

## **BYLAW 75-2004**

A BYLAW OF STRATHCONA COUNTY, IN THE PROVINCE OF ALBERTA, FOR THE PURPOSE OF REGULATING THE USE AND OCCUPATION OF MUNICIPAL RIGHTS-OF-WAY.

**WHEREAS** pursuant to Section 7 of the Municipal Government Act, R.S.A. 2000, c.M-26, as amended, a Council of a Municipality may pass bylaws for municipal purposes respecting the safety, health and welfare of people and the protection of people and property;

**AND WHEREAS** pursuant to Section 7 of the Municipal Government Act, R.S.A. 2000, c.M-26, as amended, a Council may pass bylaws for municipal purposes respecting people, activities and things in, on or near a public place or place that is open to the public;

**AND WHEREAS** pursuant to Section 18 of the Municipal Government Act, R.S.A. 2000, c.M-26, as amended, a municipality has the direction, control and management of all roads within the municipality;

**AND WHEREAS** pursuant to Section 61 of the Municipal Government Act, R.S.A. 2000, c.M-26, as amended, a municipality may grant rights, exclusive or otherwise, with respect to its property, including property under the direction, control and management of the municipality;

**AND WHEREAS** pursuant to Section 61 of the Municipal Government Act, R.S.A. 2000, c.M-26, as amended, a municipality may charge fees, tolls and charges for the use of its property, including property under the direction, control and management of the municipality;

**NOW THEREFORE**, the Council of Strathcona County duly assembled, hereby enacts as follows:

### **1. PURPOSE**

The purpose of this Bylaw is:

- (a) to require every person proposing to carry out work for the installation, maintenance, repair, replacement, extension or operation of Equipment in Rights-of-Way to obtain the Municipality's consent to any such work and to apply to the Municipality for the required Permits;
- (b) to provide the Municipality with information on the type and location of Equipment situated in Rights-of-Way and in lands adjacent to Rights-of-Ways so that the Municipality can manage its Rights-of-Way effectively and efficiently;
- (c) to establish permit and other fees to compensate the Municipality for the installation, maintenance, repair, replacement, extension, operation or ongoing presence of Equipment in Rights-of-Way; and
- (d) to protect the Municipality from costs, damages or liability associated with the installation, maintenance, repair, replacement, extension or operation of Equipment in Rights-of-Way by any person.

### **2. DEFINITIONS**

In this Bylaw:

- (a) "Alignment" means a location specified or approved by the Municipality for the location of Equipment in Rights-of-Way;

- (b) "Applicant" means a person applying for a Permit;
- (c) "Council" means the council of the Municipality;
- (d) "Emergency Work" means the installation, maintenance, repair or replacement of Equipment in Rights-of-Way where health, safety or the provision of essential services is endangered;
- (e) "Equipment" means any poles, cables, pipes, conduits, pedestals, antennas, vaults, support structures or other similar facilities or structures;
- (f) "in", with reference to the placement of Equipment in Rights-of-Way only, means "in, on, over, under, along or across";
- (g) "Municipal Manager" means the County Engineer of the Municipality or his/her delegate;
- (h) "Municipality" means Strathcona County;
- (i) "Permit" means any one of the permits and any corresponding applications, in a form set out in Schedule "A" and/or other bylaws of the Municipality, as further modified by the Municipal Manager in any specific case;
- (j) "Person" includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators or other legal representatives, other than the Municipality or its legal representatives, and specifically includes the Applicant and the Owner of the Work or Equipment being done or located within the Rights-of-Way together with the Owner's agents, contractors, invitees or legal representatives;
- (k) "Rights-of-Way Access Agreement" means an agreement approved by Council from time to time that contains one or more provisions for the granting of consent to a person to do Work in Rights-of-Way upon compliance by such person with all other applicable municipal requirements which shall include the Agreement attached as Schedule "F" to this Bylaw;
- (l) "Rights-of-Way Fees" means the fees set out in Schedule "B" and/or other bylaws of the Municipality or the corresponding fees set out in a Rights-of-Way Access Agreement other than Rights-of-Way Use and Occupancy Fees;
- (m) "Rights-of-Way Use and Occupancy Fees" means the fees set out in Schedule "C" and/or other bylaws of the Municipality or the corresponding fees and/or other consideration for the privilege of use and occupation of Rights-of-Way set out by the mutual agreement of the parties to Rights-of-Way Access Agreement;
- (n) "Rights-of-Way Resolution" means a resolution passed by Council granting consent for a person to do Work in Rights-of-Way upon compliance by such person with all other applicable municipal requirements;
- (o) "Rights-of-Way" means the highways, roads, road allowances, streets, lanes, road diversions, bridges, public utility lots, public space, public water or other public places within the jurisdiction of the Municipality, excluding:

- (i) reserve property;
  - (ii) tax recovery property;
  - (iii) easements, leases and licenses;
  - (iv) fee simple titled property;
  - (v) other property designated by the Municipal Manager.
- (p) "Rural Rights-of-Way" shall mean all other Rights-of-Way located within the boundaries of Strathcona County that are not located within the Urban Service Area for the Hamlet of Sherwood Park
- (q) "Urban Rights-of-Way" shall mean those Rights-of-Way located within the boundaries of the Urban Services Area for the Hamlet of Sherwood Park.
- (r) "Violation Ticket" means a ticket issued pursuant to Part II or Part III of the *Provincial Offenses Procedure Act*, S.A. 1988, c.P-21.5, as amended, or repealed and replaced from time to time, and regulations thereunder.
- (s) "Work" means the installation, maintenance, repair, replacement, extension or operation of any Equipment in Rights-of-Way, excluding Emergency Work.

### **3. REQUIREMENT FOR MUNICIPAL CONSENT**

- (1) Council may pass Rights-of-Way Resolutions and Council or the Municipal Manager may approve Rights-of-Way Access Agreements, subject to such terms and conditions, as Council deems appropriate.
- (2) No person shall do any Work in Rights-of-Way unless the person has:
- (a) obtained the consent of the Municipality or is acting on behalf of a person who has obtained consent of the Municipality by way of a Rights-of-Way Resolution or Rights-of-Way Access Agreement,
  - (b) obtained all applicable Permits required by the Municipality as determined by the Municipal Manager, and
  - (c) paid all applicable Rights-of-Way Fees required by the Municipality as determined by the Municipal Manager.

