

STONEY TRIBE

AMENDMENT OF 2002 DESIGNATION AND REVOCATION OF 1930 SURRENDER

WHEREAS:

- A. The Stoney Indian Reserve No. 142, 143 & 144, the Bighorn Indian Reserve No. 144A and the Eden Valley Indian Reserve No. 216 (the "Reserves") in the Province of Alberta are reserves within the meaning of the *Indian Act* and have been set apart for the use and benefit of the Stoney Band (the "Tribe"); and
- B. Certain lands in the Stoney Indian Reserve No. 142, 143 & 144 were surrendered on January 9, 1930 for leasing for camping purposes, accepted by Privy Council Order 453 dated February 25, 1930 and registered in the Indian Lands Registry System ("ILRS") under Registration No. 8537-283 (the "1930 Surrender");
- C. The Stoney Tribe desires that the 1930 Surrender be revoked so that it can be replaced with a designation for the purposes of leasing hereinafter set forth (the "Revocation of 1930 Surrender");
- D. On July 31, 2002, the Tribe's electors assented to the designation of certain lands within the Stoney Indian Reserve No. 142, 143 & 144 for the purpose of leasing the lands for residential, commercial, institutional, education and/or industrial purposes and the designation was accepted by the Governor General in Council by P.C. 2003-1245 dated August 13, 2003 and registered in the ILRS under Registration No. 318459 (the "Designation");
- E. The Tribe wishes to amend the Designation to extend the term, add additional lands; add in the option to direct lease with Canada; and add to the list of purposes for which a lease could be issued;
- F. By Band Council Resolution No. 2018-021 dated July 9, 2018, the Band Council of the Tribe (the "Council") requested that the Minister order a referendum to determine if a simple majority of electors of the Tribe voting at the referendum are in favour of the proposed Amendment of 2002 Designation and Revocation of 1930 Surrender; and
- G. On _____, 2018 this Amendment of 2002 Designation and Revocation of 1930 Surrender was assented to by a simple majority of the electors of the Tribe voting at the referendum in accordance with the *Indian Act*.

REVOCATION:

The Tribe hereby revokes the 1930 Surrender.

AMENDMENT:

1. The Tribe hereby amend the terms of the Designation as provided for below.
2. The description of the lands in the Designation will be amended as follows:

“WITNESS that, pursuant to subsection 38(2) of the Indian Act, the Band hereby designates, by way of surrender that is not absolute, to Her Majesty in right of Canada, Her Heirs and Successors, all of the rights and interests of the Tribe and its members required to carry out the purposes of the Designation, in portions of the Reserve, more particularly described as follows:

That Portion of Orthophotomap (RSA 1540) for Stoney Indian Reserve Nos. 142, 143, & 144 Showing Proposed Designation Vote Area for Economic Development, Containing Approximately 240 Acres (July 2002), to be replaced by the Registration Plan produced by Natural Resources Canada and approved in the Designation Referendum by the Stoney Tribe.

Excepting thereout all mines and minerals, whether precious or base, solid, liquid or gaseous, (the “Designated Lands”).”

shall be deleted and replaced with:

“WITNESS that, pursuant to subsection 38(2) of the Indian Act, the Stoney Tribe hereby designates to Her Majesty, any of the rights and interests of the Tribe and its members required to carry out the purposes of this Designation, in those parts of the Reserves described as follows:

FIRSTLY:

In the Stoney I.R. No. 142, 143 & 144:

Lots 19-1 and 19-2, within theoretical Sec. 2, Tp.25, R.8, W.5M., theoretical N.1/2 Sec.35, Tp. 24, R. 8, W.5M, as shown on Plan RSA 3087R, containing 91.6 hectares (226.34 acres) more or less;

Lots 38 and 39, within theoretical S.E. 1/4 Sec. 24, Tp.25, R.7, W.5M., as shown on CLSR 105358, containing 8.86ha (21.89 acres) more or less;

Lot 42 within theoretical N.1/2 Sec.11, W.1/2 & N.E. 1/4 Sec. 13, Sec. 14 and S.W. 1/4 Sec. 24, Tp. 25, R.8, W.5M., as shown on CLSR 105408, containing 152 ha (375.6 acres) more or less;

Lots 43 and 45, within theoretical S.E. 1/4 Sec.36, Tp. 25, R. 7, W.5M., as shown on CLSR 105457, said lots together containing 1.79 ha (4.42 acres) more or less

Lot 41 within theoretical E.1/2 Sec. 9, W 1/2 & N.E.1/4 Sec. 10, W. 1/2 Sec. 14, Sec. 15, Sec. 16, S.E.1/4 Sec. 21, Tp.25, R. 8, W.5M., and

access road right of way as shown on CLSR 106295 said lot containing 468 ha (1156.45 acres) more or less;

Parts of Sec. 5, Tp. 26, R.4, W.5M.	193 ha (477 acres),
Parts of Sec. 6, Tp. 26, R.4, W.5M.	201 ha (518 acres),
Parts of Sec. 1, Tp. 26, R.5, W.5M.	225 ha (556 acres),
Parts of Sec. 2, Tp. 26, R.5, W.5M.	228 ha (563 acres)
Parts of Sec. 11, Tp.26, R.5, W5M.	253 ha (625 acres)
Sec. 12, Tp.26, R.5, W.5M.	258 ha (638 acres)
Parts of S 1/2 Sec. 14, Tp.26, R.5, W.5M.	21.2 ha (52.4 acres)
Parts of Sec. 35, Tp. 25, R.5, W.5M.	255 ha (630 acres)
Sec. 36, Tp. 25, R.5 W.5M.	259 ha (640 acres)

as shown on CLSR 106328, said areas containing 1902 ha (4699.9 acres) more or less;

Excepting thereout all mines and minerals, whether precious or base, solid, or liquid or gaseous;

Subject to all third party encumbrances on the Designated Lands at the commencement date of this Designation, which may include, but are not limited to:

- Permit to Telus Corporation dated January 11, 1972, ILRS X10453;
- Permit to Trans Alta Utilities Corporation dated April 18, 1969, ILRS 10943
- Permit to Atco Gas Ltd. dated May 25, 1983, ILRS 088137
- Permit to Crown Alberta dated June 1, 2004, ILRS 331826

SECONDLY:

In the Bighorn I.R. No. 144A:

Lot 1, Lot 2 and Lot 3 within theoretical W.1/2 Sec.29, Tp.39, R. 16, W.5M., as shown on CLSR 105400, said lots together containing 13.87 ha (34.27 acres) more or less;

Excepting thereout all mines and minerals, whether precious or base, solid, or liquid or gaseous;

Subject to all third party encumbrances on the Designated Lands at the commencement date of this Designation, which may include, but are not limited to:

- Permit to Crown Alberta dated June 1, 2004, ILRS 331826

THIRDLY:

In Eden Valley I.R. No. 216:

Lots 3, 4, 5, 6 & 7 within Sec. 29 and S. 1/2 & N.E.1/4 Sec. 32, Tp.17, R. 2 W.5M. as shown on CLSR 106239, said lots together containing 373 ha (921.70 acres) more or less;

Excepting thereout all mines and minerals, whether precious or base, solid, or liquid or gaseous;

Subject to all third party encumbrances on the Designated Lands at the commencement date of this Designation, which may include, but are not limited to:

- Permit to Crown Alberta dated June 1, 2004, ILRS 331826

(the "Designated Lands")"

3. The 'To Have And To Hold' term of the Designation will be amended as follows:

"TO HAVE AND TO HOLD the Designated Lands unto Her Majesty in right of Canada, Her Heirs and Successors for the term of Forty Nine (49) years that begins upon the acceptance of this Designation by the Governor in Council;"

shall be deleted and replaced with:

"TO HAVE AND TO HOLD the Designated Lands unto "Her Majesty in right of Canada, Her Heirs and Successors for the term of Ninety Nine (99) years that begins upon the acceptance of this Amendment of 2002 Designation and Revocation of 1930 Surrender by the Minister;"

4. Section 1 of the Designation will be amended as follows:

"The Designated Lands shall be leased for a term up to 49 years less a day ("the Headlease") to a wholly owned Band Corporation whose shares shall be held in trust for the Tribe."

shall be deleted and replaced with:

"The Designated Lands, or any portion of the Designated Lands, may be leased for a term up to 99 years less a day ("the Headlease") from the date of acceptance of this Amendment of 2002 Designation and Revocation of 1930 Surrender by the Minister. The lessee will be either:

- (i) a corporation, limited partnership, or other entity whose ownership and controlling interest is 100% beneficially held in trust for the members of the Tribe (a "Tribe Entity"); or
- (ii) any other individual or entity approved by the Stoney Tribe Council."

5. Section 2 of the Designation will be amended as follows:

"The Designated Lands shall be leased for a nominal rent for the first five (5) years of the term of the Headlease. On the fifth (5th) anniversary of the

Headlease and every five (5) years thereafter a rent review shall be conducted and the Designated Lands shall be leased for fair market value to be determined on the bare land value of the Designated Lands.”

shall be deleted and replaced with:

“2. a. Subject to subsection 2 b all leases shall be for at least fair market rent.

