

AN AGREEMENT BETWEEN

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
AS REPRESENTED BY THE MINISTER OF NATURAL RESOURCES CANADA
AND ACTING THROUGH THE EARTH SCIENCES SECTOR
SURVEYOR GENERAL BRANCH**

AND

**THE SURVEYOR GENERAL OF BRITISH COLUMBIA
LAND TITLE AND SURVEY AUTHORITY**

AND

**SENIOR MANAGER, BUSINESS MANAGEMENT SERVICES BRANCH
MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE**

**RESPECTING LEGAL SURVEYS OF HIGHWAYS OVER OR THROUGH INDIAN
RESERVES, SECHELT LANDS, AND WESTBANK LANDS**

This Agreement is made in Vancouver British Columbia

DEFINITIONS

“Gazetted Road” means a road through an Indian Reserve where the road is the subject of a notice published in the British Columbia Gazette prior to February 3, 1930, for Indian Reserves within the former Railway Belt or Peace River Block, or July 29, 1938, for Indian Reserves outside the former Railway Belt or Peace River Block.

“Highway” or “Highways” means a highway or highways as defined in the *Transportation Act*, R.S.B.C. 2004, c44.

“Indian Reserve” means a reserve as defined in the *Indian Act*, R.S.C., 1985, c. I-5; First Nation land, as defined in the *First Nations Land Management Act*, S.C. 1999, c. 24; Sechelt lands, as defined in the *Sechelt Indian Band Self-Government Act* S.C. 1986, c. 27; and Westbank lands as defined in the *Westbank First Nation Self-Government Act* S.C. 2004, c. 17.

PURPOSE

This agreement concerns the legal surveys of land and does not concern the nature of the right, title or interest in the land. This agreement is without prejudice to any position the parties may take with respect to ownership or administration and control of the subject land.

The purpose of this agreement is to allow for the legal survey of Highways over or through Indian Reserves, in British Columbia, to be conducted pursuant to the *Canada Lands Surveys Act* when:

- Indian Reserve land is required for Highway purposes, pursuant to Section 10 of the *Transportation Act*, R.S.B.C 2004, c. 44;
- Highways over or through an Indian Reserve are to be surveyed where all or a portion is to be closed and transferred to Canada, and;
- an existing unsurveyed Highway through an Indian Reserve requires a legal survey. Such surveys may be required for travelled roads which existed prior to the establishment of the Indian Reserve; for Gazetted Roads that existed prior to the establishment of the Indian Reserve; or roads shown on Crown Grants of lands that Canada subsequently set apart as an Indian Reserve.

SCOPE

The Surveyor General of Canada Lands is responsible for legal surveys on Canada Lands and regulating the quality, enforcing the standards, and having custody of the records of these surveys. The standards for these surveys are defined in the *National Standards for the Survey of Canada Lands*. Under Section 24 of the Canada Lands Surveys Act, Canada Lands means, in part, surrendered lands or a reserve as defined by the Indian Act, and Sechelt lands as defined in the Sechelt Indian Band Self-Government Act.

The Surveyor General of British Columbia is responsible to maintain the quality of the provincial survey fabric and to provide advice and guidance on survey matters to provincial ministries and agencies. The standards for surveys of provincial lands are defined in the General Survey Instruction Rules maintained by the Association of British Columbia Land Surveyors.

The Ministry of Transportation and Infrastructure is responsible for the administration and control of Highways, the preparation of maps, plans and estimates for Highways, and the approval of survey plans of Highways through an Indian Reserve.

DURATION

The Agreement shall come into force upon execution by the parties and shall expire on September 1, 2024, unless terminated earlier in accordance with the provisions of this Agreement. The Agreement may be extended upon mutual written consent of the parties prior to the expiration date of this Agreement.

RESPONSIBILITIES OF THE PARTIES

There shall be no exchange of funds between the parties as part of this Agreement. Each party shall be responsible for its own expenses and costs incurred as a result of carrying out its share of the Agreement. No party shall be responsible for payment any expenditures incurred by the other party unless prior written consent is granted prior to incurring such expenditures.

