

**MUNICIPAL CONSENT & ACCESS AGREEMENT - TELECOMMUNICATIONS**

BETWEEN:

**THE CITY OF CALGARY**  
**("The City")**

AND:

**[COMPANY]**  
**(the "Company")**

BACKGROUND: .....3

ARTICLE 1 INTERPRETATION .....4

ARTICLE 2 SCOPE OF AGREEMENT .....9

ARTICLE 3 TERM AND TERMINATION OF AGREEMENT .....10

ARTICLE 4 USE OF SERVICE CORRIDORS and CITY STRUCTURES .....11

ARTICLE 5 APPLICATIONS TO CONDUCT WORK .....14

ARTICLE 6 REPAIR AND RESTORATION .....17

ARTICLE 7 EQUIPMENT .....19

ARTICLE 8 FEES .....22

ARTICLE 9 INSURANCE .....22

ARTICLE 10 INDEMNITY AND LIMITATION ON LIABILITY .....23

ARTICLE 11 ENVIRONMENTAL LIABILITY .....25

ARTICLE 12 CONFIDENTIAL INFORMATION .....26

ARTICLE 13 GENERAL OBLIGATIONS OF COMPANY .....26

ARTICLE 14 NOTICES .....28

ARTICLE 15 ASSIGNMENT .....28

ARTICLE 16 DISPUTE RESOLUTION .....29

APPENDIX 1 RELOCATIONS .....32

APPENDIX 2 FEES .....33

APPENDIX 3 ELECTIVE PROCESS .....36

APPENDIX 4 ENVIRONMENTAL PROTOCOL .....38

APPENDIX 5 APPLICABLE CITY STANDARDS, GUIDELINES AND RESOURCES .....39

APPENDIX 6 GUIDELINES FOR SAFE CONSTRUCTION IN THE PROXIMITY OF LOW IMPACT  
DEVELOPMENT SOURCE CONTROL PRACTICES FOR STORMWATER  
INFRASTRUCTURE .....41

Municipal Consent and Access Agreement ATTACHMENT 1  
MUNICIPAL CONSENT & ACCESS AGREEMENT - TELECOMMUNICATIONS

This Agreement takes effect on the Effective Date.

BETWEEN:

**THE CITY OF CALGARY**  
(“The City”)

AND:

**[COMPANY]**  
(the “Company”)

**BACKGROUND:**

- A. The Company is a “Canadian carrier” as defined in the *Telecommunications Act*, S.C. 1993, c.38 (the “Act”) or “distribution undertaking” as defined in the *Broadcasting Act*, S.C. 1991, c.11 (collectively, a “Carrier”) and is subject to the jurisdiction of the Canadian Radio-television and Telecommunications Commission (the “CRTC”).
- B. In order to operate as a Carrier, the Company wishes to enter Within the surface of, and in some cases break up the surface of, certain Service Corridors and access certain City Structures from time to time for the purpose of constructing, maintaining, operating and removing Equipment.
- C. The City of Calgary is a municipal corporation incorporated pursuant to the *Municipal Government Act*, R.S.A. 2000, Ch. M-26 which owns, controls and manages the Service Corridors and City Structures, and, in exercising its jurisdiction under the *Municipal Government Act*, acts reasonably and as required by law.
- D. In accordance with the Act and prior to the Company’s access to and use of a Service Corridor or City Structure, the Company must obtain The City’s consent for both:
  - (a) constructing the Company’s Equipment Within A City Structure or Within A Service Corridor; and
  - (b) carrying out Work Within a Service Corridor if the surface of the Service Corridor will be broken or excavated.
- E. The City is willing to consent to the Company’s access and use of Service Corridors and City Structures for the construction, installation, maintenance, operation and Relocation of Equipment, having due regard to the safety, use and enjoyment by others of the Service Corridors and City Structures and subject to the terms and conditions of the Agreement.

**IN CONSIDERATION OF** the mutual terms, conditions and covenants contained in the Agreement, **THE PARTIES AGREE AS FOLLOWS:**

**ARTICLE 1  
INTERPRETATION**

## 1.01 Definitions

In the Agreement and in the Background above all the following terms, when capitalized, have the following meanings:

- (a) **"Abandoned Equipment"** means Equipment of the Company identified in the annual Abandoned Infrastructure list submitted by The Company, which the Company has determined it is not utilizing and no longer requires for its operations;
- (b) **"Affiliate"** has the meaning given to it by the *Canada Business Corporations Act*;
- (c) **"Agreement"** means the Background of this agreement, this agreement and all Appendices attached to it, as they may be amended from time to time;
- (d) **"Alignment"** means either the location Within a Service Corridor or City Structure for a utility line assignment, or the installation of Equipment Within a Service Corridor or City Structure, as approved by The City in accordance with the terms and conditions of the Agreement;
- (e) **"Alignment Guidelines"** means the guidelines that describe the process and the information required by The City in order to approve an Alignment as published on the following website:  
<http://www.calgary.ca/CS/IS/Pages/Utility-line-assignments/Utility-Line-Assignments.aspx>;
- (f) **"Application"** means the submission made by the Company in Microstation v7 electronic format, or another format approved by The City, for approval of an Alignment;
- (g) **"Application Documents"** means all of the plans, specifications and other information required by The City in the Alignment Guidelines;
- (h) **"As-Built Drawings"** means the drawings provided to The City by the Company showing all plans and specifications of the Alignment in addition to any changes to such plans and specifications made on site during installation, and may include all of the following:
- (i) the location of the Work, including plan view with offset distances from property lines, elevations, profiles and typical cross-sections;
  - (ii) construction methods and materials; and
  - (iii) physical aspects of the Equipment, including the configuration, number and size of pipes, ducts, chambers and manholes;
- (i) **"Business Day"** means 8:00 a.m. through to 5:00 p.m. Calgary time on any calendar day except Saturday, Sunday or a statutory holiday observed in the Province of Alberta;

## Municipal Consent and Access Agreement ATTACHMENT 1

- (j) **"Capital Works Coordinating Committee"** or **"CWCC"** means The City's committee that coordinates and manages the Work of all utility companies who are or wish to be located in Service Corridors for the purpose of minimizing any disruption caused by such Work;
- (k) **"City Structure"** means any one or more of the following that is located Within a Service Corridor:
- i. a City-owned bridge or viaduct or tunnel;
  - ii. a pedestrian overpass or underpass;
  - iii. infrastructure other than (i) or (ii) above that is owned by The City and for which The City in its sole discretion grants access to the Company for installation of the Company's Equipment, and includes, but is not limited to, stormwater infrastructure as referenced or described in Appendix 6;
- (l) **"Common Build"** means the coincident installation of infrastructure for utility services which may include electricity, natural gas, telecommunications, including the Equipment;
- (m) **"Confidential Information"** means information considered proprietary by either Party that is delivered or disclosed pursuant to the Agreement and identified as "confidential", and may include any and all material, data and information (regardless of form and whether or not patentable or protectable by copyright) that is not available to the public such as technical and business information, financial plans and records, marketing plans, business strategies, trade secrets, present and proposed products and information related to Third Party attachments, but does not include information with respect to Alignments and the physical properties and the dimensions of the Equipment;
- (n) **"Contractor"** means a contractor, subcontractor or worker employed by the Company or by The City (as the context indicates) who performs Work Within a Service Corridor or City Structure;
- (o) **"Director"** means the Director of Roads at The City or another Director at The City that has the proper authority and jurisdiction in the circumstances;
- (p) **"Effective Date"** means the date on which the Agreement is fully executed;
- (q) **"Elective Process"** means the process for obtaining an Alignment that is set out in detail in Appendix 3 if the Agreement is no longer applicable to Work being proposed by the Company;
- (r) **"Emergency"** means an unforeseen situation where immediate action must be taken to:
- (i) preserve the environment;
  - (ii) preserve public health;
  - (iii) preserve safety;
  - (iv) address a widespread outage of utility services, including telecommunication utility services; or
  - (v) to reinstate or protect an Essential Service;
- (s) **"Employee"** means:
- (i) with respect to the Company, any officer, employee, Contractor, agent, licensee, guest, invitee or visitor of the Company or anyone else for whom

## Municipal Consent and Access Agreement ATTACHMENT 1

the Company is in law responsible and who will be Within the Service Corridors or City Structures in connection with any matter governed by the Agreement, and

- (ii) with respect to The City, any officer, employee, agent or Contractor of the City for whom the City is in law responsible, but specifically excludes the Company and any Employee of the Company;
- (t) **"Equipment"** means the transmission and distribution facilities owned by the Company, comprising fibre optic, coaxial or other nature or form of cables, pipes, conduits, poles, ducts, manholes, handholds and ancillary structures and equipment located Within a Service Corridor or Within a City Structure and includes Wireless Equipment;
- (u) **"Essential Service"** includes any one or more of the following:
  - (i) the transmission of energy (including natural gas, steam or electricity);
  - (ii) the supply of water;
  - (iii) the removal or carrying of wastewater and stormwater;
  - (iv) the provision of traffic control;
  - (v) the re-instatement of City 9-1-1 emergency centre call-in service;
- (v) **"Excavation Permit"** means a permit granted by The City which authorizes the Company (in accordance with the terms and conditions of the permit) to break the surface of a Service Corridor to perform Work;
- (w) **"Fees"** means the fees and charges as set out in Appendix 2, as may be amended from time to time, or as set out in the Agreement;
- (x) **"Hazardous Substance"** includes any solid, liquid, gaseous or thermal irritant or contaminant including smoke, soot, fumes, acids, alkalis, chemicals, waste and fibrous materials of any kind, and its handling, transport, storage or release, which is subject to the provisions of Legislation and Municipal Guidelines;
- (y) **"Indemnification Agreement"** is an agreement that The City requires to be signed by any person that is excavating, breaking up or reconstructing a Service Corridor if the person is not a party to a current, in-force Municipal Consent and Access Agreement with The City;
- (z) **"Inspection"** includes any one or more of the following where an authorized representative of The City:
  - (i) reviews and compares As-Built Drawings for an Alignment as submitted by the Company with the actual Alignment as approved by The City;
  - (ii) attends on-site to where Equipment of the Company is being (or has been) installed to verify the proper installation and placement of the Equipment;
  - (iii) attends on-site to where Equipment of the Company is being installed to determine whether The City's Municipal Guidelines are being followed;
- (aa) **"Legislation"** means all applicable provincial and federal statutes, regulations, policies, guidelines and protocols and specifically includes all statutes, regulations, policies, guidelines and protocols relating to protection of the environment;
- (bb) **"Moratorium Period"** means a 2 year period of time designated by the Director in his sole discretion, during which Work cannot be carried out that involves breaking or disturbing the surface of a Service Corridor;

