



**Diane Roy**  
Vice President, Regulatory Affairs

**Gas Regulatory Affairs Correspondence**  
Email: [gas.regulatory.affairs@fortisbc.com](mailto:gas.regulatory.affairs@fortisbc.com)

**Electric Regulatory Affairs Correspondence**  
Email: [electricity.regulatory.affairs@fortisbc.com](mailto:electricity.regulatory.affairs@fortisbc.com)

**FortisBC**  
16705 Fraser Highway  
Surrey, B.C. V4N 0E8  
Tel: (604) 576-7349  
Cell: (604) 908-2790  
Fax: (604) 576-7074  
Email: [diane.roy@fortisbc.com](mailto:diane.roy@fortisbc.com)  
[www.fortisbc.com](http://www.fortisbc.com)

September 29, 2017

British Columbia Utilities Commission  
Suite 410, 900 Howe Street  
Vancouver, B.C.  
V6Z 2N3

Attention: Mr. Patrick Wruck, Commission Secretary and Manager, Regulatory Support

Dear Mr. Wruck:

**Re: FortisBC Energy Inc. (FEI)**

**Project No. 1598915**

**Application for Approval of Operating Terms between the City of Surrey and FEI  
(the Application)**

**Response to the British Columbia Utilities Commission (BCUC or the  
Commission) Information Request (IR) No. 1**

---

On May 18, 2017, FEI filed the Application referenced above. In accordance with the Commission Order G-98-17 setting out the Regulatory Timetable for the review of the Application, FEI respectfully submits the attached response to BCUC IR No. 1.

If further information is required, please contact Ilva Bevacqua at 604-592-7664

Sincerely,

**FORTISBC ENERGY INC.**

***Original signed:***

Diane Roy

Attachments

cc (email only): Registered Parties



FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 1

1	<b>Table of Contents</b>	<b>Page No.</b>
2		
3	A. EXISTING AND PROPOSED AGREEMENT OVERALL .....	2
4	B. UNRESOLVED OPERATING TERMS .....	6
5	C. JURISDICTION.....	27
6	D. CUSTOMER CONSULTATION AND COMPLAINTS .....	35
7		

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 2

**A. EXISTING AND PROPOSED AGREEMENT OVERALL**

**1.0 Reference: INTRODUCTION AND OVERVIEW**

**Exhibit B1-1, Section 1, p. 1**

**Enforceability of 1957 Agreement**

On page 1 of the FortisBC Energy Inc.'s (FEI) application for approval of terms for an operating agreement with City of Surrey (Application) filed with the British Columbia Utilities Commission (Commission), it states that:

FEI has the right to construct and operate its system, and extensions to that system, under its Certificate of Public Convenience and Necessity (CPCN) and the provisions of the Act [Utilities Commissions Act] and the Gas Utility Act. There is an existing 1957 operating agreement with the City (1957 Agreement) that establishes protocols and addresses cost allocations. However, the parties disagree about the effect and scope of the 1957 Agreement."

FEI attached as Appendix A to the Application a proposed Operating Agreement.

1.1 Please discuss whether FEI views the 1957 Agreement as unenforceable and why. Please provide evidence to support your position.

**Response:**

In the Company's opinion, the 1957 Agreement is a valid and enforceable agreement. It was negotiated and entered into freely by both parties.

As discussed in Section 2.3 of FEI's Application, the Company and the Municipality have previously had a strained relationship with respect to the Company's use of public places within the boundaries of the Municipality, which, in part, led to disputes and ultimately litigation. These disputes have created uncertainty for the Company. As a result, to promote and foster an amicable working relationship which would better serve the Company's customers within the Lower Mainland and the residents of the Municipality, including eliminating protracted disputes or litigation regarding the validity, scope and enforceability of the 1957 Agreement which could delay projects for each party, the parties agreed to negotiate a new operating agreement to replace the 1957 Agreement.

1.2 If the Commission does not approve the proposed Operating Agreement, please discuss what FEI's next steps would be.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 3

1    **Response:**

2    The Company's next steps would be dependent on whether the Commission approves other  
3    operating terms instead, and the reasons it provides.

4    While the parties have agreed on most of the terms, they are at an impasse regarding several  
5    key issues. Those outstanding matters need to be resolved. If FEI's Proposed Operating  
6    Terms are not approved, the Company believes it is appropriate for the Commission to approve  
7    another form of operating agreement pursuant to section 32 of the UCA that (a) accepts the  
8    terms agreed upon by the parties, and (b) imposes other terms and conditions on the disputed  
9    items. The Commission exercised this power in the Coldstream application and the  
10   Commission's Order G-113-12, and its accompanying decision dated August 29, 2012.

11   The Interim Agreement dated November 8, 2016, (Appendix C to FEI's Application) addressed,  
12   among other things, the effect of the Commission not exercising its authority. If the Commission  
13   decision meets the requirements set out in the Interim Agreement, the parties would submit a  
14   new application to the Commission.

15   Failing a decision on the operating agreement, the Company would expect to continue to  
16   operate under the 1957 Agreement. However, since a significant portion of the operating  
17   agreement has been amicably negotiated and agreed to by the Company and the Municipality,  
18   and outlines a more comprehensive framework to improve a previously strained working  
19   relationship, the Company's preference is not to revert back to the 1957 Agreement, particularly  
20   since doing so could result in disputes, project delays or litigation, which have occurred in the  
21   past between the parties while operating under the 1957 Agreement.

22

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 4

**2.0 Reference: OPERATING AGREEMENT**

**Exhibit B1-1, Appendix A, pp. 1 - 26**

**Standard Operating Agreement Template**

Appendix A of the Application is FEI's proposed Operating Agreement.