2. b. Where the lessee is a Tribe Entity:

- i. the Minister may, at the request of the Tribe Council by way of a Band Council Resolution and subject to section 2(b)(ii), issue a lease to a Tribe Entity for nominal rent of one dollar (\$1.00) pre-paid for the first five (5) years of the term of the Headlease. On the fifth (5th) anniversary of the Headlease and every five (5) years thereafter a rent review shall be conducted and the Designated Lands shall be leased for at least fair market value to be determined on the bare land value of the Designated Lands.
- ii. it is a condition of any Headlease issued for nominal rent that if the ownership and controlling interest of the Tribe Entity is no longer 100% beneficially held in trust for the members of the Tribe, then rent shall be increased to at least fair market rent

2. c A Headlease may allow assignments, subleases and mortgages of leasehold interests, and may be used as security to obtain financing and to secure other obligations related to the Designated Lands or otherwise.”

6. Sections 3 & 4 of the Designation will be deleted.

7. Section 6 of the Designation will be amended as follows:

“The Designated Lands shall be leased for residential, commercial, institutional, educational and/or industrial purposes, the specific purposes to be consented to by the Chiefs and Council by way of Band Council Resolution, which purposes may include, but are not limited to: Access roads and ancillary roads; Facilities related to casino games licensed under applicable laws; Restaurant and food sales facilities including kiosks, convenience stores; a resort destination hotel; parking areas; entertainment establishments, including movie theatres; signs; commercial shopping centres; playgrounds and golf courses; office, business, or commercial establishments;”

shall be deleted and replaced with:

“The Designated Lands, or any portion of the Designated Lands, may be leased for residential, commercial, institutional, manufacturing, educational, cultural, recreational, tourism and eco-tourism, agricultural and agri-food, horticulture, retail and/or industrial or light industrial purposes, which purposes may include, but are not limited to: Access roads and ancillary roads; utilities and infrastructure services, including solid waste and sewage treatment plants, water treatment plants, cellular,

telephone, internet and electrical facilities; Facilities related to casino games licensed under applicable laws; Restaurant and food sales facilities including, kiosks, convenience stores; a resort destination hotel; parking areas; entertainment establishments, including movie theatres; signs; commercial shopping centers; playgrounds and golf courses; office, business, or commercial establishments; camp grounds, picnic areas, parks, RV parks; Transport facilities, including heliport, aerodrome, train stations, truck stop, gas stations or other re-fuelling services; vacation amenities including, cabins, cottages, short or long-term vacation rental properties; tourism facilities, including interpretive centers, helicopter tourism, lodges; cultural facilities including museums, theaters, art galleries; sports and recreation facilities, including hockey arenas, ice rinks, sports stadiums and arenas, swimming pools, playing fields and other playing surfaces; green houses; storage facilities; health services and social service facilities, private or public, including, clinics, hospitals, treatment centers, retreat centers and rehabilitation centers, nursing homes, adult group homes, youth care facilities, rehabilitative homes and transitional facilities; emergency response stations; buildings or structures for the purpose of religious, charitable, educational or correctional activities; Institutional uses may include, but are not limited to, places of worship, public or private schools, post-secondary institutions, hospitals, reformatory or correctional facilities, medical clinics, cemeteries and child care facilities; recycling/diversion depot or facility; manufacturing plants; laboratories; research or business office park; gravel or aggregate extraction; facilities relating to the production, recovery, manufacturing, storing and delivery of energy or alternative energy, including, solar, geo-exchange, wind, hydro, biomass, biogas, biofuels; carbon storage facilities; power plants; distribution centers; warehouses or such other purposes approved by the voting members of the Tribe in accordance with s.5 provided that such purposes are consistent with any Tribe land use by-law in force at the time the Designated Lands are leased and with any applicable development plan approved by the Tribe Council by way of Band Council Resolution."

8. Section 8 of the Designation will be deleted
9. The following terms will be added to the Designation as sections 9 through 14:
 - "9. The appraisal report of the following Designated Lands, dated May 20, 2016, prepared by Price Aspinall Appraisals ("the Appraisal") appraised the fair market annual rental to be:
 - a. \$279.74 per acre for Lots 3, 4, 5, 6, & 7 as shown on Plan 106239 CLSR together containing 373 hectares (921.70 acres), more or less (Eden Valley);
 - b. \$6,216.65 per acre for Lots 38 & 39 as shown on Plan 105358 CLSR together containing 8.18 hectares (20.213 acres), more or less;
 - c. \$9,056.55 per acre for Lots 43 & 45 as shown on Plan 105457 CLSR together containing 2.04 hectares (5.04 acres), more or less;