- (cc) **"Municipal Guidelines"** means all municipal bylaws, rules, policies, standards, protocols or procedures, and guidelines;
- (dd) **"Non-Compliant Equipment"** means all Equipment that is not compliant with the Alignment as approved by The City, including Equipment installed prior to the Effective Date of this Agreement, because:
- (i) the placement of the Equipment is greater than a distance of 34 centimetres horizontally or vertically from the location approved in the Alignment, or
  - (ii) the Equipment is not compliant with other requirements of the Agreement;
- (ee) **"Party"** or **"Parties"** means either The City or the Company if used in the singular (as the context indicates), and both The City and the Company if used in the plural;
- (ff) **"Pavement Degradation"** means the diminished lifespan of a paved or concrete surface of a Service Corridor which has been excavated, broken up or otherwise disturbed, resulting in consequences such as reduced value and increased demand for maintenance of the surface or subsurface of the Service Corridor;
- (gg) **"Prime Rate"** means the annual rate of interest established and reported by the Royal Bank of Canada from time to time as its "prime rate" and used as the base or reference rate of interest for the determination of interest rates that the Royal Bank of Canada charges to its customers for Canadian dollar loans made in Canada;
- (hh) **"Priority Application"** means an Application wherein the Company is in compliance, at the time of the Application, with all of the terms and conditions of the Agreement, including with respect to the Company's payment of Fees, installation of Equipment, and provision of As-Built Drawings for any Alignment that may have been formerly approved by The City;
- (ii) **"Public Place"** means a location or place that both Parties determine, on a case by case basis, to be a public place;
- (jj) **"Relocate"** or **"Relocating"** or **"Relocation"** means the permanent removal of Equipment in its entirety from its current location, or the modifying, altering, installing, moving or removal of Equipment that changes the placement or location of the Equipment (howsoever modified, altered, installed, moved or removed):
- (i) within the same Service Corridor or City Structure; or
  - (ii) from its (current) location in a Service Corridor or City Structure to a location in a different Service Corridor or City Structure;
- (kk) **"Relocation Notice"** means a written notice given by The City to the Company directing the Company to Relocate the Equipment designated in the notice to another reasonable location in the Service Corridors or City Structures, as the case may be, in accordance with Appendix 1 – Relocations;
- (ll) **"Restore"** or **"Restoring"** or **"Restoration"** means the permanent restoration of:
- (i) a paved or concrete surface and/or sub-surface of a Service Corridor, which the Company has excavated, broken up or otherwise disturbed, to meet the standards as outlined in the Road Standards Specifications of The City for the surface or subsurface (as applicable); or,

## Municipal Consent and Access Agreement ATTACHMENT 1

- (ii) a City Structure, to the City Structure's original condition, such condition being the same condition the City Structure was in prior to any Work being performed by the Company;
- (mm) "**Service Drop**" means a cable or fibre that, by its design, capacity and relationship to other cables or fibre of the Company, is reasonably considered to be for the sole purpose of connecting the Equipment to not more than one individual customer or building point of presence or real property location (as opposed to being designed to carry telecommunication traffic for multiple customers, buildings, or real properties);
- (nn) "**Service Corridor**" means a street, lane, highway, light rail transit corridor (excluding transit infrastructure or equipment located Within the light rail transit corridor), general public utility easement, or other Public Place located within the City of Calgary, and owned by The City, but excludes a City Structure;
- (oo) "**Third Party**" means any person that is not a Party to the Agreement and includes any person that attaches its apparatus or equipment in, on or to the Equipment pursuant to an agreement with the Company;
- (pp) "**Telecommunications**" or "**telecommunications**" has the same meaning as under Section 2 of the *Telecommunications Act*;
- (qq) "**Term**" means the term of the Agreement set out in Article 2;
- (rr) "**Unavoidable Delay**" means any circumstances beyond a Party's control, such as (for example) strikes or lockouts, fire, flood, acts of God or other catastrophes, government, legal or statutory restrictions on forms of commercial activity, or order of any civil or military authority, national emergencies, insurrections, riots or wars, or other strife;
- (ss) "**Within**" means in, on, over, under, across or along;
- (tt) "**Wireless Equipment**" is Equipment that provides for the transmission, emission or reception of voice, data, video and other signals by means of electromagnetic waves propagated in space;
- (uu) "**Work**" includes any construction, installation, maintenance, operation and Relocation, or adjustment or alteration of Equipment that may be performed by the Company Within a Service Corridor or Within a City Structure, including the excavation, repair or Restoration of the Service Corridor or repair and Restoration of the City Structure, as applicable.

1.02 **Appendices.** The Appendices in the Agreement are as follows:

- (a) Appendix 1 – Relocations
- (b) Appendix 2 – Fees
- (c) Appendix 3 – Elective Process
- (d) Appendix 4 – Environmental Protocol
- (e) Appendix 5 – Applicable City Standards, Guidelines and Resources



- (f) Appendix 6 – Guidelines for Safe Construction in the Proximity of Low Impact Development Source Control Practices for Stormwater Infrastructure

A reference in the Agreement to an Appendix is deemed to be a reference to the Appendix as it may from time to time exist, whether in its original form or as amended by the Parties in accordance with the Agreement. If an Appendix is revised, the terms and conditions of the revised Appendix will bind the Parties only with respect to the Work commenced after the revision. If there is any conflict between the provisions of an Appendix and the provisions of the Agreement, the Agreement will prevail.

- 1.03 **Amendments to Legislation or Municipal Guidelines.** If the Agreement cites or refers to a statute, regulation, bylaw or policy of Legislation or Municipal Guidelines, the citation or reference is to the statute, regulation, bylaw or policy as amended and includes reference to any statute, regulation, bylaw or policy substituted in its place.
- 1.04 **Singular or Plural.** Words in the singular include the plural and words in the plural include the singular.
- 1.05 **Currency.** All references to currency in the Agreement are to Canadian dollars unless stated otherwise.
- 1.06 **Headings.** Headings or sub-headings in the Agreement are inserted for ease of reference and guidance purposes only and do not form part of the Agreement.
- 1.07 **References.** In the Agreement, reference to an “Article” refers to the content of the entire Article; reference to a “Section” refers to the specific numbered paragraph listed under an Article; reference to a “subsection” refers to a clause preceded by a letter of the alphabet listed under a Section.
- 1.08 **Use of “include”.** The words “include”, “includes” or “including” mean “include without limitation”, “includes without limitation” and “including without limitation”, respectively, and the words following “include”, “includes” or “including” will not be considered to set out an exhaustive list.
- 1.09 **Use of “person”.** Words describing persons include corporations.
- 1.10 **The City’s Discretion.** Unless explicitly otherwise stated in the Agreement, all references in the Agreement to The City’s “sole discretion” or “sole and unfettered discretion” means The City’s absolute sole unqualified discretion as may be reasonably exercised by The City in performance of its role as owner and manager of the Service Corridors and City Structures, including of the infrastructure located therein.

## ARTICLE 2 SCOPE OF AGREEMENT

- 2.01 **Agreement applies within boundaries of City of Calgary.** The Agreement applies to all existing and all new Equipment located or to be installed Within Service Corridors and Within City Structures. In relation to the foregoing, any infrastructure owned by The City that is not expressly described within the definition of “Service Corridor” in subsection 1.01(nn) or within the definition of “City Structure” in subsection 1.01(k) is expressly excluded from application of the Agreement.

2.02 **Limits of Agreement.** The Agreement does not:

- (a) confer any exclusive rights or privileges on the Company;
- (b) restrict The City from granting similar or concurrent rights or privileges to any other person whether or not the grant of such rights or privileges would enable the person to carry on a use competitive with the use of the Equipment operated by the Company;
- (c) give any interest in land to the Company or entitle the company to register or file any instrument claiming an interest or property right in a Service Corridor or a City Structure in any real or personal property registry under, or by virtue of, the Company's access to and use of a Service Corridor or a City Structure under the Agreement;
- (d) constitute consent for the Company to undertake any Work Within a City Structure unless, after receipt of an Application for Work Within a City Structure, The City expressly sets out such consent and the specific conditions that apply to the Work;
- (e) constitute approval, or waiver of approval, of the Work under any Legislation or Municipal Guidelines; or
- (f) constitute permission to interfere in any manner with any other existing equipment or infrastructure owned by another person Within a Service Corridor or on a City Structure.

### ARTICLE 3

#### TERM AND TERMINATION OF AGREEMENT

3.01 **Term of Agreement.** The Agreement has an initial term of 5 years commencing on the Effective Date and will terminate on the 5<sup>th</sup> anniversary of the Effective Date. However, the Agreement will be renewed automatically for two successive one-year terms (for a total of two additional years) unless:

- (a) the Agreement is terminated by either Party in accordance with the Agreement;
- (b) either Party delivers a notice of non-renewal to the other Party a minimum of 90 days prior to one of the following:
  - (i) the 5th anniversary of the Effective Date; or
  - (ii) the 6th anniversary of the Effective Date;
- (c) the Agreement is replaced by a new agreement between the Parties.

3.02 **Termination for Breach of Agreement.** In the event of a material breach of the Agreement (which, for further clarification, includes the Company's failure to pay undisputed Fees within the time period allotted), the non-breaching Party may terminate the Agreement without further obligation to the other Party by providing at least 24 hours written notice only after notice of the material breach has already been given and the other Party has failed to remedy or cure the breach within 30 calendar days of receipt of the notice. If, however, in the opinion of the non-breaching Party, it is not possible to remedy or cure the breach within 30 calendar days, then the breaching Party must commence remedying or curing the breach

## Municipal Consent and Access Agreement ATTACHMENT 1

within the 30 calendar days and must complete the remedy or cure within the time period stipulated in writing by the non-breaching Party.

- 3.03 **Termination by The City.** The City may terminate the Agreement by providing the Company with at least 24 hours written notice in the event any one or more of the following occurs:
- (a) the Company becomes insolvent, makes an assignment for the benefit of its creditors, has a liquidator, receiver or trustee in bankruptcy appointed for it or becomes voluntarily subject as a debtor to the provisions of the *Companies Creditors Arrangement Act* or the *Bankruptcy and Insolvency Act*,
  - (b) the Company assigns or transfers the Agreement or any part of it other than in accordance with **Section 15.01**; or
  - (c) the Company ceases to be eligible to operate as a Carrier.
- 3.04 **Application of Elective Process on Expiry or Termination.** In the event of expiry or termination of the Agreement and the failure of the Company and The City to enter into a subsequent agreement concerning the Company's access to and use of the Service Corridors and City Structures (as such use of City Structures may be approved by The City, in its sole discretion, from time to time), the liabilities and obligations of the Company and The City as set out in the Agreement, including payment of Fees, will continue and remain in full force and effect for 2 years, after which time the Company must utilize the Elective Process as described in Appendix 3 to obtain an Alignment.
- 3.05 **Continuing Obligations.** Notwithstanding the expiry or earlier termination of the Agreement, each Party must continue to be liable to the other Party for all payments due and obligations incurred under the Agreement prior to the date of any expiry or termination.
- 3.05 **Renegotiation of Terms and Conditions.** If a decision of the CRTC or other duly empowered court or tribunal or other law under the *Act* approves terms and conditions for access to and use of Service Corridors and City Structures that would have an impact on the terms and conditions of such access and use as set out in the Agreement, the Parties will negotiate, in good faith, the terms and conditions of the Agreement in accordance with the decision or change in legislation.

#### ARTICLE 4 USE OF SERVICE CORRIDORS and CITY STRUCTURES

- 4.01 **Consent to Access Service Corridors and City Structures.** The City consents to the Company's access to and use of the Service Corridors and City Structures for the purpose of performing the Company's Work subject to the terms and conditions of the Agreement and in accordance with all Legislation and Municipal Guidelines applicable to the performance of the Work.
- 4.02 **Refusal to Access City Structures.** Notwithstanding **Section 4.01** or any other provision of the Agreement, The City may, in its sole discretion and for bona fide municipal purposes, refuse the Company access to City Structures.

## Municipal Consent and Access Agreement ATTACHMENT 1

- 4.03 **Scope of Consent.** The Company must not, in the exercise of its rights under the Agreement, unduly interfere with the public use and enjoyment of either, or both, a Service Corridor or City Structure.
- 4.04 **Prior Approval Required.** The Company may undertake Work in a Service Corridor or in a City Structure only if it has complied with all requirements of the Agreement.
- 4.05 **Agreement Prevails.** Notwithstanding **Section 4.01** or any other provision of the Agreement, to the extent that the Municipal Guidelines are inconsistent with the terms of the Agreement, the Company is not required to comply with the Municipal Guidelines.
- 4.06 **Availability of Access to City Structures.** In the event a City Structure does not contain City-owned conduit constructed for the primary purpose of carrying and protecting telecommunications equipment, or existing conduit for such a primary purpose is fully occupied, conduit that is intended for other purposes that exists within the City Structure that has available space for the Company's Equipment may, in The City's sole discretion, be provided to the Company for installation of the Company's Equipment. Alternatively and subject to Section 4.08, if all existing conduit on a City Structure is full, the Company may submit, for approval, an Application to install additional Equipment Within the City Structure.
- 4.07 **Planned or New City Structures.** The City, in its sole discretion and acting reasonably, may approve or reject the Company's request for access to a new or reconstructed City Structure. In approving or rejecting such access, The City will use reasonable efforts to incorporate the Company's request for access into the new or reconstructed City Structure. The Company is responsible for all reasonable and verifiable costs, including design costs or additional construction costs, incurred by The City as a result of such access being granted.
- 4.08 **The City's Right of Access.** In all circumstances, The City reserves the right to install conduit Within a City Structure or a Service Corridor, or reserve space Within the City Structure or Service Corridor for installation of The City's conduit, prior to granting the Company's request for access into the City Structure or the Service Corridor.
- 4.09 **No Guarantee of Condition of Service Corridors and City Structures.** The City makes no representations or warranties as to the state of repair of the Service Corridors and City Structures or the suitability or fitness of them for any business, activity or purpose whatsoever, and the Company accepts the Service Corridors and City Structures on an "as is" basis.
- 4.10 **Coordination of Work.** When possible, the Company must coordinate the scheduling of Work in conjunction with The City and all other users of the Service Corridors and City Structures. Coordination of Work involves membership in and attendance at the CWCC, reasonable efforts to participate in Common Builds whenever possible, compliance with any Road Moratoriums, the submission of construction schedules as required to facilitate inspections by The City, and participation in joint planning efforts with The City and other utilities. Failure by the Company to coordinate the Work when it is possible to participate in such coordination will result in The City, in its sole discretion, scheduling the Work of the Company.
- 4.11 **Stoppage of Work.** If an authorized representative of The City or other person having proper jurisdiction observes or discovers Work at a particular location that is in violation of Legislation and/or Municipal Guidelines, the authorized representative or other person may order, either verbally or in writing, the Company to stop such Work. If such an order is given, the Company must immediately cease the Work at the particular location.

If an authorized representative of The City or other person having proper jurisdiction issues a verbal order to stop Work at a location, a written notification will be provided to the Company giving reasons for the verbal order to stop the Work no later than 2 Business Days after the day on which the verbal order was issued. The Company must not resume the stopped Work until any violation of Legislation and/or Municipal Guidelines has been rectified to the satisfaction of the Director.

- 4.12 **Emergency of The City.** If The City must undertake work Within a Service Corridor or Within a City Structure as a result of an Emergency, The City will, only if it is practical in the circumstances, use reasonable efforts to notify the Company to allow the Company an opportunity to remove, relocate, protect or otherwise address its Equipment before interrupting the Company's services. The Company must pay The City's reasonable and verifiable costs incurred for any of The City's work related to repair of the Company's Equipment unless The City's work is made necessary solely by an act or omission of The City.
- 4.13 **Emergency of the Company.** The Company will not be required to obtain the prior written approval of The City with respect to undertaking Work Within a Service Corridor carried out during an Emergency provided that all of the following are complied with:
- (a) the Company must give written notice to The City of the Emergency and the Work carried out during the Emergency as soon as reasonably practicable;
  - (b) the Company must comply with all requirements of **Article 5** of the Agreement within 5 Business Days of completing the Work if the Work involves breaking the surface of the affected Service Corridor;
  - (c) the Company must undertake only the Work that is necessary to deal with the Emergency and must observe all provisions of the Agreement related to Work as is reasonably possible in the circumstances, including, without limitation, preparing and implementing a traffic management plan; and
  - (d) for additional certainty, the waiver of the requirement to obtain prior written approval of The City for Work carried out during an Emergency does not apply to Work carried out Within a City Structure.
- 4.14 **Relocation of Equipment.** If The City requires the Company to Relocate its Equipment for bona fide municipal purposes, The City will send the Company a Relocation Notice and, subject to **Section 4.15**, the Company must perform the Relocation and any other required and associated Work within 180 calendar days thereafter or such other time as may be reasonably determined by The City in The City's sole discretion having regard to the schedules of the Parties and the nature of the Relocation required.
- 4.15 **Relocation Costs.** The allocation of all costs of a Relocation performed under **Section 4.14** will be based upon the principles, methodologies and procedures set out in Appendix 1.
- 4.16 **Capital Works Coordination Committee.** The Company must become a member of and maintain membership in The City's Capital Works Coordination Committee and attend meetings of the Committee.
- 4.17 **Third Party Equipment.** The City has no responsibility or liability for any Third Party's telecommunications equipment that attaches to or is attached to the Company's Equipment,

## Municipal Consent and Access Agreement ATTACHMENT 1

including for costs for Relocations of the Third Party's telecommunications equipment when a Relocation Notice is given, or during an Emergency, or as may otherwise be necessary, or for costs of damages to the Third Party's telecommunications equipment as a result of, or occurring during, an Emergency.

- 4.18 **Company Agreement with Third Party.** The Company must ensure in its agreement with any Third Party that attaches its telecommunications equipment to the Company's Equipment an acknowledgement and agreement by the Third Party that the Third Party will comply with all of the following:
- (a) terms and conditions of the Agreement;
  - (b) Municipal Guidelines; and
  - (c) Legislation.

## ARTICLE 5 APPLICATIONS TO CONDUCT WORK

- 5.01 **Requirement to Obtain an Alignment.** The Company must obtain an Alignment from The City prior to undertaking any Work if such Work requires excavating, breaking up or otherwise disturbing or cutting the surface of any Service Corridor. Application for an Alignment may be completed online at following website:  
<http://www.calgary.ca/CS/IIS/Pages/Utility-line-assignments/Utility-Line-Assignment-Customer-Application.aspx>.

The Company will ensure that Third Parties' equipment attached to the Company's Equipment Within an Alignment comply with the terms and conditions pursuant to which the Alignment was granted to the Company.

- 5.02 **Work Requiring Excavation.** After an Alignment has been approved and if the Work requires excavating, breaking up or otherwise disturbing the surface of a Service Corridor, the Company must obtain an Excavation Permit.
- 5.03 **Routine Work without Excavation.** The Company may, without The City's consent, enter Within the Service Corridors and carry out routine Work such as maintenance, field testing, installation and repair of Service Drops, or testing subscriber connections if such Work does not require the Company to excavate, break up or otherwise disturb the surface of any Service Corridor.
- 5.04 **Application for Alignment.** The Company, as part of the process of obtaining an Alignment, must complete all of the following:
- (a) prepare and submit a complete Application to The City in compliance with the Alignment Guidelines;
  - (b) apply for and obtain an Excavation Permit from The City after the Company's Application has been approved; and
  - (c) return the completed Excavation Permit to The City not later than 10 Business Days after the day on which the excavation is completed.

## Municipal Consent and Access Agreement ATTACHMENT 1

5.05 **Conditions of Excavation Permit.** The Company and its contractors, as holder of an Excavation Permit, must comply with all Municipal Guidelines and all applicable Legislation that apply to any Work performed by the Company that involves excavating, breaking up or otherwise disturbing the surface of a Service Corridor, including requirements for reporting the discovery of any Hazardous Substances as set out in **Section 11.03**.

5.06 **Priority Application.** The City will review an Application to determine if it complies with the Alignment Guidelines. If the Application complies with the Alignment Guidelines and the Company is fully compliant with all terms and conditions of the Agreement, the Application will be designated a Priority Application and queued for review and processing.

An Application that complies with the Alignment Guidelines but does not qualify as a Priority Application will be reviewed when all Priority Applications have been processed.

5.07 **Rejection of Application.** An Application that does not comply with the Alignment Guidelines will be rejected and the Company will be required to re-submit the Application until the Application complies with the Alignment Guidelines.

The City may require amendments or changes to an Application for an Alignment or reject an Application for an Alignment if the Application conflicts with any *bona fide* municipal purpose, including for any one or more of the following reasons:

- (a) public health and safety;
- (b) conflict with existing infrastructure;
- (c) the protection and sustainment of The City's natural resources located in a Service Corridor, including plant installations and trees;
- (d) proposed road construction;
- (e) the functioning of public services.

If The City rejects an Application under (a), (b), (c), (d) or (e) above, The City will provide written reasons why the Work has been rejected and will, subject to workloads, make reasonable efforts to determine an alternate route for the proposed Alignment.

5.08 **Timely Completion of Work.** If the Work approved in an Alignment does not proceed within 180 calendar days from the day on which The City approves the Alignment, the Company must send a written notification by email to [utilitylineassignments@calgary.ca](mailto:utilitylineassignments@calgary.ca) to advise The City that the Company is not proceeding with the Work.

The City, in its sole and unfettered discretion, may cancel an Alignment if the Work approved in it has not proceeded within 180 calendar days of the date of the approval of the Alignment by The City. Notwithstanding the terms and conditions of any other permit issued by The City relating to an aspect of the Company's Work, this **Section 5.08** prevails.

Alternatively, if the Company has completed the Work, the Company must send a written notification by email to [utilitylineassignments@calgary.ca](mailto:utilitylineassignments@calgary.ca) within 5 days to advise The City, in the form required by The City, that the Work is completed.

Municipal Consent and Access Agreement ATTACHMENT 1

5.09 **Submission of As-Built Drawings.** The Company must submit As-Built Drawings to The City within 60 days following completion of installation of Equipment. The As-Built Drawings submitted by the Company must be in the same format as the Application and show all information incorporated into the Alignment by The City at the time of approval.

If The City has not received As-Built Drawings from the Company within 60 calendar days following completion of installation of the Equipment, The City will cancel the Alignment and any installed Equipment will be considered Non-Compliant Equipment.

The above requirements to submit As-Built Drawings will be strictly enforced by The City on and subsequent to April 01, 2015.

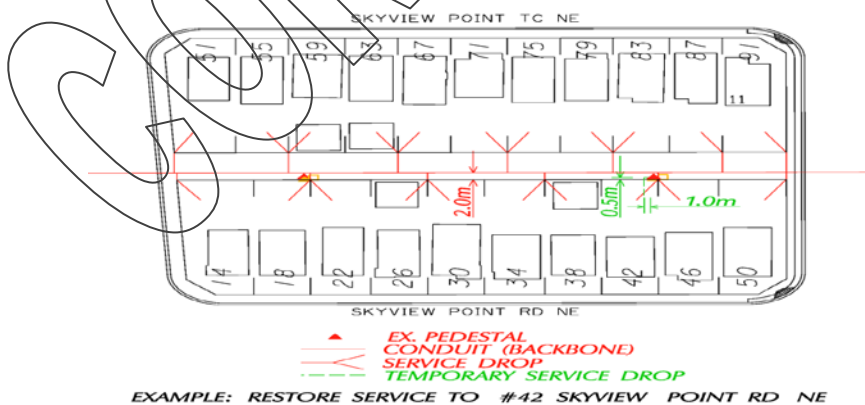
5.10 **Service Drop.** If possible, a Service Drop, whether temporary or permanent, should be placed perpendicular to the backbone of the Company's existing Equipment. The Company must make an Application for an Alignment if either one or both of the following applies:

- (a) the Service Drop can only be located parallel to the backbone of the Company's existing Equipment;
- (b) the Service Drop is partially or completely in the Service Corridor for a distance greater than 1 metre.

A Service Drop must be placed within one half metre inside the property line of The City's Service Corridor that is adjacent to the property receiving the service. In addition, a Service Drop must be buried to avoid interference with traffic and other operations along the Service Corridor and must not be laid on top of or over a Service Corridor.

5.11 **Temporary Service Drop.** For additional clarity, the requirements of **Section 5.10** apply to temporary Service Drops, including the requirement for the Company to make an Application for a temporary Alignment if (a) and/or (b) apply. An Application for a temporary Alignment for a Service Drop must be made no later than 5 Business Days after the installation of the Equipment. A Fee will not be charged for an Application for a temporary Alignment.

EXAMPLE:





- 5.12 **Removal of Temporary Service Drop.** Equipment installed for a temporary Service Drop must be removed from the Service Corridor Within which it has been placed within one year of the day on which it was placed.

The Company must send written confirmation of the removal of the Equipment for the temporary Service Drop to The City by email to [utilitylineassignments@calgary.ca](mailto:utilitylineassignments@calgary.ca) no later than the date for confirmation of removal as set out in the second column of the above schedule. In addition to written confirmation, The City may, in its sole and unfettered discretion, require further documentation of removal of the Equipment. If confirmation of removal of the Equipment for the temporary Service Drop is not received by The City by such date, the Equipment will be deemed Non-Compliant Equipment.

- 5.13 **Inspections.** The City may carry out an Inspection of the Company's Work at any time after the Work has been completed. The Company agrees to pay all Fees associated with such Inspections.
- 5.14 **On-site Inspection.** If The City intends to carry out an on-site (open trench) Inspection of the Company's Work, The City will give the Company notice of such Inspection at the time it issues the Alignment.

If, after completing an on-site Inspection, The City observes defects in the Work such that the Work does not comply with the Alignment as issued by The City, The City will:

- (i) first, direct the Company to re-do the Work until the Work complies with the Alignment as issued; and
- (ii) then, if the Company fails to complete the Work as required, The City may undertake to correct the Work so that the Work complies with the Alignment as issued.

In the event The City undertakes to correct the Work so that the Work complies with the Alignment as issued by The City, the Company must reimburse The City for The City's reasonable and verifiable costs of such undertaking.

- 5.15 **Notice for Inspections.** If The City gives the Company notice that it will carry out an on-site Inspection as described above in **Section 5.14**, the Company must give The City ten (10) calendar days notice prior to completion of the Work to allow for scheduling of the Inspection.

Notwithstanding **Section 5.14**, The City may carry out an on-site Inspection of the Company's Work that was not identified for Inspection at the time The City issued the Alignment for the Work. If The City is going to carry out such an Inspection, The City will notify the Company of the pending on-site Inspection and the Company must give The City three (3) calendar days notice prior to completion of the Work to allow for scheduling of the Inspection.

If The City does not carry out an Inspection on or before 5:00 p.m. on the day that the Inspection is scheduled, the Company may close the trench and complete the Work.

## ARTICLE 6 REPAIR AND RESTORATION

## Municipal Consent and Access Agreement ATTACHMENT 1

- 6.01 **Obligation to Repair and Restore.** Prior to the completion of Work, if the Company has excavated, broken up or otherwise disturbed a Service Corridor and/or a City Structure, the Company must either:
- (a) complete the Restoration of the Service Corridor and/or City Structure to The City's Standard Specifications for Road Construction (see Appendix 5) and/or in accordance with The City's Design Guidelines for Bridges and Structures (see Appendix 5), as may be applicable; or
  - (b) if weather limitations or other external conditions beyond the control of the Company do not permit the Company to complete a Restoration to a Service Corridor, temporarily repair the Service Corridor by backfilling and applying a temporary asphalt patch to the area of the cut that:
    - i. returns the surface to a safe and useable condition;
    - ii. is level with the surface of the surrounding or adjacent Service Corridor;
    - iii. complies with all terms and conditions set out in the requirements of the Director, acting reasonably, that apply to a temporary repair; and
    - iv. is acceptable to the Director in accordance with the current Municipal Guidelines.
- 6.02 **Temporary Repair.** If the Company completes a temporary repair to the Service Corridor under **Section 6.01**, the Company must replace the temporary repair with a Restoration within such reasonable period of time as may be determined by The City in its sole discretion.
- 6.03 **Restoration.** If the Company has excavated, broken up or otherwise disturbed the surface of a Service Corridor, the requirements for the Company to complete a Restoration will vary depending on whether the pavement has been recently repaved or overlaid and when it was repaved or overlaid, as follows:
- (a) if pavement has been repaved or overlaid at any time during a Moratorium Period as set out in **Section 6.06**, The City may require the Company to grind, mill or plane the full width of the affected pavement (gutter to gutter) in the Service Corridor;
  - (b) if pavement has been repaved or overlaid at any time during the three to five year period prior to the date of issuance of the Alignment, then The City may require the Company to grind, mill or plane the full lane width of the affected pavement in the Service Corridor;
  - (c) if pavement has been repaved or overlaid five or more years prior to the date of issuance of the Alignment, the surface area to be Restored will be determined by the Director and Restoration Fees will apply to any Service Corridor, or portion of the Service Corridor (as may be determined by the Director in the Director's sole discretion), with a Visual Condition Index greater than seven (7);
  - (d) in either subsections (a) or (b) above, if a Third Party or The City as a provider of services to the public, has excavated, broken up or otherwise disturbed the pavement to be ground, milled and planed, the costs of that grinding, milling or planing will be

## Municipal Consent and Access Agreement ATTACHMENT 1

apportioned between the Company and the Third Party or The City (as applicable) on the basis of the area of their respective cuts;

- (e) The City will not require grinding, milling and planning under subsections (a) or (b) above for Restoration involving:
  - i. an Emergency; and
  - ii. other situations deemed by the Director to be in the public interest;
- (f) If The City has required the Company to grind and overlay under either subsections (a) or (b) above, the Company will have no obligation to pay Pavement Degradation Fees pursuant to Appendix 2 in relation to that Restoration.

6.04 **Warranty for Repairs.** The Company warrants its temporary repair to the satisfaction of The City until such time as the Restoration is completed by the Company, or, if The City is performing the Restoration, for a period of two years or until such time as the Restoration is completed by The City, whichever is earlier. The Company must warrant a Restoration for a period of two years from the date of its completion.

6.05 **Repairs or Restoration Completed by The City.** The City may carry out the work to perform and complete a temporary repair or a Restoration, or both, and the Company must pay The City's reasonable and verifiable full costs of completing such repair or Restoration if:

- (a) the Company fails to complete a temporary repair or Restoration to the satisfaction of The City within 90 calendar days of being notified in writing by The City that either:
  - i. the Company has not completed the temporary repair or Restoration within the time period allowed by The City, acting reasonably;
  - ii. the Company has not completed the temporary repair or Restoration to the satisfaction of The City, acting reasonably; or
- (b) the Company and The City agree that The City will perform the temporary repair or Restoration, as applicable.

6.06 **Moratorium Period on Service Corridor.** If a Moratorium Period of 2 years is in existence for a Service Corridor, the Moratorium Period applies to the entire Service Corridor from property line to property line. The expiry of the Moratorium Period is measured from December 31 of the calendar year in which the improvement of the Service Corridor was performed.

Notwithstanding the existence of a Moratorium Period, under special circumstances the Director may, in the Director's sole discretion, provide the Company written approval for Work that breaks up or disturbs the surface of a newly improved Service Corridor during a Moratorium Period upon receiving a request, in writing, from the Company stating the special circumstances requiring the Work.

## ARTICLE 7 EQUIPMENT

## Municipal Consent and Access Agreement ATTACHMENT 1

7.01 **List of Company's Equipment.** On or before January 15 of each and every year, the Company must provide (consistent with the formatting requirements set out in the Alignment Guidelines) all of the following to The City:

- (a) A complete list of all temporary Service Drops, including the location of each temporary Service Drop and the date of its installation; and
- (b) A complete list of all Abandoned Equipment, including the location of the Abandoned Equipment and date the Equipment was decommissioned.

The City may make requests of the Company to provide information about additional Equipment and the Company must provide such information no later than 30 days after the day on which The City requests such information.

7.02 **Non-Compliant Equipment.** The City bears no liability or responsibility for Relocation costs of all of the following:

- (a) Non-Compliant Equipment;
- (b) Third Party telecommunications equipment attached to the Company's Non-Compliant Equipment; and
- (c) any damages, liabilities, re-design costs and associated delay costs incurred by other occupiers of a Service Corridor or a City Structure resulting from the Company's Non-Compliant Equipment.

If The City identifies the existence of Non-Compliant Equipment, The City will issue a Notice of Non-Compliance to the Company. If The City requires the Non-Compliant Equipment to be Relocated, The City will send a Relocation Notice to the Company requesting Relocation of the Non-Compliant Equipment and the Company must Relocate the Equipment as follows:

- (a) above ground Equipment must be Relocated within 90 days of the Company receiving a Relocation Notice from The City;
- (b) below ground Equipment must be Relocated within 120 days of the Company receiving a Relocation Notice from The City, such Relocation Notice to be issued by The City only in the event The City approves plans to re-open the site where the Non-Compliant Equipment is located.

Prior to Removal or Relocation of Non-Compliant Equipment, the Company must obtain a new Alignment.

If the Company fails to Remove or Relocate Non-Compliant Equipment as a result of receiving a Relocation Notice from The City, The City may, in its sole and unfettered discretion, complete the Removal or Relocation and any associated Restoration and the Company must pay to The City all reasonable and verifiable costs related to the Relocation and Restoration.

7.03 **Abandoned Equipment.** The Company is responsible and liable for all Abandoned Equipment and all matters that arise as a result of Abandoned Equipment located Within a Service Corridor or a City Structure until the Abandoned Equipment has been completely removed from the Service Corridor or from the City Structure to the satisfaction of The City.

Subsequent to providing The City a list of Abandoned Equipment pursuant to subsection 7.01(b) above, the Company must, at The City's request and at the Company's sole cost and expense, remove the Abandoned Equipment as follows:

- (a) above ground Equipment must be removed within 90 days; and
- (b) below ground Equipment must be removed within 180 days of notification by The City, such notification only occurring in the event The City approves plans to re-open the site where the Abandoned Equipment is located.

After removal of the Abandoned Equipment the Company must provide The City with an Abandoned Equipment Removal Certificate. Upon request The Company must provide a photograph of the location where the Abandoned Equipment existed showing that the Equipment has been removed.

The City may, in its sole and unfettered discretion, request removal of below ground Abandoned Equipment at any time the Abandoned Equipment interferes with any project approved by The City (including a project of a Third Party as may be approved by The City) which requires excavation or otherwise disturbs a portion of a Service Corridor where the Abandoned Equipment is located.

After removal of the Abandoned Equipment, the Company must make safe and Restore the Service Corridor or City Structure to the condition in which it existed prior to the removal of the Abandoned Equipment. If the Company fails to remove the Abandoned Equipment and Restore the Service Corridor or City Structure to the satisfaction of The City, The City may complete such removal and Restoration and the Company must pay The City all reasonable and verifiable associated costs.

7.04 **Capacity of Equipment.** To facilitate the efficient administration and cost effective processes of the occupancy and use of the Service Corridors or City Structures for installation of the Company's Equipment, the Company will make reasonable efforts to share its Alignments with other service providers wanting to occupy and use the Service Corridors or City Structures, with the intent of minimizing the necessity for road cuts, construction and the placement of support structures Within a Service Corridor or Within a City Structure.

7.05 **Additional Alignments.** The City will provide a single Alignment to the Company if capacity in a Service Corridor is available. In the sole discretion of The City, if additional capacity in the Service Corridor is available, the Company may be granted a second or additional alignment only if the additional alignment will demonstrably provide a benefit to The City's operation and management of the Service Corridor. To obtain a second or additional Alignment, the Company must:

- (a) at the sole option of The City (such option to be exercised prior to the commencement of the Work approved in an Alignment), the Company will install additional equipment on behalf of The City at the same time as the Company installs the Equipment approved in the Alignment. The City will pay the Company its proportionate share of the reasonable and verifiable cost of the additional equipment installed by the Company on behalf of The City and costs directly related to the installation of the additional equipment; and

## Municipal Consent and Access Agreement ATTACHMENT 1

- (b) the equipment installed on behalf of The City will become the property of The City for use as it sees fit, in its sole discretion, and will not be considered to be part of the Company's Equipment for the purposes of the Agreement.

## ARTICLE 8 FEES

- 8.01 **Fees.** The Company must pay to The City all Fees as set out in Appendix 2 in addition to the applicable permit fees required under the applicable Municipal Guidelines for Work undertaken Within a Service Corridor or City Structure. The Company acknowledges that The City may increase the amount of any Fee to reflect increases in the causal costs incurred by The City for installation of Equipment Within a Service Corridor or City Structure.
- 8.02 **Payment of Fees.** All undisputed Fees payable by the Company to The City under the Agreement must be paid within 30 calendar days of the date of the issuing of the invoice for the Fees. The City may charge interest equivalent to the Prime Rate plus one and one-half percent for any undisputed Fees not paid within 30 calendar days of the date the invoice was issued.
- 8.03 **Application of Municipal Guidelines.** The Company's obligations to pay Fees are in addition to, and not in substitution for, all other amounts payable by the Company to The City by separate agreement or under the Municipal Guidelines. By way of example only, and all without limiting the general scope of this provision, the Company remains separately liable to pay all applicable amounts due from time to time pursuant to any of the following:
- (a) Calgary Street Bylaw 20M88;
  - (b) Calgary Traffic Bylaw 26M96;
  - (c) Calgary Community Standards Bylaw 5M2004;
  - (d) Calgary Parking Bylaw 41M2002; and
  - (e) any separate agreement between The City and the Company.
- 8.04 The Company must pay all applicable GST, provincial sales tax and all other value added, sales or transactional taxes levied by a government body having jurisdiction, attributable to the consent granted by the Agreement or any amounts paid by the Company pursuant to the Agreement.

## ARTICLE 9 INSURANCE

- 9.01 **Requirement for Insurance.** The Company must maintain commercial general liability insurance in sufficient amounts and description as will protect The City from claims for damages, personal injury including death, bodily injury and property damage which may arise from the Company's performance under the Agreement, including for construction, maintenance or operation of the Equipment Within the Service Corridors or on City Structures. The following applies to the foregoing required commercial general liability insurance:

## Municipal Consent and Access Agreement ATTACHMENT 1

- (a) the limits of liability will be in an amount of not less than Five Million Dollars (\$5,000,000) inclusive for each occurrence and in the aggregate annually, and composed of any combination of primary and excess (umbrella) insurance policies;
- (b) the insurance policy will be with an insurer licensed to operate in the Province of Alberta and will provide that The City will be given 30 days prior written notice of any material change, lapse or cancellation that is applicable to The City and that reduces the coverage afforded by the insurance policy, which notice to The City will be by registered mail, identifying the name of the Company and any other relevant identifier;
- (c) prior to the Effective Date, the Company must provide to The City a detailed Certificate of Insurance that does not contain any disclaimer on insurance coverage whatsoever and contains adequate descriptions of coverage and be in a form satisfactory to the City Solicitor. At any time during the Term as may be requested by The City, the Company will provide to The City similar evidence of renewals, extensions or replacements of the insurance policy;
- (d) the commercial general liability policy will remain in full force and effect at all times during the Term; will be on an occurrence basis form; will include The City as an additional insured; and will include all extensions of coverage customarily included in such a policy, including without limitation the following:
- (i) Blanket Contractual Liability;
  - (ii) Cross Liability Clause;
  - (iii) Contingent Employer's Liability;
  - (iv) Broad Form Property and Completed Operations; and
  - (v) Non-owned Automobile Liability;
- (e) neither the providing of insurance by the Company in accordance with this section, nor the insolvency, bankruptcy or failure of any insurance company to pay any claim accruing will be held to relieve the Company from any other provisions of the Agreement with respect to liability of the Company or otherwise; and
- (f) the insurance policy will be primary insurance as respects The City and any insurance or self-insurance maintained by or on behalf of The City or its Employees will be excess of this insurance and will not contribute with it.

**ARTICLE 10  
INDEMNITY AND LIMITATION ON LIABILITY**

10.01 **Indemnity.** The Company will indemnify The City from and against all losses incurred by The City in connection with the Agreement as a result of any claim, action, suit or proceeding based on a claim of injury to the person or property of any Third Party if:

- (a) the claim is a result of the wilful misconduct or negligence of the Company, its Employees or its Contractors;

## Municipal Consent and Access Agreement ATTACHMENT 1

- (b) the claim is caused by the Company, its Employees or its Contractors in the course of completing Work in a Service Corridor or City Structure;
- (c) the claim is caused by the Company, its Employees or its Contractors in the course of repairing any damage to The City's property in accordance with **Section 10.03**;
- (d) the claim is caused by the Company, its Employees or its Contractors in the course of bringing any products or goods which are Hazardous Substances Within a Service Corridor or City Structure.

10.02 **Application of Indemnity.** The following process applies if The City becomes aware of any claim to which the indemnity in **Section 10.01** applies:

- (a) The City will promptly, and in any event, within 90 calendar days of The City Solicitor becoming aware of the claim, advise the Company in writing of the claim, providing reasonable particulars (to the extent of The City's knowledge) of the factual basis for the claim and the amount of the claim;
- (b) subject to subsection 10.02(c), the Company will, at its expense, assume control of the negotiation, settlement or defence of the claim and the Company will reimburse The City for all of its verifiable losses that may result from the claim;
- (c) the Company must not settle the claim without the prior written consent of The City, which consent may not be unreasonably withheld, conditioned or delayed, provided that with respect to an insurable claim where the insurer has the right to settle the claim without the consent of the Company, the consent of The City will not be required if The City is fully covered as an additional insured; and
- (d) The City and the Company will cooperate fully with each other in addressing such claims and will keep each other fully informed of their status, supplying copies of all relevant records as soon as practicable.

10.03 **Limitation on Liability.** Subject only to **Section 10.04**, The City will not be liable for any losses in respect of loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property or economic loss arising from or out of any occurrence Within Service Corridors or City Structures, including by way of example only, and without limiting the general scope of this section:

- (a) work undertaken by The City which damages any Equipment;
- (b) lack of repair or collapse of the Service Corridors or City Structures;
- (c) the leakage or explosion of water, gas, sewer, steam, electricity, electromagnetic or any other form of radiation waves or signals;
- (d) the presence of Hazardous Substances Within the Service Corridors; or
- (e) theft or misappropriation.

All property of the Company kept or stored Within a Service Corridor or City Structure is kept or stored at the sole risk of the Company.



## Municipal Consent and Access Agreement ATTACHMENT 1

- 10.04 The limitation on liability set out in **Section 10.03** does not extend to the negligence or wilful misconduct of The City or the negligent or wilful misconduct of The City's independent Contractors.
- 10.05 For additional certainty, in no event will either Party be liable for any indirect, consequential or economic losses (including business losses), damages, liabilities, deficiencies, costs or expenses.

**ARTICLE 11  
ENVIRONMENTAL LIABILITY**

- 11.01 **The City is not Liable.** The City is not responsible, either directly or indirectly, for any damage to the natural environment or property, including any nuisance, trespass, negligence or injury to any person, however caused, arising from the presence, deposit, escape, discharge, leak, spill or release of any Hazardous Substance related to the Company's occupation or use of a Service Corridor or City Structure, unless the damage was caused directly or indirectly by the negligence or wilful misconduct of The City or those for whom The City is responsible in law.
- 11.02 **Company to Assume Environmental Liabilities.** Unless damage to the environment was caused directly or indirectly by the negligence or wilful misconduct of The City or those for whom The City is responsible in law, the Company agrees to assume all environmental liabilities, claims, fines, penalties, obligations, costs or expenses whatsoever relating to its use of the Service Corridors or City Structures, including, without limitation, any liability for the clean-up, removal or remediation of any Hazardous Substance Within the Service Corridors or City Structures that result from:
- (a) the occupation, operations or activities of the Company, its Contractors or Employees or any other person performing Work with the express or implied consent of the Company Within the Service Corridors or City Structures; or
  - (b) any Equipment brought or placed Within the Service Corridor or City Structure by the Company, its Contractors or Employees or by any other person performing Work with the express or implied consent of the Company.
- 11.03 **Reporting of Hazardous Substance.** The Company must immediately report any escape, discharge, leak, spill or release of a Hazardous Substance, or the presence of a Hazardous Substance, that the Company may discharge, leak, spill, release or discover while the carrying out any Work Within a Service Corridor or City Structure to all of the following:
- (a) The City;
  - (b) the Calgary Fire Department Hazardous Materials Section (403-264-1022);
  - (c) Alberta Environment and Sustainable Resource Development; and
  - (d) any other regulatory authority with jurisdiction.

**ARTICLE 12****CONFIDENTIAL INFORMATION**

- 12.01 **Duty to Maintain Confidentiality.** The Parties will maintain the confidentiality of all Confidential Information and will not make use of Confidential Information or release it to Employees other than as required for the performance of the Agreement and will not release or disclose the Confidential Information to any Third Party.
- 12.02 **Information Not Confidential.** Information that was lawfully in either Party's possession before receipt of it from the other Party, or information that is or becomes a matter of public knowledge through no fault of either Party, or was independently discovered or developed by either Party, is not considered Confidential Information under the Agreement.
- 12.03 **Application of Freedom of Information and Protection of Privacy Act.** The Parties acknowledge that under the Province of Alberta's *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c. F-25 ("FOIP"), The City must provide copies of all documents relevant to a FOIP request for information to its internal FOIP coordinator. If a FOIP request related to The City's agreements or business arrangements with the Company arises, The City will provide copies of any applicable agreement, including the Agreement, to its FOIP coordinator.
- 12.04 **Survival of Duty.** The duties and obligations to protect the Confidential Information survive termination of the Agreement and must continue until the Party originally claiming information to be Confidential Information releases that claim by deed or action.
- 12.05 **Remedy for Unauthorized Disclosure.** Improper disclosure or use of Confidential Information may cause irreparable harm to the Company or to The City, as the case may be, and such harm may not be adequately compensated by damages. As a result, in addition to all other remedies either Party may have, either Party may seek and obtain from any court of competent jurisdiction injunctive relief in respect of any actual or threatened disclosure or use of any Confidential Information contrary to the provisions of the Agreement.
- 12.06 **Indemnity for Unauthorized Disclosure.** Each Party will indemnify and save the other Party harmless from and against any and all liabilities, claims, suits or actions, losses, costs, damages and expenses which may be brought against or suffered by the other Party as a consequence of the unauthorized disclosure by the indemnifying Party of the Confidential Information of the other Party.

**ARTICLE 13****GENERAL OBLIGATIONS OF COMPANY**

- 13.01 **Comply with all Laws.** The Company will at all times during the Term comply with all Legislation and Municipal Guidelines in its performance of Work under the Agreement.
- 13.02 **Operate with Due Care.** The Company will at all times carry out all of its Work with due care and without negligence and will at no time create a nuisance.
- 13.03 **Notification of Damage.** If any of The City's property is damaged by the Company or its Employees, beyond the damage to the City's property that is inherent to the Work and is contemplated in The City's approval of Work in accordance the Agreement, the Company will notify The City immediately of the damage and The City will have the right to elect and will notify the Company in writing within 48 hours whether or not The City will repair the damage.

## Municipal Consent and Access Agreement ATTACHMENT 1

If The City fails or neglects to give a notice of election within the time specified, The City will be deemed to have elected to have The City do the repairs. If The City elects to have the Company do the repairs, the Company will carry out the repairs at its sole cost, without improvements and only to the condition prior to the damage, in a manner approved by The City within such time as is specified by The City. If The City elects or is deemed to have elected to have The City do the repairs or the Company fails to complete the repairs within the time specified by The City, The City may carry out the repairs at the Company's sole cost, provided:

- (a) the costs will be in accordance with The City's normal practices and procedures; and
- (b) the invoice submitted by The City to the Company to recover such reasonable and verifiable costs will specify in reasonable detail the amounts allocated.