In Order G-113-12 and accompanying Reasons for Decision, the Commission ordered that amendments in the operating agreement between FEI and the District of Coldstream be incorporated into future operating agreements between FEI and municipalities<sup>1</sup>.

In Order C-7-14, the Commission approved a further amended version of the operating agreement (Standard Operating Agreement) between FEI and the Village of Keremeos<sup>2</sup>.

2.1 Please provide a blacklined version of the proposed Operating Agreement compared to the Standard Operating Agreement. Please discuss the variances.

**Response:**

Please refer to Attachment 2.1, which provides a table with a section by section comparison of the FEI Proposed Operating Agreement to the Keremeos Operating Agreement (the Standard Form Operating Agreement) with drafting notes.

Attachment 2.1 sets out each section, identifying whether sections have been left unchanged, are similar in substance with refined wording, are new, or were not used. As shown in Attachment 2.1, many sections remain the same. A significant portion of the sections that were changed are similar in substance but provide greater specificity, clearer language, or apply newly defined terms.

FEI has not indicated in Attachment 2.1 which party requested particular changes nor the specific rationale for the request, other than as set out in the notes to identify drafting revisions. The negotiations with the Municipality were undertaken on a "without prejudice" basis and, therefore, the Company is unable to disclose each party's rationale for the differences from the Standard Form Operating Agreement. However, the Company has discussed the impacts to the Company and benefits to the Municipality of the substantive differences between the FEI Proposed Operating Agreement and the Standard Form Operating Agreement in response to BCUC IR 1.4.5. These considerations informed FEI's approach to negotiations.

<sup>1</sup> FortisBC Energy Inc. Application for Operating Terms Between the District of Coldstream and FortisBC Energy Inc., Final Order with Reasons, G-113-12.  
<http://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/118398/index.do?r=AAAAAQAJRy0xMTMtMTlgAQ>

<sup>2</sup> FortisBC Energy Inc. Application for an Operating Agreement with the Village of Keremeos, Final Order, C-7-14.  
<http://www.ordersdecisions.bcuc.com/bcuc/orders/en/item/119116/index.do?r=AAAAAQAGQy03LTE0AQ>

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 5

1 As an overall package (most of which has been negotiated and agreed to by commercial parties  
2 operating at arms length), FEI is of the view that the FEI Proposed Operating Terms should be  
3 approved despite differences from the Standard Form Operating Agreement. The negotiated  
4 terms are designed to meet the uniquely complex circumstances of this rapidly growing  
5 municipality and, in particular, resolve historical sources of friction in the interests of improving  
6 the parties' operating relationship for the ultimate benefit of the Company's customers and  
7 Surrey residents.

8

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 6

1     **B.     UNRESOLVED OPERATING TERMS**

2     **3.0     Reference:     INTRODUCTION AND OVERVIEW**

3                     **Exhibit B1-1, Section 1, pp. 2-3**

4                     **Operating Fee Collection Methodology**

5             In the Application, on page 2, it states that FEI's proposed Operating Fees are to be  
6             collected on behalf of the Municipality. On page 3, it states that "the Proposed Operating  
7             Terms... address costs and fees in a manner that is fair to both the City and the FEI  
8             customers from whom the fees and costs are ultimately recovered." [Emphasis added]

9             3.1     How does FEI propose to collect the Operating Fee? Specifically, will the  
10             proposed Operating Fee be identified separately on customers' bills? Please  
11             explain.

12  
13     **Response:**

14     Yes, Operating Fees are identified separately on customers' bills in municipalities where FEI is  
15     approved to collect Operating Fees. A separate line item appears on each customer's bill  
16     entitled "Operating Fee" under the "Other charges and taxes" section of the bill. If the  
17     Commission approves the collection of an Operating Fee in the City of Surrey, FEI would add  
18     the Operating Fee line to the bills of City of Surrey customers.

19     Please refer to the response to Landale IR 1.8 for a sample bill.

20

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 7

**4.0 Reference: AREA OF DISAGREEMENT – ISSUE NO.2: OPERATING FEE**

**Exhibit B1-1, Section 3.3.1, p. 13**

**Operating Fee Precedent**

On page 13 of the Application, FEI states:

The 1957 Agreement does not provide for Operating Fees. In this respect, Surrey is similarly situated with all of the other Lower Mainland municipalities that entered into operating agreements with FEI's predecessor gas utility in the Lower Mainland between 1926 and 1961. None of these Lower Mainland operating agreements contemplates an Operating Fee.

In City of Surrey's application for approval of terms for an operating agreement with FEI, it states City of Surrey "understand[s] that this 3% of gross revenues Operating Fee is precisely the same operating fee as FEI collects and remits to 70 other municipalities in the province..."

4.1 Please discuss which operating agreements with other municipalities have been negotiated to have an operating fee or no operating fee.

**Response:**

FEI has operating agreements with 106 municipalities, of which 75 receive Operating Fees (not 70, as stated in the preamble). As discussed in Section 3.3.3.2 of FEI's Application, the agreements that contain provisions for Operating Fees are all located in the Interior and on Vancouver Island. Two municipalities on Vancouver Island (the District of Oak Bay and the District of Esquimalt) have long-standing operating agreements which do not expire, and do not contain provisions or terms for the collection of an Operating Fee, similar to the Lower Mainland municipalities. The Lower Mainland represents the majority of FEI's customers and business (64 percent by customer; 69 percent by gross revenue; 61 percent by volume).

FEI has entertained the prospect of Operating Fees for Surrey as a result of a uniquely challenged relationship with Surrey over many years. FEI believes that the provisions in the existing (no-fee) operating agreements with other Lower Mainland municipalities continue to serve their purpose; therefore, FEI has not commenced negotiations with any of the other Lower Mainland municipalities.

