

EMERGENCY MANAGEMENT SERVICES FUNDING AGREEMENT

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF CANADA,
as represented by the Minister of Indian Affairs and Northern Development
(hereinafter referred to as "Canada")

AND

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA,
as represented by the Minister of Transportation and Infrastructure
(hereinafter referred to as "Province")

WHEREAS:

- A. Canada is responsible for emergency management services on Lands set apart by Canada for the use and benefit of Indian bands.
- B. The Province, through Emergency Management BC (EMBC) has significant expertise in emergency management, including prevention of emergencies, preparation for emergencies, response to emergencies, and recovery from emergencies within the province.
- C. Canada wishes the Province to provide equivalent emergency management services, including prevention, preparedness, response and recovery to the jurisdictions of Lands set apart by Canada for the use and benefit of Indian bands to protect Lands and assets as well as key public environmental values.
- D. The parties have entered into a Memorandum of Understanding with the BC Assembly of First Nations, the First Nations Summit and the Union of BC Indian Chiefs (collectively referred to as the First Nations Leadership Council), establishing a collaborative and constructive working relationship, through a joint high-level dialogue process, that focuses on a mutually developed agenda related to issues of common interest and concern regarding emergency management in British Columbia at the provincial, regional and local levels, and supporting the effective implementation of this Emergency Management Services Funding Agreement;
- E. The parties wish to enter into this Emergency Management Services Funding Agreement whereby Canada will pay for the Province to deliver services with respect to emergency prevention, preparedness, response and recovery on Lands set apart by Canada for the use and benefit of Indian bands;
- F. The minister responsible for emergency management in the Province may enter into Agreements with the government of Canada, for the purpose of dealing with emergency plans and programs in accordance with the *Emergency Program Act*, and
- G. Department of Indian Affairs and Northern Development (DIAND) was authorized to enter into this Agreement under the terms and conditions of the Emergency Management Assistance Program approved by the Minister of DIAND on February 11, 2013.

NOW THEREFORE the parties agree as follows:

1.0 INTERPRETATION

1.1 Definitions

1.1.1 In this Agreement, unless otherwise provided:

"Agency" means, an authority, board, committee, or other entity authorized to act on behalf of the Province;

"Agreement" means this Agreement and includes all Schedules, any Notices of Budget Adjustment, and any amendments made in writing by the parties;

"DIAND" means the Department of Indian Affairs and Northern Development also known as Indigenous and Northern Affairs Canada (INAC);

"Emergency" means a present or imminent event or circumstance that

- a) Is caused by accident, fire, explosion or technical failure or the forces of nature, and
- b) requires prompt coordination of action or special regulation of persons or property to protect the health, safety or welfare of a person and to limit damage to property;

"Emergency Management Assistance Program or EMAP" means the program authorized and funded by the Treasury Board of Canada's Funding Authority(s) (330 and 331), under which DIAND provides emergency management support to First Nations on-reserve;

"Emergency Management British Columbia or EMBC" means the Province of British Columbia's leading emergency management agency for all emergency management activities, including planning, training, testing and exercising, to help strengthen provincial preparedness;

"Federal Department" means DIAND or any other federal government institution with respect to which a Minister representing Her Majesty the Queen in Right of Canada in this Agreement presides and through which Canada provides funding under this Agreement;

Federal Authorities 330 and 331 are the Treasury Board of Canada's Funding Authorities under which DIAND provides emergency management support to First Nations on-reserve;

"First Nation" means a Band as defined in the *Indian Act*, R.S.C. 1985, c.1-5, as amended;

"Fiscal Year" means a one year period, beginning April 1 of a year and ending March 31 of the following year that covers or partly covers the term of this Agreement;

"Indian" as per definition in the *Indian Act* (R.S.C. 1985, c. 1-5);

"Lands" means those lands within a "reserve", as that term is defined in the *Indian Act* (R.S.C. 1985, c. 1-5), located within the Province of British Columbia;

"Non-essential Services" means those programs, services and activities identified in Schedule "DIAND-3" that are not immediately or directly related to an impending or ongoing "emergency" or "disaster" event as defined within that Schedule;

"Notice of Budget Adjustment" means a notice to the Province from Canada that changes the amount of funding provided under this Agreement;

"Reserve" means a tract of land as defined in the *Indian Act*, R.S.C. 1985, c.1-5;

"Schedule" means a Schedule to this Agreement.

