

STANDARD STATUTORY RIGHT OF WAY DOCUMENT

THIS INDENTURE made the day of , 19__.

BETWEEN:

(hereinafter called the "Grantor")

OF THE FIRST PART

AND: The Village of Fruitvale
1930A Columbia Gardens Road
Fruitvale, BC
VOG 1L0

(hereinafter called the "Grantee")

OF THE SECOND PART

WHEREAS the Grantor is the registered owner or is entitled to become the registered owner of an estate in fee simple of ALL AND SINGULAR those certain parcels or tracts of land and premises situate, lying and being in the Village of Fruitvale, in the Province of British Columbia, and being more particularly known and described as:

(hereinafter called the "Lands of the Grantor")

AND WHEREAS the Grantor and Grantee have agreed to enter into this agreement pursuant to Section 214 of the Land Title Act, R.S.B.C. 1979, Chapter 219 and amendments thereto;

AND WHEREAS it is necessary for the operation and maintenance of the Grantee's undertaking, hereinafter described, to install and maintain a system of sewerage works, and/or water works, and/or drainage works, and/or gas works including all pipes, valves, fittings, buildings and facilities in connection therewith and/or hydro electric works including all wires, poles, conduits and other facilities in connection therewith;

(hereinafter called the "Works")

The Grantor has agreed to permit the construction by the Grantee of the aforementioned works on a portion of the said Land and to grant for that purpose the right-of-way hereinafter described;

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the sum of

_____ Dollars (\$) of lawful money of Canada, now paid by the Grantee to the Grantor (the receipt and sufficiency of which is hereby acknowledged by the Grantor), and in consideration of the covenants and conditions hereinafter contained to be observed and performed by the Grantee and for other valuable consideration:

1.0 THE GRANTOR DOETH HEREBY:

1.1 Grant, convey, confirm and transfer, in perpetuity, unto the Grantee the full, free and uninterrupted right, licence, liberty, privilege, permission and right-of-way to lay down, install, construct, entrench, operate, maintain, inspect, alter, remove, replace, bury, cleanse, string and otherwise establish one or more systems of Works upon, over, under and across that part of the Land of the Grantor as shown outlined in heavy black on right-of-way Plan Number: _____ and designated as _____.

(hereinafter called the "Perpetual Right-of-Way")

1.2 Covenant and agree to and with the Grantee that for the purposes aforesaid and upon, over, under and across the Perpetual Right-of-Way the Grantee shall for itself and its servants, agents, workmen, machinery, vehicles, equipment and materials be entitled at all time to enter, use, pass and repass, labour, construct, erect, install, dig, carry away soil or other surface or subsurface materials, clear of all trees, growth, buildings or obstruction now or hereafter in existence, as may be necessary, useful, or convenient in connection with the operations of the Grantee in relation to the Works;

1.3 Grant, convey, confirm and transfer unto the Grantee for itself and its servants, agents, workmen, contractors and all other licensees of the Grantee, together with machinery, vehicles, equipment and materials the right at all reasonable times to enter upon and to pass and repass over such of the Lands of the Grantor as may reasonably be required for the purpose of ingress to and egress from the Perpetual Right-of-Way;

1.4 Grant, convey, confirm and transfer unto the Grantee for itself and its servants, agents, workmen, contractors and all other licensees of the Grantee, together with machinery, vehicles, equipment and materials for a period of _____ days only from the date of this Agreement, the full, free and uninterrupted right, licence, liberty, privilege, permission and right-of-way to enter upon, pass and repass, clear, labour, and use for the purpose of ingress to and egress from the Perpetual Right-of-Way and for the purpose of storing machinery, equipment, material or supplies used or to be used in connection with the construction of the Works herein described, and for the purpose of placing or storing the surface or subsurface material to be excavated from the Perpetual Right-of-Way upon and over, but not under that part or parts of the Lands of the Grantor, shown outlined in green on Right-of-Way Plan Number:

(hereinafter called the "Working Right-of-Way")