### **4. ALTERNATIVES TO THE REQUIREMENT FOR MUNICIPAL CONSENT**

- (1) The following agreements shall constitute consent of the Municipality for the purposes of performing Work in Rights-of-Ways, however, the person obtaining such consent shall in all other respects be subject to and comply with this Bylaw:
- (a) Development agreements for residential developments or subdivisions entered into prior to the 1st day of January, 2002, specifically providing for the installation of equipment by the developer;
  - (b) Existing utility franchise agreements approved by the Alberta Energy & Utilities Board, and
  - (c) Existing railway crossing agreements approved by the National Transportation Board.
- (2) Work within the Rights-of-Way, which in the sole and unfettered determination of the Municipal Manager, does not adversely interfere with the Municipality's management of the Rights-of-Way and the public's safe use and

enjoyment of the Rights-of-Way shall not require the consent of the Municipality for the purposes of performing such Work in the Rights-of-Way; however, the Person responsible for such Work shall, in all other aspects, be subject to and comply with this Bylaw.

## **5. APPLICATION FOR A PERMIT**

(1) Every Applicant shall provide all of the information required for a Permit and pay the applicable Rights-of-Way Fees at the time that the application for the Permit is made. An application for a Permit that does not meet these requirements shall be deemed to be incomplete.

(2) Subject to subsection (3), upon receipt of an application for a Permit, the Municipal Manager shall issue the required Permit subject to such terms and conditions as the Municipal Manager deems appropriate. The terms and conditions contained in Schedule "D" are deemed to be included in every Permit for Work in Rights-of-Way, unless otherwise specifically excluded.

(3) The Municipal Manager may reject an application for a Permit where:

- (a) the application for the Permit is incomplete,
- (b) the payment of all applicable Rights-of-Way Fees has not been made,
- (c) the consent of the Municipality has not been obtained in accordance with Section 3, or
- (d) any conditions precedent to granting the Permit have not been met.

(4) The Municipal Manager shall provide an Applicant whose application for a Permit is refused, written reasons for the refusal at the time that the Applicant is advised of the refusal.

## **6. APPEALS TO COUNCIL**

(1) Any Applicant whose application for a Permit has been refused may appeal the decision of the Municipal Manager to Council by filing with the Municipal Manager, within thirty (30) days of the Municipal Manager's decision, a notice of appeal containing the Applicant's contact information, grounds of appeal and any related submissions.

(2) Within thirty (30) days of the filing of an appeal notice as set out in Subsection (1), the Municipal Manager shall prepare and deliver a report to Council that shall include:

- (a) the Permit application,
- (b) the Municipal Manager's decision and reasons for any refusal to issue the Permit, and
- (c) the notice of appeal.

(3) Following receipt of the report prepared by the Municipal Manager, Council shall, at such time and place as it determines, review the report described in Subsection (2) and shall:

- (a) confirm the original decision made by the Municipal Manager,

- (b) refer the matter back to the Municipal Manager and direct the Municipal Manager to reconsider the matter having regard to such considerations or directions as Council may provide, or
- (c) direct the Municipal Manager to issue a Permit on such terms and conditions as Council may determine.

## **7. COMPLIANCE WITH MUNICIPAL CONSENT AND PERMITS**

- (1) Every person who obtains the consent of the Municipality to do Work in Rights-of-Way shall comply with the terms and conditions of that consent.
- (2) Every person who obtains a Permit shall comply with the terms and conditions of that Permit, including, without limitation, terms and conditions restricting Work in the Rights-of-Way to the Alignments or other portion of the Rights-of-Way for which authorization is granted in the Permit.

## **8. EMERGENCY WORK**

A person whose equipment is situated in rights-of-way may arrange to have such emergency work done as is strictly necessary to end a situation in which the health, safety or the provision of essential services is endangered without the prior consent of the municipality, if it is not possible to obtain such consent prior to the commencement of the emergency work, provided that the person, without delay, and in any event within 24 hours of the commencement of the emergency work, notifies the municipal manager of the occurrence of the emergency work and provides such additional information concerning the emergency work and its consequences as the municipal manager requests. The person performing such emergency work shall in all other respects comply with all the provisions of this bylaw.

## **9. NOTIFICATION OF WORK ADJACENT TO RIGHTS-OF-WAY**

Every person proposing to carry out Work for the installation, replacement, extension or operation of Equipment adjacent to or in lands within 30 metres of the boundary of Rights-of-Way shall provide the Municipality with one (1) year prior written notice of such work or such other acceptable period of notice as agreed to, in writing, by the Municipal Manager. In the event that the Municipality shall determine that such work will impact the planned future widening, upgrading or maintenance of the Rights-of-Way, the Work shall be carried out in such a manner satisfactory to the Municipality by the responsible person so as to not adversely impact the future widening, upgrading or maintenance of the Rights-of-Way.

## **10. RELOCATION OF EQUIPMENT**

A person whose Equipment is situated in the Right-of-Way shall relocate the Equipment upon request of the Municipal Manager in accordance with the terms of the Right-of-Way Access Agreement approved by the Municipality in accordance with this Bylaw or alternatively, in accordance with the terms of the alternative requirements for municipal consent contained in Section 4 of this Bylaw. If a person who has Equipment located in a Right-of-Way does not have consent for the Equipment to be in the Right-of-Way in accordance with the terms of this Bylaw, the person shall remove or relocate the Equipment in accordance with the terms and conditions specified in writing by the Municipal Manager.

## **11. RIGHTS-OF-WAY OCCUPANCY FEES**

(1) Every person whose Equipment is situated in Rights-of-Way is liable to pay the applicable Rights-of-Way Use and Occupancy Fees in respect of the period of time during which the Equipment is situated in the Rights-of-Way.

(2) Payment of Rights-of-Way Use and Occupancy Fees does not constitute a condition precedent for the granting of municipal consent to Work in Rights-of-Way or for the granting of a Permit.

## **12. PENALTIES**

(1) Every person who fails to do anything that he or she is required to do pursuant to this Bylaw or who does anything that he or she is prohibited from doing under this Bylaw is guilty of an offence and is liable upon summary conviction to fines as set out in Schedule "E".

(2) Nothing in this Bylaw shall be construed as curtailing or abridging the right of the Municipality to obtain compensation or to maintain an action for loss of or damage to property from or against the person responsible for a contravention of this Bylaw.

## **13. VIOLATION TICKET**

A municipal Bylaw Enforcement Officer, the Municipal Manager or his designate is hereby authorized and empowered to issue a Violation Ticket pursuant to the Part II or III of the *Provincial Offences Procedure Act*, S.A. 1988, c.P-21.5, as amended, or repealed and replaced from time to time, to any person who the Bylaw Enforcement Officer, Municipal Manager or his designate have reasonable grounds to believe has contravened any provision of this Bylaw.