1.2 Multiple Funding Departments

- 1.2.1 Except where otherwise indicated or prohibited by law, where more than one Federal Department provides funding under this Agreement, Canada's rights and remedies under this Agreement may be exercised by any Federal Department, and Canada's obligations under this Agreement may be carried out by any Federal Department, as determined by Canada.

2.0 TERM

Subject to section 3.2 (Funding Subject to Appropriations and Departmental Funding Authorities), article 8.0 (Remedies on Default) and article 10.0 (Termination), and subject to the renewal of the DIAND Emergency Management Assistance Program (EMAP) the term of this Agreement will be from the 1st day of April, 2017 until the 31st day of March, 2027.

3.0 FUNDING FROM CANADA

3.1 Provision of Funding

- 3.1.1 Subject to the terms and conditions of this Agreement, Canada shall transfer to the Province funding for each Fiscal Year covered by this Agreement in accordance with Schedule "DIAND-2" of this Agreement up to the amount set out in Schedule "FED-1".
- 3.1.2 If funding is provided under this Agreement by more than one Federal Department, DIAND may transfer those funding amounts on behalf of other Federal Departments.

3.2 Funding Subject to Appropriations and Departmental Funding Authorities

- 3.2.1 Any funding by Canada under this Agreement is subject to an appropriation of those funds by Parliament and, similarly any funding by the Province under this Agreement is subject to an appropriation by the Provincial Legislature. If, at any time during the life of this Agreement, the Parliament of Canada or the Provincial Legislature does not make an appropriation relating to funding under this Agreement, Canada and the Province shall make the necessary adjustments to this Agreement under section 11.3 (Amendments).
- 3.2.2 In the event that authorities for the Program are amended or terminated or if funding levels are reduced or cancelled (by Parliament, the Provincial Legislature, or otherwise) for any Fiscal Year in which a payment is to be made under this Agreement, both parties may reduce or terminate any further payments to be made under this Agreement.
- 3.2.3 Where funding under this Agreement is to be reduced or terminated under section 3.2.2 Canada shall provide the Province with 12 months written notice of the reduction or termination and shall reimburse the Province for any Eligible Expenditures to the date upon which the reduction/termination is to take effect.
- 3.2.4 Where funding under this Agreement is to be reduced or terminated under section 3.2.2, the Province's commitment to delivering services in accordance with the terms of this Agreement will be reduced or terminated commensurately.

4.0 THE PROVINCE'S RESPONSIBILITIES

4.1 Programs, Services and Activities

4.1.1 The Province shall provide the programs and services and carry out the activities for which funding is provided under this Agreement in accordance with the delivery requirements set out in the Schedules.

4.2 Record Keeping

4.2.1 The Province will adhere to its own records retention requirements which meet or exceed Canada's requirements of 7 years.

4.3 Reporting

4.3.1 Canada may, by notice to the Province, extend the deadline for the receipt of any reports to be submitted to Canada under this section if the Province provides notice before the applicable due dates of circumstances beyond the Province's control preventing the Province from meeting the deadlines.

4.3.2 EMBC shall on behalf of the Province fulfill all other reporting requirements set out in the Schedules.

4.3.3 This section survives the expiry or termination of this Agreement.

4.4 Ineligible Expenditures

4.4.1 Where either party disputes the eligibility of expenditures and/or any unexpended funding under this Agreement, the dispute will be referred to the Dispute Resolution process set out in article 9.0 (Dispute Resolution).

5.0 AMOUNTS OWING TO CANADA

5.1 The Province shall promptly notify Canada of any amount owing to Her Majesty the Queen in Right of Canada under this Agreement.

