

THIS AGREEMENT made the 29th day of February, 2016 (the "Effective Date").

BETWEEN:

City of Kimberley
hereinafter referred to as the "City".

AND:

BC Timber Sales, Kootenay Business Area
hereinafter referred to as "BCTS".

WHEREAS the City is the owner of various roads within the City of Kimberley, hereinafter referred to as the "Lands";

AND WHEREAS BCTS intends to auction a timber sale that will require the successful bidder to use for travel a certain defined part of the Lands as set out in yellow in Schedule A attached hereto (the "Permitted Travel Area"), for the purpose of transporting logs through and out of the City of Kimberley;

AND WHEREAS the hauling of logs via trucks across the Lands may damage the road surface on the Lands;

NOW, in consideration for the mutual covenants contained herein, the parties agree as follows:

1. Subject to the terms and conditions set out in that license, the City agrees to grant a non-exclusive license of use to the successful bidder to allow the bidder to use the Permitted Travel Area for the purpose of transporting logs through and out of the City of Kimberley, thereby facilitating BCTS' intended auction of a timber sale.
2. BCTS shall require the successful bidder, as part of the agreement between BCTS and the successful bidder, to enter into the non-exclusive license agreement referenced in paragraph 1, a copy of which is attached hereto as Schedule "A".
3. In order to assist the City in tracking the loads of logs transported through the Permitted Use Area, BCTS will advise the City in writing of the total number of truck loads that were transported through and out of the City in the Permitted Travel Area on the 25th day of each month following the month in which trucks travelled through the Permitted Use Area, as indicated on the BC Harvest Billing System.

5. The parties to this Agreement acknowledge that they have had the opportunity to receive legal advice with respect to the terms of this Agreement and with respect to their obligations and rights set out herein.

BC Timber Sales, Kootenay Business Area

Steve Knowles
Authorized Signatory

Witness Signature: Roger Powell
Print Name: Roger Powell


Authorized Signature

Witness Signature _____
Print Name: _____

City of Kimberley

Mayor

Corporate Officer

SCHEDULE A

LICENSE OF USE FOR TRAVEL

THIS LICENSE made the ___ day of February, 2016 (the "Effective Date").

BETWEEN:

The City of Kimberley
hereinafter referred to as the "City".

AND:

hereinafter referred to as the "Licensee".

WHEREAS the City is the owner of various roads within the City of Kimberley, hereinafter referred to as the "Lands";

AND WHEREAS The Licensee wishes to use for travel a certain defined part of the Lands as set out in yellow in Schedule A attached hereto (the "Permitted Travel Area"), for the purpose of transporting logs through and out of the City of Kimberley;

AND WHEREAS the hauling of logs via trucks across the Lands may damage the road surface on the Lands;

NOW, in consideration for the mutual covenants contained herein, the parties agree as follows:

1. Subject to the terms and conditions set out in this License, the City agrees to grant a non-exclusive license of use to the Licensee.
2. It is expressly acknowledged by the Licensee that the Licensee does not acquire any interest in any part of the Permitted Travel Area under this License. The City does not grant to the Licensee either by this License, through prescription or otherwise any interest in the Lands other than the right to use the Permitted Travel Area pursuant to the terms of this License. All of the City's rights, statutory or otherwise, other than those specifically granted under this License, remain in force.
3. This License will be in effect starting on the Effective Date and will automatically terminate 6 months from the Effective Date.

4. Without limiting any of its other rights or remedies, the City may terminate this License without giving the Licensee any prior notice if the Licensee breaches any of the Licensee's obligations under this License.
5. The Licensee, its employees, agents and contractors, shall not build, construct, erect, or make any improvements to the Permitted Travel Area without the City's express permission in writing. The Licensee shall not store any items on the Permitted Travel Area without the City's express permission in writing.
6. The Licensee, its employees, agents and contractors shall not transport loaded trucks on any roads on the Lands other than within the Permitted Travel Area.
7. The Licensee, its employees, agents and contractors shall not at any time transport trucks with loads weighing in excess of 64 tonnes per load on the Permitted Travel Area. Notwithstanding the foregoing, the Licensee, its employees, agents and contractors shall at all times abide by all road weight restrictions imposed by the City that apply to the roads within the City.
8. The Licensee will pay to the City a license fee of \$56 plus GST per truck, for use of the Permitted Travel Area, payable within 30 days after the end of the month in which trucks travelled through the Permitted Use Area, without invoice or notice from the City ("License Fee"). The Licensee will advise the City in writing of the total number of truck loads that were transported through and out of the City in the Permitted Travel Area on the first day of each month following the month in which trucks travelled through the Permitted Use Area.
9. The Licensee and its employees, agents and contractors must use the Permitted Travel Area in a socially and environmentally responsible manner, causing no harm and creating no nuisance to others and must abide by all bylaws of the City at all times. The Licensee takes responsibility for the use of the Permitted Travel Area by the Licensee and its employees, agents and contractors. The Licensee agrees to fully indemnify the City for any and all environmental damage caused by the Licensee and any of its employees, agents and contractors.
10. The Licensee hereby expressly agrees TO WAIVE ANY AND ALL CLAIMS that the Licensee has or may in the future have against the City, its employees, insurers, successors and assigns (all of whom are hereinafter collectively referred to as "THE RELEASEES"), and TO RELEASE THE RELEASEES from any and all liability for any loss, damage, expense or injury including death that the Licensee and its employees, agents or contractors may suffer, resulting from the use of the Permitted Travel Area, DUE TO ANY CAUSE WHATSOEVER, INCLUDING NEGLIGENCE, BREACH OF CONTRACT, OR BREACH OF ANY STATUTORY OR OTHER DUTY OF CARE, INCLUDING ANY DUTY OF CARE OWED UNDER THE OCCUPIERS LIABILITY ACT SBC 1996, c. 337, as amended, ON

THE PART OF THE RELEASEES, AND ALSO INCLUDING THE FAILURE ON THE PART OF THE RELEASEES TO SAFEGUARD OR PROTECT THE LICENSEE, ITS EMPLOYEES, AGENTS OR CONTRACTORS FROM THE RISKS, DANGERS AND HAZARDS OF ANY USE of the Permitted Travel Area.

11. The Licensee agrees to fully indemnify and defend the City for any and all claims for any loss, damage, expense or injury, including death, that the City, its officers, employees, agents or contractors may suffer as a result of the actions of the Licensee and any of its employees, agents and contractors in using the Permitted Travel Area.

12. Nothing contained or implied in this License shall affect any of the City's rights, powers or defences under any statutes, regulations, bylaws or resolutions, all of which may be fully exercised in relation to the Lands as if this License had not been granted.

13. The parties to this Licence acknowledge that they have had the opportunity to receive legal advice with respect to the terms of this License and with respect to their obligations and rights set out herein.

THE LICENSEE

Signature

Date:

Witness Signature

Print Name:

Date:

Signature

Date:

Witness Signature

Print Name:

Date:

THE CITY

City of Kimberley

Mayor

Corporate Officer