FEI is aware that some other Lower Mainland municipalities are monitoring this proceeding and have expressed an interest in the outcome, particularly regarding the Operating Fee issue. An Operating Fee of 3 percent of gross revenue as sought by Surrey, which is based on historical legacy rather than a principled determination, is not warranted in the Lower Mainland.



FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 8

4.2 Please provide a list of Operating Fees (as a percent and in dollars) of other municipalities in British Columbia with whom FEI has an operating agreement.

**Response:**

The following table provides a list of the municipalities for which FEI is approved to collect Operating Fees for municipalities, all of which are at 3 percent of gross revenues. The table provides the amount of Operating Fees collected by FEI and remitted to each of the municipalities in 2016, as well as other relevant statistics. As noted in the response to BCUC IR 1.4.1, the Lower Mainland represents the majority of FEI's customers and sales, and no municipalities in the Lower Mainland currently receive Operating Fees.

For comparison, please refer to the response to BCUC IR 1.5.3 for Operating Fees that would have been collected from FEI's customers located in the Surrey if the City of Surrey's proposal had been in place in 2016 (column 5 of the table). As can be seen in the response to BCUC IR 1.5.3, if the City of Surrey's proposal had been in place for 2016, FEI would have collected from customers and remitted to the City of Surrey \$3.4 million in 2016 based on actual delivery revenue<sup>3</sup>, which is:

- three times higher than the Operating Fees for the next largest city, Kelowna;
- over six times higher than Victoria's fees; and
- over ten times that of the majority of the municipalities on the list.

The disproportionate amount is one reason why FEI considers Surrey's proposed Operating Fee to be excessive.

---

<sup>3</sup> In FEI's Application, page 19, \$3.8 million was calculated based on normalized 2016 delivery revenue for Residential and Commercial rate schedules and actual Delivery revenues for all other rate schedules, before delivery rate riders.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 9

1

## 2016 Actual Operating Fees with Municipal Statistics

No	Municipality	Type	Operating Fees Collected in 2016	% of Total Operating Fees	2016 Volumes (GJ)	Customers At August 31, 2017	BC Stats Population Estimates (Note 1)	Total Area (ha) (Note 1)
1	Kelowna	City of	1,029,095	11.74%	4,535,579	38,901	125,737	28,150
2	Prince George	City of	856,285	9.76%	10,294,472	27,002	70,912	38,240
3	Kamloops	City of	849,285	9.68%	6,372,049	31,764	91,402	31,499
4	Victoria	City of	542,359	6.18%	2,207,779	10,339	85,192	1,956
5	Nanaimo	City of	465,809	5.31%	3,941,955	17,010	93,351	9,056
6	Saanich	District of	373,564	4.26%	1,219,985	14,261	110,889	11,178
7	Vernon	City of	361,543	4.12%	1,541,718	15,167	41,671	11,604
8	Penticton	City of	263,810	3.01%	1,107,573	10,706	33,016	4,447
9	Cranbrook	City of	226,365	2.58%	964,975	7,770	20,452	3,162
10	Salmon Arm	City of	179,260	2.04%	1,025,804	6,845	18,128	18,873
11	Campbell River	District of	175,101	2.00%	572,063	7,046	33,696	18,419
12	Quesnel	City of	147,094	1.68%	3,768,771	3,931	9,026	3,870
13	Williams Lake	City of	140,660	1.60%	1,051,526	4,218	11,028	3,611
14	Courtenay	City of	132,218	1.51%	415,876	5,725	26,056	3,256
15	Trail	City of	121,650	1.39%	1,759,947	3,210	7,376	3,683
16	Castlegar	City of	118,279	1.35%	2,561,044	2,936	7,934	2,242
17	Langford	City of	114,474	1.31%	378,740	4,987	39,936	4,182
18	North Cowichan	District of	112,890	1.29%	2,667,189	4,018	30,229	20,432
19	Coldstream	District of	111,634	1.27%	933,871	3,888	10,938	7,937
20	Mackenzie	District of	106,600	1.22%	2,522,102	1,637	3,492	21,269
21	Nelson	City of	100,545	1.15%	436,431	3,653	11,249	1,602
22	Merritt	City of	99,622	1.14%	734,724	2,805	7,607	2,686
23	Powell River	City of	90,513	1.03%	1,111,996	3,632	13,729	4,133
24	Kimberley	City of	88,398	1.01%	356,349	3,599	7,050	6,160
25	Port Alberni	City of	88,049	1.00%	760,152	3,032	16,236	2,150
26	Parksville	City of	84,743	0.97%	257,250	3,865	12,883	1,415
27	Summerland	District of	84,109	0.96%	348,115	3,915	11,375	7,442
28	Comox	Town of	83,723	0.95%	301,856	3,763	14,400	2,081
29	Fernie	City of	76,064	0.87%	320,030	2,494	4,333	1,364
30	Elkford	District of	71,575	0.82%	3,229,979	1,070	2,630	12,656
31	Westbank First Nation		68,942	0.79%	727	3,368	9,028	2,161
32	Sparwood	District of	68,849	0.79%	2,953,437	1,776	4,078	19,856
33	Central Saanich	District of	65,445	0.75%	220,072	2,493	15,895	4,680
34	Spallumcheen	Township of	64,650	0.74%	609,375	1,342	5,222	25,580
35	Sechelt	District of	63,811	0.73%	184,242	2,940	9,490	3,835
36	Colwood	City of	62,529	0.71%	193,649	2,943	17,583	1,769
37	Revelstoke	City of	61,662	0.70%	189,492	1,657	7,316	4,145
38	Grand Forks	City of	54,049	0.62%	493,354	1,625	4,029	1,093
39	Osoyoos	Town of	51,379	0.59%	206,640	2,551	4,800	1,078
40	Princeton	Town of	50,602	0.58%	548,630	1,259	2,782	1,066
41	Qualicum Beach	Town of	50,509	0.58%	154,321	2,384	8,687	2,005
42	Ladysmith	Town of	50,361	0.57%	220,963	1,913	8,342	1,212
43	Sidney	Town of	49,503	0.56%	148,188	2,129	11,129	714
44	Creston	Town of	49,206	0.56%	260,976	2,095	4,661	816
45	View Royal	Town of	48,211	0.55%	196,491	1,715	10,137	1,488
46	Chetwynd	District of	47,438	0.54%	355,082	1,107	2,877	6,188
47	Peachland	District of	45,521	0.52%	167,607	2,452	4,959	1,745
48	Armstrong	City of	45,194	0.52%	182,545	1,951	4,842	534
49	North Saanich	District of	37,647	0.43%	139,199	1,117	11,143	4,623
50	100 Mile House	District of	34,016	0.39%	142,731	1,048	1,860	5,518

Note 1: From Draft 201 - General Statistics for 2016 ([http://www.cscd.gov.bc.ca/lgd/infra/municipal\\_stats/municipal\\_stats2016.htm](http://www.cscd.gov.bc.ca/lgd/infra/municipal_stats/municipal_stats2016.htm))

2  
3  
4

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 10

1

### 2016 Actual Operating Fees with Municipal Statistics (continued)

No	Municipality	Type	Operating Fees Collected in 2016	% of Total Operating Fees	2016 Volumes (GJ)	Customers At August 31, 2017	BC Stats Population Estimates (Note 1)	Total Area (ha) (Note 1)
51	Oliver	Town of	33,340	0.38%	126,962	1,621	4,568	584
52	Rossland	City of	33,200	0.38%	129,645	1,631	3,639	6,828
53	Gibsons	Town of	31,832	0.36%	97,094	1,358	4,550	545
54	Logan Lake	Village of	31,024	0.35%	335,900	908	2,099	32,342
55	Ashcroft	Village of	24,521	0.28%	192,376	719	1,557	5,249
56	Enderby	City of	24,105	0.27%	88,962	1,185	2,815	429
57	Duncan	City of	21,914	0.25%	74,493	599	4,768	216
58	Chase	Village of	21,743	0.25%	77,603	1,090	2,365	457
59	Sooke	District of	20,528	0.23%	59,554	1,212	11,868	6,854
60	Lumby	Village of	17,949	0.20%	70,363	753	1,772	516
61	Cumberland	Village of	16,929	0.19%	66,633	756	3,562	3,002
62	Fruitvale	Village of	13,638	0.16%	52,216	644	2,098	273
63	Warfield	Village of	12,865	0.15%	48,417	661	1,669	213
64	Cache Creek	Village of	12,578	0.14%	50,194	459	972	1,076
65	Hudson's Hope	District of	12,098	0.14%	49,511	374	1,022	91,119
66	Midway	Village of	11,582	0.13%	166,446	245	667	809
67	Keremeos	Village of	10,955	0.12%	43,099	548	1,348	287
68	Lantzville	District of	9,903	0.11%	27,791	492	3,408	2,987
69	Salmo	Village of	8,066	0.09%	30,727	368	1,165	220
70	Metchosin	District of	7,857	0.09%	32,843	153	4,792	7,976
71	Clinton	Village of	7,680	0.09%	29,610	307	629	799
72	Montrose	Village of	6,316	0.07%	22,157	380	1,020	132
73	Greenwood	City of	5,322	0.06%	19,139	273	688	275
74	Sechelt First Nation		5,291	0.06%	403	158	852	1,065
75	Highlands	District of	3,194	0.04%	19,314	94	2,394	4,036

2

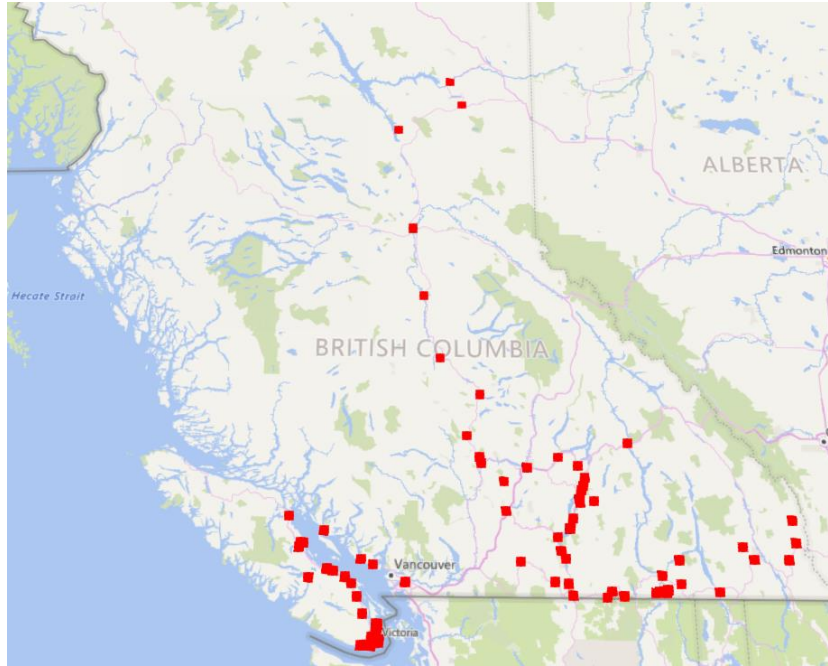
3

Note 1: From Draft 201 - General Statistics for 2016 ([http://www.cscd.gov.bc.ca/lqd/infra/municipal\\_stats/municipal\\_stats2016.htm](http://www.cscd.gov.bc.ca/lqd/infra/municipal_stats/municipal_stats2016.htm))

