

MEMORANDUM OF UNDERSTANDING

Tuck Inlet Road and Ferry Docks

This Memorandum of Understanding made 29th day of July, 2015

BETWEEN:

Her Majesty the Queen in Right of the Province of British Columbia as represented by the Minister of Transportation and Infrastructure (the "Ministry")

AND

Lax Kw'alaams Band (the "Band")

BACKGROUND:

- (a) Tuck Inlet Road is the principal access route to and from the Lax Kw'alaam community and is shown on the plan attached to this MOU outlined in red ("Tuck Inlet Road").
- (b) The Band wishes to dedicate the lands comprising Tuck Inlet Road as a provincial public highway and the Ministry wishes to establish Tuck Inlet Road as provincial public highway pursuant to the provisions of the Transportation Act.
- (c) The Ministry and the Band wish to enter into this MOU in connection with the proposal to create and dedicate Tuck Inlet Road as provincial public highway, the paving of Tuck Inlet Road and certain other arrangements in connection with the ferry docks serving the Lax Kw'alaams ferry at Aero Point in Prince Rupert and in Tuck Inlet (the "Ferry Docks").

THE MINISTRY AND THE BAND AGREE AS FOLLOWS:

1. UNDERSTANDING

The Ministry and the Band have reached an understanding for their cooperation in the creation and dedication of Tuck Inlet Road as a paved provincial public highway and certain other arrangements in connection with the Ferry Docks in order to support economic development.

2. MINISTRY RESPONSIBILITIES

The Ministry agrees to:

- a. undertake and complete the engineering work reasonably necessary in the discretion of the Ministry, in connection with the proposed creation and dedication of Tuck Inlet Road as a provincial public highway, including the proposed paving and safety improvements for Tuck Inlet Road;
- b. identify the Band reserve lands required for the road right of way for Tuck Inlet Road to be transferred to the Ministry and/or the BC Transportation Financing Authority to enable

creation and dedication of Tuck Inlet Road as provincial public highway (the "Transfer Lands");

- c. establish Tuck Inlet Road as a provincial public highway subject to the Band's obligations set out in paragraph 3 below; and
- d. carry out paving and safety improvements to Tuck Inlet Road in accordance with the terms of the written agreement referenced in paragraphs 4a. and 4b. below.

3. BAND RESPONSIBILITIES

The Band agrees to:

- a. provide its consent to Canada transferring administration and control of its entire interest in the Transfer Lands to Ministry for the purpose of a provincial public highway and other works of public utility (the "Agreed Purposes") pursuant to Section 35 of the Indian Act;
- b. provide its consent to Canada to the issuance of a permit to the Ministry pursuant to Section 28(2) of the Indian Act to allow the Ministry and its agents to use and occupy the Transfer Lands for the Agreed Purposes, pending the transfer referenced under paragraph 3a. The Band acknowledges that the permit is to be issued prior to the Ministry undertaking the paving and safety improvements for Tuck Inlet Road; and
- c. take such other steps as may be reasonably required in order to facilitate or support the arrangements contemplated in this MOU.

4. JOINT RESPONSIBILITIES

The Ministry and the Band agree to work together co-operatively to:

- a. develop a written agreement for the paving and improvement of Tuck Inlet Road which will include specific project details including scope, cost, responsibilities and schedule, with the intention that paving work begin on Tuck Inlet Road in 2016 and be completed before December 31, 2016 and all work would be completed before December 31, 2017;
- b. develop a written agreement for the transfer of the Transfer Lands to the Ministry, including the Band's consent to the transfer under paragraph 3a., to allow the creation of Tuck Inlet Road as a provincial public highway;
- c. develop a written agreement for the Ministry to take over ownership, care and control of the Ferry Docks; and
- d. maintain strong communications between the Ministry and the Band, including through regular meetings.

5. ACKNOWLEDGEMENTS

- a. Subject to the parties entering into the written agreement referenced in paragraph 4a. and 4b. of this MOU, the Ministry will agree to fund the costs to pave Tuck Inlet Road, including the costs of engineering, construction, project management, supervision and financing reasonably required.
- b. Following the transfer of the Transfer Lands to the Ministry and the creation and dedication of Tuck Inlet Road as a paved provincial public highway, the Ministry will undertake the maintenance of Tuck Inlet Road at an appropriate classification based on provincial maintenance standards consistent with comparable provincial public highways in the Province of British Columbia.
- c. The parties agree that upon the start of the paving project for Tuck Inlet Road the funding provided by the Ministry to the Band for the maintenance of Tuck Inlet Road pursuant to the Lax Kw'alaams Access Improvements Term Sheet dated February 23, 2001 will be discontinued.
- d. Subject to paragraph 5e, the parties agree not to publicly release any project information, including engineering details without the written agreement of the other party, such agreement not to be unreasonably withheld or delayed.
- e. The Band acknowledges that the Ministry is subject to provisions of the Freedom of Information and Protection of Privacy Act. The Ministry agrees to consult with the Band prior to release of any project information pursuant to the Freedom of Information and Protection of Privacy Act.
- f. The parties agree to work together in a reasonable manner to resolve at the lowest level of management any disputes arising in connection with or related to this MOU.
- g. The Ministry's obligations set out in this MOU are subject to the provisions of the Financial Administration Act.

In witness whereof, the parties have executed this Memorandum of Understanding, this 28th day of July, 2015

Mary Rice _____ July 28th / 15
Lax Kw'alaams Band Date

[Signature] _____ July 28th / 15
Signed by a duly authorized representative of the Date
Minister of Transportation and Infrastructure

