

First Nations Development Fund Grant Program Guide



Second Edition – March 2018

Application Deadlines

May 1st

August 1st

December 1st

February 1st

Alberta 

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First Nations Development Fund (FNDF) Grant Program

This guide is for use by First Nations' staff that manage FNDF projects in their First Nation. It may include:

- Chief and Council
- Designated First Nations' FNDF contact
- Designated signing authority of FNDF grant applications
- Designate to report on project funding
- Chief Financial Officers
- Band Managers
- Finance Officers
- Program and Project Managers

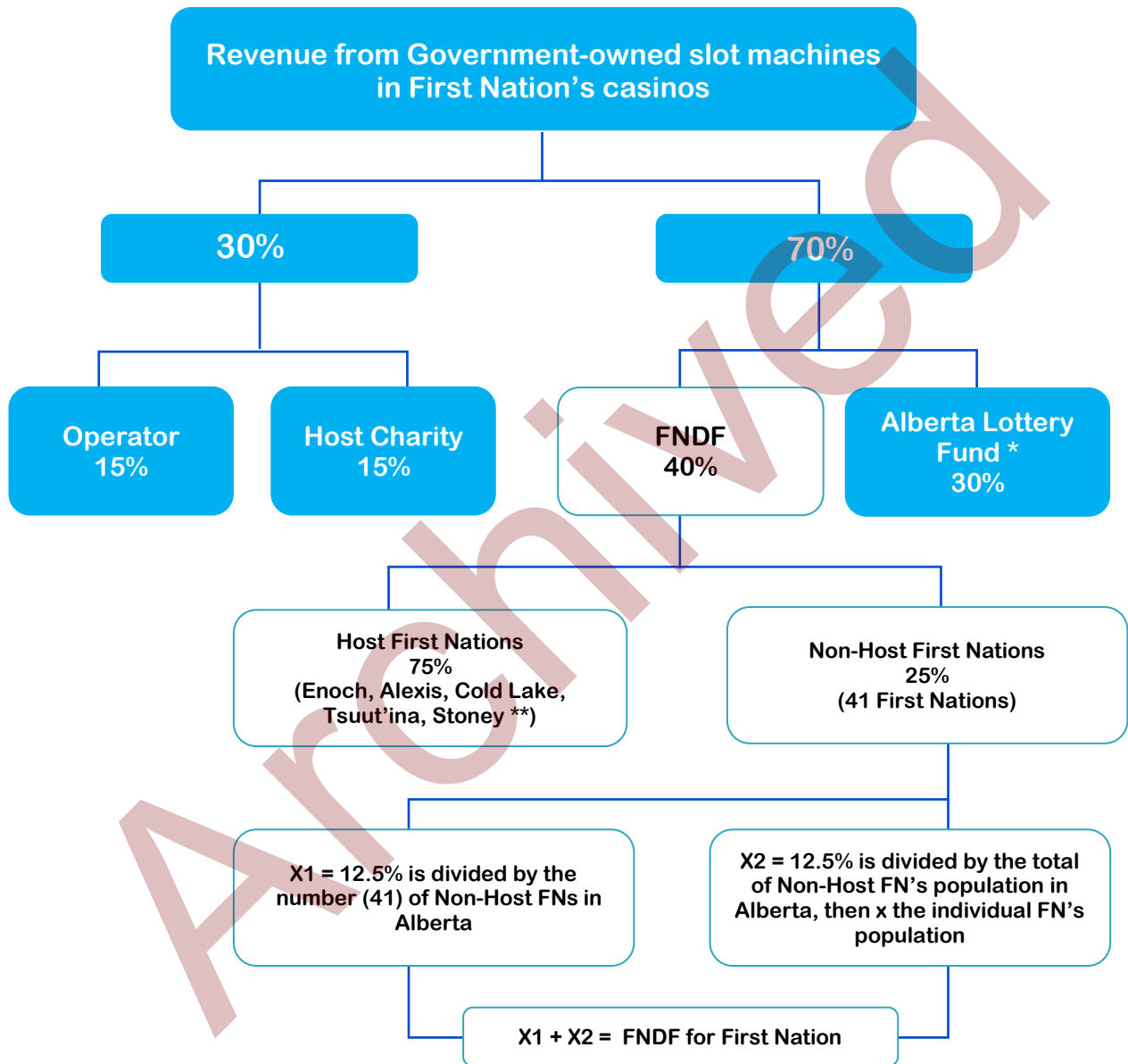
Your Liaison Officer is available to provide orientations on the FNDF Grant Program to newly elected Chief and Councils, Band Administrators and staff.

The FNDF Grant Program is a result of the Government of Alberta's First Nations Gaming Policy (2001). The FNDF Grant Program commenced in 2006 as part of the Government of Alberta lottery grant program available exclusively to First Nation Band Councils in Alberta for economic, social and community development projects.

The FNDF Grant Agreement identifies the terms by which the grant program will be administered by the government of Alberta and accessed by First Nations.

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FNDF Funding Model



* Alberta Lottery Fund supports a variety of Alberta programs and services in communities throughout Alberta.

** The three Stoney Tribes (Chiniki, Bearspaw and Wesley) are considered one Host First Nation

Each First Nation is allocated a portion of the FNDF funds based on the above agreed upon formula.

More applications ≠ more money

FNDF Grant Program

FNDF Objectives

The objective of the FNDF Grant Program is to support First Nation's Band Councils in their efforts to improve socio-economic conditions in their communities.

Project Eligibility

FNDF projects are determined by Chief and Council priorities to address the economic, social and community development needs of the First Nation.

FNDF Grant Program funding cannot be used for:

- Operating or financing a casino, gaming facility or gaming equipment
- Per capita distributions, meaning a general distribution of money or other property, whether directly or indirectly, on a per capita basis
- Creating or providing for a security interest in the grant monies
- Purchasing stocks, bonds, mutual funds and other passive financial instruments
- Payments of profit or distributions, management fees, or the ongoing operations of a business
- Goods and Services Tax if refunded by the Canada Revenue Agency

Eligible Applicants

Only recognized First Nation Band Councils with Reserve land located within the Province of Alberta who have signed an FNDF Grant Agreement are eligible to apply to the FNDF Grant Program. There are currently forty-eight First Nations participating in the FNDF Grant Program.

First Nations Funding Allocations

In April of each year, a Liaison Officer will provide First Nations with a projected allocation of their FNDF grant funds for that fiscal year. This is an estimation based on past trends and should only be used for planning purposes. Annual allocations are confirmed at the end of the fiscal year when slot machine revenue becomes available.