4

5 The following map shows the dispersion of municipalities in the region for which Operating Fees  
6 are collected:

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 11



1

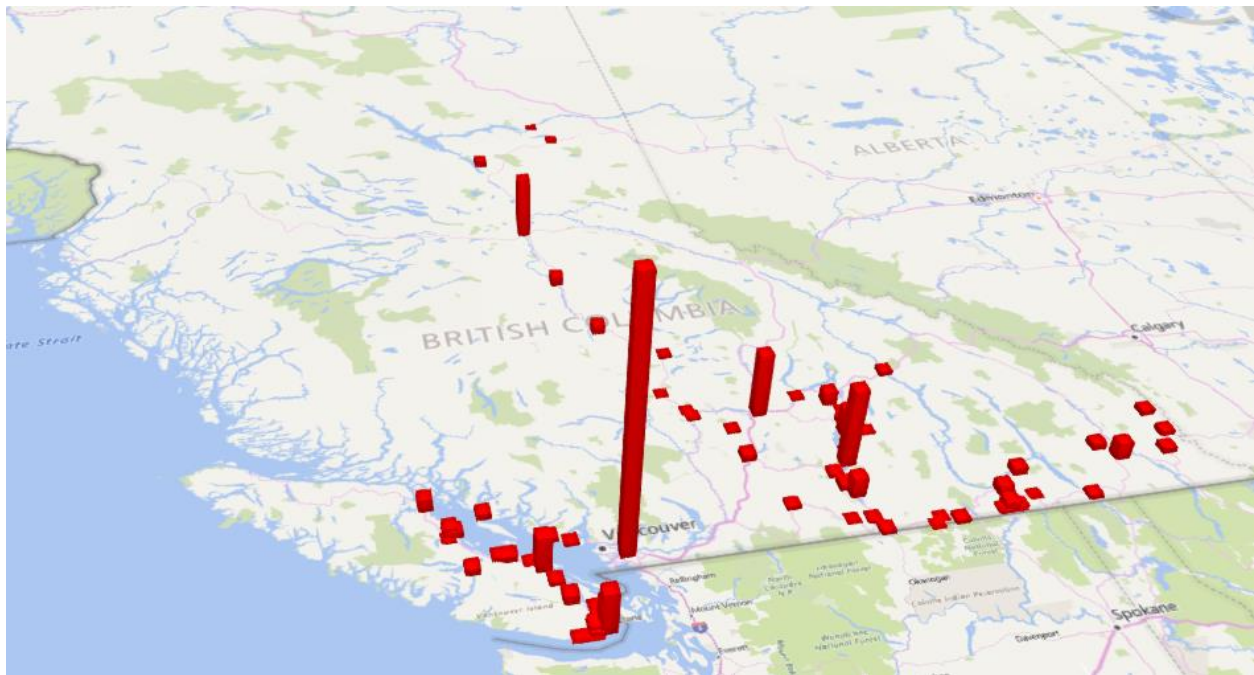
2 The following map shows the province in “3D” with the bar heights representing the 2016

3 Operating Fees collected for the 75 municipalities where they are approved to be collected.

4 Comparatively, the largest bar represents the revenue from an Operating Fee which would have

5 been collected in 2016 for the City of Surrey, from FEI’s customers in Surrey, if Surrey’s

6 proposal for a 3 percent Operating Fee would have been in place.



FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 12

1

2

3           4.3     Please describe how the City of Surrey compares, in terms of its population and  
4           territory size, to the 70 other municipalities in the province.

5

6     **Response:**

7     In terms of population and territory size, Surrey compares to the 75 (not 70) other municipalities  
8     with operating agreements that provide for an Operating Fee as described below. The  
9     information provided demonstrates that Surrey is significantly different from the other  
10    municipalities in the province that have operating agreements that contemplate an Operating  
11    Fee. The supporting information for the summary statements below is found in the response to  
12    BCUC IR 1.4.2.

13   **Population**

14   The City of Surrey has a population of 543,940.

15   The next most populous municipality with an Operating Fee based on 3 percent of gross  
16   revenues is Kelowna, and it is roughly one quarter the size.

17   The average population of the 75 municipalities with an Operating Fee based on 3 percent of  
18   gross revenues is 15,828 – less than 3 percent of Surrey.

19   When using the total population of 1,187,100 for all municipalities who have an existing  
20   operating agreement based on 2016 draft Municipal Statistics published by the Provincial  
21   Government and comparing population, Surrey would be equivalent to the total population of the  
22   65 smallest municipalities where Operating Fees currently exist.

23   **Territory Size**

24   The City of Surrey has a total territory size of 36,466 hectares (ha) compared to a total of  
25   547,150 ha for all municipalities where Operating Fees are collected based on 2016 draft  
26   Municipal Statistics published by the Provincial Government. Comparing territory size, Surrey  
27   would be the third largest municipality with only Hudson's Hope and Prince George being larger.  
28   Both of those municipalities have much smaller populations and customer numbers, and far less  
29   development activity.

30   **Customers**

31   The City of Surrey had a total customer count of 113,093 as at August 31, 2017.

32   Kelowna is the largest municipality with an Operating Fee based on 3 percent of gross revenues  
33   in terms of customers. It has approximately one third the number of customers as Surrey.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 13

FEI has a total of 310,042 customers for all existing municipalities with operating agreements that include the collection of an Operating Fee. Comparing customers, Surrey would be equivalent to the total population of the 62 smallest municipalities where Operating Fees currently exist.

4.4 Are there any differences between large, dense cities as compared to a largely dispersed small municipality or towns that could impact the terms of an operating agreement? Please explain.

**Response:**

Yes, there are two fundamental differences between a large, dense municipality like Surrey and smaller, less dense municipalities that should be considerations in determining the terms of an operating agreement. These considerations are fundamental to understanding why FEI's Proposed Operating Terms differ from the Standard Operating Terms that were employed in a number of smaller municipalities.

**Operational Complexity Means FEI and Surrey Benefit from Having More Sophisticated Protocols**

First, FEI faces different operational and cost considerations when operating and maintaining the natural gas distribution system in large, dense cities compared to small municipalities and towns.

As compared to smaller municipalities and towns, in large dense cities the Company faces:

1. More traffic and congestion resulting in higher costs and complexity for the Company to complete necessary work to serve customers;
2. More pavement and finished surfaces resulting in higher costs and construction time for the Company to complete remediation work;
3. Typically higher municipal growth rates, which result in increased numbers and costs for the Company to manage and perform necessary system improvement work to meet growth requirements; and
4. More congested utility corridors and infrastructure beneath city streets results in increased costs and challenges for the Company to obtain running lines to serve new gas customers.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 14

As identified in the four areas above, the cost to the Company, and ultimately all customers, of installing, operating, and maintaining the natural gas distribution system in large, dense urban cities is higher and the frequency of disturbance is greater.

#### **A Consumption-Based Operating Fee Results in More Revenue in a Dense Municipality**

The second major consideration is that, in urban areas, there is a higher customer attachment ratio per main as compared to small municipalities and towns, which results in greater utilization of the system and more volume consumed by more customers, overall making the system more economic to operate on a per-customer basis. For example, one gas main extension in a more rural area within a municipality may only attach a few customers, whereas a similar sized project in an urban area may attach several hundred customers. Consequently, in large, dense municipalities such as in the Lower Mainland where much of the land has already been developed, the collection of an Operating Fee, particularly at a level as high as 3 percent of gross revenues, that is not derived from the actual construction work or other utility operating and maintenance activity in the municipality will most likely represent a windfall for the municipality at the expense of FEI's customers in the municipality.

#### **A Principled Approach is Appropriate Here**

The first consideration above imposes higher costs on the utility for carrying out its construction projects and other work, but does not, in FEI's view, add an appreciable cost burden for the municipality, although it may be modestly greater in densely populated centres than in the smaller, less dense municipalities with existing agreements calling for an Operating Fee based on 3 percent of gross revenues. The problem with making that comparison is that the legacy 3 percent fee included in past operating agreements is of uncertain origin and is a historical amount that appears to have been designed to yield certain revenues for the municipalities rather than being based on principle. While there was a rationale (or a defensible principle) for not decreasing the existing fees when the agreements with those other municipalities were renewed, FEI believes that in dealing with a municipality with the size and sophistication of Surrey that has never received Operating Fees, it is appropriate to ensure that the operating terms are set on a principled basis.

4.5 In FEI's view, given other significant modifications to the Standard Operating Agreement with other municipalities, does its proposed Operating Agreement have more favorable terms and conditions for City of Surrey than the Standard Operating Agreement?

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 15

1    **Response:**

2    Yes, FEI believes that, although the proposed Operating Fee is lower, the other terms of the  
3    proposed Operating Agreement with the City of Surrey does have a number of other more  
4    favorable terms compared to the Standard Operating Agreement with other municipalities.  
5    Some examples are:

- 6        • Gas line relocation costs – Standard Operating Agreements with Interior and Vancouver  
7        Island municipalities require municipalities to pay 100 percent of all gas line relocation  
8        costs. The proposed Surrey Operating Agreement provides that Surrey pays only 50  
9        percent for all high pressure gas line relocations under the jurisdiction of the BC Oil &  
10       Gas Commission and 100 percent of all distribution gas line relocation costs.
- 11       • Gas line approval process with the municipality – The proposed Surrey Operating  
12       Agreement requires that the Company follow some municipal approval and permitting  
13       processes which are in addition to those required by the Standard Operating Agreement  
14       in the Interior or Vancouver Island. This will provide the City with more detailed  
15       information to stream line their approval process.
- 16       • Increased construction requirements – The proposed Surrey Operating Agreement may  
17       require that gas lines are installed at extra depth of cover and designated backfill  
18       materials are used in situations where Surrey is planning to construct municipal  
19       infrastructure. This will save the City potential relocations cost as well as time and  
20       money when constructing the new roadway. Relocation costs beyond compliance with  
21       Laws – The proposed Surrey Operating Agreement requires that the Company will pay  
22       for costs that exceed regulatory compliance.
- 23       • Profile drawings - The Surrey Operating Agreement requires that the Company prepare  
24       a plan and profile drawing when applying for approvals for distribution gas lines that  
25       exceed 219mm diameter and for all high pressure gas lines. This information will  
26       streamline the approval process for the City, reducing resource requirements and  
27       improving turnaround time.
- 28       • Abandonment of gas lines – The Surrey Operating Agreement requires that the  
29       Company is responsible for the removal or filling of abandoned gas lines that exceed  
30       323 mm diameter if required by the municipality. Other Operating Agreements do not  
31       have this provision and pipe is abandoned in place.
- 32       • Estimating and invoicing – The Surrey Operating Agreement requires that the Company  
33       provide additional details on estimates and invoices. Also, specific communications with  
34       the municipality are required if changes to scope of work relating to the estimate are  
35       determined in the field and in the course of performing the work.
- 36       • Company permits – The Surrey Operating Agreement provides that the Company  
37       provides a guaranteed turn around time to issue permits to Surrey to work in proximity to



FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 16

1 the Company's gas lines under the jurisdiction of the BC Oil & Gas Commission and  
2 near other significant facilities. The Company's approval as a pipeline owner is required  
3 under applicable legislation.

4 FEI's response to BCUC IR 1.2.1 includes a table with a section by section comparison of the  
5 Proposed Operating Terms with the Standard Operating Agreement.

6  
7  
8  
9 4.6 Would the proposed Operating Agreement have any potential impact on other  
10 existing operating agreements in the Interior and Vancouver Island?

11  
12 **Response:**

13 This Application only concerns the City of Surrey, so the determinations in respect of the FEI's  
14 Proposed Operating Agreement terms should have no direct impact on the existing agreements  
15 with other municipalities. There is no provision in those other agreements, for instance, that  
16 would trigger a change to the Operating Fee in the event a different Operating Fee is approved  
17 for Surrey.

18 As discussed in the response to BCUC IR 1.4.1, FEI understands that there are other Lower  
19 Mainland municipalities who do not receive an Operating Fee currently that are following these  
20 proceedings.

21

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 17

**5.0 Reference: AREA OF DISAGREEMENT – ISSUE NO.2: OPERATING FEE**

**Exhibit B1-1, Section 3.3, pp. 13-14**

**Operating Fee Impact**

On page 13 of the Application, FEI states:

The 1957 Agreement does not provide for Operating Fees. In this respect, Surrey is similarly situated with all of the other Lower Mainland municipalities that entered into operating agreements with FEI's predecessor gas utility in the Lower Mainland between 1926 and 1961. None of these Lower Mainland operating agreements contemplates an Operating Fee.

On page 14 of the Application, in regards to the proposed Operating Agreement, it states that "FEI's proposal is to base the Operating Fee on 0.7% of Delivery Margin."

5.1 How much will City of Surrey receive from FEI's proposed Operating Fee that would be collected by FEI? Please provide supporting information to show how FEI arrived at this number.

**Response:**

Please refer to the response to BCUC IR 1.5.3, which provides a table showing the Operating Fee that would have been collected by FEI and remitted to the City of Surrey under both FEI's proposal (column 6) and the City of Surrey's proposal (column 5) from 2007 to 2016 if either of the proposals had been in place.

As can be seen in column 6, FEI's proposal would have resulted in a more stable cost to FEI's customers in Surrey, whereas the City of Surrey's proposal (in column 5) would have resulted in exceedingly variable costs to FEI's customers in Surrey and a significant revenue windfall for the City of Surrey (up to fifteen times higher than FEI's proposal).

5.2 Please discuss the expected rate impact on different customer groups, including commercial and low income at FEI's proposed Operating Fee and at City of Surrey's proposed Operating Fee and compare the two results.

**Response:**

Please refer to the table below which outlines the estimated annual and monthly bill impacts (at current FEI rates) of FEI's proposed Operating Fee of 0.7 percent of Delivery Margin and City of Surrey's proposed Operating Fee of 3 percent of gross revenues, for residential, commercial and industrial groups.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 18

<b>FEI Rate Schedule</b>	<b>2016 City of Surrey Average Annual Use Rates (GJs)</b>	<b>Annual Bill Impact 0.7% of Delivery Margin</b>	<b>Monthly Bill Impact 0.7% of Delivery Margin</b>	<b>Annual Bill Impact 3% of Gross Revenues</b>	<b>Monthly Bill Impact 3% of Gross Revenues</b>
1 - Residential	92	\$4	\$0.31	\$25	\$2
2 - Small Commercial	242	\$8	\$0.67	\$57	\$5
3 - Large Commercial	3,050	\$75	\$6	\$589	\$49
23 - Large Commercial Trans.	4,973	\$122	\$10	\$539	\$45
5 - General Firm	11,729	\$220	\$18	\$1,897	\$158
25 - General Firm Trans.	16,659	\$267	\$22	\$1,178	\$98
<p>* Slight differences may exist due to rounding</p> <p><sup>1</sup> In accordance with current practice, 3.09% is reflected in the City of Surrey proposed operating fee bill impacts due to the inclusion of the 3% operating fee in calculation and collection of gross revenues</p>					

In all cases, the dollar impact associated with Surrey's proposal is far greater than that proposed by FEI.

With respect to low income customers in the City of Surrey, FEI has assumed that the residential annual bill amounts shown in the table above also apply to these customers, since FEI has no evidence to correlate income with usage<sup>4</sup>. FEI has calculated the impact of the increases based on the level of income for a family of four as set out in FEI's and BC Hydro's Energy Conservation Assistance Program (ECAP), which provides income-qualified residential customers with a free home energy evaluation, energy savings products and advice. The annual bill increase is approximately 0.01 percent of that income level under FEI's proposal, and 0.04 percent under the City of Surrey' proposal.<sup>5</sup>

5.3 Please provide the delivery margin (excluding taxes) as well as gross revenues (excluding taxes) of FEI for the past ten years.

**Response:**

FEI has provided, for the municipality of Surrey, the gross revenue, delivery margin, delivery margin as a percent of gross revenues, an estimate of the Operating Fee under the City of Surrey proposal and an estimate of the Operating Fee under the FEI proposal in the following table.

<sup>4</sup> FEI 2016 Rate Design Application, Section 7.8.2, page 7-25.

<sup>5</sup> Calculations based on \$4/\$60,300=0.01% and \$25/\$60,300=0.04% respectively.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 19

**FEI Gross Revenue and Delivery Margin for the Municipality of Surrey  
2007 to 2016**

(1)	(2)	(3)	(4)	(5)	(6)
Year	Gross Revenue (City of Surrey)	Delivery Margin (City of Surrey)	Delivery Margin as % of Gross Revenue (3) / (2)	Operating Fee Under City of Surrey Proposal (2) x 3%	Operating Fee Under FEI Proposal (3) x 0.7%
2007	177,309,613	N/A		5,319,288	
2008	198,902,478	56,315,594	28.3%	5,967,074	394,209
2009	183,958,099	58,721,732	31.9%	5,518,743	411,052
2010	160,470,828	58,707,333	36.6%	4,814,125	410,951
2011	159,511,102	65,466,772	41.0%	4,785,333	458,267
2012	148,481,666	65,853,780	44.4%	4,454,450	460,976
2013	138,584,595	68,009,066	49.1%	4,157,538	476,063
2014	142,125,873	66,925,607	47.1%	4,263,776	468,479
2015	121,125,018	61,735,481	51.0%	3,633,751	432,148
2016	112,778,116	71,205,081	63.1%	3,383,343	498,436

**Notes:**

- Based on actuals, Application information was based on normalized<sup>6</sup>
- Information on Surrey's delivery margin is not available for 2007

5.4 Please describe the benefits and risks of utilizing delivery margin versus gross revenue in the calculation.

**Response:**

FEI believes the primary benefits of an Operating Fee calculated annually based on delivery margin versus gross revenue are a closer relationship with costs and activity levels in the municipality, and increased stability and predictability for customers and the municipality.

FEI believes that an Operating Fee calculated based on gross revenue does not support the cost causation principle, because it is impacted by costs other than those related to the gas delivery system. The amount it yields in the case of Surrey (refer to the response to BCUC IR 1.5.3) is out of proportion to the amount of work the City must do in addressing FEI's operations in the Municipality.

<sup>6</sup> In FEI's Application, page 19, \$3.8 million was calculated based on normalized 2016 delivery revenue for Residential and Commercial rate schedules and actual Delivery revenues for all other rate schedules, before delivery rate riders.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 20

Delivery margin is largely based on the fixed costs of operating the utility, is typically adjusted annually and is, therefore, relatively stable as opposed to gross revenue which includes commodity costs that are subject to variability. Additionally, an Operating Fee based on delivery margin reduces volatility because it ensures that the Operating Fee will not be influenced by commodity market supply issues such as extreme weather events, world events, and supply or upstream system constraints, all of which can have an impact on commodity market pricing. Further, with an Operating Fee based on gross revenue, Sales and Transport customers are treated differently. Using gross revenue, Sales customers are assessed the Operating Fee on the entirety of their bill (delivery and commodity) whereas a Transport customer is only assessed the Operating Fee on the delivery portion of their bill and not the commodity portion. As Transport customers do not pay an Operating Fee on the commodity they procure themselves or through a marketer, this creates a different treatment between Sales and Transport customers. Consequently, FEI believes that an Operating Fee calculated based on delivery margin is a more logical approach because it is directly related to the cost of the delivery system that exists within the municipality and treats customers on the same basis.

FEI is not aware of any risks of using delivery margin as opposed to gross revenue in the calculation.

5.5 Under the proposed Operating Agreement, what would be the anticipated future savings for fees that the City of Surrey is prepared to waive under its proposal? In relation to the proposed waived fees, please provide details, by year, of how much FEI paid to the City of Surrey in relation to these fees in the past ten years

**Response:**

Under FEI's Proposed Operating Agreement, future savings for fees that the City of Surrey is prepared to waive based on the City of Surrey Bylaw revision in 2016, would amount to approximately \$350 thousand. The details for these fees can be found in Section 3.3.3.1 (page 15) of FEI's Application. To date in 2017 FEI has not complied with the new Bylaw revision requirement and has only paid for traffic obstruction permits, which is what FEI has historically paid.

Historical actual traffic obstruction fees are difficult to obtain as Surrey only accepts cash or credit card in person at City Hall. FEI has compiled the data in the table below using a combination of information obtained from our construction contractor and our flagging contractor invoices, and internal FEI costs. Due to the manual process undertaken to obtain the data (reviewing past invoices and credit card receipts), FEI has only been able to provide the requested information from 2013 to 2017 to date, and even then 2013, 2016 and 2017 are not complete because they contain only FEI data or only contractor data. Further, even where

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 21

- 1 contractor information was obtained, FEI cannot be certain that contractors identified such fees
- 2 on invoices if they were paid in cash. The numbers below do not include costs for our
- 3 construction contractor to physically go to City Hall to submit the permit and the return visit to
- 4 pick up the permit.

**Traffic Obstruction Permit Fees Paid to Surrey**

2008 to 2012	2013	2014	2015	2016	2017 YTD
Not available	Contractor only	Contractor and FEI	Contractor and FEI	FEI only	FEI only
N/A	\$10,944	\$36,911	\$37,818	\$26,471	\$23,576

5

6

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 22

**6.0 Reference: AREA OF DISAGREEMENT – ISSUE NO.3: RESPONSIBILITY FOR UPGRADE/BETTERMENT COSTS**

**Exhibit B1-1, Section 3.4, p. 20**

**Relocation Costs Upgrading/Betterment Definition**

On page 20 of the Application, it states “FEI’s position is that relocation costs paid by the party requesting relocation should exclude the value or incremental costs of any upgrading and/or betterment of the party’s facilities or the facilities of third parties ‘beyond that which is required to comply with applicable Laws or sound engineering practices’”

6.1 Please provide details on what applicable laws are being referred to.

**Response:**

Applicable Laws refers to those laws, regulations, orders, etc. required to construct, operate and maintain the natural gas infrastructure.

Laws include both federal and provincial Acts/ Regulations, including, but not limited to:

- For assets operating at or greater than 700 kPa:
  - *Oil and Gas Activities Act (OGAA)*
    - Pipeline Regulation
    - Emergency Management Regulation
    - Oil and Gas Activities Act General Regulation
    - Oil and Gas Road Regulation
- For assets operating below 700 kPa:
  - *Safety Authority Act*
  - *Safety Standards Act*
    - Safety Standards General Regulation
    - