
KFN Pelly Haylands Trust Agreement

Draft - KFN PHL Lands Acquisition Process Summary, October 19, 2009

I INTRODUCTION: KFN PHL LAND(S) ACQUISITION & PURCHASE PROCESS:

The following presentation is provided as a general summary of the Lands Acquisition process prescribed and required by the Pelly Haylands Trust Agreement.

The Pelly Haylands Trust Agreement authorizes the purchase of up to 4,266.7 New Acres of land which must be purchased anywhere in the province of Saskatchewan. The Trust Agreement requires that the land purchased under the trust agreement authorization must be placed into reserve status. This is a requirement for all purchases of land which will flow for the Pelly Haylands Trust Agreement.

The Pelly Haylands Trust Agreement requires that the purchase of any parcel of land over the value of fifty thousand dollars (\$50,000.) must be approved through a formal meeting that meets the prescribed requirements of the trust agreement. (i.e.; 30 day notice, required info., format, etc.)

It is also important to note that Pelly Haylands Trust Agreement allows for the purchase of any parcels of land under the value of fifty thousand dollars (\$50,000.) without the authorization of membership through Band Member Approval process.

In spite of this allowance the Trust Agreement still requires that the same required documentation for land purchase and land acquisition must apply to these purchases under the value of \$50,000.

II EXECUTIVE SUMMARY: KFN PHL LAND(S) ACQUISITION PROCEDURE

The Key First Nation Chief & Council must formally identify any purchase of land with a written letter of intention to purchase land(s), and to have such land converted to reserve status.

This Letter of Intent must be accompanied by a number of documentary requirements outlined in part two of this document (Step One-Letter of Intent to Purchase).

In the case in which Key First Nation will purchase land over the value of fifty thousand dollars (\$50,000), Band Member Approval must be attained in order gain Corporate Trustee Approval as required by KFN PHL Trust Agreement.

KFN PHL TRUST MANAGER REPORT: Lands Acquisition & Purchase Process Summary Presented to KFN CHIEF & COUNCIL OCTOBER 15, 2009- LANDS ACQUISITION PROCESS First Review SEPT 24, 2009 Key First Nation General Band Meeting

Band Member Approval Requirements are outlined in Part Three of this summary.

Following formal approval of band members, (which must be evidenced by a band council resolution (BCR), as well as a Members Resolution,) the corporate trustee shall be notified of KFN intention to purchase land(s).

III TRUSTEE APPROVAL OF KFN PHL LAND(S) ACQUISITION & PURCHASE:

The Corporate Trustee shall approve or disapprove of the purchase of any land(s) based upon the following conditions;

- ✓ That Key First Nation has successfully met all the requirements as provided for under the Pelly Haylands Trust Agreement (or as outlined in this summary presentation).
- ✓ That there are sufficient funds available for any said purchase under the guidelines required through the trust agreement.
- ✓ That the purchase price value is a reasonable and prudent price given the recommended value provided through formal appraisal.

IV GENERAL SUMMARY OF KEY FIRST NATION PELLY HAYLANDS LANDS ACQUISITION PROCESS:

The following step by step process is provided to describe the general requirements which must be met in undertaking to purchase any land under the umbrella and authorization of the Key First Nation Pelly Haylands Trust Agreement;

1) PHL TRUST AGREEMENT LAND PURCHASE PRE-STEPS

- i. Prior to Chief & Council making a decision to buy land they must first consider all matters that a prudent purchaser of land would make in purchasing land. This must be demonstrated through a written statement of intention to purchase land and to have the said land converted to reserve status. This statement of intention will be demonstrated by a KFN Band Council Resolution.
- ii. Key First Nation Chief & Council must retain the services of a qualified land inspector to undertake the required land inspection report.
- iii. Also a qualified land appraiser must be hired to provide a legitimate appraisal value of the land(s) to be purchased.

- iv. A holding company must be established to complete the land transaction.
- v. Legal counsel must be retained in order to ensure that all legal steps have been completed for a successful land transaction.
- vi. Federal and Provincial representatives must be provided with a Formal Plan to Purchase and Revert to Reserve Status all target acquisitions of land to be purchased.

2) STEP ONE-Letter of Intent to Purchase Land

The Letter of Intent to Purchase Land must include the following;

- i. The legal (and if applicable municipal) description of the land to be purchased.
- ii. A list of all improvements on the land and confirmation that these lands have been inspected by a qualified land inspector, with a copy of the land inspector's report.
- iii. The recommended price to be paid for the land. This recommended price would be based upon a Land Appraisal Value completed by a qualified land appraiser.
- iv. Letter of confirmation that the land to be purchased is available for sale.
- v. A list of any specific conditions or terms upon which the land is to be purchased.
- vi. A listing or report on any environmental concerns with respect to the land being purchased.
- vii. A report or statement of any potential problems that may arise in having the land set apart as reserve status.

3) STEP TWO – Band Member Approval Meeting

(*Required for Any Purchase Over \$50,000. Or any Land with a Business Located Upon It, not including family farms.)

(**A full description has been provided through the KFN PHL BAND DEVELOPMENT REQUEST/ LANDS ACQUISITION PROTOCOL)

- i. Following successful completion of PHL Trust Agreement requirements (described in the Pre-Steps and Step One of this document), KFN Chief & Council shall formally announce a meeting with 30 days advance notice, with a stated intention to purchase at a recommended price.

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- ii. At this meeting the trust agreement requires that sufficient information be provided to allow Eligible Members in attendance to make an informed decision on the purchase in question.
- iii. On the issue of purchase of the land in question a vote will be held by a show of hands of the Eligible Members in attendance.
- iv. Any vote which takes place must be accompanied by a statement of non-conflict of interest on the part of; 1) Any individual Eligible Band Member taking part in the vote, or 2) Any member of chief and council..
- v. All Band Member Approval Meetings must be evidenced through due diligence as prescribed required through the PHL Trust Agreement (i.e.; 30 Day Notice, Quorum of Chief & Council Approval, minutes

4) STEP THREE- Corporate Trustee Approval

The KFN PHL Corporate Trustee will approve the stated land purchase based upon the following criteria;

- i. Corporate Trustee in receipt of Band Council Resolution stating written approval of Chief & Council to undertake the land purchase. The Band Council Resolution must be accompanied by a Pelly Haylands Schedule 'H' Trust Account Land Acquisition Direction.
- ii. The Band Council Resolution must also be accompanied by the Lands Inspector's Report described in Step One of this document.
- iii. In addition to the Lands Inspector's Report, Environmental Reports must be provided outlining any existing (or potential) environmental concerns with respect to the lands to be purchased.
- iv. Also in addition to the Lands Inspector's Report, a report on: Problems Associated With Having Lands Converted To Reserve Status must be presented.
- v. The Corporate Trustee must be satisfied that the purchase price to be paid is a reasonable price that a prudent purchaser would make given any circumstantial price value of the land to be purchased.
- vi. The Corporate Trustee is satisfied that there are sufficient funds available for such purpose as provided for under the guidelines of the KFN PHL Trust Agreement.

- vii. The Corporate Trustee is satisfied that all requirements are met as prescribed by the Pelly Haylands Trust Agreement

CONCLUSION

The preceding report has been provided as a general summary of the specific requirements entailed in land acquisition and purchases as provided for under the framework of the Pelly Haylands Trust Agreement. The process and the steps identified in this process are the same requirements of all land acquisition purchases over the value of fifty thousand dollars (\$50,000.)

This report is provided based entirely upon an interpretation of the Pelly Haylands Trust Agreement requirements by the KFN PHL Trust Manager and has not yet been reviewed from a legal perspective. Nor has this report been reviewed or approved by KFN Chief and Council.

It should be noted that in the interest of effective management of the Band Member Approval Process required for any land acquisition over the value of \$50,000, certain considerations should be provided for in the development and implementation of more effective rules governing the due process of appeal of any potential decisions which may have been unduly influenced by Conflict of Interest.

Therefore this report shall serve as a draft document outlining the Land Acquisition and Purchase Process as prescribed by the Pelly Haylands Trust Agreement. Legal Counsel Review as well as Chief and Council Review and Adoption, this report will form the basis for the description of the Pelly Haylands Lands Acquisition and Purchase Protocol.

Sincerely

Carey T. O'Soup

Key First Nation Trust Manager

cc Jim Jodouin, BainbridgeJodouinCheecham, Barristers & Solicitors

Roxane Brass, KFN Lands Manager

KFN Director of Operations