Provided always, and it is hereby agreed that nothing herein contained shall permit the Grantee to dig, trench or otherwise disturb the sub-surface of the Working Right-of-Way, and the Grantee shall only clear such trees and growth and interfere and disturb the surface of the Working Right-of-Way in a manner that is reasonably necessary in the conduct of

its operations thereon;

2.0 THE GRANTOR HEREBY COVENANTS TO AND AGREES WITH THE GRANTEE, as follows:

2.1 That the Grantor will not, nor permit any other person, to erect, place, install or maintain any building, structure, mobile home, concrete driveway or patio, pipe, wire or other conduit on, over or under any portion of the Perpetual Right-of-Way so that it in any way interferes with or damages or prevents access to, or is likely to cause harm to Works authorized hereby to be installed in or upon the Perpetual Right-of-Way;

2.2 That the Grantor will not do nor knowingly permit to be done any act or thing which will interfere with or injure the said Works, and in particular, will not carry out any blasting on or adjacent to the Perpetual Right-of-Way without the consent in writing of the Grantee, provided that such consent shall not be unreasonably withheld;

2.3 That the Grantor will not substantially diminish the soil cover over any of the Works installed in the Perpetual Right-of-Way, and in particular, without in any way limiting the generality of the foregoing, will not construct open drains or ditches along or across any Works installed in the Perpetual Right-of-Way;

2.4 That the Grantor will from time to time and at all times upon every reasonable request, and at the cost of the Grantee do and execute or cause to be made, done or executed all such further and other lawful acts, deeds, things, devices, conveyances and assurances in law whatsoever for the better, assuring unto the Grantee of the rights hereby granted;

3.0 THE GRANTEE HEREBY COVENANTS TO AND AGREES WITH THE GRANTOR, as follows:

3.1 That the Grantee will not bury any debris or rubbish of any kind in excavations or backfill, and will remove shoring and like temporary structures as backfilling proceeds;

3.2 That the Grantee will thoroughly clean all lands to which it has had access hereunder of all rubbish and construction debris created or placed thereon by the Grantee, and will leave such lands in a neat and clean condition;

3.3 That the Grantee will, as soon as weather and soil conditions permit, and so often as it may exercise its right of entry hereunder to any of the lands of the Grantor, replace the surface soil as nearly as may be reasonably possible to the same condition as it was prior to such entry, in order to restore the natural drainage to such lands;

PROVIDED, HOWEVER, that nothing herein contained shall require the Grantee to restore any trees or other surface growth, but the Grantee shall leave such lands in a condition which will not inhibit natural regeneration of such growth;

3.4 That the Grantee will, as far as reasonably possible, carry out all work in a proper and workmanlike manner so as to do as little injury to the Lands of the Grantor as possible;

3.5 That the Grantee will make good at its own expense all damage or disturbance which may be caused to the surface soil of the Lands of the Grantor in the exercise of its rights hereunder;

3.6 That the Grantee will, as far as reasonably possible, restore any fences, lawns, flower beds, at its costs as nearly as may be reasonably possible to the same condition that they were in prior to any entry by the Grantee upon the Lands.

4.0 THE PARTIES HERETO EACH HEREBY COVENANT TO AND AGREE WITH THE OTHER, as follows:

4.1 The said Works referred to above, together with all pipes, manholes, valves, conduits, wires, casings, fittings, lines, meters, appliances, facilities, attachments or devices used in connection therewith shall constitute the Works;

4.2 Notwithstanding any rule of law or equity to the contrary, the Works brought on to, set, constructed, laid, erected in, upon or under the Perpetual Right-of-Way by the Grantee shall at all times remain the property of the Grantee, notwithstanding that the same may be annexed or affixed to the freehold and shall at any time and from time to time be removable in whole or in part by the Grantee;

4.3 In the event that the Grantee abandons the Works or any part thereof the Grantee may, if it so elects, leave the whole or any part thereof in place;

4.4 That no part of the title in fee simple to the soil shall pass to or be vested in the Grantee under or by virtue of these presents and the Grantor may fully use and enjoy all of the Lands of the Grantor subject only to the rights and restrictions herein contained;

4.5 That the covenants herein contained shall be covenants running with the land and that none of the covenants herein contained shall be personal or binding upon the parties hereto, save and except during the Grantor's seisin or ownership of any interest in the Lands of the Grantor, and with respect only to that portion of the Lands of the Grantor of which the Grantor shall be seised or in which he shall have an interest, but that the Lands of the Grantor, nevertheless, be and remain at all times charged therewith;

4.6 If at the date hereof the Grantor is not the sole registered owner of the Lands of the Grantor, this agreement shall nevertheless bind the Grantor to the full extent of his interest therein, and if he shall acquire a greater or the entire interest in fee simple this Agreement shall likewise extend to such after-acquired interests;

4.7 Where the expression "Grantor" includes more than one person, all covenants herein on the part of the Grantor shall be construed as being several as well as joint;

4.8 This agreement shall endure to the benefit of and be binding upon the parties hereto and their respective heirs, administrators, executors, successors and assigns, as the case may be;

and wherever the singular or masculine is used, it shall be construed as if the plural or the feminine or neuter, as the case may be, had been used; where the parties or the context hereto so require and the rest of the sentence shall be construed as if the grammatical and terminological changes thereby rendered necessary had been made.

IN WITNESS WHEREOF the parties hereto have executed these presents in the manner and on the date hereinafter appearing.

THE COMMON SEAL OF THE GRANTOR was hereto)

affixed this ____ day or _____)

19__ in the presence of:)

)

)

_____) C/S

Signature of Witness:)

)

_____))

Address:)

)

_____))

)

_____))

)

Occupation:)

(as to all signatures of the Grantor))

THE CORPORATE SEAL OF
THE VILLAGE OF FRUITVALE)

was hereunto affixed this ____ day of)

_____, 19__ in the presence)

of:) C/S

)

)

_____))

Mayor:)

)

)

_____))

)

Village Clerk:)

CONSENT TO GRANT OF RIGHT-OF-WAY

KNOW ALL MEN BY THESE PRESENTS THAT _____ is the registered holder of a charge by way of _____ against the within-described property, which said charge is registered in the Land Title Office, District of Nelson, under Numbers _____, for and in consideration of the sum of One dollar (\$1.00) paid by the Village of Fruitvale to the said chargeholder (the receipt whereof is hereby acknowledged), agrees with the Village of Fruitvale, its successors and assigns, that the within Right-of-Way shall be an encumbrance upon the within-described property in priority to the said charge in the same manner and to the same effect as if it had been dated and registered prior to the said charge.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed, sealed and delivered in the presence of its duly-authorized officers this __ day of _____, 19__.

SIGNED, SEALED AND DELIVERED by the)

Grantor this ____ day of _____)

19 __ in the presence of: _____)

)

)

_____))
Signature of Witness: _____)

)

)

_____))
Address: _____)

)

_____))

)

)

_____))
Occupation: _____)

THE CORPORATE SEAL OF THE GRANTOR was _____)

hereunto affixed this ____ day of _____)

_____, 19 __ in the _____)

presence of: _____) C/S

)

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_____))

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_____))

)

LAND TITLE ACT

FORM 6

(Section 46)

PROOF OF EXECUTION BY CORPORATION

I CERTIFY that on the ____ day of _____, 19 __ at _____ in British Columbia, _____, personally known to me, appeared before me and acknowledged to me that he/she is the authorized signatory of _____ and that he is the person who subscribed his/her name and affixed the Seal of the Corporation to the instrument, that he/she was authorized to subscribed his/her name and affix the Seal to it, and that the Corporation existed at the date the instrument was executed by the Corporation.

IN TESTIMONY of which I set my hand at _____, British Columbia, this _____ day of _____, 19 __.

A Commissioner for Taking Affidavits
for British Columbia