- d. \$6,000 per acre for Lot 42 as shown on Plan 105408 CLSR together containing 152 hectares (375.6 acres), more or less;
 - e. \$649.15 per acre to \$5,000 per acre for Lot 41 as shown on Plan 106295 together containing 468 hectares (1156.45 acres), more or less;
 - f. \$708.12 per acre to \$9,000 per acre for the following areas:

Parts of Sec. 5, Tp. 26, R.4, W.5M.	193 ha (477 acres),
Parts of Sec. 6, Tp. 26, R.4, W.5M.	201 ha (518 acres),
Parts of Sec. 1, Tp. 26, R.5, W.5M.	225 ha (556 acres),
Parts of Sec. 2, Tp. 26, R.5, W.5M.	228 ha (563 acres)
Parts of Sec. 11, Tp.26, R.5, W5M.	253 ha (625 acres)
Sec. 12, Tp.26, R.5, W.5M.	258 ha (638 acres)
Parts of S 1/2 Sec. 14, Tp.26, R.5, W.5M.	21.2 ha (52.4 acres)
Parts of Sec. 35, Tp. 25, R.5, W.5M.	255 ha (630 acres)
Sec. 36, Tp. 25, R.5 W.5M.	259 ha (640 acres)
as shown on CLSR 106328, said areas containing	1902 ha (4699.9 acres)

 more or less;
 - g. \$719.79 per acre for Lots 1, 2, 3 as shown on Plan 105400 CLSR together containing 13.87 hectares (34.27 acres), more or less (Big Horn).
10. During any nominal rent period under a Headlease the rent for any sublease issued thereunder shall be at least fair market rent and thereafter may be as negotiated by the lessee and sublessee.
 11. All subleases granted will end at least one (1) day before the last day of the applicable lease.
 12. Any sublease revenues will be paid directly to a Tribe Entity or other lessee. Canada will not be receiving rent revenues under a sublease.

Acknowledgments of the Stoney Tribe

13. The members of the Tribe acknowledge and agree that:
 - a. If any lease granted to a Tribe Entity includes a nominal rent period as provided for in section 2(b) above, the Tribe Entity lessee will pay Canada a nominal rent fee of one dollar (\$1.00) pre-paid for the nominal rent period.
 - b. The Tribe will forgo as rent per acre for the Designated Lands (or any portion thereof that has been leased) the appraised fair market rental amount per acre per year for each year nominal rent is payable by a Tribe Entity.
 - c. Although a Tribe Entity is beneficially owned by the members of the Tribe in trust, a Tribe Entity is a separate entity from the Tribe and has different legal rights and obligations.
 - d. Canada will not, and shall not be responsible for, the administration of any trust associated with a Tribe Entity, or the monitoring of any collection, distribution, or use

of monies earned, held or used by a Tribe Entity or such trust.

- e. Canada has not approved the structure of any Tribe Entity and has not approved of trust agreements or any other agreements pertaining to a Tribe Entity except those that Canada is a party to.
- f. The Tribe relies on its own independent legal and financial advisors for all matters relating to this Designation including, but not limited to, the formation and operation of any Tribe Entity and any trust associated with a Tribe Entity. The Tribe will continue to rely on its own legal and financial advisors and not Canada in all other matters relating to this Designation and the administration and operation of any Tribe Entity and any trust.

Lease Approval

- 14. Any amendments of a Headlease will require the approval of the Stoney Tribe Council by way of Band Council Resolution, without the requirement of a further meeting or vote of the Tribe's members, provided that no amendment shall extend the term of any Headlease beyond the term of this Designation. However, where an amendment to a Headlease changes the purposes for which the lands are leased to a purpose that is not included in the list set out in s. 6, the Tribe Council will evidence by Band Council Resolution to Canada that the lease amendment has been approved by the voting members of the Tribe in accordance with s. 5.
- 10. In the 3rd to final term of the Designation titled 'And On The Condition', respecting revocation and amendments, the wording "Governor in Council" will be replaced by "Minister".
 - 11. In all other respects the Designation shall remain in full force and effect, unchanged and unmodified.

This Amendment of 2002 Designation and Revocation of 1930 Surrender is subject to the Minister accepting it and will take effect on the date of such acceptance. The undersigned Chiefs and Council members have, on behalf of the Stoney Tribe, executed this Amendment of 2002 Designation and Revocation of 1930 Surrender on _____, 2018.

Chiefs and Councillors of the
Stoney Tribe, in the presence of:

Chief

Signature of Witness as to all
Signatures

Chief

Name of Witness Printed

Chief

Position / Title

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor

Councillor