If any of the Company's Equipment or other property is damaged by The City or its Employees while carrying out The City's work Within a Service Corridor or City Structure, The City will notify the Company immediately of the damage by contacting one of the Company's 24-hour emergency contact personnel as provided in the list described in **Section 13.08**.

13.04 **Worker's Compensation Board ("WCB") Requirements.** To the extent required by law, the Company is responsible for carrying and paying for full WCB coverage for itself and all of its Employees and others engaged in providing services under the Agreement. Within 3 Business Days of a request to do so from The City, the Company will from time to time, and at any time when requested by The City, provide to The City the WCB registration number for the Company and will request a letter from the WCB confirming that the Company is registered in good standing with the WCB and that all assessments have been paid to date and will provide such letter to The City forthwith on receipt.

13.05 **Occupational Health and Safety.** The Company will be the prime contractor as defined in the Occupational Health and Safety Act of Alberta ("OHS Act") for any work or service which is subject to and which the Company performs under the Agreement, including work which is undertaken by Contractors engaged in such work on behalf of the Company. The Company accepts all responsibilities of the prime contractor as outlined in the OHS Act and the City may, acting reasonably, consider any violation of the OHS Act and its regulations by the Company as prime contractor as a material breach of the Agreement, and as such subject to the cure period and process set out at **Section 3.02** of the Agreement.

13.06 **Locates for Audits and Verification.** The Company will, at no cost to The City, provide line and elevation of the Equipment within the Alignments to The City within 5 Business Days of receiving a request for such information from The City unless the reason for the request is the result of an Emergency in which case the information will be provided within 24 hours.

For Work performed where line or elevation information within the Alignment is not available to the Company, the Company, at its own expense, will employ whatever means available to obtain such information, upon written request by The City, and provide such requested information to The City within an agreeable time frame.

If it is required by The City, the Company will physically locate its Equipment by marking the Service Corridor using paint, staking or another suitable identification method.

13.07 **Traffic Control.** The Company must at all times adhere to such reasonable published traffic control safety and management standards as may be imposed by the Municipal Guidelines.

- 13.08 **Emergency Contact Information.** The Company agrees to provide to The City a list of 24-hour emergency contact personnel for the Company and ensure that the list is always current. The City agrees to provide to the Company a list of 24-hour emergency contact personnel for the City and ensure that the list is always current.

**ARTICLE 14  
NOTICES**

- 14.01 **Method of Notice.** Unless otherwise provided in the Agreement and unless otherwise agreed to between the Parties, any notice to a Party under the Agreement must be given or served by registered mail, postage prepaid or by facsimile transmission, addressed as follows:

THE CITY:

The City of Calgary  
P. O. Box 2100  
Station "M", #\*\*\*  
Calgary, Alberta T2P 2M5  
Attention: \*\*\*\*\*

FAX: (403) 268-2546

WITH A COPY TO:

The City of Calgary  
Law Department  
P. O. Box 2100  
Station "M", #8053  
Calgary, Alberta T2P 2M5  
Attention: City Solicitor

THE COMPANY:

WITH A COPY TO:

- 14.02 **Delivery of Notice.** Any Notice made by mail will be deemed to have been given or served on the fifth (5th) day after it is deposited in any post office in Canada. Any Notice given by facsimile or personal delivery will be deemed to have been given on the day following the day it is sent or delivered. Any Notice to a Party may also be served in person by delivering the same to a responsible person in the offices of the Party to be served at the above address. A Party may change its address for service at any time by notice in writing to the other Party.

**ARTICLE 15  
ASSIGNMENT**

- 15.01 **Assignment Requires Written Consent.** This Agreement may only be assigned in its entirety and may be assigned only with the prior written consent of the other Party. Subject to the foregoing, either Party will have the right to assign this Agreement to an Affiliate or to another corporate entity as a result of a corporate reorganization or amalgamation without the consent of the other Party, provided that: i) it is not in material breach of this Agreement; ii) it has given prompt written notice to the other Party; and iii) any assignee agrees to be bound by the terms and conditions of this Agreement.

**ARTICLE 16**  
**DISPUTE RESOLUTION**

- 16.01 **Resolution of Disputes.** The Parties will attempt to resolve any dispute, controversy, claim or alleged breach arising out of or in connection with the Agreement (“Dispute”) promptly through discussions at the operational level. In the event a resolution of a Dispute is not achieved, the disputing Party must provide the other Party with written notice of the Dispute and the Parties will attempt to resolve such Dispute between senior officers who have the authority to settle the Dispute. All negotiations conducted by such officers will be confidential and must be treated as compromise and settlement negotiations. If the Parties fail to resolve the Dispute within 30 calendar days of the non-disputing Party’s receipt of written notice, either Party may initiate legal proceedings and/or submit the Dispute to the CRTC for resolution.
- 16.02 **Intervention by CRTC.** The Parties agree that it is their intention to resolve all Disputes in a fair, efficient and timely manner without incurring undue expense. If intervention by the CRTC is sought, the CRTC will be requested by the Parties to consider and provide a decision only with respect to those matters that form the basis of the original Dispute as set out in the Dispute notice issued under **Section 16.01**.

**ARTICLE 17**  
**GENERAL**

- 17.01 **Governing Law.** The Agreement is governed by and interpreted in accordance with the laws in force of the Province of Alberta and all federal laws of Canada applicable in Alberta and the Parties attorn to the jurisdiction of the courts of the Province of Alberta.
- 17.02 **Independent Parties.** The Parties agree that nothing contained in the Agreement will be interpreted to create a relationship of agency or of partners, joint venture, fiduciaries or any other similar relationship between the Parties.
- 17.03 **Good Faith.** Each Party will at all times act reasonably and in good faith in the performance of its obligations and the exercise of its rights and discretion under the Agreement.
- 17.04 **Amendments or Modifications to Agreement.** No amendment or modification to the Agreement will be effective unless it is in writing and signed by both parties.
- 17.05 **Enurement.** This Agreement enures to the benefit of and is binding upon the Parties and their successors and permitted assigns.
- 17.06 **Waiver.** No waiver of any part of the Agreement will be effective unless in writing and no such waiver will be deemed a waiver of any other provision in the Agreement or a continuing waiver unless agreed to in writing by the Parties. Failure by either Party to exercise any of its rights, powers or remedies under the Agreement or its delay to do so does not constitute a waiver of those rights, powers or remedies. The single or partial exercise of a right, power or remedy does not prevent its subsequent exercise or the exercise of any other right, power or remedy.
- 17.07 **Unavoidable Delay.** Except for performance of covenants to pay money, time periods for The City’s and the Company’s performance under the Agreement will be extended for periods of time during which their performance is delayed or prevented due to Unavoidable

## Municipal Consent and Access Agreement ATTACHMENT 1

Delay. If Unavoidable Delay occurs, notice must be given by the Party unable to perform to the other Party and the Party unable to perform will be permitted to delay its performance so long as the occurrence continues. If the suspension of obligations due to Unavoidable Delay exceeds 2 months, either Party may terminate the Agreement without liability on delivery of notice to the other Party.

- 17.08 **Severability.** If any provision of the Agreement is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability will attach only to such provision and everything else in the Agreement will continue in full force and effect.
- 17.09 **Survival of Obligations.** All obligations of the Company or The City, which, by their nature, require performance of fulfillment following the expiry or termination of the Agreement, including Articles 10, 11 and 12, and the payment of any undisputed amounts owing to The City or the Company pursuant to the Agreement, survive the expiry or termination of the Agreement.
- 17.10 **Entire Agreement.** The Agreement, together with the attached Appendices, constitutes the complete and exclusive statement of the understandings between the Parties with respect to the subject matter of the Agreement and supersedes all other prior agreements, oral or written, between the Parties.
- 17.11 **Counterparts and Electronic Signatures.** The Agreement may be executed by facsimile or other electronic means in any number of counterparts with the same effect as if the Parties signed the same document. All counterparts will be construed together and will constitute one and the same Agreement.

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Municipal Consent and Access Agreement

ATTACHMENT 1

IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the date written below.

SIGNED AND DELIVERED

THE CITY OF CALGARY

<b>APPROVED</b>	
<b>AS TO CONTENT</b>	
<b>AS TO FORM</b>	
<b>SOLICITORS</b>	

Per: \_\_\_\_\_  
General Manager, Corporate Services

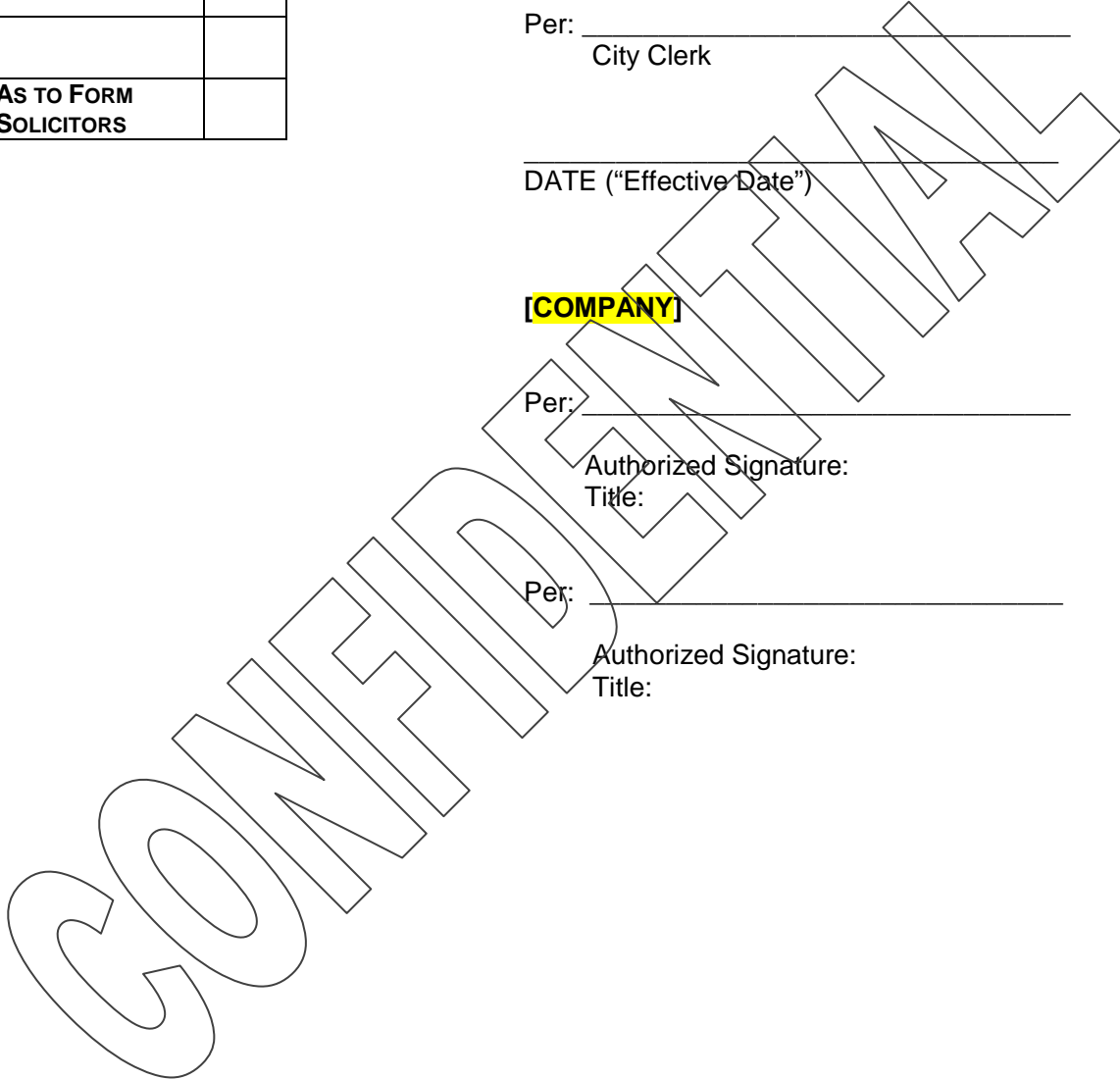
Per: \_\_\_\_\_  
City Clerk

\_\_\_\_\_  
DATE ("Effective Date")

**[COMPANY]**

Per: \_\_\_\_\_  
Authorized Signature:  
Title:

Per: \_\_\_\_\_  
Authorized Signature:  
Title:



**APPENDIX 1  
RELOCATIONS**

- 1) If The City requires Relocation of Equipment to comply with safety standards, legislative and regulatory requirements or bona fide municipal purposes, the Company will, subject to Section 2 of this Appendix 1, be responsible for the reasonable and verifiable costs associated with the Relocation of the Company's Equipment.
- 2) If the City requests a Relocation within 3 years of the initial installation of Equipment by the Company, The City will be responsible for 100% of the Company's Relocation costs unless the Company was advised by The City, in writing, at the time the Application for the Work was made, that the Equipment would be subject to Relocation within 3 years of its installation.
- 3) The cost sharing formula between the City and the Company for Relocation of the Company's Equipment that is between 4 and 11 years after the date of initial installation is as follows:

<b>Year of Placement</b>	<b>Company Cost Responsibility</b>	<b>The City Cost Responsibility</b>
0 to 3	0%	100%
4 years old	10%	90%
5 years old	20%	80%
6 years old	35%	65%
7 years old	50%	50%
8 years old	65%	35%
9 years old	80%	20%
10 years old	90%	10%
11 years old	100%	0%

For the purposes of this Appendix 1, the Company's Relocation costs must include actual labour, engineering, equipment and material costs at the Company's current rates.

- 4) If the Company fails to complete the Relocation described in Section 1 of this Appendix 1 in a timely manner and to the reasonable satisfaction of The City, The City may, at its sole option (but is not obligated to) complete such Relocation and the Company must reimburse The City for costs of the Relocation.
- 5) If Equipment Within a Service Corridor requires Relocation owing to the demand of a competent authority or owner other than The City having jurisdiction in the matter, or by loss of any easement, Right-of-Way, servitude or other privilege enjoyed by The City, the Company will be responsible for its own Relocation costs.
- 6) In order to provide the Company with the opportunity to budget for Relocations of which The City may have prior knowledge, The City will allow the Company both:
  - (a) involvement with The City's CWCC to facilitate and coordinate the Company's Relocations;
  - (b) involvement with The City's Community Renewal Program (which deals primarily with Business Revitalization Zone projects) and copies of its Five Year Capital Works



## Municipal Consent and Access Agreement ATTACHMENT 1

Plan or such other documentation that indicates the future work that is being considered by The City for Service Corridors and City Structures.

- 7) The CWCC, during its meetings, identifies The City's pending construction project(s) scheduled to be completed in locations in The City within a designated 5 year period. Subsequent to a CWCC meeting, if the Company Relocates any of its Equipment in one of the locations identified by the CWCC during the designated 5 year period and does not complete such Relocation at the time the identified construction project(s) takes place, The City bears no responsibility or liability for any costs associated with such Relocation.
- 8) The City bears no responsibility or liability for any costs associated with Relocation of Third Party telecommunications equipment attached to the Company's Equipment.
- 9) The Company will not be responsible for costs of a Relocation if the Relocation is required or requested by The City solely for aesthetic, and not functional, purposes.
- 10) To receive payment for The City's share of the costs relating to a Relocation as described in Section 3 of this Appendix 1, the Company must submit a separate invoice to The City for every Relocation clearly setting out all of the following:
  - (a) the total cost of the Relocation;
  - (b) itemized list of the costs of the Relocation; and
  - (c) The City's share of the cost of the Relocation.

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**APPENDIX 2  
FEES**

The CRTC allows municipalities to recover all demonstrable “causal costs” attributable to a telecommunication company’s project. The City of Calgary has developed the following Fee Schedule based on recovery of costs related to the installation of the Company’s Equipment Within The City’s Service Corridors and City Structures.

\* Fees that are payable pursuant to Municipal Guidelines are included in the following schedule for reference purposes but are not limited to those set out in the following schedule.

<b>FEE SCHEDULE</b>	
<b>Alignment Fees</b>	
Under 20 meters	\$460
Over 20 meters	\$1280
<b>Per Metre Approval Fee</b>	
	\$10.59
<b>Inspection Fee</b>	
	\$68.88/block/day
Loading Factor (included in base fee)	
	20%
<b>Lost Parking Fees</b>	
For zones priced at \$3/hour or more	\$30 /metre/day
For zones priced between \$1.50 and \$3/hour	\$20 /metre/day
For zones priced less than \$1.50/hour	\$10 /metre/day
<b>Pavement Degradation Fees / Per Square Metre</b>	
<b>Road Classification</b>	
Arterial	\$49.00
Collector	\$44.00
Local	\$40.00
Plus Minimum Charge (for a 1 metre x 1 metre minimum utility cut)	
	\$441.00
<b>Site Rehabilitation Costs</b>	
<b>FEES – EXCAVATION PERMITS</b> (City of Calgary Transportation/Roads) For Permits Issued On and After 2014 January 01	

Municipal Consent and Access Agreement  
CITY OF CALGARY  
TRANSPORTATION/ROADS

GP2015-0086  
ATTACHMENT 1

EXCAVATION PERMIT RATES  
FOR PERMITS ISSUED ON AND AFTER 2014 MAY 01

Permit Fee \$50 for in person application or \$30 for E-permit

Asphalt Roads

0 – 110 Sq M			
All Utilities	Per Sq M.		\$106.00
Plus Minimum Charge	Per Permit		\$630.00
Over 110 Sq M			
Deep Utilities	Per Sq M.		\$76.00
Shallow Utilities	Per Sq M.		\$85.00
Scarring	Per Lineal M.		\$78.00
Surface Restoration	Per Sq M.		\$49.00
Degradation Fee – (New 2014)			
Arterial	Per Sq M.		\$49.00
Collector	Per Sq M.		\$44.00
Local	Per Sq M.		\$40.00
Plus Minimum Charge	Per Permit		\$441.00
Cold Mix			
Variable Rate	Per Sq M.		\$82.00
Plus Minimum Charge	Per Permit		\$630.00
Asphalt Sawcutting	Per Lineal M		\$20.00

Concrete

Separate Sidewalk	Per Sq M		\$250.00
Asphalt Sidewalk	Per Sq M		\$103.00
Curb and Gutter	Per Lineal M		\$380.00
Asphalt Curb	Per Lineal M		\$103.00
Mono Sidewalk			
Up to 1.1 Meters Wide	Per Lineal M		\$450.00
Portion over 1.1M Wide	Per Sq M.		\$250.00
Concrete Roads	Per Sq M.		\$270.00
Minimum Charge	Per Permit		\$630.00
Speciality Concrete (New 2014)	Per Sq M.		\$500.00
Minimum Charge	Per Permit		\$750.00

Oiled Roads

Variable Rate	Per Sq M		\$8.50
Minimum Charge	Per Permit		\$630.00

Gravel Roads

Shallow Utilities	Per Cut		\$21.00
Deep Utilities			
Variable Rate	Per Sq M		\$1.00
Minimum Charge	Per Permit		\$80.00

Boulevards

Variable Rate	Per Sq M		\$9.50
Minimum Charge	Per Permit		\$100.00

Compaction Testing

Variable Rate Over 110 Sq M	Per Sq M		\$0.72
Plus Minimum Charge	Per Permit		\$96.30

NOTE; COMPACTION TESTING WILL BE CHARGED EVEN IF REHABILITATION IS DONE BY UTILITY CONCERNED EXCEPT WHERE INDEPENDENT TESTING AGENCIES PROVIDE CERTIFICATION (PRIOR AGREEMENTS ARE NECESSARY)

NOTE; EXTRAORDINARY EXPENDITURES ARE NOT COVERED BY THE EXCAVATION PERMIT RATE (ie. REBAR, FILTER FABRIC, ETC)

**APPENDIX 3  
ELECTIVE PROCESS**

If the Agreement has expired or terminated, or if a telecommunications company has not entered into a Consent and Access Agreement with The City, an Indemnification Agreement for each proposed placement of Equipment must be applied for and entered into with The City. This is an existing process utilized by The City to provide consent for the placement of infrastructure by utility companies.

A company seeking to place infrastructure Within The City's Service Corridor or Within a City Structure that is not a party to a current Consent and Access Agreement with The City must do all of the following:

- 1) Submit an application for an Alignment in the manner required by The City (The electronic Utility Line Assignment (ULA) Submission system).

Once The City's ULA team reviews and approves the proposed placement of the infrastructure, a temporary Alignment will be granted, which must be included with the application for an Indemnification Agreement. The temporary Alignment cannot be used to obtain an Excavation Permit.

- 2) Submit all of the following documents for the application for the Indemnification Agreement (website address: <http://www.calgary.ca/Transportation/Roads/Pages/Development-and-projects/Indemnification-agreements.aspx>):

- a signed request for an Indemnification Agreement on the applying company's letterhead;
- 2 copies of 11"x17" detailed, dimensioned drawings showing the proposed placement of the company's infrastructure; and
- a copy of the temporary Alignment issued under "1", above.

- 3) Submit the complete application by one of the following methods:

**By Mail:**

Indemnification Agreement Coordinator  
Development and Projects  
Transportation Department, ROADS  
The City of Calgary | Mail code: #4003  
P.O. Box 2100, Str. M, Calgary, Alberta  
T2P 2M5

**By Courier:**

Indemnification Agreement Coordinator  
Development and Projects  
Transportation Department, ROADS  
2808 Spiller Road SE, Calgary, Alberta  
T2G 4H3

The application for the Indemnification Agreement will be analyzed and the appropriate level of required security deposit will be determined by The City. Until the applying company has demonstrated competency in proper placement and road rehabilitation through the completion of construction work and for a minimum of two subsequent winter seasons, the security deposit will be set at 100%. After the warranty period as set out in the Indemnification Agreement expires, the applying company may be eligible for a Master Indemnification Agreement and a reduction in the percentage of security deposit that is required for each placement. Upon approval of the completed construction/placement and

## Municipal Consent and Access Agreement ATTACHMENT 1

road rehabilitation work, 50% of the applying company's security deposit will be returned to it. The remaining 50% of the security deposit will be returned after the (minimum) two winter season period when final acceptance of the Restoration is granted by the Director.

- 4) Comply with the security and insurance requirements contained in the Indemnification Agreement that The City has sent to the applying company.
- 5) Return the signed Indemnification Agreement to the Indemnification Agreement Coordinator. The applying company will also be responsible for paying a "Roads Administration and Inspection Fee" that varies according to the estimated value of the Restoration.

If the applying company has met all requirements detailed in the Indemnification Agreement, The City will sign the Indemnification Agreement and send a fully executed copy to the applying company.

- 6) Forward a copy of the fully executed Indemnification Agreement to the ULA team member that provided the temporary Alignment approval.

The ULA team member that provided the temporary Alignment approval will then provide the applying company with a final approval (subject to Council Policy as discussed below) for use in obtaining an Excavation Permit.

- 7) Obtain an Excavation Permit.
- 8) Pay all Fees as set out in Appendix 2, which are incorporated by reference into this Elective Process.

In the case of non-residential placements, Council Policy (2001) requires The City's Department of Infrastructure Information Services to submit each approved Alignment to the Gas, Power and Telecommunications Sub Committee of Council for the Committee's approval. Once approved by the Committee, the approved Alignment will then be forwarded to Council for final approval. When Council approves the Alignment, the responsible ULA team member will send the final approval to the applying company.

**APPENDIX 4  
ENVIRONMENTAL PROTOCOL**

Integrating environmental considerations into all decisions and approvals relating to growth, planning, infrastructure, and development is part of the City's Environmental Policy. With this in mind The City recognizes that environmental stewardship is a shared responsibility and that the performance of The City's Contractors' and business partners plays a critical role in The City's commitment to protecting the environment.

