



PERMIT TO CONSTRUCT, USE, AND MAINTAIN ACCESS TO A PROVINCIAL PUBLIC HIGHWAY

PURSUANT TO TRANSPORTATION ACT AND/OR THE INDUSTRIAL ROADS ACT AND/OR THE MOTOR VEHICLE ACT AND/OR AS DEFINED IN THE NISGA'A FINAL AGREEMENT AND THE NISGA'A FINAL AGREEMENT ACT.

BETWEEN:

The Minister of Transportation and Transit

West Kootenay District
4th Floor - 310 Ward Street
Nelson, BC V1L 5S4
Email: WKD@gov.bc.ca

("The Minister")

AND:

1262538 BC Ltd

Email: [REDACTED]

("The Permittee")

WHEREAS:

- A. The Minister has the authority to grant permits for the auxiliary use of highway right of way, which authority is pursuant to both the Transportation Act and the Industrial Roads Act, the Motor Vehicle Act, as defined in the Nisga'a Final Agreement and the Nisga'a Final Agreement Act;
- B. The Permittee has requested the Minister to issue a permit pursuant to this authority for the following purpose:

The installation, operation, and maintenance of a single, nine (9) metre wide commercial access to serve 20 31 Highway N, Galena Bay, District Lot 7044 Kootenay District Except that part in plan 9151 (PID 011-740-671), for access to a commercial cardlock, heliport, electric vehicle charging station, food truck and restroom from Highway 31, as shown on the attached drawing.
- C. The Minister is prepared to issue a permit on certain terms and conditions;

ACCORDINGLY, the Minister hereby grants to the Permittee a permit for the Use (as hereinafter defined) of highway right of way on the following terms and conditions:

- 1. The Minister shall designate an official ("the Designated Ministry Official") who shall act as the Minister's agent in the administration of this permit in the manner hereinafter set out.
- 2. The Use shall be carried out according to the reasonable satisfaction of the Designated Ministry Official.
- 3. The Permittee shall indemnify and save harmless the Ministry, its agents and employees, from and against all claims, liabilities, demands, losses, damages, costs and expenses, fines, penalties, assessments and levies made against or incurred, suffered or sustained by the Ministry, its agents and employees, or any of them at any time or times, whether before or after the expiration or termination of this permit, where the same or any of them are based upon or arise out of or from anything done or omitted to be done by the Permittee, its employees, agents or Subcontractors, in connection with the permit.
- 4. The Permittee shall make diligent attempts to determine if there are other users of the right of way in the vicinity of the Permittee's location whose use may be affected. It shall be the responsibility of the Permittee to contact any such users before exercising any of the rights granted hereunder and to attempt to reach an accommodation.



5. The Minister shall take reasonable care to do as little damage or interference, as possible, to any Use authorized by this permit in the carrying out of the construction, extension, alteration improvement, repair, maintenance or operation of any work adjacent thereto, but the Minister shall not be responsible for any damage regardless.
6. The Minister at the absolute discretion of the Minister may, at any time, cancel this permit for any reason upon giving reasonable notice; provided, however, that in the case of default by the Permittee or in the case of an emergency no notice shall be necessary. The Minister shall not be liable for any loss incurred as a result of permit cancellation.
7. Placing of speed arresters on the access (or accesses) or in the Permittee's property without the prior consent in writing of the Designated Ministry Official shall render the permit void.
8. The Permittee shall be responsible for replacing any survey monuments that may be disturbed or destroyed by the Use. Replacement must be by a British Columbia land surveyor at the Permittee's expense.
9. The Permittee shall remove any mud, soil, debris, or other foreign material tracked onto the highway from the access authorized herein. Such removal shall be at the Permittee's expense and shall be done at any time the material unduly inconveniences traffic and, in any event, daily.
10. The Permittee acknowledges that the issuance of this permit by the Minister is not a representation by the Minister that this permit is the only authority needed to carry out the Use. The Permittee shall give deference to any prior permission given for use of the right of way in the vicinity of the permit area, shall obtain any other permission required by law, and shall comply with all applicable laws regardless of their legislative origin.
11. At the end of the term of this permit, or when the permit is cancelled or abandoned, the Permittee shall, if so requested by the Minister, remove all installations and shall leave the site as near as reasonably possible in the condition it was in before this permit was issued or such other condition as shall reasonably be required by the Designated Ministry Official. If the Permittee refuses to comply with these obligations, the Minister may perform them as required and the Permittee shall be liable to the Minister for the costs of doing so.
12. The rights granted to the Permittee in this permit are not assignable without the consent of the Minister.
13. As a condition of this permit, the permittee unconditionally agrees with the Ministry of Transportation and Transit that the permittee is the prime contractor or will appoint a qualified prime contractor, as described in Section 24 of the Workers Compensation Act, for the purposes of the work described by this permit, at the work location described in this permit, and that the permittee or designated prime contractor will observe and perform all of the duties and obligations which fall to be discharged by the prime contractor pursuant to the Workers Compensation Act and the Occupational Health and Safety Regulation.
14. The permittee is advised and acknowledges that the following hazards may be present at the work location and need to be considered in co-ordinating site safety: overhead hazards, particularly electrical or telecommunications lines; buried utilities, particularly electrical, telecommunication, and gas lines; traffic, danger trees, falling rocks, and sharp or infectious litter.
15. Any works within the Ministry right-of-way that fall within the scope of "practice of professional engineering" or "practice of professional geoscience" under the Professional Governance Act and the Engineers and Geoscientists Regulation will be performed by a Professional, and shall comply with this Ministry's "Professional Assurance Guidelines". The Guidelines can be viewed on the Ministry's website at <https://www2.gov.bc.ca/assets/gov/driving-and-transportation/transportation-infrastructure/engineering-standards-and-guidelines/technical-circulars/2023/t01-23.pdf>
16. The permittee is responsible for preventing the introduction and spread of noxious weeds on the highway right-of-way as defined by the British Columbia Weed Control Act and Weed Control Regulation.
17. The Use shall be carried out according to the following drawings and specifications, which are attached and shall be considered to be part of this permit: [n/a]
18. (a) The rights granted under this permit shall not be exercised before January 31, 2025.
(b) The Construction and Installations must be completed on or before March 31, 2026.
Exceptions: [n/a]
19. In accordance with Sections 000.03 Non-Ministry Developments on Ministry Land or That are Intended to Become Ministry Assets and 165.20 Archaeological and Paleontological Discoveries of the Design Build Standard Specification for Highway Construction - In the event that any item of archaeological, heritage, historical, cultural or scientific interest is found on the project site, the following Chance Find Procedure shall apply:

Such item(s) shall remain the property of the Province and the Permittee shall, on making or being advised of such a find, immediately cease operations in the affected area, minimize activities which create ground disturbance in and adjacent to the affected area, and notify the District Official and the Archaeology Branch of the British Columbia Ministry of Forests, Lands, Natural Resource Operations and Rural Development [Ministry of Forests]. Work shall not resume within 30 m of the discovery site until an appropriate directive has been received from that agency.

To protect archaeological and paleontological sites that are situated within or adjacent to a project site, the Permittee may be



required to use a variety of mitigative measures, including but not limited to drainage or erosion control, slope stabilization measures, or erecting fences or other suitable barriers to protect archaeological or paleontological sites that are situated within or adjacent to a project site. These measures, with any negotiated extensions of time for completion of the Works they require, will be determined and adopted at the discretion of the District Official. The costs associated with such mitigative measures will be borne by the Permittee.

A buffer zone, in which no land alteration or other activity is permitted, may be required to ensure adequate site protection. The width of this buffer zone shall be determined by the District Official in consultation with a representative of the Archaeology Branch of the British Columbia Ministry of Forests, Lands, Natural Resource Operations and Rural Development [Ministry of Forests]. The Permittee shall be responsible for the actions of employees and subcontractors with respect to site vandalism and the unlicensed collection of artifacts from Designated archaeological sites in and around the work location.

The Permittee shall ensure that all workers and Subcontractors are fully aware of these requirements and processes.

20. Any area of right of way disturbed during the permitted works including road shoulders, fill slopes, cut slopes, ditch, and the utility corridor, is to be restored to their original grade and compaction and left in a neat, tidy, and free draining condition.
21. The Permittee shall ensure all equipment working on or hauling material on to and from the Site does not damage or deposit material onto any part of an existing roadway. Materials spilled onto the public roadways or driveways opened to public traffic shall be cleaned up immediately. The Permittee has the full responsibility to repair any damage to existing highways, local roads and driveways caused by its construction equipment and/or operations.

Any damage to pavement, shoulders, ditches and right-of-way shall be restored to same as, or better than original conditions, to that which existed prior to the work(s), and to the satisfaction of the District Highways Manager or his/her representative.
22. Permittee shall be responsible for locating and for any damage to other works within highway right-of-way.
23. Permittee will be responsible to notify and gain approval of utility companies in advance of works. Permittee is to call BC OneCall at 1-800-474-6886 or by cellular at *6886 prior to the commencement of work.
24. The Permittee shall obtain and maintain Commercial General Liability insurance including non-owned automobile and contractual liability insurance in an amount of not less than \$2,000,000.00. The insurance shall comply with all terms and conditions of the Ministry Certificate of Insurance (H0111) and evidence of such insurance shall be given by way of a duly completed H0111. All insurance coverage shall be issued with insurers acceptable to the Ministry, and issued by companies licensed to transact business in the Province of British Columbia and Canada.
25. Only rubber-tired equipment may be used on pavement or on shoulders of paved highways. Machines with steel tracks or flat steel pads must use swamp pads or rubber tires to protect the road surface. When heavy rubber-tired equipment is turning on the paved surface, care must be taken to prevent scarring.
26. The access shall have minimum sight lines of no less than 240 meters in both directions along Highway 23.