5.2 Section 5.1 survives the expiry or termination of this Agreement.

6.0 DELEGATION OF OBLIGATIONS

6.1 Delegation

6.1.1 Where EMBC delegates any or all of its obligations under this Agreement to an Agency or transfers funding to an Agency to provide, in whole or in part, programs, services or activities for which funding is provided under this Agreement, EMBC shall ensure that the Agency:

- (a) has a specified mandate, a clearly identified role and a defined relationship with EMBC;
- (b) adheres to the accountability principles set out in this Agreement;

6.2 Province Remains Responsible

6.2.1 Where a delegation under this section occurs, the Province will remain responsible for the fulfillment of all of its obligations under this Agreement.

6.2.2 This section survives the expiry or termination of this Agreement.

6.3 Additional Obligations

- 6.3.1 EMBC shall comply with any additional obligations on delegation, and any obligations on subcontracting and assignment, that are set out in the Schedules.
- 6.3.2 This Agreement shall not be assigned in whole or in part by either party without the prior written consent of the other party. No assignment of this Agreement shall relieve either party from any obligation under the Agreement or impose any liability upon Canada and the Province.

7.0 DEFAULT

- 7.1 Where the Province fails to perform or observe any term, condition or covenant contained herein, then, the Province shall be deemed to be in default hereunder. Such a determination shall be communicated in writing to the Province pursuant to article 12.0 (Notices). Any right of action available to Canada against the Province in respect of any default of a covenant herein contained shall not be thereby prejudiced.
- 7.2 Where Canada fails to perform or observe any term, condition or covenant contained herein, then, Canada shall be deemed to be in default hereunder. Such a determination shall be communicated in writing to Canada pursuant to article 12.0 (Notices). Any right of action available to the Province against Canada in respect of any default of a covenant herein contained shall not be thereby prejudiced.

8.0 REMEDIES ON DEFAULT

8.1 Parties Will Meet

- 8.1.1 Without limiting any remedy or other action Canada may take under this Agreement, in the event the Province is in default, the parties will communicate or meet to review the situation.
- 8.1.2 Without limiting any remedy or other action the Province may take under this Agreement, in the event Canada is in default, the parties will communicate or meet to review the situation.

8.2 Actions Canada or the Province May Take

- 8.2.1 In the event the Province is in default under this Agreement, Canada may take one or more of the following actions as may reasonably be necessary, having regard to the nature and extent of the default:
- (a) withhold any funds otherwise payable under this Agreement;
 - (b) require the Province to take any other reasonable action necessary to remedy the default;
 - (c) take such other reasonable action as Canada deems necessary, including any remedies which may be set out in any Schedule; or
 - (d) terminate this Agreement in accordance with article 10.0 (Termination).
- 8.2.2 In the event Canada is in default under this Agreement, the Province may take one or more of the following actions as may reasonably be necessary, having regard to the nature and extent of the default:
- (a) withhold Non-essential services provided by EMBC under this Agreement to on Reserve First Nations as defined in Schedule "DIAND-3" until the breach is remedied; or

- (b) terminate this Agreement in accordance with article 10.0 (Termination).

8.3 Where Reporting Requirements Not Met

- 8.3.1 Without limiting remedies available to Canada set out in section 8.2 (Actions Canada or the Province May Take), Canada may withhold funding otherwise payable under this Agreement if any other reports to be submitted under section 4.3 (Reporting), are not provided by EMBC to Canada as required under this Agreement. Subject to article 5.0 (Amounts Owing to Canada), any amounts so withheld must be paid by Canada to the Province within forty-five (45) days of Canada's acceptance of subsequently submitted reports.

9.0 DISPUTE RESOLUTION

- 9.1. In the event that a dispute arises from or is related to this Agreement, the parties agree to attempt to resolve the dispute through negotiation or through another alternate dispute resolution process to which the parties agree and set out in writing.

10.0 TERMINATION

10.1 Parties May Terminate

- 10.1.1 Without limiting section 3.2 (Funding Subject to Appropriations and Departmental Funding Authorities) or Canada's right to terminate under section 8.2 (Actions Canada or the Province May Take), this Agreement may be terminated by either party upon written notice to the other party, stipulating the reason for termination, provided that before any such termination can become effective:
 - (a) the parties undertake reasonable steps to resolve differences in a dispute resolution process initiated under article 9.0 (Dispute Resolution); and
 - (b) the parties agree on a time frame to terminate the Agreement in a manner that will not jeopardize the administration and delivery of the programs, services and activities for which funding is provided under this Agreement; and
 - (c) if the parties cannot agree on a time frame, this Agreement may be terminated without cause by either party with 12 months' notice in writing delivered to the address noted in article 12.0 (Notices). The period of notice may be varied by written mutual consent.

10.2 When Parties Terminate

- 10.2.1 In the event of the termination of this Agreement:
 - (a) subject to Canada's right to any amount owing to Canada under this Agreement, Canada shall pay to the Province any monies owed to EMBC, up to the termination date of this Agreement, unless the Province and Canada agree otherwise in writing; and
 - (b) the Province shall fulfill any other obligation relating to termination set out in any Schedule.

11.0 GENERAL

11.1 Schedules

11.1.1 The following Schedules are attached to and form part of this Agreement:

SCHEDULE "Fed-1" – cash flow

SCHEDULE "DIAND-2" – DIAND Funding

SCHEDULE "DIAND-3" - Program, service and activity delivery requirements, adjustment factors and reporting requirements with due dates

11.1.2 In the case of conflicts or discrepancies between the body of this Agreement and any of the Schedules which form part of this Agreement, the body of this Agreement shall take precedence and govern.

11.2 Entire Agreement

11.2.1 This Agreement constitutes the entire agreement between the parties and supersedes all previous negotiations, agreements, commitments, and writing between the parties in relation to the subject matter of this Agreement.

11.2.2 This Agreement is binding upon the parties and their respective administrators and successors.

11.2.3 The separate but related Memorandum of Understanding between the parties of this Agreement and the First Nations Leadership Council provides the forum for the First Nations Leadership Council to provide guidance on the delivery of programs and services for which funding is provided under this Agreement and the Schedules.

11.3 Amendments

11.3.1 A written amending agreement signed by both parties is required to amend this Agreement.

11.4 Effect on Relationship of Parties

11.4.1 Nothing in this Agreement creates or is intended to create an agency, association, employer-employee, or joint venture relationship between the Province and Canada, and the Province shall not represent otherwise.

11.5 Audit and Evaluation

11.5.1 The Province will share with Canada the results of any audit (financial or otherwise), prepared by or on behalf of the Province in respect of funds received under this Agreement within ninety (90) calendar days of the completion of such audit.

11.5.2 Canada may initiate an audit of EMBC's accounts and records relating to the Agreement for a period of up to seven (7) years following the expiration or termination of this Agreement to ensure compliance with the terms of the Agreement.

11.5.3 The scope, coverage and timing of any such audits will be determined by both parties and be carried out by external auditors. The Province will provide to the auditors in a timely manner, any records, documents and information necessary to conduct the audit and shall provide such other information as may be reasonably required upon request by the auditors.

11.5.4 Canada and the Province agree on the importance of assessing what has been accomplished in terms of the objectives and expected results outlined in this agreement. The Province is responsible for the evaluation of its programs and measures under its jurisdiction. The Province agrees to share with Canada the public results of those evaluations related to this agreement. Canada's programs are routinely subject to evaluation. Canada may request input from EMBC in such evaluations and may use the information provided under the agreement to evaluate the project. If additional information is required, such information shall be discussed between Canada and the Province.

11.6 Headings

11.6.1 Descriptive headings are inserted solely for convenience of reference and do not form part of this Agreement.

11.7 Waiver

11.7.1 No provision of this Agreement and no event of default by either party of any provision of this Agreement will be deemed to have been waived unless the waiver is in writing and signed by the other party.

11.7.2 The waiver by a party of default by the other party or of any provision of this Agreement will not be deemed to be a waiver of any subsequent default by the other party or of the same or any other provision of this Agreement.

11.8 Confidentiality, Information Disclosure, and Privacy

11.8.1 Both parties shall treat any information acquired as a result of this Agreement in strict confidence and with the care and security required to ensure that it is not disclosed or made known to any person except with the written consent of each party or in compliance with the provincial *Freedom of Information and Protection of Privacy Act* or the federal *Access to Information Act* or the *Privacy Act*.

11.9 Public Disclosure

11.9.1 Canada has an obligation to publicly disclose information under the *Access to Information Act* and the Province has an obligation to publicly disclose information under the *Freedom of Information and Protection of Privacy Act* and *Regulation*.

11.10 Legislation and Government Publications

11.10.1 All references throughout this Agreement to legislation and particular government publications are deemed to refer to the legislation and government publication in force or issued at the effective date of this Agreement, and include any subsequent amendments or replacements thereof, as the case may be.

12.0 NOTICES

- 12.1 Where any notice, request or other communication is required to be given or made by either party to the other party under this Agreement, it must be in writing addressed to the party for whom it is intended at the applicable address noted in section 12.4 and may be given or made by either party by their duly authorized representatives.
- 12.2 The notice referred to in section 12.1 will be effective by using any one of the following methods, and deemed to have been given as at the date specified for each method:
- (a) by personal delivery, on the date upon which the notice is delivered;
 - (b) by registered mail or courier, on the date upon which receipt of the notice is acknowledged by the other party;
 - (c) by facsimile or electronic mail, on the date upon which the notice is transmitted and receipt of such transmission by the other party can be confirmed.
- 12.3 Either party may change the address information referred to in section 12.4 by providing notice to the other party of such change.
- 12.4 Notices will be sent to:
- (a) Canada at:
Indigenous and Northern Affairs Canada, BC Region
Programs and Partnerships Directorate
Suite 600, 1138 Melville Street
Vancouver, BC V6E 4S3
Attention: Director, Programs and Partnerships
 - (b) The Province at:
Emergency Management of BC
Ministry of Transportation and Infrastructure
PO Box 9201, Stn Prov Govt
Victoria, BC V8W 9J1
Attention: Executive Director; First Nations Coordination

This Agreement has been executed by Canada and the Province of British Columbia by their duly authorized representatives.

**SIGNED ON BEHALF OF HER MAJESTY
THE QUEEN IN RIGHT OF CANADA,
as represented by the
Minister of Indian Affairs and Northern
Development Canada**

**SIGNED ON BEHALF OF HER MAJESTY
THE QUEEN IN RIGHT OF BRITISH COLUMBIA,
as represented by the
Minister of Transportation and Infrastructure**

by: ELECTRONIC COPY
**Hon. Carolyn Bennett,
Minister of Indian Affairs and
Northern Development Canada**

by: ELECTRONIC COPY
**Hon. Todd G. Stone
Minister of Transportation and
Infrastructure**

AS WITNESSED BY:

**SIGNED ON BEHALF OF THE BC ASSEMBLY OF FIRST NATIONS, as represented by the
Regional Chief:**

 ELECTRONIC COPY
Shane Gottfriedson

**SIGNED ON BEHALF OF THE FIRST NATIONS SUMMIT, as represented by the
Task Group Members:**

 ELECTRONIC COPY
Cheryl Casimer

 ELECTRONIC COPY
Grand Chief Edward John

 ELECTRONIC COPY
Robert Phillips

ON BEHALF OF THE UNION OF BC INDIAN CHIEFS, as represented by the Executive:

 ELECTRONIC COPY
Grand Chief Stewart Phillip

 ELECTRONIC COPY
Chief Bob Chamberlin

 ELECTRONIC COPY
Kukpi7 Judy Wilson