Application Deadlines

In order to be eligible for the next quarterly payment, completed applications must be received at the First Nations Development Fund office by the following dates:

May 1st
August 1st
December 1st
February 1st

Please note that incomplete applications will not be processed until they meet all eligibility requirements.

Refer to Appendix 1.

Applying for the FNDF Grant

Once Chief and Council have identified their Nation's priorities for their annual FNDF funding allocation, the First Nation's designated contact submits a completed grant application package to their assigned Liaison Officer for review and recommendation for ministerial approval.

There are two types of FNDF projects:

1. Standard
2. Complex

Before applying, please contact the First Nation Development Fund at (780) 415-1250 and ask for the Liaison Officer assigned to your First Nation. Your Liaison Officer will assist you to determine if the First Nation's project is standard or complex and provide support in completing the application.

FNDF Grant Application Guidelines

Grant Application

Grant applications are available by contacting the FNDF office at (780) 415-1250. For standard projects, the grant application package includes:

1. a completed and signed grant application
2. a detailed project description or proposal
3. a detailed budget identifying revenue and expenses
4. a Band Council Resolution (BCR) supporting the proposed use of the grant monies and identifying the position or positions authorized to sign grant applications and provide required financial reporting for projects



First Nations Development Fund Grant Program

Grant Application

(Application Deadlines: May 1, August 1, December 1, February 1)

Funding Request

- New Grant Application** - Requested Funding Amount from FNDF \$ _____
- Request for Additional Funding (Top-Up)** \$ _____
Amount Requested for Existing Project

Contact Information:

First Nation:						
Contact Person:						
Email:						
Work Number:		Mobile:		Fax:		
Registered Address:				Town or Reserve:		
Province:				Postal Code:		

Project Details

Project Name:							
Project Location:							
Project Start:	Month	Day	Year		Month	Day	Year
Project End:							

Change of Use

- Is this a Change of Use request?**
- No, continue to Project Description
 - Yes, what is the transfer amount between projects?

Transfer Amount	From Project Name and Number	To Project Name and Number

Project Description

Please select one project description that best describes the nature of the project:

- Economic Development Social Development Community Development

Describe how the project will benefit the community OR attach the Project Description to your application.

Does your project involve land, facilities, or programs under the direction or ownership of another party arm's length from the applicant?

- No
 Yes, please attach a written statement from that other party in support of this project.

Have you received adequate professional advice related to this project?

- No
 Yes

Provide Explanation

Are FNDF grant funds requested for the principal and interest payments on a loan of five million dollars or more?

- No
 Yes

If yes, please note that FNDF will need additional documentation related to the project (i.e. completed and signed loan agreement, building proposals, etc.) See the Complex Project section of the FNDF Grant Program Guide.

FORM GA1 (2018 Version)

Project Budget

Revenue – Please indicate funding sources and contributions. Identify all revenues including federal, provincial, municipal, donations and sponsorship.

Funding Source	Amount
First Nation Development Fund Requested Amount	
Cash	
Provincial Grants	
Federal Grants	
Donated Material and/or Equipment	
Donated Labor and/or Services	
Other	
TOTAL PROJECT REVENUE	

Expenses – Please list all of the expenses (i.e. materials, wages, travel, etc.) to carry out the project. Please note that if the requested funding amount is for \$100,000 or more, Financial Statements reviewed and signed by a Certified Professional Accountant will be required to fulfill the reporting requirements. Please consider the cost to have an audit completed in your project budget if required.

Expenditure Item*	Details	FNDF Portion	Other Funders
TOTAL PROJECT EXPENSES:			

* Once your project is approved, please set up the budget in the financial system and track the expenditures according to the chart of accounts. The Liaison Officer will review financial reports and reconcile the expenses to the originally approved budget.

Band Council Resolution

Band Council Resolution attached in support of this project application.

Applicant Agreement

I DECLARE THAT:

- This application is made in accordance with the FNDF Grant Agreement.
- I am duly authorized by a Band Council Resolution to sign this application and will provide the required financial reporting for this Project pursuant to 5.2 of the FNDF Grant Agreement.
- The information contained in this application and supporting documents is true, accurate and endorsed by the Band Council.

Signature:

Print Name:

Date:

The Freedom of Information and Protection of Privacy Act of Alberta (FOIP) applies to all information and records relating to, or obtained, generated, created, collected or provided under, the First Nations Development Fund Grant Program and which are in the custody or control of Indigenous Relations. FOIP allows any person a right of access to records in the custody or control of Indigenous Relations, subject to limited and specific exceptions as set out in the FOIP Act.

FORM GA1 (2018 Version)

Detailed Project Description

First Nations are to clearly demonstrate how the community directly benefits from the proposed economic, social or community development project. The project description or proposal must describe the project in detail and should include:

- the economic opportunity
- the social or community gap being addressed
- the project goals and objectives
- required resources (e.g. staff)
- desired outcomes for community members and the First Nation

Typical project types for economic, social and community development projects are outlined below:

Economic Development

- Business Start-Up and Expansion
- Capital Investment – Buildings
- Capital Investment – Heavy Equipment
- Capital Investment – Infrastructure
- Capital Investment – Vehicle(s)
- Other Economic Development Programming

Community Development

- Band Administration and Operating
- Capital Investment – Buildings
- Capital Investment – Heavy Equipment
- Capital Investment – Infrastructure
- Capital Investment – Residences
- Capital Investment – Vehicle(s)

Social Development

- Addictions
- Child and Youth Services
- Education
- Elders
- Employment Training
- Health
- Justice
- Other Programs and Services
- Recreation

Community Events

Detailed Budget of Revenue and Expenses

Applications are to include a project budget that lists the total expenses (costs) for the project, as well as all sources of revenue (income) that the First Nation is applying for to pay for those expenses. An electronic budget template is available from your assigned Liaison Officer.

Supporting Documentation

Supporting documentation to be provided along with the project application may include vendor quotes, invoices, loan agreements or any other document that supports the expense(s) of the project.

Band Council Resolution (BCR)

Applications are to include a valid BCR that approves the submission of the application to FNDF is required. The BCR is to identify:

- The project name
- Designated signatory to the application
- Designated individual responsible for reporting in accordance with the FNDF Grant Agreement

Complex Projects

FNDF projects are considered complex if they involve one or more of the following factors:

1. Project expenses are for principal and interest payments for a loan of five million dollars or more;
2. The project expenses could be perceived as being gaming-related, for example, developments near existing casinos;
3. Have other complex, technical and/or unique factors that require further analysis.

