nation, as set by electors. Other roles and responsibilities are defined, including a role in appeals and grievances, intergovernmental relations, establishing policies, and promoting and protecting rights. Tribunals, boards, commissions and committees may be established by First Nation law and policy, for the purposes of carrying out activities related to the good governance of the Key First Nation.

Finally, the civil service of the First Nation government is recognized as part of the government structure. It includes all program and administrative staff and contractors and is governed by the First Nation's finance and personnel laws. With respect to government procedure, the constitution only specifies a law making process. First Nation laws are developed at the direction of Council by committees. They are then subject to community discussion, review and amendment by the Legislative Assembly. Major First Nation laws must be approved by a majority of electors attending a Legislative Assembly. If the

number of electors at the Legislative Assembly is less than 51% of all eligible electors a second or subsequent meeting can be called with thirty days notification. At the second or subsequent meeting, a law can be approved by 51% or more of electors present at a meeting, provided at least 25% of electors are in attendance. Major laws requiring approval by the Legislative Assembly include, for example, ratification or amendment of the constitution, disposition or designation of First Nation land, and laws in relation to citizenship and elections. Matters of a policy nature require either the approval of Council or a designated portfolio board or committee. Alternatively, a consensus of on-reserve electors may approve policy matters, defined as those related to the operation of programs, portfolio areas, capital works, general operations and administration, and service delivery.

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KEY FIRST NATION CONSTITUTION

DRAFT

DEVELOPED BY THE KEY GOVERNANCE COMMITTEE

January 2004

TABLE OF CONTENTS

Page No.

Preamble	
A. Inherent Rights Of Our First Nation	01
B. Rights & Responsibilities Of Our First Nation People	02
C. Governing Structure Of The First Nation	03
D. Roles Of Our Governing Structure	04
E. Law-Making Process	05
F. Major Legislative Affairs & Policy Affairs	06
G. First Nation Appeal Tribunal	07
H. Annual Band Meetings	08
I. Coming Into Effect	08
J. Amendment Of This Constitution	08

January 2004

CONSTITUTION KEY FIRST NATION

PREAMBLE

The Key First Nation, signed adhesion to Treaty 4 at Swan River, North West Territories (now Manitoba) on September 24, 1875 thereby entering into Treaty with the Crown, exercising all the powers of First Nation sovereignty and nationhood.

It is upon this foundation that we, the members of the Key First Nation, put into place this Constitution, which is the basis for our government authority, our jurisdiction and our laws.

This Constitution is a framework for the implementation of our inherent and treaty rights which extend to all of our people regardless of their residency.

By virtue of our rights and freedoms as an autonomous First Nation in an historical relationship with the Crown, we do hereby proclaim and institute the "*Constitution of the Key First Nation.*"

A. INHERENT RIGHTS OF OUR FIRST NATION

The foundations of our *FIRST NATION* are rooted in the sacred gifts from our Creator, our Elders' teachings, and our knowledge of our inherent rights. It is therefore essential to declare:

1. The Creator put us here as the people of the Key First Nation and He gave us laws that govern all of our relationships so that we may live in harmony with nature and mankind. The Creator gave us a place on earth to provide us with all our needs so that we may live and prosper. We shall practice these rights, responsibilities and sacred obligations from generation to generation.
2. We have been autonomous and connected to our territories since time immemorial. This is confirmed by our oral history, our Elders teachings, our traditions and customary practices.
3. Our inherent rights flow from the Creator and include but are not limited to:
 - Our spiritual beliefs and practices

- Our language
 - Our culture, customs and traditions
 - Our freedom, independence and self-determination
 - Our love and respect for each other
4. Our Inherent right to self-determination includes the following main elements:
- The right to govern ourselves and to determine our own destiny; including the right to develop and amend our own constitution, laws and governance procedures based upon the will of our people;
 - ◆ The right to establish and maintain our own form of government in order to provide for the well-being and prosperity of our people;
5. Our personal existence is defined by universal truths and natural laws, which guide us in honoring each individual's right to life, liberty and wellness. We accept the responsibilities that go with our rights, knowing that we are responsible for our own destiny and that our government is accountable to our people.
6. Our Inherent and Treaty Rights are the basis for our social, cultural, political and economic systems. These rights guarantee our freedom to exercise and preserve our way of life forever. From generation to generation we will continue to exercise our inherent rights and fulfill the responsibilities and sacred obligations given us by our Creator.

B. RIGHTS & RESPONSIBILITIES OF OUR PEOPLE

1. Our people shall respect and abide by our Constitution, laws and policies.
2. Our people have the responsibility to understand and apply their privileges and obligations as set forth in our constitution, laws and governance policies.
3. Our people have the ultimate authority in making and amending laws.
4. Our people have the right and responsibility to participate in Legislative Assemblies or membership meetings as duly provided for in our Constitution, laws or as called and approved by the Council.
5. Our Election Act ensures that there shall be consultation with and input by our people, through the will of our voters, in our leadership selection processes.
6. The rights, freedoms and socio-economic benefits flowing from our Government system shall, to the extent possible, apply equally to all of our First Nation people.

7. All our First Nation's people shall enjoy, without hindrance, freedom of worship, culture, conscience, speech, assembly, and association.
8. The judicial processes of our Government system shall be open to all our people.

C. GOVERNING STRUCTURE OF THE FIRST NATION

The principle components of the Key First Nation Government shall be:

1. A Legislative Assembly consisting of the electors of our First Nation.
2. A Council, which shall serve as, the executive arm of our government.
3. Tribunals, Boards, Commissions and Committees as so provided for by our laws & policies
4. The civil service of the government, including all program and administrative staff and contractors.

D. ROLES OF OUR GOVERNING STRUCTURES

1. Legislative Assembly

The Legislative Assembly shall consist of all members of the Key First Nation who are 18 years of age or older and who are citizens of the First Nation in accordance with the Key First Nation citizenship Act. The Legislative Assembly shall fulfill the following roles and functions:

- 1.1 To review, ratify and amend all laws;
- 1.2 To review and monitor the financial management and accountability of the First Nation and its governance and administrative systems;
- 1.3 To discuss, ratify and monitor the major institutions of the First Nation;
- 1.4 To review and monitor the development and management of the First Nations resources, territories, lands, and revenues;
- 1.5 To provide guidance to the Council and other institutions of the government;
- 1.6 To meet at least twice in each and every year to deal with the above items.

2. Chief and Council (Executive Branch)

- 2.1 The Chief is the representative of our government based on our culture and historic traditions. The Chief is also the spokesperson reflecting the decisions of

Council. As our leader, the Chief is our voice in representing the interests, priorities and aspirations of our people.

- 2.2 The Chief & Councillors are elected and mandated in accordance with the Election Act. Their term of office and performance standards is identified in the Election Act.
- 2.3 The executive authority of our governance system is vested in the Chief and Councillors. Their primary function is to apply and follow the laws and policies of our First Nation as set by the electors.
- 2.4 The Chief & Council shall, upon election to office, take the “*Oath of Office*” (as attached) in the presence of our Elders and as interpreted by our Elders. This establishes terms of reference for their activities and their performance of duties.
- 2.5 The Chief & Council shall fulfill the following roles and responsibilities:
 - ◆ To represent and protect our First Nation’s rights, culture and traditions;
 - To promote and protect our Inherent and Treaty rights;
 - To reflect and implement our peoples’ goals, priorities & primary interests;
 - To foster democratic processes and consensus decision-making;
 - To promote unity, harmony, fairness and respect among our people;
 - To establish and apply public policies for the general benefit of our people;
 - To oversee our economy and resources;
 - ◆ To ensure effective, efficient and accountable government in consultation with our people through the Legislative Assembly;
 - ◆ To effectively manage the fiscal and financial affairs of the First Nation including full and open accountability to our people;
 - ◆ To provide for the fair reconciliation of grievances, appeals and disputes;
 - ◆ To manage inter-governmental relations, negotiations and agreements.
 - ◆ To ensure that “Conflict of Interest” is avoided.
 - ◆ Other roles and responsibilities as identified in our First Nation laws.

3. Tribunals, Boards, Commissions and Committees

These institutions may be authorized, from time to time, by Key First Nation law or special resolution of the Council, depending on the nature of their responsibilities, to carry out activities related to good governance in areas of importance to the Key First Nation.

4. Key Civil Service

The Council may develop and staff a civil service to carry out the programs and services to Key First Nation members and citizens. This civil service will be subject to availability of resources and will be governed by the Financial Management Act and the Personnel Management Act.

4. LAW-MAKING PROCESS

1. All Key First Nation laws shall be officially ratified by a majority of electors (as defined in our "Election Act") who are in attendance at a Legislative Assembly duly convened by the Council or as provided for in this Constitution or in our First Nation laws.
2. The passage of new laws or the amendment of existing laws shall occur on the following basis:
 - a) The Council shall appoint a Committee to develop the recommended content for the new or amended law, prior to public presentation.
 - b) The Council or the designated Committee shall make the recommended new or amended law available to the people via the Legislative Assembly. Further, the Council, or a designated Committee, shall ensure that there is an information meeting for electors to review the proposed law or amendment and appoint a chair for such meeting(s).
 - c) The electors shall review the new or amended law at a duly convened Legislative Assembly. Electors may offer amendments on the proposed content from the floor during the Legislative Assembly.
 - d) Official passage of a new law is made through a Legislative Assembly duly convened for the purpose of ratifying the law, where 51% or more of all electors vote in favor of the law. In the event that the number of voters that turn out is not sufficient to meet the threshold of 51%, then a second or subsequent ratification meeting shall be called on a 30-day notification basis. At the second or subsequent meeting, a law may be ratified by 51% or more of those electors present at the meeting; provided that at least 25% of all electors are in attendance.
 - e) Official passage of an amendment to or the repeal of an existing law can be

accomplished either through the process for enacting new laws as outlined above or can be done in conjunction with the electoral process as a plebiscite question accompanying the electoral ballot.

E. MAJOR LEGISLATIVE AFFAIRS & POLICY AFFAIRS

1. With regard to the laws and law-making processes of our First Nation, it is important to clarify the distinction between *Major Legislative Matters* and *Policy Affairs* which are issues of lesser or local importance. Toward this end, the following terms of reference apply to this Constitution, and in particular, to the law-making and law-amending processes of the Key First Nation:
2. *Major Legislative Affairs* require the participation and ratification of a majority of all electors through a Legislative Assembly and include the following matters:
 - 1.1 The ratification and amendment of the Constitution;
 - 1.2 The disposition or designation of First Nation lands;
 - 1.3 The disposition of First Nation "Indian Monies" (not including money received through contribution agreements);
 - 1.4 The ratification or amendment of major First Nation laws in the areas of Citizenship, Elections, Land Use, Wildlife and Finance.
3. *Policy Affairs* are those local band matters, which are separate from the Major Legislative Affairs, outlined above. They require only the approval of the Council or a designated portfolio board or committee, or the consensus decision of the on-reserve electors. They cover the operation of programs, portfolio areas, capital works, general operations, administration and other services to the people as developed from time to time.

D. KEY FIRST NATION TRIBUNAL

THE KEY FIRST NATION SHALL DEVELOP A TRIBUNAL ACT THAT WILL MANDATE THE DEVELOPMENT OF A TRIBUNAL TO DEAL WITH INTERNAL DISPUTES ARISING FROM THE APPLICATION OF THIS CONSTITUTION, LAWS AND POLICIES OF THE KEY FIRST NATION.

H. ANNUAL BAND MEETINGS

To ensure membership awareness and participation, along with formal accountability of our government to our people, the following membership meetings shall be held annually:

1. Legislative Assembly meeting on the First Nation's Constitution and laws;
This Assembly will deal with the design, interpretation, communication, ratification or amendment of either the Constitution or laws of the First Nation.
2. Legislative Assembly meeting on First Nation financial affairs, budget plans, revenues and the review of the audited statements of the First Nation;
3. Membership meeting on policies, programs and services involving reports by the Portfolio Councillors and program managers.
4. Other open Membership meetings as provided for in our laws and policies.

I COMING INTO EFFECT

This Constitution of the Key First Nation shall be ratified by electors of the First Nation in formal Legislative Assembly in accordance with paragraph E, 2 (d) herein.

J. AMENDMENT OF THIS CONSTITUTION

This Constitution may be reviewed and amended from time to time by the Legislative Assembly of the Key First Nation as set out in the amendment of laws section.

SAMPLE OATH OF OFFICE

I, _____, do solemnly swear and affirm that I will support and defend the laws, values and policies of the _____ First Nation; that I will bear true faith and allegiance to same; and that:

1. I will faithfully, honestly and consistently perform the duties of my office to the best of my judgment and ability, remembering that my primary duty is to serve the _____ First Nation;

2. I will promote and uphold the integrity and dignity of the _____ First Nation and its programs and employees;
3. I will not allow any private interest to influence my conduct in public matters of the _____ First Nation. I will promptly disclose any “conflict of interest”, direct or indirect financial interest I have in a matter; and I will not participate in the discussion of the matter and will not vote in respect of the matter;
4. I will honor, respect and support the “Elders” of the _____ First Nation;
5. I will show respect for the authority of the government (Chief & Council) and other governance structures of the First Nation;
6. I will discharge my duties and responsibilities in a manner becoming my position;
7. I will be prompt, courteous and temperate in the performance of my duties;
8. I will maintain respect for my colleagues, the managers and employees of the First Nation;
9. I will demonstrate and practice honesty, fairness, respect, justice and objectivity in my involvement in the governance affairs of the First Nation;
10. I will continually work toward self-improvement and professional development.
11. I will not publicly criticize the laws or the policies of the First Nation. If I feel that changes would be advisable, I will provide constructive criticism or suggestion through the proper channels of law making or amending processes of the First Nation.
12. I will use information obtained on the job for the intended purpose only. I will give out official, classified or confidential information only when the release of such information has been authorized by the First Nation.
13. I will be accountable to the _____ First Nation membership including reporting to the electorate on a regular basis;
14. I am qualified to hold the position of _____ in accordance with the provisions for candidate eligibility under the _____ First Nation Election Act;
15. I have not, by myself or any other person, knowingly contravened the Election Act in relation to my election to office;
16. I shall remain free of alcohol, toxic substances or drug abuse during my term of office.

I do further affirm that I take this *Oath of Office* freely, without any mental reservation or purpose of evasion. By the Grace of our Creator I do swear!

Name of Elected Official

(Witness)/ Elder

Executive Manager

Date

DEFINITION OF TERMS

For the purpose of this Constitution;

- a) *FIRST NATION* shall mean the _____ First Nation.
- b) *MEMBER* means an Indian registered as a member of the _____ First Nation in accordance with the _____ First Nation Membership Law as amended from time to time.
- c) *ELECTION* refers to the election of Chief and Councillors in accordance with the _____ Election Act.
- d) *ELECTOR* shall be any member of the _____ First Nation, who is eighteen (18) years or more and meets the requirements as set out in the _____ Election Act.
- f) *CANDIDATE* means an Eligible Voter of the age of eighteen (18) years or more on or before the date of the Election who is nominated to run for, qualifies to run for and does run for an elected position of the _____ First Nation.
- f) *CHIEF* means that Member of the _____ First Nation who has been duly elected, under the Election Act, to fill the position of Chief and represent the Members of the First Nation.

- g) “*COUNCIL*” shall mean the Headmen or elected governing body of the _____ First Nation and shall consist of the Chief and Councillors (Headmen) elected under the Election Act, as amended from time to time.
- h) “*APPEAL TRIBUNAL*” means the person(s) elected by the electors specifically to manage appeals and formal grievances, in accordance with this Constitution.
- i) “*CONSTITUTION*” means the _____ First Nation Constitution.
- j) “*CONFLICT OF INTEREST*” means financial and/or personal gain, direct benefit and/or other benefit(s) received by the individual or for his/her immediate family.
- k) “*OATH OF OFFICE*” means and refers to the Oath of Office for the elected leadership of the _____ First Nation, as attached to this document.
- l) “*EXECUTIVE MANAGER/ADMINISTRATOR*” is that employee of the First Nation employed specifically to perform the top management functions for the First Nation.
- o) The terms “*he*” or “*his*” represents both the masculine and feminine genders.
- p) “*IMMEDIATE FAMILY*” means parents, children, siblings, grandparents, in-laws and spouse (including common-law)
- q) “*EMPLOYEE*” means an individual who is employed by the First Nation, its affiliates and/or subsidiaries on a permanent, part-time, seasonal basis or term appointment, for which salary, benefits and/or remuneration are paid by the _____ First Nation.
- r) “*LEGISLATIVE or LEGISLATION*” means the laws or law-making process of the _____ First Nation.
- s) “*INDIAN MONIES*” means those revenues or monies or the _____ First Nation which are held in Trust, which are obtained through permit, lease or development revenues, and which are not provided to the _____ First Nation by way of contribution agreements with either the federal or provincial governments. It may also mean any revenue derived solely from the _____ First Nation.
- t) “*RATIFICATION*” means the official approval of _____ First Nation constitution or laws by the electors of the First Nation in accordance with this Constitution, or the amendment of laws in accordance with the amendment procedure set out in respective First Nation laws.
- u) “*GOVERNMENT*” means the duly elected leadership of the _____ First Nation.

- v) *"PUBLIC POLICIES"* means the policies of the _____ First Nation as approved by the Chief and Council and as implemented by Council, Portfolio Committees or management.
- w) *"LEGAL REPRESENTATION"* means lawyers, judges, Justice of the Peace, or any other person(s) in the justice/legal system.

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