DEFINITION OF SIGHT LINE - the distance measured in meters in a straight unobstructed line between two points; with one point being 1.05 meters above the surface of the access (representing the drivers eye view of the highway from a vehicle entering the highway from the access) and the other point being 0.6 meters above the surface of the road (representing the headlights of an approaching vehicle on the road/highway). These factors and their relationship with the posted speed of the highway determine line of sight requirements. Existing accesses may need to be moved or modified to comply with this requirement.
27. The Permittee shall not undermine the Ministry's highway in any way when constructing or maintaining said access.
28. The portion of the access located on highway right-of-way shall be a maximum of 9 metres wide.
29. Access to be constructed at 90 degrees to the highway for a distance of 10 metres from the highway shoulder.
30. The profile of the access shall not exceed 2% grade from the ditchline for a distance of at least 10 metres as measured away from the highway along the centerline of the access.
31. The access shall be constructed with 500mm culvert pipe manufactured to CSA or ASTM standards and laid at ditch invert elevation. Maintenance and periodic cleaning of this culvert is the responsibility of the Permittee.
32. The Permittee shall construct a "swale" or a "valley" on their access situated over the ditch line, if necessary, to ensure surface water enters the ditch and does not enter the road.
33. The Permittee is responsible for any fill which is placed in the Ministry right-of-way for the purposes of access construction and shall provide for the natural drainage of the adjacent ditch which it encompasses.
34. The Permittee is responsible for ensuring that all works are contained to the highway right of way. Any works located within private property must have the owner's permission.
35. The layout shown on the attached drawing is a condition of this permit, and any change in layout without the prior consent in



writing of the Designated Ministry Official shall render the permit void.

36. The Permittee shall continuously provide sufficient space for a minimum of 5 off-street parking stalls and a turnaround on private property.
37. The Permittee shall not place any permanent structure with a horizontal dimension exceeding zero point six (0.6) metres within a distance of four point five (4.5) metres from the property line.
38. There shall not be any temporary or long-term parking of commercial vehicles on the right-of-way of Highway 23 or Highway 31.
39. The field supervisor for the Permittee and Contractor is to have a copy of this permit on site during field operations and be aware of all Permittee conditions.

The Permittee shall ensure that any subcontractor performing works covered by this permit shall adhere to all conditions specified herein.

40. All work on Highway right-of-way shall be during regular hours of operation, Monday to Friday, 8:00 - 4:30, except statutory holidays. No work shall occur during hours of darkness or during periods of inclement weather. Public road must be clear of any equipment or activity that may impede winter road maintenance on Ministry maintained roads during winter snowstorms or inclement weather.
41. No excavated materials will be stockpiled on the traveled portion of the highway, nor on the shoulders or in ditch lines. The highway surface, shoulders, and ditch line shall be restored and kept clear and clean of materials and equipment at the end of each day.
42. Reinstatement, in a timely and professional manner, of drainage, roadway and roadside facilities shall be required within thirty (30) days of disturbing the facilities.
43. The highway surface, shoulders, and ditchline shall be restored and kept clear and clean of materials and equipment at the end of each day. Shoulders shall not be used to store materials and/or equipment.

The Permittee shall remove, pile and burn or chip all slash, trees, and tree limbs from the road allowance.

All unsuitable material and inorganic debris shall be removed from the project area. All surplus or unsuitable organic waste and debris shall be removed from the site unless its complete burning is approved by the Designated Ministry Official in compliance with the B.C. Open Burning Smoke Control regulation.

44. Roadways, ditches, and right-of-way to be restored to their previous condition or better, to that which existed prior to the work(s), and to the satisfaction of the Ministry Representative.
45. The Permittee is responsible for all costs of maintenance or remedial work required as a result of these works for a period of two (2) years.
46. That where the said works are in the proximity of any bridge, culvert, ditch or other existing work, such work shall be properly maintained and supported in such manner as not to interfere with its proper function, and on the completion of the said works any bridge, culvert, ditch or other existing work interfered with shall be completely restored to its original condition.

47. **Decommissioning of Access to Highway 23**

48. The Permittee shall decommission the existing access to Highway 23 and restore the highway right-of-way to a condition similar to previous or better.
49. The Permittee is responsible for all costs associated with decommissioning and removing the access to Highway 23, including the restoration of the paved highway surface, to the satisfaction of the Ministry. All decommissioning and removal activities are to be done in accordance with the conditions contained in this permit. The Permittee shall provide the Ministry with one month's written notice prior to commencement of the removal and restoration activities, which will be subject to prior approval of the Ministry of Transportation & Infrastructure.
50. The permittee is responsible for the supply of all labor, equipment, and materials in connection with the decommissioning of access on to Highway 23.
51. This permit is issued only to the Permittee, for the sole purpose as stated in the permitted application. Any change in land-use will result in this permit becoming null and void.
52. If the Permittee proceeds on this permit, it is deemed they have accepted all terms and conditions.
53. The Ministry Representative is Crystal Swan, Development Services Officer, 778-463-5605; crystal.swan@gov.bc.ca.



BRITISH
COLUMBIA

Ministry of Transportation
and Transit

Permit/File Number: 2024-05479

Office: West Kootenay District

The rights granted to the Permittee in this permit are to be exercised only for the purpose as defined in Recital B on page 1.

Dated at Nelson, British Columbia, this 31 day of January, 2025

On Behalf of the Minister