## **14. SEVERABILITY**

If any portion of the Bylaw is, for any reason, declared invalid, in whole or in part, by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions, which shall remain in full force and effect.

## **15. RESOLUTION OF INCONSISTENCIES**

In the event of any inconsistency between any provision in this Bylaw and a provision in a Rights-of-Way Resolution or a Rights-of-Way Access Agreement, the provision in this Bylaw shall take precedence.

16. REPEAL OF 95-2002

Bylaw 95-2002 is hereby repealed.

READ the first time this 24 day of August, 2004.

READ the second time this 24 day of August, 2004.

READ the third time and duly passed this 24 day of August, 2004.

STRATHCONA COUNTY

PER:   
MAYOR

PER:   
MANAGER, LEGISLATIVE &  
LEGAL SERVICES

Date Signed: August 27, 2004

## FORMS OF PERMITS AND PERMIT APPLICATIONS

### ENGINEERING & ENVIRONMENTAL PLANNING

#### Utility Line Assignment Permit Application

Project File Number:	Date:
Utility Company:	Contact Name:
Address:	Phone #:

#### 1. Location of Proposed Work:

Infrastructure Affected

Road	<input type="checkbox"/>	Walk	<input type="checkbox"/>	Curb & Gutter	<input type="checkbox"/>
Lane	<input type="checkbox"/>	Boulevard	<input type="checkbox"/>		

Other \_\_\_\_\_

#### Installation:

Alignment/Offset \_\_\_\_\_ Length \_\_\_\_\_ Depth \_\_\_\_\_

No. of Cable/Conduit \_\_\_\_\_ Size \_\_\_\_\_ Joint Use? Yes ☐ With \_\_\_\_\_ No ☐

Type of Installation: Aerial ☐ Direct Buried ☐ Push ☐ Other \_\_\_\_\_

Copper ☐ Fibre ☐ Coaxial ☐ Other \_\_\_\_\_

#### 3. Backfill Method: (if applicable)

#### 4. Utility installation/backfill by:

Contractor ☐ Name/Phone \_\_\_\_\_

#### 5. Surface restoration by:

Contractor ☐ Name/Phone \_\_\_\_\_

#### Anticipated construction start date:

#### Duration:

#### 7. 3-Year no-cut location?

Yes ☐ No ☐

#### 8. Part of County initiated project?

Yes ☐ No ☐

Program/Project:

#### 9. Drawing Requirements:

Alignment ☐ Ped/Vault Locations ☐ Ped/Vault Size ☐

Cable Type ☐ No. Cable /Conduit ☐ Geo-spatial Data ☐

#### Comments and/or other information:

#### Strathcona County Approval to Proceed:



**RIGHTS-OF-WAY FEES**

**PERMITTING AND INSPECTION FEES**

1. These fees are charged to recover the costs of reviewing and circulating applications, issuing Permits and inspecting restoration of the Rights-of-Way.
  - 1.1 The short permit/limited circulation charge of \$25.00 per Utility Line Assignment Permit will apply to all applications for a Utility Line Assignment Permit where the length of the Equipment or Work is less than twenty (20) metres and the proposed Work only requires a limited circulation or no circulation. These fees also apply to Buried Line Drop Applications.
  - 1.2 Applications for a Utility Line Assignment Permit where the length of the Equipment or Work is greater than twenty (20) metres require a full circulation and the long permit charge of \$505.00 per Utility Line Assignment Permit will apply. In addition to this base fee a long permit linear charge of \$1.50 per metre of length for each Utility Line Assignment Permit assigned which has Equipment or Work that is greater than twenty (20) metres will apply.
2. The fees outlined above in Sections 1.1 and 1.2 are 2001 rates and will be adjusted annually based on a percentage increase equal to the Consumer Price Index Variation, expressed as a percentage rate per annum, calculated and compounded annually for each and every year of the Bylaw. If the change in the Consumer Price Index is a negative sum for any given year then the change in the base rate for that year shall be zero. In addition to the annual adjustment for the Consumer Price Index Variation, the Municipality reserves the right to make further adjustments to the fees as it deems appropriate in its sole discretion.

**AGREEMENT PREPARATION AND ADMINISTRATION FEES**

1. These fees are charged to recover the costs associated with preparing and negotiating Rights-of-Way Access Agreements between the Municipality and all other relevant Parties as well as to cover the costs of administering these agreements.
  - 1.1 Within thirty (30) days of execution of a Rights-of-Way Access Agreement, the Company covenants and agrees to pay to the County an Agreement Preparation and Administration Fee of up to \$2,000.00 to recover the approval and administration costs associated with the negotiation of the Rights-of-Way Access Agreement. The Chief Commissioner, acting reasonably, reserves the right to set this fee commensurate with time required to negotiate, prepare and administer any such Rights-of-Way Agreement.

**RIGHT-OF-WAY USE AND OCCUPATION FEES**

**A. LINEAR RATES**

1. These fees are charged to cover the cost of a license of Rights-of-Way for the placement of Equipment. The fees are per linear metre for Equipment constructed in Rights-of-Way.

Rights-of-Way Classification	Fee per Linear Metre
Urban Rights-of-Way	\$1.70
Rural Rights-of-Way	\$0.07

1.1. The linear rates outlined above in Section 1.1 are 2001 rates and are base rates established at the time of the enactment of this bylaw.

1.2. The linear rates outlined above will be adjusted annually based on a percentage increase equal to the Construction Price Index Variation, expressed as a percentage rate per annum, calculated and compounded annually for each and every year of the Bylaw. If the change in the Construction Price Index is a negative sum for any given year then the change in the base rate for that year shall be zero. In addition to the annual adjustment for the Construction Price Index Variation, the Municipality reserves the right to make further adjustments to the linear rates as it deems appropriate in its sole discretion.

1.3. Any Rights-of-Way Access Agreement entered into between the Municipality and any person will be subject to the appropriate rate charges at the time that Rights-of-Way Access Agreement is signed. The current linear rates at the time of the signing of Rights-of-Way Access Agreement will be used for the first term of the Rights-of-Way Access Agreement. For any subsequent terms the linear rates will be adjusted pursuant to Section 1.2 of this Schedule "C".

2. The linear rates are subject to the following adjustment factors:

2.1 A reduction for a sharing factor is applied based on the number of persons using a given alignment.

2.2 An additional charge for exclusive rights factor is applied to a person who is an exclusive franchise holder within the Municipality.

2.3 A reduction charge for a depth and disruption factor is applied to Equipment located at a depth greater than 1.5m.

2.4 An additional charge at twice the base rate for persons whose operations present a loss of life risk.

**B. LOST PRODUCTIVITY COSTS**

1. The Lost Productivity Costs are charged to recover the extra costs incurred by the Municipality as a result of extra work required by the Municipality over and above the costs that would be anticipated if the Equipment did not exist in the Rights-of-Way. These costs are charged out based on actual costs incurred by the Municipality.

2. The Lost Productivity Costs are payable to the Municipality within thirty (30) days of receipt of an invoice thereof, provided that the Municipality has provided reasonable written documentation describing these costs including:

- a) the location of the Equipment;
- b) a description of the Municipality's work;
- c) an explanation of the nature of the interference caused by the Equipment; and
- d) an itemized breakdown of the Municipality's costs including labour, supplies, equipment and applicable loading factors.

**C. GOODS AND SERVICES TAX (GST)**

1. All charges and fees applicable as per this Bylaw and pursuant to this Schedule "C" shall be payable at the rates stated plus the Goods and Services Tax (GST), if applicable.

**PERMIT STANDARD TERMS AND CONDITIONS**

1. These standard terms and conditions apply to all Work conducted by or on behalf of the Applicant.
2. Unless otherwise specifically provided in these standard terms and conditions, capitalized terms herein have the same meaning given to them in Bylaw 75-2004, "A Bylaw to Regulate the Use and Occupation of a Municipal Rights-of-Way", as amended or replaced from time-to-time.
3. All Work shall conform to all applicable federal, provincial and municipal statutes, laws and by-laws and other applicable legal requirements.
4. All Work shall be conducted and completed to the satisfaction of the Municipal Manager.
5. All Work shall be performed in a manner that safeguards and protects all other support structures, transmission lines, equipment, facilities and improvements of any kind ("Improvements") present in the Rights-of-Way.
6. After completion of any Work, the Applicant shall leave the Rights-of-Way in substantially the same condition in which they were before such Work was undertaken by the Applicant, free from nuisance and to the satisfaction of the Municipal Manager. If the Applicant fails to repair and restore any Rights-of-Way to the satisfaction of the Municipal Manager within two (2) days of being notified by the Municipality, the Municipality may effect such repairs and charge all costs related thereto to the Applicant.
7. If the Municipality requires that any Work be stopped, the Applicant shall cease such Work upon delivery of a written notice to the Applicant to that effect by the Municipal Manager.
8. The Applicant shall be at all times responsible for all Work, including the cost of such Work.
9. The Applicant's Work shall not unduly interfere with the public use and enjoyment of the Rights-of-Way.
10. The Applicant shall notify the Municipality promptly of any damage caused by the Applicant in connection with its Work.
11. The Municipality has made no representations or warranties as to the state of repair of the Rights-of-Way or the suitability of the Rights-of-Way for any business, activity or purpose whatsoever and the Applicant hereby agrees to take the Rights-of-Way on an "as is" basis for the purpose of the carrying out of the Applicant's Work and the Municipality is not responsible, either directly or indirectly, for any damage to property or injury to a person, including death, arising from the escape, discharge or release of any hazardous substance from its Rights-of-Way.
12. The Applicant may be required to post security with the Municipality from time-to-time in an amount and form acceptable to the Municipal Manager to guarantee the performance by the Applicant of its obligations in connection with Work performed under this Permit. The vehicle by which such security is granted shall, in each case, specify with precision the Work that is guaranteed by the security, and the circumstances under which the Municipality may have recourse to the security. Security posted in respect of certain Work shall be released promptly by the Municipality if and to the extent that the Work is completed to the satisfaction of the Municipal Manager.

13. The Applicant shall conform and shall be responsible for the conformance by its officers, employees, agents, contractors and invitees to all health and safety laws including any regulations requiring installation of safety devices or appliances, and any applicable traffic laws or regulations (collectively "Safety Rules"). The Municipality may, on twenty-four (24) hours written notice to the Applicant, or sooner if in the opinion of the Municipality the likelihood of harm to persons is imminent, suspend Work performed by or on behalf of the Applicant where there appears to be a lack of compliance with the Safety Rules or because conditions of danger exist that would likely result in injury to any person. Such suspension shall continue until the lack of compliance or danger is eliminated.
14. For the purpose of this provision, "hazardous substance" means any hazardous substance and includes, but is not limited to, radiation, petroleum products and byproducts, industrial wastes, contaminants, pollutants, dangerous substances, and toxic substances, as defined in or pursuant to any law, ordinance, rule, regulation, by-law or code, whether federal, provincial or municipal. The Applicant agrees to assume all environmental liability relating to its Work in the Rights-of-Way, including but not limited to any liability for clean-up of any hazardous substance in, on, under, along, across and around the Rights-of-Way which result from:
  - a) the operations of the Applicant in, on, over, under, along, across or around the Rights-of-Way; or
  - b) any products or goods brought in, on, over, under, along, across or around the Rights-of-Way by the Applicant, or by any other person with the express or implied consent of the Applicant.
15. The Municipality shall not, in connection with the Applicant's Work, be liable for any damage to the Equipment or other property of the Applicant, or for the injury or death of any officer, employee, agent, contractor, licensee or invitee of the Applicant except where caused by the willful misconduct of the Municipality or its employees.
16. The Applicant hereby indemnifies the Municipality from and against all losses, liabilities, costs, damages, and expenses (including reasonable legal fees and disbursements) incurred by the Municipality in connection with the Applicant's Work 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 caused by the wilful misconduct or negligence of the Applicant, its officers, employees, agents, contractors, licensees or invitees.
17. The Municipality shall not be liable in any way for indirect or consequential losses or damages, or damages for pure economic loss, howsoever caused or contributed to, in connection with the Applicant's Work.
18. The Applicant shall, at its own expense, procure and carry, or cause to be procured and carried and paid for, full workers' compensation coverage for itself and all workers, employees, and others engaged in or upon any Work.
19. The Applicant shall maintain insurance coverage, sufficient in amount and coverage to meet the requirements of the Municipality, as notified by the Municipal Manager from time-to-time. All such insurance policies shall provide that they cannot be cancelled, lapsed or materially changed without at least thirty (30) days notice to the Municipality by registered mail. All such insurance policies shall contain a cross-liability clause and no subrogation clause as against the Municipality and shall name the Municipality as a named insured.

**FINES**

<b><u>VIOLATION</u></b>	<b><u>PENALTY</u></b>
Each contravention of any provision of this Bylaw	\$10,000.00

**RIGHT-OF-WAY ACCESS AGREEMENT**

**THIS AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_,  
("Effective Date")

BETWEEN:

**STRATHCONA COUNTY, a municipal corporation  
established pursuant to the laws of the Province of Alberta**

**(hereinafter called the Municipality)**

- and -

**(hereinafter called the Company)**

**WHEREAS** the Company provides telecommunications or broadcasting services;

**AND WHEREAS**, in order to provide telecommunications or broadcasting services the Company wishes to enter on those highways within the jurisdiction of the Municipality delineated in Schedule "A" ("Rights-of-Way") from time-to-time for the purpose of constructing, maintaining, operating and removing support structures, transmission lines and other related telecommunications facilities (as that term is defined in the *Telecommunications Act* (Canada) ("*Telecom Act*"), such support structures, transmission lines and other related telecommunications facilities hereinafter called "Equipment", in, on, over, under, along or across the Rights-of-Way;

**AND WHEREAS**, the Municipality is the public authority having jurisdiction over the Rights-of-Way;

**AND WHEREAS**, the Company must obtain the Municipality's consent to the occupancy and use of the Rights-of-Way consisting of constructing, maintaining, operating and removing its Equipment in, on, over, under, along or across the Rights-of-Way;

**AND WHEREAS**, the Company must not unduly interfere with the public use, enjoyment and safety of the Rights-of-Way and must share the use of the Rights-of-Way with other providers of services to the public (the Company and all such providers hereinafter collectively called "Service Providers") when occupying and using the Rights-of-Way as described above;

**AND WHEREAS** the Municipality is willing to grant its consent to the occupancy and use of the Rights-of-Way consisting of the construction, operation, maintenance and removal of the Equipment in, on, over, under, along or across the Rights-of-Way having due regard to the safety, use and enjoyment of the Rights-of-Way by others, as described above;

**AND WHEREAS** the Municipality and the Company have agreed that it would be mutually beneficial to outline the terms and conditions pursuant to which said consent shall be provided by the Municipality to the Company in the form of a non-exclusive right;

**NOW THEREFORE** in consideration of the promises and mutual covenants herein contained, the Municipality and the Company each agree with the other as follows:

#### **Scope of Municipal Consent**

1. The Municipality hereby consents and grants a non-exclusive right to the Company to occupy and use locations specified by the Municipality within the Rights-of-Way ("Alignments") during the Term as defined in section 28 hereof for the purpose of constructing, operating, maintaining and removing its Equipment for use only in the provision of "telecommunications services" (as defined in subsection 2(1) of the *Telecom Act*) or "broadcasting" (as defined in subsection 2(1) of the *Broadcasting Act* (Canada) ("*Broadcast Act*") subject to the terms and conditions hereinafter set forth and in accordance with all applicable federal, provincial and municipal statutes, laws and by-laws or other applicable rules and regulations.
2. The Company may access the Rights-of-Way in accordance with the terms of this Agreement for the purpose of exercising its rights under section 1 of this Agreement.

#### **Authorization of Work**

3. The Company shall not excavate, break up or otherwise breach the surface of any Rights-of-Way or engage in any other work therein for the purpose of constructing, operating, maintaining or removing any of its Equipment in, on, over, under, along or across any Rights-of-Way (each of these activities hereinafter collectively called "Work") without first:
  - a) providing plans to the most senior municipal official responsible for overseeing such Work or his designate ("Municipal Manager"), setting out a proposal for an Alignment for the Company's Equipment and such other information required by the Municipal Manager in a form acceptable to the Municipal Manager; and
  - b) obtaining the written authorization of the Municipal Manager to an Alignment.
4. The Company shall provide all required information and obtain all required municipal construction and/or other permits normally required by the Municipality in the circumstances prior to commencing any Work.
5. In the event of an emergency involving the Company's Equipment, the Company may perform such Work as is strictly necessary to end the emergency without the prior consent of the Municipality, provided that the Company notifies the Municipality of the occurrence of the Work within twenty-four (24) hours.

#### **Conditions**

6. All Work conducted by or on behalf of the Company is subject to the following conditions:
  - a) the Work shall conform to all applicable federal, provincial and municipal statutes, laws and by-laws or other applicable rules and regulations, including, but not limited to, the terms of any authorizations granted by the Municipal Manager, permits issued by the Municipality and the provisions of this Agreement;
  - b) the Work shall be conducted and completed to the satisfaction of the Municipal Manager;



- c) the Work shall be performed in a manner that safeguards and protects all other support structures, transmission lines, equipment, facilities and improvements of any kind ("Improvements") present in the Rights-of-Way;
- d) after completion of any Work, the Company shall leave the Rights-of-Way in substantially the same condition in which it was before such Work was undertaken by the Company, free from nuisance and to the satisfaction of the Municipal Manager. If the Company fails to repair and restore any Rights-of-Way to the satisfaction of the Municipal Manager within two (2) days of being notified by the Municipality, the Municipality may effect such repairs and charge all costs related thereto to the Company;
- e) if the Municipality requires that any Work be stopped, the Company shall cease such Work upon delivery of a written notice to the Company to that effect by the Municipal Manager; and
- f) the Company shall be responsible for all Work, including the cost of such Work.

#### **Representations and Warranties**

7. The Company represents and warrants to, and covenants and agrees with the Municipality that:
- a) the Company's occupancy and use of the Rights-of-Way shall not unduly interfere with the public use and enjoyment of the Rights-of-Way;
  - b) the Company has no title to or other ownership or property interest in any Alignments or Rights-of-Way;
  - c) the Company shall not register or permit to be registered any instrument claiming an estate, interest or property right in the Rights-of-Way or other property of the Municipality in any real or personal property registry by virtue of the Company's occupancy or use of the Rights-of-Way or this Agreement;
  - d) the Company shall not suffer or permit any lien to be filed or registered against any Rights-of-Way;
  - e) the Municipality has made no representations or warranties as to the state of repair of the Rights-of-Way or the suitability of the Rights-of-Way for any business, activity or purpose whatsoever and the Company hereby agrees to take the Rights-of-Way on an "as is" basis and that the Municipality is not responsible, either directly or indirectly, for any damage to property or injury to a person, including death, arising from the escape, discharge or release of any hazardous substance from its Rights-of-Way;
  - f) the Company shall use reasonable efforts to schedule Work and share Alignments and support structures with other Service Providers occupying and using the Rights-of-Way, with the intent of minimizing the necessity for road cuts, construction and the placement of support structures in the Rights-of-Way;
  - g) the Company shall notify the Municipality of any damage caused by the Company in connection with its Work, Equipment or enjoyment of its right to occupy and use Alignments under this Agreement;

- h) the Municipality may cross the Company's Equipment with its own Improvements or otherwise, and may use the Rights-of-Way for any purpose, and may allow other parties to cross the Company's Equipment with their Improvements or otherwise and to use the Rights-of-Way, all at no charge to the Municipality and without further agreement with the Company; and
  - i) all of the covenants, representations, warranties, indemnities and outstanding obligations (including outstanding payment obligations) of the Company under this Agreement shall survive the termination of the Agreement, however caused.
8. The Municipality represents and warrants to and covenants and agrees with the Company that the Municipality has jurisdiction over any Rights-of-Way for which the Municipality grants consent to the Company and has the authority to grant such consent.