AGREEMENT

The Surveyor General of Canada Lands, the Surveyor General of British Columbia, and the Ministry of Transportation and Infrastructure agree that legal surveys made of:

- a) portions of Indian Reserves in order to facilitate the transfer of those portions to British Columbia for Section 10 purposes under the *Transportation Act*; and,
- b) portions of Highways through Indian Reserves, in order to facilitate their closure and transfer to Canada; and,
- c) portions of Highways through Indian Reserves, in order to define their extent

will be made in accordance with the attached Supplementary Instructions, Schedule 1.

IMPLEMENTATION

This agreement will come into force on the first day of the month following the signing of the agreement by all parties. Surveys commenced prior to this agreement will be completed as required by the standards in force at the date the survey instructions were issued.

AMENDMENT

This agreement may be amended with the mutual written consent of all of the parties. Any amendment will come into force on the first day of the month following the signing of the amendment agreement by the same parties and under the same conditions as the original agreement.

TERMINATION

This agreement may be terminated at any time upon written notice by any one of the three parties.

ASSIGNMENT

This Agreement may not be assigned in whole or in part by a party without the prior written consent of the other party and any assignment made without that consent is void and of no effect.

APPLICABLE LAW

This Agreement shall be interpreted in accordance with the laws in force in the Province of British Columbia.

ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all previous negotiations, communications and other agreements, whether written or oral, between the parties in respect of the same subject matter.

“Signed”

June 19, 2015

Peter Sullivan, ALS, CLS

Date

Surveyor General of Canada Lands

Natural Resources Canada

“Signed”

May 5, 2015

Mike Thomson BCLS

Date

Surveyor General of British Columbia

Land Title and Survey Authority of BC

“Signed”

May 5, 2015

Garth Stewart

Date

Senior Manager, Aboriginal Relations

Ministry of Transportation and Infrastructure

SCHEDULE 1

Supplementary Instructions for the Survey of Highways over or through Indian Reserves.

1. Authority

The *Canada Lands Survey Act* (R.S.C. 1985, c. L-6) and the Standards for the Survey of Canada Lands.

Unless otherwise stated in the specific survey instructions, the survey will be carried out in accordance with the *Canada Lands Surveys Act*, the Standards for the Survey of Canada Lands and these supplementary instructions.

2. Qualification of Land Surveyor

The survey shall be carried out by a Canada Lands Surveyor who is also commissioned as a British Columbia Land Surveyor.

3. Agents of the Surveyor General of Canada Lands, the Surveyor General of British Columbia, and the Ministry of Transportation and Infrastructure.

The Manager, BC Regional Office, Surveyor General Branch, Natural Resources Canada (NRC) will be the contact person for the Surveyor General of Canada Lands. A Deputy Surveyor General within the Surveyor General Division of the Land Title and Survey Authority will be the contact person for the Surveyor General of British Columbia. The Senior Manager, Aboriginal Relations, Business Management Services Branch, Ministry of Transportation and Infrastructure (MOTI) will be the contact person for MOTI.

NOTICE

Where in this Agreement any notice is required to be given or made by either party, it shall be in writing and is effective if it is sent by registered mail, by facsimile, by electronic mail or delivered in person, addressed as follows:

Natural Resources Canada
Manager, BC Regional Office
Surveyor General Branch
Suite 1501 - 1138 Melville Street
Vancouver BC V6E 4S3
Phone: 604-666-5313

Land Title and Survey Authority
Deputy Surveyor General
Surveyor General Division
Land Title and Survey Authority
Suite 200 - 1321 Blanshard Street
Victoria B.C. V8W 9J3

Ministry of Transportation and Infrastructure

Senior Manager, Aboriginal Relations
Business Management Services Branch
4th Floor, 940 Blanshard Street
Victoria BC V8W 3E6
Phone 250-356-6306

4. The following actions require survey instructions:
 - 4.1 The survey of portions of Canada Lands (Indian Reserves) in order to facilitate the transfer of those portions to British Columbia for highway purposes;
 - 4.2 The survey of portions of Highway through Canada Lands (Indian Reserves), in order to facilitate their closure and transfer to Canada; and
 - 4.3 The survey of all, or a portion of, Highway over or through Canada Lands (Indian Reserves) in order to define its extent.
5. When surveys of Highways are required under this agreement, the land surveyor shall apply to the Manager, BC Regional Office for survey instructions. Each application for instructions shall be applied for using the MyCLSS web site at www.myclss.ca.
6. The authority to make a survey is subject to the approval of the government department or other parties responsible for administering the lands.
7. Surveys within an Indian Reserve, for existing Highways.
 - 7.1 Unless otherwise specified in the specific survey instructions, all Highway surveys through an Indian Reserve, except new highway takings, shall be made pursuant to Section 31 of the Canada Lands Surveys Act. The plan shall contain a table of areas listing:
 - a) the legal description of each parcel crossed by the Highway;
 - b) the area of each parcel included within the Highway; and
 - c) the area of existing Highway within the lands dealt with by the plan.
 - 7.2 Where an unsurveyed Highway within an Indian Reserve is to be defined, a Section 31 Canada Lands Surveys Act plan may be used; and

- 7.3 Where an existing surveyed Highway, or a portion thereof, within an Indian Reserve, is to be resurveyed, a Section 31 Canada Lands Surveys Act plan may be used.
8. If the Highway is an unsurveyed highway, then its location and width must be derived from the best available evidence and historical documents. The actual or agreed upon width, from shoulder to shoulder exclusive of ditches, shall be shown.
- 8.1 Unsurveyed Highway being closed does not require monumentation unless specified in the specific survey instructions.
9. Where both new lands are to be taken from an Indian Reserve for Highway and old roads are to be closed, two survey plans are required:
- 9.1 Lands to be acquired from an Indian Reserve must be surveyed pursuant to Section 29 of the Canada Lands Surveys Act;
- 9.2 Highways to be closed may be defined pursuant to Section 31 of the Canada Lands Surveys Act.
10. Where portions of an Indian Reserve are to be surveyed for a Highway pursuant to Section 29 of the *Canada Lands Surveys Act*.

The plan shall contain a table of areas listing:

- a. The legal description of each parcel within the Indian Reserve affected by the Highway;
 - b. The area of each parcel included within the Highway;
 - c. The total area of Highway plan; and
 - d. If relevant, the area of existing Highway within each parcel.
11. Upon completion of a Section 29 *Canada Lands Survey Act* plan, the land surveyor shall submit a pdf copy of the plan to the Senior Manager, Aboriginal Relations, Business Management Services Branch, MOTI and request their approval, in principle.
12. Upon completion of a Section 31 *Canada Lands Survey Act* plan, the land surveyor shall submit a pdf copy of the plan to the Senior Manager, Aboriginal Relations, Business Management Services Branch, MOTI and request their approval, in principle.

13. Plans dealing with existing travelled unsurveyed Highway:

13.1 If a plan deals with an existing traveled unsurveyed Highway through an Indian Reserve then the survey of the said Highway may be conducted pursuant to Section 29 or 31 of the *Canada Lands Surveys Act*.

13.2 The plan shall contain a statement that specified parcels of Highway shown on the plan may be subject to a claim by MOTI pursuant to either OIC 1036 or PC 208.

14. Plans dealing with a Gazetted Road through an Indian Reserve:

14.1 A Highway that has been established by a British Columbia Gazette notice (Gazetted Road) may be surveyed pursuant to Section 29 or 31 of the *Canada Lands Surveys Act*.

15 Plans to define a Highway through an Indian Reserve established by provincial Crown Grant:

15.1 A Highway through an Indian Reserve that has been established by a provincial Crown Grant may be surveyed pursuant to section 29 or 31 of the *Canada Lands Survey Act*;

15.2 The plan shall contain a statement that the Highway was established by Crown Grant xx/yyyy dated DD/Month/Year;

15.3 The plan shall also contain a statement that the Highway shown on the plan may be subject to claim by MOTI.