The Environmental Construction Operation ("ECO") Plan Program was developed to enable The City to fulfill its obligation to protect the environment while meeting the needs of a growing city. The ECO Plan Program at The City supports The City with an **ECO Plan Policy**, an **ECO Plan Implementation Procedure**, an **ECO Plan Inspection and Audit Program**, and an **ECO Plan Framework** as the primary tools to integrate environmental issues and responses through all levels of construction.

An **ECO Plan** is a Contractor's project-specific plan consisting of written procedures and drawings used to identify and mitigate the potential environmental issues that may occur as a direct or indirect result of the construction activities for a proposed project. When implemented and followed with adaptive management it assists in the identification, prevention, minimization and mitigation of the potential environmental impacts that may occur as a direct or indirect result of the construction activities on the proposed project. An ECO Plan promotes due diligence, ensures regulatory compliance and provides a tool to ensure appropriate responses are in place to prevent or minimize environmental incidents and emergencies. It also enables The City to demonstrate to stakeholders and the public that there is an environmental commitment and awareness of all parties involved, in both writing and in action.

The Company must complete an **Eco Plan Framework** on an annual basis and provide updates to this plan. <http://www.calgary.ca/UEP/ESM/Pages/Contractor-environmental-responsibilities/ECO-Plans.aspx>

**Fee Schedule for Eco Plan Approval**

ACTIVITY	FEE
<b>Annual Review of ECO Plan submission (Environmental Specialist)</b>	850.00
<b>A maximum of one ECO Plan Inspection Fee administered per month (includes travel time, site inspection, report, environmental technologist and peer review)</b>	\$ 330.00 per inspection
<b>Annual ECO Plan Framework review/revision (Consultant fee and Environmental Specialist)</b>	\$1000.00
<b>Total annual fee required</b>	\$1850.00 + 330.00 per inspection

**APPENDIX 5****APPLICABLE CITY STANDARDS, GUIDELINES AND RESOURCES**

ULA web page:

<http://www.calgary.ca/CS/IIS/Pages/Utility-line-assignments/Utility-Line-Assignments.aspx>

ULA general email:

[utilitylineassignments@calgary.ca](mailto:utilitylineassignments@calgary.ca)

Excavation Permits contact information:

Email: [ExcavationPermitClerks@calgary.ca](mailto:ExcavationPermitClerks@calgary.ca) / Telephone: 403-268-4936

Street Bylaw 20M88:

<http://www.calgary.ca/CA/city-clerks/Documents/Legislative-services/Bylaws/20M88-Streets.pdf>.

(Excavations in Streets, section 37 – 45 and other applicable sections.)

Calgary Traffic Bylaw 26M96:

<http://www.calgary.ca/CA/city-clerks/Documents/Legislative-services/Bylaws/26M96-Traffic.pdf>.

(Temporary Closure, section 37 and other applicable sections.)

The City of Calgary's Roads Construction Standard Specifications:

<http://www.calgary.ca/Transportation/Roads/Pages/Contractors-and-Consultants/Contractors-and-Consultants.aspx>. (300.01 - Excavation Permits, Road Construction; 304.06 - Surface Rehabilitation of Trenches or Cuts; 304.07 - Excavation in Newly Resurfaced or Top Lifted Streets.)

The City of Calgary's Standard Specifications for Road Construction and available on-line at:

<http://www.calgary.ca/Transportation/Roads/Documents/Contractors-and-Consultants/Roads-Construction-2012-Standard-Specifications.pdf>. (Contains instructions for back filling requirements for paved and gravel streets.)

The Temporary Traffic Control Manual and the Standard Specifications for Road Construction:

<http://www.calgary.ca/Transportation/Roads/Pages/Contractors-and-Consultants/Contractors-and-Consultants.aspx>

Eco Plans:

<http://www.calgary.ca/UEP/ESM/Pages/Contractor-environmental-responsibilities/ECO-Plans.aspx>

(2012) Design Guide for Subdivision Servicing:

[http://www.calgary.ca/PDA/DBA/Documents/urban\\_development/publications/design-guidelines-for-subdivision-servicing-2012.pdf](http://www.calgary.ca/PDA/DBA/Documents/urban_development/publications/design-guidelines-for-subdivision-servicing-2012.pdf). (The Guide governs current cross-sections (all but Residential Streets) for developer built roads.)

Council Policy governing residential streets:

[http://www.calgary.ca/PDA/DBA/Documents/urban\\_development/bulletins/bulletin-residential-streets-april-2013.pdf](http://www.calgary.ca/PDA/DBA/Documents/urban_development/bulletins/bulletin-residential-streets-april-2013.pdf).

Environmental Agreements Bylaw:

<http://www.calgary.ca/UEP/ESM/Pages/Our-Environmental-Management-System/Environmental-Agreements-Bylaw.aspx>

Telecommunication Antenna Structures on Municipal Property:

<http://www.calgary.ca/CS/CPB/Pages/Real-Estate/Licensing-for-Telecommunication-Structure.aspx>

The City of Calgary Design Guidelines for Bridges and Structures: email: [bridge-design@calgary.ca](mailto:bridge-design@calgary.ca) for a copy of same.

Standard Specifications for Streetlighting Construction:

[http://www.calgary.ca/PDA/DBA/Documents/urban\\_development/publications/Streetlighting2006.pdf](http://www.calgary.ca/PDA/DBA/Documents/urban_development/publications/Streetlighting2006.pdf)

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**APPENDIX 6****GUIDELINES FOR SAFE CONSTRUCTION IN THE PROXIMITY OF LOW IMPACT DEVELOPMENT SOURCE CONTROL PRACTICES FOR STORMWATER INFRASTRUCTURE**

**Low Impact Development (LID) Source Control Practices (SCPs)** are, for the purposes of this Agreement, alternative stormwater infrastructure assets used to convey and treat stormwater runoff by improving stormwater quality and reducing rate and/or volume at or near its source, to protect watershed health.

**Background**

The traditional focus of stormwater management has been on protection from flooding and erosion and proper operation and maintenance of the stormwater system. The Stormwater Management Strategy, approved by Council in 2005, was developed to additionally address the impacts of urban growth on water quality and watershed hydrology. There are limits to the assimilative capacity of the Bow River and for some pollutants the discharged loads are approaching the provincially regulated limits and current federal guidelines. The strategy identified that an integrated approach to stormwater management is necessary to protect watershed health and ensure sustainability of future growth. This led to the implementation of the LID initiative.

The main strategic goals of the LID initiative include watershed protection, reduction of volume and sediment loading to the Bow River, and development of cost-effective and sustainable stormwater management practices applicable to both new and redevelopment areas.

Other Council approved/adopted guiding policies that support the LID initiative include the Municipal Development Plan (MDP), the Calgary Transportation Plan (CTP), Watershed Management Plans for the Bow and Elbow Rivers and Nose Creek, the Drainage Bylaw, and Erosion and Sediment Control requirements. City wide

The City is currently conducting research on, and piloting LID technologies, improving existing stormwater design guidelines, developing and implementing watershed plans for our critical watersheds, and constructing stormwater treatment retrofit projects to offset Total Suspended Solids (TSS) increases and reduce stormwater volumes. As part of the City's commitment to reducing the volume and sediment loads from older neighbourhoods that currently discharge untreated runoff to our rivers and where the opportunities to acquire land for wet ponds or wetlands are limited or far too expensive, The City is piloting stormwater LID source control retrofit projects in communities throughout Calgary.

**Source Control Practices Stormwater Infrastructure (SCPs)**

SCP stormwater infrastructure differs from stormwater treatment ponds in that they manage stormwater at its source. Types of SCPs that could be near or interact with buried utilities include:

- Bioretention and bioswales;
- Soil Cells, ex. Silva Cells and Strata Cells;
- Permeable pavements; and
- Water reuse sites with either buried or surface storage.

Municipal Consent and Access Agreement ATTACHMENT 1

Key functions that differentiate SCPs from pond management is that they incorporate conveyance, e.g. transport of stormwater from a point of origin (ex: section of paved road, parking lot, etc.) to a destination point (ex: downstream portion of the storm drainage system, emergency overland escape route, etc.). bioretention areas include ponding capacity to increase the volume of water that can be infiltrated for a given catchment size.

There are 6 key elements to a functional SCP that is not visible on the surface and they can look like a normal landscape bed or pavement surface, but is dependent on the type of SCP in question:

- Growing medium soil layer or variable type of permeable pavement surface;
- Filter layer separating the soil from a rock reservoir below;
- Rock reservoir or in some cases manufactured underground stormwater storage units or structural support units;
- Under-drain pipe connected to the storm drainage system;
- Inlet/outlet that drains excess water to the storm drainage system or emergency overland escape route; and
- Specifically chosen vegetation on the surface where SCP appropriate.

**Contact Information**

If the Company is planning maintenance or contraction activities that will disturb the ground in or around a SCP, certain procedures will need to be undertaken prior to commencing Work.

Once notified by Alberta One-Call or by The City upon application for an Excavation Permit that a SCP is within the work area, the Company must contact:

**Scheduled Construction Contact:**

Primary Contact: Team Lead Operations Engineering, Water Services.....(403) 268-1297

**Emergency Contacts: (“Emergency” as defined in Section 1.01(r))**

Primary Contact: Team Lead Operations Engineering, Water Services.....(403) 268-1297

After Hours: After Hours Duty Supervisor .....(403) 225-1018

**Note:** *In the event of an Emergency, the Company must attend to the Emergency and immediately notify the Primary Contact of the Company’s actions. If the Company must undertake action between the hours of 5:00 p.m. and 8:00 a.m., it must notify the After Hours Duty Supervisor and follow up with the Primary Contact on the first Business Day following the occurrence of the Emergency.*

**Rehabilitation and Reconstruction Activities:**

Primary Contact: Team Lead Operations Engineering, Water Services.....(403) 268-1297

**For Technical Information:**

Primary Contact: Team Lead Operations Engineering, Water Services.....(403) 268-1297

### **Locate Information and Exposure Guidelines**

Alberta One-Call and the Excavation Permitting process will notify the Company if the SCP is found within five (5) meters of the proposed construction area.

City Personnel will need to be present to delineate the full extent of the SCP on site to determine the potential magnitude of disturbance prior to construction activities.

Buried sub-drain and stormwater connections will need to be hand exposed by non-destructive means within the construction area where present.

### **Construction Guidelines**

In the case where construction or maintenance activities disturb and negatively impact an SCP, the Company will need to make arrangements with The City to ensure the installation is offline. Once completed, disturbance can occur. City inspectors will have uninterrupted access to the work site. Copies of the following documentation shall be provided if requested:

- Excavation Permit (contact City of Calgary Roads at 403-268-4936).
- Valid locating documentation.
- Alignment (contact City of Calgary Land Info and Mapping at 403-268-5794).

### **Remediation Activities**

Due to the detailed engineering parameters used in the design and construction of SCPs, and the potentially site specific materials specifications and plants, the excavation must be filled with a clean fill upon completion of any activity within the footprint and adjacent land that is part of the design (inlets, outlets, overflow areas, underground stormwater infrastructure connections, etc) of the SCP installation.

Upon completion, The City and it's pre-approved contractors will undertake rehabilitation activities wherever possible, or complete reconstruction activities where warranted. The decision on whether rehabilitation activities can be undertaken on an installation is 1) dependent on the type of SCP disturbed and 2) the amount of disturbance, and will be at the sole discretion of The City. This will ensure that the SCP functions as it was intended as part of the larger stormwater management system.

Dated: \_\_\_\_\_

BETWEEN:

**THE CITY OF CALGARY  
("The City")**

AND:

**[COMPANY]  
(the "Company")**

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**MUNICIPAL ACCESS AGREEMENT -  
TELECOMMUNICATIONS**

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