#### **As-Built Drawings**

9. The Company shall provide "as-built" drawings to the Municipality in form(s) and content acceptable to the Municipal Manager, including electronic format if required, within two (2) months of completing the construction of Equipment in, on, over, under, along or across any Rights-of-Way.

#### **Utility Coordination**

10. The Company agrees to participate in any centralized utility location notification procedures of the Municipality with the Municipality and other Service Providers, and to pay its proportionate share of the costs of the administration of such procedures.
11. The Company further agrees to participate in any utility coordinating committees or forums as may be established by the Municipality, and to pay its proportionate share of the costs of the administration of such forums.
12. The Company shall, at no cost to the Municipality, provide locations of Equipment within forty-eight (48) hours of receiving such requests from the municipality, or if the Company is a member of One Call, then the location of Equipment shall be in accordance with that service.

#### **Emergencies**

13. The Company shall provide to the Municipal Manager a list of twenty-four (24) hour emergency contact personnel and shall ensure that the aforementioned list is always current.
14. The Municipality shall provide to the Company a current list of twenty-four (24) hour emergency contact personnel for both its own personnel and those of the other Service Providers.

## Relocation

15. Upon receipt of thirty (30) days advance written notice from the Municipal Manager, or such other time as is mutually agreed to by the parties, the Company shall, at its own expense, provided the Equipment was installed greater than 5 years prior to the request for relocation, relocate Equipment to which this Agreement relates, or perform any other Work in connection with the Rights-of-Way as may be required by the Municipality for municipal purposes. If the Equipment was installed with the written authorization of the Municipality less than 5 years prior to the request for relocation, or provided further that the relocation is not for a Municipal purpose but is for the benefit of a third party, then the Company shall relocate the Equipment to which this Agreement relates, or perform any other Work in connection with the Rights-of-Way as may be required by the Municipality and may negotiate for the Company's reasonable costs incurred for the relocation of the Equipment with the Municipality or the third party, as the case requires. However, in cases of emergency, the Municipality may take any measures deemed necessary for public safety with respect to the Equipment that may be required in the circumstances as the Municipality shall determine and the Company shall reimburse the Municipality for all related expenses thereby incurred. **The Municipality shall be the sole determiner of all cost sharing arrangements for the relocation of the Equipment.**
16. If the Company fails to complete the relocation of the Equipment in accordance with section 15, or fails to repair the Rights-of-Way or to perform any other Work required to be done by the Company pursuant to this Agreement in a timely and expeditious manner to the satisfaction of the Municipal Manager, the Municipality may, but is not obligated to, at its sole option, complete such relocation or other Work. In such event, the Company shall pay the cost of such relocation Work to the Municipality, together with an administrative charge of fifteen percent (15%) of such cost.

## Security

17. The Company may be required to post security with the Municipality from time-to-time in an amount and form acceptable to the Municipal Manager to guarantee the performance by the Company of its obligations in connection with Work performed under this Agreement. The vehicle by which such security is granted shall, in each case, specify with precision the Work that is guaranteed by the security, and the circumstances under which the Municipality may have recourse to the security. Security posted in respect of certain Work shall be released promptly by the Municipality if and to the extent that the Work is completed to the satisfaction of the Municipal Manager.

## Payments to Municipality

18. The Company covenants and agrees to pay to the Municipality:
  - a) all of the usual permit fees associated with the permits that the Company requires in connection with its Work; and
  - b) the consideration set out in the Municipality's applicable by-laws, as amended from time-to-time, with respect to Rights-of-Way fees to recover causal costs incurred by the Municipality as a result of the Company's Equipment being located in the Rights-of-Way and with respect to Rights-of-Way Use and Occupancy Fees to recover the cost of the license to occupy and use of the Rights-of-Way.

### Taxes and Utilities

19. The Company shall, in addition to other amounts specifically payable by it under this Agreement, be responsible for the payment of all taxes attributable to the Company, including, without limitation, those taxes attributable to the Company's use and occupancy of the Rights-of-Way, and for the payment of the cost of all services and utilities consumed in respect of the Company's operations.
20. For the purpose of section 19, "taxes" includes, without limitation, all taxes, duties, levies, assessments, rates, fees or charges of any kind whatsoever, imposed, levied, assessed or charged now or in the future by any government authority of any kind, and any payments that are levied in substitution, or in lieu, or in addition to any of the foregoing.

### Late Payment Charges

21. Payment terms are net thirty (30) days under this Agreement. Overdue accounts shall be charged interest at the rate of Two percent (2%) per month compounded monthly or at the maximum lawful rate, whichever is lower.

### Obsolete and Abandoned Equipment

22. The Company shall notify the Municipality promptly when it ceases to use any Equipment **excepting service connections or other Equipment in a temporary state of non-use as determined in the sole discretion of the Municipal Manager**, situated in, on, over, under, along or across the Rights-of-Way. Upon such notification, the Municipality may, at any time, require the Company to remove the said Equipment within a specified period of time, being no less than ninety (90) days from the date of the Company's notification, failing which such Equipment and any support structure containing only such Equipment shall be deemed to have been abandoned by the Company and title thereto shall vest in the Municipality at the option of the Municipality. Should the Municipality determine that such Equipment is required to be removed, the Municipality may at its option, remove such Equipment and recover the costs associated with the removal from the Company.

### Excess Capacity

23. Whenever the Company installs new conduits by open cut along or across any Rights-of-Way, and the new conduits are not employed for the sole purpose of connecting a single building or customer location to the Company's Equipment, the Company shall:
  - a) unless otherwise waived by the Municipal Manager in writing, ensure that any conduits to be placed in the Rights-of-Way are sized so as to accommodate the transmission capacity requirements of the Company along or across the Rights-of-Way for a period of 5 years from the date of installation of the conduits; and
  - b) install such additional excess conduit capacity as the Municipal Manager requires and make available to other providers of telecommunications services or broadcasting, on reasonable terms and conditions, such additional excess conduit capacity as the Municipality and the Company may in writing agree or the Canadian Radio-television and Telecommunications Commission or its

successor ("CRTC") may direct, for the more efficient administration of the occupancy and use of the Rights-of-Way.

24. The Company shall use its best efforts to place its Equipment in or along existing support structures situated in the Rights-of-Way whenever possible.

### **Third Party Equipment**

25. The Company shall not permit any third party to use any Alignment occupied or used by the Company under this Agreement, unless the third party first provides evidence to the Company that it has entered into an agreement with the Municipality in respect of such use.
26. In all cases where the Company shares ownership or other rights with a third party in respect of any Equipment situated in, on, over, under, along or across an Alignment occupied or used by the Company under this Agreement, the Company shall remain responsible for performing all of its obligations under this Agreement, as if it is the sole owner of the Equipment.
27. For the purpose of sections 25 and 26 of this Agreement a "use" of an Alignment by a third party occurs whenever a third party situates any Equipment or connects any Equipment to the Equipment of the Company in, on, over, under, along or across the Alignment, or is in the position where it may cause any Work to be performed in, on, over, under, along or across the Alignment.

### **Term of Agreement**

28. Unless otherwise terminated in accordance with its provisions, the initial term of this Agreement shall commence on the Effective Date and shall be 2 years in duration. Unless the Agreement is otherwise terminated in accordance with its provisions, it shall be automatically renewed for 2 additional successive terms of 2 years duration each, subject to the then current fees and conditions to be paid in accordance with Section 18 of this Agreement and the Municipality's bylaws. The initial term and the subsequent terms to the extent applicable shall be called the Term.

### **Default and Termination**

29. This Agreement may be terminated at any time during the Term by the mutual written agreement of the Municipality and the Company.
30. This Agreement may be terminated by the Municipality by written notice delivered to the Company upon the occurrence of one of the following events:
- a) the Company fails to pay any undisputed amount payable pursuant to this Agreement within ninety (90) days of the date on which the payment is due;
  - b) the Company fails to pay fifty percent (50%) of any disputed amount payable pursuant to this Agreement within ninety (90) days of the date on which the Municipality claims that the payment is due;
  - c) the Company unduly interferes with the public (including Service Providers) use or enjoyment of the Rights-of-Way and does not rectify such interference within thirty (30) days of being notified by the Municipality of the occurrence of such undue interference; or

- d) there is filed by or against the Company in any court an uncontested petition in bankruptcy or insolvency or for reorganization or for appointment of a liquidator of the Company's property, or if the Company makes an assignment or petitions for or enters into an arrangement for the benefit of creditors and any such assignment or petition remains undismissed after thirty (30) days or is not stayed on appeal.
31. A party to this Agreement may terminate the Agreement upon one hundred and eighty (180) days written notice delivered to the other party if that other party defaults under any of its obligations under this Agreement and fails to correct the default prior to the expiry of the one hundred and eighty (180) day period.
32. Upon termination of the Agreement and in the absence of a new agreement, the Company shall, if and to the extent requested by the Municipality, remove its Equipment, at its own expense, and within the time period specified by the Municipality in accordance with any directions provided by the Municipal Manager for such removal, failing which either party may apply to the CRTC for a resolution of the matter. A failure by the Company either to comply with the Municipal Manager's direction and contest such a direction at the CRTC within thirty (30) days of delivery of written notice of the direction, or to comply with an order made by the CRTC for removal of Equipment within the timeframe set out in the order shall result in the Equipment being deemed to have been abandoned and title therein shall vest in the Municipality at the option of the Municipality.

#### **Occupational Health and Safety and Traffic**

33. The Company shall conform and shall be responsible for the conformance by its officers, employees, agents, contractors and invitees to all health and safety laws including any regulations requiring installation of safety devices or appliances, and any applicable traffic laws or regulations (collectively "Safety Rules"). The Municipality may, on twenty-four (24) hours written notice to the Company, or sooner if in the opinion of the Municipality the likelihood of harm to persons is imminent, suspend Work performed by or on behalf of the Company on that portion of the Equipment located in, on, under, along or across Rights-of-Way where there appears to be a lack of compliance with the Safety Rules or because conditions of danger exist that would likely result in injury to any person. Such suspension shall continue until the lack of compliance or danger is eliminated.

#### **Environmental Responsibility**

34. The Company agrees to assume all environmental liability relating to its occupancy and use of the Rights-of-Way, including but not limited to any liability for clean-up of any hazardous substance in, on, under, along, across and around Rights-of-Way which result from:
- a) the operations of the Company in, on, under, along, across or around the Rights-of-Way; or
  - b) any products or goods brought in, on, under, along, across or around the Rights-of-Way by the Company, or by any other person with the express or implied consent of the Company.

35. For the purpose of subsection 7(e) and section 34, "hazardous substance" means any hazardous substance and includes, but is not limited to, radiation, petroleum products and byproducts, industrial wastes, contaminants, pollutants, dangerous substances, and toxic substances, as defined in or pursuant to any law, ordinance, rule, regulation, by-law or code, whether federal, provincial or municipal.

#### **Liability and Indemnification**

36. The Municipality shall not, in connection with this Agreement, be liable for any damage to the Equipment or other property of the Company, or for the injury or death of any officer, employee, agent, contractor, licensee or invitee of the Company except where caused by the willful misconduct of the Municipality or its employees.
37. The Company hereby indemnifies the Municipality from and against all losses, liabilities, costs, damages, and expenses (including reasonable legal fees and disbursements) incurred by the Municipality in connection with this 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 caused, in whole or in part by the Company, its officers, employees, agents, contractors, licensees or invitees.
38. Subject to the provisions of sections 36 and 39, the Municipality hereby indemnifies the Company from and against all losses, liabilities, costs, damages, and expenses (including reasonable legal fees and disbursements) incurred by the Company in connection with this 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 caused by the wilful misconduct of the Municipality, its officers, employees, agents, contractors, licensees or invitees.
39. Notwithstanding anything contained in this Agreement, the Municipality shall not be liable in any way for indirect or consequential losses or damages, or damages for pure economic loss, howsoever caused or contributed to, in connection with this Agreement or with any Equipment, other property or Rights-of-Way governed hereby.

#### **Successors and Assigns**

40. This Agreement shall be binding upon and shall inure to the benefit of the Company and the Municipality and their respective successors and assignees. For the purposes of this Agreement, "successors" of a party shall include any person, firm, corporation, or other entity which at any time, whether by merger, acquisition, purchase, or otherwise, shall acquire all or substantially all of the assets of that party. The Company may assign this Agreement during the Term to an "affiliate", as that term is defined in the *Canada Business Corporations Act* (Canada), upon advance written notice to the Municipality. The Company may not otherwise assign this Agreement without the advance written consent of the Municipality, which consent may not be unreasonably withheld, conditioned, or delayed.
41. In the event of any assignment of the Agreement by the Company, the Company shall remain jointly and severally liable under this Agreement in all respects with the assignee, and the Municipality may require the assignee to enter into its own agreement with the Municipality before the assignment becomes effective.

42. Despite section 40, the Company may pledge the rights granted by this Agreement as security without the consent of the Municipality to any person directly or indirectly providing financing to the Company but such pledge shall not release the Company from its obligations and liabilities under this Agreement.

#### **Non-Parties to Agreement**

43. Nothing in this Agreement shall be construed as affecting any rights or otherwise of others not a party to this Agreement.

#### **No Property Rights**

44. No occupancy or use of the Rights-of-Way under this Agreement shall create or vest in the Company or any other party any ownership or property rights in any Alignments or in the Rights-of-Way, and the Company shall be and remain a non-exclusive occupant and user of the Rights-of-Way.
45. Placement of the Equipment in the Rights-of-Way shall not create or vest in the Municipality any ownership on property rights to the Equipment, except as specifically provided herein.

#### **Workers' Compensation Coverage**

46. The Company agrees that it shall, at its own expense, procure and carry, or cause to be procured and carried and paid for, full workers' compensation coverage for itself and all workers, employees, and others engaged in or upon any Work.

#### **Insurance**

47. The Company shall maintain insurance in sufficient amount and description as will protect the Municipality from claims for damages, personal injury including death, and for claims from property damage which may arise under this Agreement, including but not limited to the construction, maintenance or operation of the Equipment in, on, under, over, along and across the Rights-of-Way or any act or omission of the Company's employees, agents, contractors or licensees.
48. In addition to the foregoing, the Company covenants and agrees that with respect to the insurance coverage described in section 47:
- a) the limits of liability for personal injury, bodily injury and property damage combined shall be for not less than five million dollars (\$5,000,000.00) for each occurrence, or such other amount as the Municipality may require by written notice delivered to the Company, from time-to-time;
  - b) the comprehensive general liability insurance shall extend to cover the contractual obligations of the Company as stated within this Agreement, shall list the Municipality as an additional named insured and shall contain a cross-liability clause and no subrogation clause as against the Municipality; and
  - c) all policies shall provide that they cannot be cancelled, lapsed or materially changed without at least thirty (30) days notice to the Municipality by registered mail.



## General

49. **Independent Contractors.** The relationship of the Company and the Municipality established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed:
- a) to give either party the power to direct or control the day-to-day activities of the other;
  - b) to constitute the parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking; or
  - c) to allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.
50. **Notice.** All formal notices hereunder shall be in writing and shall be deemed effective upon receipt when delivered by hand, overnight delivery courier, by facsimile transmission (provided such notice is also given in any of the other manners set forth herein) or when mailed by registered or certified mail (return receipt requested), postage prepaid, to the parties at the addresses listed below (or at such other address for a party as shall be specified by like notice).

If to the Municipality:

2001 Sherwood Drive  
Sherwood Park, Alberta  
T8A 3W7  
(ph) (780) 464-8080

If to the Company:

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51. **Modifications.** No waiver of or changes to any provision of this Agreement shall be effective unless reduced to writing and signed by authorized representatives of both parties.
52. **Waiver.** The failure of either party to insist upon strict adherence to any term or condition of this Agreement on any occasion shall not be considered a waiver of any right thereafter to insist upon strict adherence to that term or condition or any other term or condition of this Agreement.
53. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable by a court or regulator of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect, and the parties shall endeavour to give effect to the Agreement as originally contemplated before the provision was held to be invalid or unenforceable to the maximum extent permitted by law.
54. **Counterparts; Original Signature Copies.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one Agreement. Facsimile reproductions of signatures shall be deemed to be original.
55. **Time.** Time is of the essence in this Agreement.

56. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, excluding the conflict of law provisions thereof.
57. **Equitable Relief.** Either party may, in addition to any other remedies it may have at law or equity, seek equitable relief, including, without limitation, injunctive relief, and specific performance to enforce its rights or the other party's obligations under this Agreement.
58. **Headings.** The section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. The terms "subsection" and "section" refer to subsection and section of this Agreement, respectively, unless explicitly otherwise stated.
59. **Gender, Number and Person.** Words importing the neuter gender shall include the masculine and feminine genders. In this Agreement, "party", "third party" or "person" includes any individual, corporation, partnership, association, joint venture or organization of any kind and the lawful trustee, successor, assignee, transferee or personal representative of any of the foregoing. Words importing the singular shall include the plural and vice versa.
60. **Treatment of Personnel.** Each party shall bear sole responsibility for payment of compensation (including applicable benefits) to its personnel assigned to perform that party's obligations under this Agreement, and shall also bear sole responsibility for any applicable source deductions required by law in respect of such personnel. Under no circumstances shall the other party be considered the employer of any such personnel.
61. **Cumulative remedies.** Except as otherwise expressly stated in this Agreement, all remedies available to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
62. **No Rules of Construction.** This Agreement shall not be interpreted in favour or against a party on the basis of the existence or absence of legal representation in the case of either party or on the basis of the drafter or originator of this Agreement.
63. **Inconsistency with Municipal By-laws.** In the event of an inconsistency between this Agreement and any applicable by-law, rule or regulation of the Municipality, the by-law, rule or regulation shall take precedence to the extent of the inconsistency.
64. **Entire Agreement.** This Agreement set forth the entire agreement and understanding of the parties relating to the subject matter herein and supersede all prior agreements, whether oral or written, relating to the subject matter hereof.
65. **Acknowledgement.** Each party acknowledges that it has read this Agreement, including the Schedules attached hereto and forming part hereof, and each party understands and agrees to be bound by its terms and conditions.

**IN WITNESS WHEREOF**, the parties have caused this Agreement to be executed by their duly authorized representatives.

**STRATHCONA COUNTY**

**Per:**

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
MANAGER  
LEGISLATIVE & LEGAL SERVICES

\_\_\_\_\_  
**[Insert the name of the Company]**

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Name:  
Title: