



## 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 Infrastructure  
Salmon Arm Area Office  
Bag 100  
850C – 16<sup>th</sup> Street NE  
Salmon Arm, BC V1E 4S4

("The Minister")

**AND:**

Hary-Cro Holdings Ltd.  
PO Box 216  
Sorrento, BC V0E 2W0  
Canada

("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 one (1) 10 metre wide commercial access for a 700 m2 automotive repair & parts store on the south side of the Trans-Canada Highway, to serve property legally described as Lot 1, Section 16, Township 22, Range 11, W6M, YDYG, Plan KAP57595, located at 1298 Trans-Canada Highway in Sorrento, BC, as shown on drawing ES-16-768-A1.1 dated October 27, 2016.**

- 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 will at all times indemnify and save harmless Her Majesty the Queen in Right of the Province of British Columbia, as represented by the Minister of Transportation and Infrastructure, and the employees, servants, and agents of the Minister from and against all claims, demands, losses, damages, costs, liabilities, expenses, fines, fees, penalties, assessments and levies, made against or incurred, suffered or sustained by 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 sustained in any way as a result of the Use, which indemnity will survive the expiration or sooner termination of this 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 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 Infrastructure that the permittee is the prime contractor or will appoint a qualified prime contractor, as described in Section 118 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 coordinating 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 "engineering" under the Engineers and Geoscientists Act will be performed by a Professional Engineer, and shall comply with this Ministry's "Engineer of Record and Field Review Guidelines". The Guidelines can be viewed on the Ministry's website at:  
[http://www.th.gov.bc.ca/publications/Circulars/All/T\\_Circ/2009/t06-09.pdf](http://www.th.gov.bc.ca/publications/Circulars/All/T_Circ/2009/t06-09.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:  
**Drawing ES-16-768-A1.1 dated October 27, 2016.**
18. (a) The rights granted under this permit shall not be exercised before **January 10, 2017**.  
(b) The Construction and Installations must be completed on or before **April 10, 2017**.  
Exceptions:  
A. LOCATION
19. Lot 1, Section 16, Township 22, Range 11, W6M, YDYG, Plan KAP57595, located at 1298 Trans-Canada Highway in Sorrento, BC  
B. CONSTRUCTION AND INSTALLATIONS:
20. The access shall be paved to the satisfaction of the Designated Ministry Official and all storm drainage shall be maintained on-site.
21. The access shall be constructed with a 450mm 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.
22. The profile of the access shall not exceed 2% grade from the ditchline for a distance of at least 6 metres as measured away from the highway along the centerline of the access.



23. The finished grade of the access at the ditch-line shall be 15 cm below the highway shoulder elevation.
24. The Permittee shall provide off-street parking in the amount of twenty-seven (27) stalls.
25. This permit does not provide licencing and insurance and/or oversize, overweight authorization for a commercial vehicle to access a provincial highway from an industrial road. Commercial vehicle operators require authority pursuant to Section 8 of the Commercial Transport Act, R.S.B.C. 1996, and should contact the Provincial Permit Centre at 1-800-559-9688 to obtain a Highway Crossing Permit.

C. AUTHORIZED ACTIVITIES

N/A

D. OPERATION AND MAINTENANCE

26. The Permittee will ensure that the works do not, impair, impede or otherwise interfere with;
- I. public passage on the Highways;
  - II. the provision of highway maintenance services by the Province, or by its servants, contractors, agents or authorized representatives of the Province in connection with the Highways; or
  - III. the operation of the Highways;
27. 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.

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 Penticton, British Columbia, this 10<sup>th</sup> day of January, 2017

On Behalf of the Minister of Transportation & Infrastructure