In order to determine eligibility of a complex project, Liaison Officers are required to complete a more intensive review. This results in additional documentation being required along with the FNDF grant application to demonstrate the First Nation's due diligence in the following areas: Cost Process, Project Management and Oversight, Financing and Banking, and Decision-Making and Risk Management. Supporting documentation for these areas may include, but are not limited to the following:

1. Cost Process

- Tendering documents
- Contract documents
- Agreements regarding the role of independent cost estimators

2. Project Management and Oversight

- List of advisors and/or employees overseeing the project
- Reporting structure of the project
- Financial policies

3. Financing and Banking Arrangement

- Signed loan agreement in its entirety including the General Security Agreement and other related agreements with the lender
- Amortization schedule showing interest and fees charged on the loan
- Letter from lender confirming that FNDF is not being used as security

4. Decision-Making and Risk Management

- List of professionals providing input and advice to Chief and Council
- Any BCRs or other applicable documents related to the project
- Identify any community engagements and outcomes

Grant Application Approval Process

The Liaison Officer will review the grant application and determine if all required supporting documents are included. The review of the grant application and supporting documents include the following questions:

- Is a valid Band Council Resolution attached, with a quorum of signatures, approving the submission of the application?
- Is the project clearly an economic, social or community development project?
- Is the application signed by an authorized person?
- Is the project clearly described, with clear objective(s), goal(s), or activities?
- Is the project start and end date identified and consistent with the project description and budget?
- Is the budget clear, detailing the project's revenues and expenditures?
- Does the project involve land, facilities, or programs under the direction or ownership of another party that is arm's length from the applicant? If yes, a written statement from that other party in support of the project is required prior to approval.
- Was professional advice obtained?
- Does the application appear to include any ineligible activities?
- Is this a complex grant application? i.e. Does the application: a) have the potential to include gaming-related activity, such as development near existing casinos; or b) have principal and/or interest payments of five million dollars or more.

The Liaison Officer may request additional documentation from the First Nation to clearly determine eligibility under the FNDF program. Once the review is completed, the Liaison Officer will make a recommendation to the Minister for approval.

Once the Minister has approved the project application, an approval letter will be mailed to the First Nation's Chief. A copy of the approval letter is also sent to the designated First Nation FNDF contact via email. This review and approval process may take up to eight weeks.

Quarterly Payments

First Nations are required to set up a separate bank account where the FNDF quarterly grant payments will be deposited. Only approved project expenses are paid from this account. Funds are not to be transferred from the FNDF account to the First Nation's general operating account unless they are directly paying for an approved FNDF project expenditure. All transfers must be supported by appropriate documentation.

Payments are made directly to the First Nation's FNDF bank account for approved projects shortly following the end of each quarter:

Quarter 1 - ends June 30th with payment by mid-July

Quarter 2 – ends September 30th with payment by mid-October

Quarter 3 – ends December 31st with payment by mid-January

Quarter 4 – ends March 31st with payment by mid-April

Prior to each quarterly payment, the assigned Liaison Officer will contact the First Nation to request which projects are to receive payment at the next quarterly payment. (Refer to Appendix 1)

Grant funds can only be paid if the First Nation has approved projects with unpaid balances. If the First Nation does not have enough approved projects to receive their entire quarterly payment, the unpaid portion will be held and paid out at the next quarter. The First Nation then works with their Liaison Officer to submit additional project applications for approval in time for the next quarterly payment.

If a First Nation has not submitted enough project applications by February 1st to receive their entire yearly allocation (payment of funds) at the 4th Quarter. The unused funds will be automatically redistributed to First Nations with approved projects according to the allocation model. There is no additional process to access these funds.

Project Reporting Requirements

First Nations are required to report by July 31st on every FNDF project that has received grant funds through either a quarterly payment or by a transfer of funds from other projects during the fiscal year. Reporting for each project must detail the revenue received from all sources as well as the costs and any donated labour, services, material and equipment received in comparison to the budget provided with the grant application. Explanations of significant variance or delays must also be provided.

For projects under \$100,000, reporting can be reviewed and signed by either a Chartered Professional Accountant (CPA) or by the representative of the First Nation authorized on the BCR to provide financial reporting. Your Liaison Officer can provide a copy of a Grant Reporting Form that can be used to satisfy this requirement.

For projects over \$100,000 a financial report signed by a CPA is required.



First Nations Development Fund Grant Program

PROJECT REPORT – Under 100K

First Nation:	
Project Number:	Project Name:
Amount Approved	Amount Received in Fiscal year:
Project End Date:	Report Due Date:

Instructions:

1. Complete **Section B Project Expenses**, and attach the complete general ledger for the project.
2. The FNDF Grant Program requires confirmation of the expenditures for the grant amount received. The FNDF Grant Program is flexible to accommodate expenditures that are less or more than the grant funds received. If that is the case your Liaison Officer will work with you to transfer any remaining funds to an existing/new FNDF project or to initiate a Request for Additional Funding if that is what is needed.
3. All FNDF Grants are subject to audit by the Province of Alberta; complete records must be maintained, including all receipts for 3 years after the end of the project.
4. Return the completed Project Report to:

First Nations Development Fund
 Suite 400, 4999 – 98 Avenue
 Edmonton, AB T6B 2X3
 Telephone: (780) 415-1250

Section B - Project Expenses

Populate the columns below and provide the General Ledger as supporting documentation.

(A) Budget Line Item Description	(B) Original Budget Approved	(C) Actual Reported Expense	(D) Variance	(E) Explanation on Variance
TOTALS				

- Project has a \$ _____ surplus. Transfer to project # _____.
- Project is over budget by \$ _____.
 - Other funds used to cover the over expenditure. Close Project.
 - Request additional FNDF funds.

Declaration:

I certify that the information is a complete and accurate financial accounting of the project, and that the funds were expended on the project as described in the Grant Application submitted for the grant. I am a duly authorized representative having legal and/or financial signing authority.

Name (please print)	Position/Title
Signature	Date

Sample Schedule for Project over 100K

XX First Nation
Project XXXXX
Statement of Revenue and Expenditures

For the year ended March 31	Budget	Actual
Revenue		
First Nation Development Fund	125,000	50,000
Deferred FNDF Funds from Previous Year		75,000
Deferred FNDF Funds to Future Year		
<hr/>		
Expenses		
Professional Fees	65,000	75,000
Community Meetings	50,000	40,000
Foods and Facility	10,000	10,000
	<hr/>	<hr/>
	125,000	125,000
<hr/>		
Surplus (Deficit)		-
Accumulated surplus, beginning of year		-
Accumulated surplus, end of year		<hr/>

Report Review

Once the First Nation has submitted the signed financial reports, the Liaison Officer will complete a review of the report to ensure it meets the following reporting requirements:

- Is the report appropriately signed?
- Does the report contain sufficient information to review the eligibility of expenses by comparing the reported expenses to the approved project?
- Do expenditures appear eligible based on the project's description and budget?
- Are significant variances, if any, between the approved project's budget and the report acceptable and within the scope of the approved project?
- Have questions been addressed and documented on the project file?
- Does the report comply with the FNDF Project Reporting Guideline?

If the report does not meet these requirements, the Liaison Officer will contact the First Nation designate and/or their audit firm to request additional documentation to substantiate expenses.

Once the reporting requirements are met, the Liaison Officer will accept the financial report and notify the FNDF contact at the First Nation on the status of the project.

Sale of Assets

The First Nation is responsible for notifying the FNDF Liaison Officer if assets purchased with FNDF funds are being sold within five years of the payment of the grant to the First Nation.

The Liaison Officer will work with the First Nation on identifying the use of the sale proceeds that meet the terms of the FNDF Grant Agreement.

Interest Earned

All interest income earned on the grant monies will be considered part of the grant revenue awarded for that project and must be accounted for in the financial reporting.



Reporting Notices

Your Liaison Officer will provide the reporting notifications and documentation by the following dates:

May 1st – Notification of reports coming due

July 1st – Notification of reports coming due

August 1st – Notification of overdue reports

September 1st – Notification of payment held

The Liaison Officer will provide the First Nation with:

Report Summary - This report lists the project number, project name, approved amount, paid amount and any transfer amounts.

Quarterly Payment Chart - This chart breakdowns quarterly payments by project. This chart is helpful for the Nation's auditors to ensure that there is correct reporting of project revenues in the Nation's financial statements.

The above can be requested by the First Nation at anytime. Reports are overdue if not received by July 31st. The Liaison Officer will make every effort to work with the First Nation in fulfilling the reporting requirements including telephone calls, emails and in person meetings.

Notice of Payment Held - If all overdue reports are not received the First Nation will be notified that the October quarterly payment will be held, and all further payments until the overdue reports are received and accepted. (Refer to Appendix 1)

Change of Use

If a First Nation finds that an approved project does not proceed or if the scope of a project changes, the First Nation can request a Change of Use in writing requesting that the paid funds be transferred to an existing or new approved project.

Transfer of Paid Funds

Paid funds can be transferred:

- a) To an open approved project - This request must be made in writing to the Liaison Officer who will complete the transfer of funds.
- b) To a new project - A completed application package must be submitted. Once approved, the transfer of funds can be completed.

Request for Additional Funding (Top Up)

If a First Nation finds that additional funds are needed to complete an approved project, the First Nation can request additional funds. A new grant application package is to be submitted along with the revised project description, revised budget and a new BCR. The application will go through the regular application review and approval process. Please include any financial reports to support the request for the top-up.

Changes to Project Start or End Dates

If the First Nation needs more time to complete the project, an amendment can be requested in writing or via email to extend the end date of the project. Reporting is still required by July 31st.

Compliance Audits



Compliance audits may be done to account for the grant funds received by the First Nation in accordance with the FNDF Grant Agreement. Your Liaison Officer is available to support you in preparation for the compliance audit.

All records relating to FNDF projects are to be made available to the Province of Alberta upon request.

When planning for a compliance audit, auditors will request documentation ahead of time and may include the following:

- FNDF Bank Statements
- General Ledgers
- Receipts for expenditures
- Cheques
- Documents to support transfers of funds out of the FNDF account
- Contracts for services
- Financial policies and procedures
- Assets Inventories

Public Listing of Grants Paid


After each quarterly payment, a list of the projects funded by the FNDF Grant Program are available as information to the general public. For more information on funded projects, go to the Who Benefits database at <http://albertalotteryfund.ca/aboutthealf/whobenefits.asp> and under “agency”, choose “First Nations Development Fund”.

Freedom of Information and Protection of Privacy

The Freedom of Information and Protection of Privacy Act of Alberta (FOIP) applies to all information and records relating to, or obtained, generated, created, collected or provided under, the First Nations Development Fund Grant Program and which are in the custody or control of Indigenous Relations. FOIP allows any person a right of access to records in the custody or control of Indigenous Relations, subject to limited and specific exceptions as set out in the FOIP Act.

Appendix 1 - FNDF Grant Program Cycle Timelines

These dates reflect the submission of complete applications.

	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar
Completed Applications Due		1										
1st Quarter Payment				15								
Completed Applications Due					1							
2nd Quarter Payment							15					
Completed Applications Due								1				
3rd Quarter Payment										15		
Completed Applications Due											1	
4th Quarter Payment	15											
Project Reports Due for each Project				31								
Q2 Payment held for reports not submitted						1						
Change of Use, Transfers and Requests for Additional Funds	Ongoing throughout the Year 											

Note: Section 4.2.1 of the FNDF grant agreement includes a clause that the fiscal year application deadline is December 15. FNDF is able to accept complete grant applications from First Nations beyond the December 15 date, up to February 1st for the final fiscal year payment in April.

Application Submissions

Signed and completed grant application packages can be mailed to:

First Nations Development Fund
Suite 400, 4999 – 98 Avenue
Edmonton, Alberta T6B 2X3

or by email to your assigned Liaison Officer

Application Deadlines

May 1st

August 1st

December 1st

February 1st

Archived

Appendix 2 - Grant Agreement

FIRST NATIONS DEVELOPMENT FUND GRANT AGREEMENT

Made effective the _____ day of _____, 200__.

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA
As Represented By The Minister of Gaming
(the “Department”)

AND:

(the “First Nation”)

PREAMBLE:

- A. On January 19, 2001, the Government of Alberta announced the First Nations Gaming Policy under which money appropriated out of the Lottery Fund will be made available to Alberta First Nations.
- B. The First Nations Gaming Policy was ratified by the Alberta First Nations through the Alberta Chiefs’ Summit process and accepted by the Government of Alberta.
- C. Under section 2 of the *Gaming Grants Regulation*, AR 29/2004, (the “Regulation”) the Department may make grants to any person or organization in respect of any matter that is under the Minister’s administration.
- D. The Department wishes to make grants to Alberta First Nations pursuant to the Regulation in accordance with this Agreement.
- E. The making of grants under this Agreement is subject to the First Nations Gaming Policy and annual appropriation of funding by the Legislative Assembly of Alberta to the Department.
- F. The First Nations Gaming Policy will remain in its current form until it is reviewed by the parties and amended.
- G. The parties wish to ensure that the First Nation receives the maximum amount of funds available to it pursuant to the First Nations Gaming Policy and the Regulation in accordance with this Agreement.
- H. The First Nation, as evidenced by Band Council Resolution, has approved the execution of this Agreement.

THEREFORE the Department agrees to provide grants to Alberta First Nations subject to and in accordance with the following terms and conditions:

1.0 INTERPRETATION

1.1 **Definitions** – In this Agreement, the following expressions have the following meanings:

“Alberta First Nation” means a band within the meaning of the *Indian Act* (Canada) with reserve land located within the Province of Alberta.

“Alberta Lottery Fund” means the Lottery Fund established under the *Interprovincial Lottery Act*, RSA 1980 Chapter I-8, as continued by section 25(1) of the *Gaming and Liquor Act*, RSA 2000 Chapter G-1.

“Casino” means a casino facility, or that portion of a facility, that is subject to the regulatory jurisdiction of the Alberta Gaming and Liquor Commission and licensed under the *Gaming and Liquor Act* (Alberta).

“Dedicated Gaming Facility” means a gaming facility other than a Casino that is subject to the regulatory jurisdiction of the Alberta Gaming and Liquor Commission and licensed under the *Gaming and Liquor Act* (Alberta).

“First Nations Development Fund Grant Program” or **“Grant Program”** means the grant program established by the Department in accordance with the Regulation, this Agreement, and the First Nations Gaming Policy.

“First Nations Gaming Policy” or **“Policy”** means the First Nations Gaming Policy developed by the Province of Alberta in consultation with the Alberta First Nations, as adopted and ratified by Resolution # SC-12-06-00-001 of the Chiefs’ Summit on December 6, 2000, the essential elements of which are contained in the document entitled “Essential elements of a proposed new First Nations Gaming Policy”, a copy of which is attached as Attachment A, together with such further and other materials prepared by the Government of Alberta in respect of First Nations gaming in Alberta.

“Host First Nation” includes

- (i) an Alberta First Nation that is a signatory to this Agreement and on whose reserve land there is located an Alberta First Nation Casino; and
- (ii) two or more Alberta First Nations that have entered into an agreement pursuant to 1.3.

“Member” means a person whose name is recorded, as of January 1st in any year, on a Band List, as defined by the *Indian Act*, whether maintained by Canada or the First Nation.

“Non-Host First Nation” means an Alberta First Nation that is a signatory to this Agreement and is not a Host First Nation.

“Reasonable Administrative Costs” means for the purposes of this Agreement

- (i) those costs incurred by the Department for approved or required activities, work or expenses, the cost or expense of which are reasonable having regard

- to all circumstances and comparable to administrative costs of other Alberta Lottery Fund grant programs administered by the Department; and
- (ii) those costs deemed to be Reasonable Administrative Costs under 5.5, 7.1 and 7.3.

“Security Interest” means an interest granted to a third party in the grant monies received or to be received pursuant to the Grant Program that secures payment or performance of an obligation by the First Nation to the third party. For clarity, the parties agree that banking arrangements with financial institutions which allow for the automatic removal of funds from the First Nation’s bank accounts in accordance with 4.3, and which do not secure payment or performance of an obligation by the First Nation, shall not be considered to be a Security Interest.

“Slot Machine Proceeds” means the revenue from slot machines located at a Casino located on Alberta First Nations reserve lands less (a) any amounts paid for prizes and (b) any leasing costs of the machines incurred by the Alberta Gaming and Liquor Commission, to the extent such leasing costs are deducted from the calculation of “net sales” in relation to leased slot machines allocated to operators of casinos other than Alberta First Nation Casinos.

1.2 Status – Host vs. Non-Host - For the purposes of this Agreement, an Alberta First Nation will become a Host First Nation when the Casino located on its reserve lands, or the reserve lands of another in the case of an agreement entered into pursuant to 1.3, commences operations and would cease to be a Host First Nation when, for any reason, the Casino ceases to be licensed under the *Gaming and Liquor Act* (Alberta).

1.3 Agreement Between Two or more First Nations – For the purposes of this Agreement, and subject to 4.1(iii), an Alberta First Nation on whose reserve land is located a Casino may enter into an agreement with one or more Alberta First Nations on whose reserve land there is not located a Casino whereby all such Alberta First Nations shall be considered by the Department to be one Host First Nation.

2.0 PROJECT IDENTIFICATION

2.1 Eligible Uses – In accordance with the Grant Program, the First Nation may apply from time to time in a form required by the Department for a grant that will be used for economic, social and community development projects, including addictions programs, education, health and infrastructure (the “Project(s)”). The Department may approve Projects that are to be completed or carried out over a period of time exceeding one year. The First Nation will use any approved grant funds only for the Projects.

2.2 Other Funding Sources – An approved grant pursuant to the Grant Program cannot be used as the matching portion to any other Alberta Lottery Fund grant.

2.3 Number of Projects – The First Nation will indicate the amount of the grant that is requested for each identified Project. The amount of the grant may be revised from time to time on request by the First Nation and with the written agreement of the Department.

2.4 Third Party Support – Where a proposed Project involves land, facilities, or programs under the direction or ownership of another party arm’s length from the applicant, the grant application must include a written statement from that other party in support of the Project.

2.5 Application Signatory – An application for a grant must be submitted by a First Nation and signed by the individual holding the position authorized by the First Nation to make such applications with the Department. The signed application must be accompanied by a Band Council Resolution supporting the proposed use of the grant monies and identifying the position or positions authorized to:

- (i) sign grant applications and this Agreement on behalf of the First Nation; and
- (ii) provide required financial reporting for Projects pursuant to 5.2.

2.6 Ineligible Uses -

- (i) A grant pursuant to the Grant Program must be used for its approved purpose and cannot be used:
 - (a) For operations or financing of a Casino. Without restricting the generality of the foregoing, grants pursuant to the Grant Program cannot be used:
 - To finance the development or acquisition of a Casino or Dedicated Gaming Facility or gaming equipment;
 - To meet any operating or development costs, including but not limited to debt servicing costs, or repair and maintenance costs, associated with any gaming activity, Casino or Dedicated Gaming Facility; or
 - To subsidize any rates, pay for special promotions, or subsidize any gaming activity, or any Casino or Dedicated Gaming Facility.
 - (b) For per capita distributions, meaning a general distribution of money or other property, whether directly or indirectly, on a per capita basis.
- (ii) The First Nation shall not create or provide for a Security Interest in the grant monies received or to be received pursuant to the Grant Program.
- (iii) In accordance with Articles 3 and 7, the Department, in consultation with the First Nation and the Alberta Gaming and Liquor Commission, will have the right to decide any question about whether any grant or portion thereof that is or has been paid pursuant to the Grant Program is proposed to be or has been spent on an ineligible use.

3.0 PROJECT APPROVAL

3.1 Review and Approval – The Department will, at the request of the First Nation, make liaison officers available to work on location with applicants to assist in the preparation of a grant application. Grant applications will be reviewed for completeness, including, but not limited to ensuring the application form is complete, the Project is consistent with the Grant Program, the Project is properly described, Project revenues and expenditures are

identified, the request for the grant is provided, rationale for costs in excess of costs of similar projects is provided, and the applicant has received adequate professional advice related to the Project. Once complete, the application will receive a final review by the Program Manager, Lottery Funding Programs, who will recommend approval, modification or denial of the amount of funding applied for by the First Nation. For any recommendation of modification or denial, the Department will provide the First Nation with the recommendation and the First Nation will have 30 calendar days from receipt to serve written notice on the Department in accordance with 9.2 disputing the recommendation. If no notice of dispute is received by the Department within the said 30 calendar day period, or if the First Nation waives the 30 calendar day period, the Department shall proceed on the basis of, and in accordance with, the recommendation. If a notice of dispute is received by the Department within the 30 calendar day period, then 7.1 to 7.4 shall apply and the Department shall consider any opinion or finding arising out of the dispute resolution process in 7.1 to 7.4 and may approve, modify or deny the amount of funding applied for by the First Nation.

- 3.2** The Department shall use its best efforts to evaluate proposed Projects and respond to grant applications in a prompt and timely fashion.

4.0 FUNDING

- 4.1 Available Funding** – The amount of funding available under the Grant Program for each Government of Alberta fiscal year, being April 1st to March 31st, is:

- (i)** For each Host First Nation, an amount equivalent to 30% of the Slot Machine Proceeds from the Casino that is located on the Host First Nation reserve lands, less Reasonable Administrative Costs associated with the Grant Program to be allocated to the Host First Nation in accordance with 4.1(iv).
- (ii)** For each Non-Host First Nation, an amount equivalent to 10% of the Slot Machine Proceeds from all licensed casinos located on Host First Nations' reserves, less Reasonable Administrative Costs associated with the Grant Program to be allocated in accordance with 4.1(iv) (the "Non-Host Proceeds"), divided as follows between all Non-Host First Nations:
 - a. The Non-Host Proceeds multiplied by 50% and thereafter multiplied by the percentage which the population of each Non-Host First Nations Members represent of the population of the Members of all Non-Host First Nations in Alberta; and
 - b. The Non-Host Proceeds multiplied by 50% and thereafter multiplied by the percentage which each Non-Host First Nation represents of the total number of all Non-Host First Nations in Alberta, with the determination of the number of recognized Indian Bands in Alberta to be based upon the records as kept by the Federal Department of Indian and Northern Affairs as at January 1st preceding the fiscal year.

(iii) Where, pursuant to an agreement under 1.3, two or more Alberta First Nations agree to be treated as one Host First Nation for the purpose of this Agreement, each of these Alberta First Nations will provide the Department with the determination method by which available funds should be allocated among these Alberta First Nations. Such instructions must be approved by a Band Council Resolution from each of these Alberta First Nations.

(iv) For the purposes of 4.1(i) and (ii), Reasonable Administrative Costs associated with the Grant Program shall be allocated:

- (a) to each Host First Nation in an amount which shall be a percentage of the Reasonable Administrative Costs equal to the total amount of proceeds received by the First Nation pursuant to this Agreement divided by 40% of Slot Machine Proceeds; and
- (b) to each Non-Host First Nation in an amount which shall be a percentage of the Reasonable Administrative Costs equal to the total amount of proceeds received by the First Nation pursuant to this Agreement divided by 40% of Slot Machine Proceeds.

4.2 Payment of Grants – Subject to the actual generation of Slot Machine Proceeds at one or more First Nations’ Casino, and the ongoing compliance of the First Nation with the Grant Program, and on approval of a grant application from the First Nation by the Department and in accordance with the Regulation, the Department agrees to administer grants for approved Projects as follows:

- (i) In order for the First Nation to be eligible to receive grants for approved Projects in any given fiscal year, the First Nation must submit a signed copy of this Agreement and completed applications for Projects no later than December 15 of that fiscal year;
- (ii) Where the amount available for a First Nation under the Grant Program exceeds or is equal to the amount of annual funding approved for the Project in the First Nation’s grant application, the grant will be equal to the approved annual amount for the Project;
- (iii) Where the amount available for a First Nation under the Grant Program is less than the amount of annual funding approved for the Project in the First Nation’s grant application, the grant will be equal to the amount available with additional amounts provided quarterly as Slot Machine Proceeds to which the First Nation is eligible are generated to the maximum of the approved annual amount;
- (iv) No grants will be made by the Department to any First Nation that is not in compliance with 5.2 or the reporting requirements of any lottery-funded program administered by the Department; and
- (v) Where completed applications for Projects received by December 1st total less than the amount of available funding for that fiscal year, the difference between the available funding for the fiscal year for the First Nation and the completed applications for Projects for the First Nation will, if greater than \$100,000.00 be

available for re-distribution among all other First Nations in compliance with 4.2(i) using the distribution method described in 4.1 (ii). If the difference is not greater than \$100,000.00 such funds will be applied to reduce the Reasonable Administrative Costs referred to in 4.1.

- 4.3 Banking Arrangements** – The First Nation agrees to deposit all grant monies provided by the Department into a separate interest bearing account with a branch of a financial institution licensed and doing business in Alberta and that all interest income earned on the grant monies will be considered part of the grant. Funds may only be withdrawn from this account for payments associated with approved Projects or for the return of any funds to the Department in accordance with this Agreement.
- 4.4 Duration** - If for any reason a grant is not expended for the approved Project within twenty-four months of its payment to the First Nation by the Department, any funds not used or committed, including accrued interest, for the approved Project shall be returned forthwith to the Department, unless otherwise agreed to in writing by the Department, such agreement to extend not to be unreasonably withheld by the Department.
- 4.5 Change of Use** – If for any reason an approved Project does not proceed or if all approved funding is not required for the Project, the First Nation may apply in writing to have the approved funding used for a substitute Project. Approval of the change in use and substitute Project will be subject to 2.0 and 3.0.
- 4.6 Repayment** – The First Nation shall be required to return to the Department the proceeds up to the grant amount if the grant was used to acquire, construct, renovate, expand, enhance or upgrade any real or personal property, and the property is sold, assigned, transferred, or pledged as security within five years of the payment of the grant by the Department to the First Nation and the proceeds from such transactions (the “Transactions”) are used for an ineligible use as determined by the Department in accordance with 2.6. In addition, the First Nation may be required to repay to the Department the proceeds from the sale over the grant amount. The First Nation is responsible for notifying the Department of these events and identifying the proposed use of the proceeds. In the event that there is a dispute as to whether the proceeds from the Transactions are used for an ineligible use pursuant to 2.6, then 7.1 to 7.4 shall apply.
- 5.0 ACCOUNTABILITY**
- 5.1 Budgets** – The First Nation shall provide a budget for each identified Project as part of its application, including estimated revenues from all sources as well and particulars of cost estimates and any donated labour, services, material and equipment.
- 5.2 Reporting** – Within 90 days of completion of each Project, the First Nation shall provide a financial report in the form required by the Department for each approved Project detailing the revenue received from all sources including interest income as well as the costs and any donated labour, services, material and equipment received in comparison to the budget provided with the grant application for the Project. Explanations of significant variance or delays must be provided. For approved Projects greater than \$100,000.00, such financial reporting must be reviewed and signed by a Chartered Accountant, Certified General

Accountant, or Certified Management Accountant, who is registered under Part 3 of the *Regulated Accounting Profession Act* R.S.A. 2000 c.R-12, (a “Registered Accounting Professional”). For approved Projects up to \$100,000.00, such financial reporting must be reviewed and reported on by a Registered Accounting Professional or by a representative of the First Nation whose position has been authorized by Band Council Resolution to provide the required financial reporting for Projects on behalf of the First Nation. In addition, by June 30th of each year, the same reporting must be provided for each Project that was not complete at March 31st of that year.

5.3 Monitoring – The First Nation shall, during the duration of the approved Project and for a period of three years thereafter for any grants received, (i) maintain appropriate and comprehensive records and books of account, and (ii) keep those records and books of account available for inspection by the Department or its agents (including the Auditor General of Alberta or any representative designated by the Department) at all reasonable times upon reasonable notice, for determining the First Nations compliance with this Agreement.

5.4 Auditing – The Department or its agents (including the Auditor General of Alberta or any representative designated by the Department) may from time to time upon reasonable notice to the First Nation, carry out an audit of the records and books of account required to be maintained by this Agreement and to attend at the premises where any approved Project is located for the purpose of determining compliance with this Agreement and how any grants provided were used by the First Nation. The First Nation shall permit the Department or its agents to have full access to and review of the records and books of account and to make copies of any of them.

5.5 Costs of Audit – Reasonable audit costs for any audit carried out pursuant to 5.4 shall be a Reasonable Administrative Cost within the meaning of 4.1, provided that if an audit discloses non-compliance with the provisions of this Agreement by a First Nation, the costs of that audit will be allocated to the grant funds available for distribution to that First Nation.

5.6 Additional Costs of Audit – Where, pursuant to an audit carried out under 5.4, any additional costs are incurred as a result of non-compliance with 5.3 by the First Nation, such costs will be allocated to that First Nation.

5.7 Public Reporting – The Department will, from time to time, publish information on its website or elsewhere about the Projects funded by grants under the Grant Program in a similar manner to information provided about other lottery-funded grant programs, including the name of the grant recipient, a brief description of each approved Project and the amount of funding provided for each Project during the fiscal year.

6.0 NON-COMPLIANCE

6.1 Events of Default – It shall be an Event of Default if the First Nation breaches any provision of this Agreement and, upon receiving notice of the breach, fails to institute appropriate remedial action within 14 calendar days thereafter and diligently pursue such remedial action until the breach is remedied; or

6.2 Suspension For Default – Upon the occurrence of any Event of Default, the Department by 14 calendar days notice to the First Nation may discontinue grants and may suspend operation of this Agreement. In the event of such suspension, the First Nation shall immediately pay to the Department the unexpended portion of any grants, including interest income. Any funding that would otherwise be available to the First Nation will be used first to cover the costs of investigating the Event of Default and thereafter be considered to be available funding as contemplated in 4.2(vi) and shall be distributed as such in accordance with 4.2(vi). The Agreement will remain suspended until such time as the First Nation remedies the Event of Default to the satisfaction of the Department.

6.3 The First Nation, upon the receipt of service of the notice by the Department in accordance with 6.2, may within the said notice period serve written notice on the Department in accordance with 9.2 disputing the determination that an Event of Default has occurred. If a notice of dispute is received by the Department within the said notice period, then 7.1 to 7.4 shall apply and the Department shall consider any opinion or finding arising out of the dispute resolution process in 7.1 to 7.4. Service of a notice of dispute under this clause or the application of 7.1 to 7.4 does not prevent the suspension of the Agreement, and consequences thereof, under 6.2.

7.0 DISPUTE RESOLUTION

7.1 Mediation – In the event a notice of dispute is served in accordance with 3.1, 4.6 or 6.3, and if discussion between senior officials of the Department and the First Nation fails to produce a resolution, then the Department and the First Nation shall within 7 calendar days of service of the notice of dispute designate one senior official and one representative respectively, and confer on their designates authority to resolve the dispute. If the two designated persons cannot agree on a resolution within 14 calendar days, or such sooner time as the parties may agree, the dispute shall be jointly referred to consensual mediation. Mediation will proceed on the following basis:

- (a) If the parties cannot agree on a mediator either party may ask the President or the Executive Director of the Alberta Arbitration and Mediation Society (or any successor organization) to assist in the selection process;
- (b) The costs of the Mediator will be a Reasonable Administrative Cost within the meaning of 4.1. Any other costs, including legal fees and other disbursements, will be the responsibility of the party that incurs them;
- (c) No evidence of anything said or of any admission or communication made in the course of the mediation shall be admissible in any legal proceedings except with the consent of both parties; and
- (d) Notwithstanding any other provision of this Agreement, the parties may agree at any time to skip mediation and proceed directly to non-binding arbitration under 7.3.

7.2 Mediation Terminated - Mediation proceedings will be terminated:

- (a) If either party serves notice that it is not willing to continue, or
- (b) if the Mediator serves notice that in his opinion it is in the best interest of the parties to do so.

7.3 Non-binding Arbitration – A dispute arising pursuant to 3.1, 4.6, or 6.3 which is not resolved pursuant to the provisions of 7.1 shall be submitted to an arbitrator, chosen by mutual consent by the parties (the “Arbitrator”). The costs of the arbitrator shall be a Reasonable Administrative Cost within the meaning of 4.1. Any other costs including legal fees and other disbursements will be the responsibility of the party that incurs them. The parties may present oral or written submissions or both to the Arbitrator at the Arbitrator’s discretion. The Arbitrator will provide a written opinion to the parties in accordance with 9.2.

7.4 Consideration of opinion - The findings of the Arbitrator pursuant to a dispute arising pursuant to 3.1, 4.6 or 6.3 are not binding and final upon the parties and will be forwarded to the Department for consideration. The Department may accept or reject, in whole or in part the findings of the Arbitrator in making a decision under 3.1, 4.6 or 6.3.

8.0 CONDUCT OF PARTIES DURING DISPUTE RESOLUTION

8.1 The Parties will continue to act in good faith in the implementation of this Agreement during any dispute resolution proceedings under 7.0 and the parties acknowledge and confirm that, unless the Agreement is suspended under 6.2, all other provisions of this Agreement remain in full force and effect and the rights, duties and obligations arising under this Agreement shall not be abridged or modified.

9.0 COMMUNICATIONS

9.1 Freedom of Information – The terms of this Agreement are subject to disclosure under the *Freedom of Information and Protection of Privacy Act*, RSA 2000, Chapter F-25.

9.2 Notices – Any notice, approval, consent or other communication under this Agreement must be in writing to be effective, and is effective when delivered by any means, including fax transmission, to the following respective addresses:

- (a) If to the Department:

Deputy Minister
Alberta Gaming
50 Corriveau Avenue
St. Albert, Alberta
T8N 3T5

Fax: (780) 447-8950

- (b) If to the First Nation, at the Notice address identified in the most recent grant application submitted by the First Nation to the Department, with a copy to the Chief of the First Nation.

Either party may change its address information by giving notice to the other in the above manner.

- 9.3 Announcements** – The First Nation shall not make any public announcement or issue a press release regarding a grant or the entering into of this Agreement, except with the prior approval of the Department as to the contents and timing of the announcement or press release, which approval shall not be unreasonably withheld.

10.0 OTHER PROVISIONS

- 10.1 Mutual Hold Harmless** – The Parties covenant and agree to indemnify and save harmless each other, and their respective employees and agents, from and against any claims, demands, actions, causes of actions, damages, losses, costs, liabilities, or expenses for which they are legally responsible. The indemnity obligation hereunder applies only to the extent that such claims, demands, actions, causes of actions, damages, losses, costs, liabilities and/or expenses, as applicable, have not been reimbursed by insurance and have not arisen or resulted from the Party seeking indemnification's negligence or wilful misconduct or the breach by the Party seeking indemnification of any of its obligations hereunder. The Parties shall not be entitled to any indemnification from each other in respect of any matter or thing which is the subject of an indemnity in this Article unless it shall have given written notice of its claim for indemnification's (including reasonable particulars of its claim for indemnification) to the other Party within fifteen (15) days of it first becoming aware of the matter in respect of which the potential claim for indemnity is being sought. The indemnities given hereunder shall survive the termination of this Agreement for a period of two (2) years.

- 10.2 No Agency** – Nothing in this Agreement is intended to create any relationship of agency, partnership or joint venture between the Department and the First Nation.

- 10.3 Further Assurances** – The parties agree to do from time to time all such acts and provide such further assurances and instruments as may reasonably be required in order to carry out the provisions of this Agreement according to their spirit and intent.

- 10.4 Amendment and Waiver** – No amendment of this Agreement is effective unless made in writing and signed by a duly authorized representative of each of the parties. No waiver of any provision of this Agreement is effective unless made in writing, and any such waiver has effect only in respect of the particular provision or circumstance stated in the waiver. No representation by either of the parties with respect to the performance of any obligation under this Agreement is capable of giving rise to an estoppel unless the representation is made in writing.

- 10.5 Assignment** – The First Nation may not assign this Agreement or any right or benefit under it to any other person.

- 10.6 Time** – In this Agreement, time is of the essence.

10.7 Recitals and Schedules – The recitals and any schedules attached to this Agreement are incorporated into and form a part of this Agreement.

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10.8 Counterparts – This Agreement may be executed in two or more counterparts, and each executed counterpart shall, for all purposes, be deemed an original and shall have the same force and effect as an original, all of which together shall constitute, in the aggregate, one and the same Agreement.

The Department and First Nation have therefore signed this Agreement to be effective on the date first written.

HER MAJESTY THE QUEEN IN
RIGHT OF ALBERTA As Represented By the
Minister of Gaming

Per: _____
Deputy Minister

FIRST NATION

Per: _____
Authorized signatory

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Attachment A

Essential elements of a proposed new First Nations Gaming Policy

Essential elements of a proposed new First Nations Gaming Policy:

- The Alberta First Nations Gaming Policy will be based on Alberta’s charitable gaming model.
- For purposes of the First Nations casinos, the host First Nation will be designated as the “charity,” through a distinct non-profit entity.
- The Alberta Gaming and Liquor Commission (AGLC) regulatory and policy framework will be followed – as per all casino facilities.
- Conditions consistent with existing AGLC Casino Terms and Conditions (e.g. hours of operation, etc.) will be in effect – as per all casino facilities.
- The host first Nation charity will be permitted to pay its “volunteers”.
- Prevailing audit, reporting and use of proceeds requirements for the facility licensee, operator and charity will be followed. The Auditor General will have the ability to audit related to use of proceeds, as well as Lottery Fund expenditures – as per current casino licenses and lottery fund expenditures.
- The casino event licensee (host First Nation charity) and the casino facility licensee must be clearly separate and distinct entities – as per current casino facilities. The casino facility licensee may contract out casino operations/services to an Alberta “registered gaming supplier”.
- As part of the host operator’s casino facility license application, there must be demonstrated local community (First Nation) acceptance of a proposed casino development.
- Casino revenue splits:
 - (a) Table games – Splits will be determined on a casino-by-casino basis, taking into account the operator’s fee. The operator’s portion will range from 50% to 75%, while the charity portion will range from 25% to 50% - as per current casinos.
 - (b) Slot machines – Operator: 15% (as per current casinos)
Host First Charity: 15% (as per current casinos)
Alberta Lottery Fund: 70% (as per current casinos)
- The 70% Alberta Lottery Fund portion will be used as follows:
 - (a) 40% of the total will fund a new Lottery Fund Initiative, the “First Nations Development Fund”.
 - (b) 30% of the total will be available for traditional Lottery Fund Initiatives.
- The first Nations Development Fund would be separate from the First Nations Gaming Policy and set up similar to existing lottery-funded foundations (e.g. Wild Rose Foundation, Foundation for the Arts). The Fund would operate under the aegis and authority of a provincial government department. It is proposed that the dollars available to the Fund would be assigned on the basis of 75% to host First Nation(s) and 25% to non-host First Nations.

Dollars distributed from this Fund would be available for economic and community development, addictions programs, education, health and infrastructure projects. Fund dollars cannot be used for casino operations or financing.

Details with regard to the Fund's operating principles, funding guidelines, administration, etc, will be developed by a joint committee of a government and First Nations representatives.

Note: For the purposes of the First Nations Gaming Policy, a host First Nation is a First Nation with an operating casino licensed by the Province of Alberta and located on an Indian reserve set apart prior to January 1, 2001, or on a reserve set apart after that date which is contiguous to an existing reserve and to which the Province of Alberta has consented.

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First Nations Development Fund

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Alberta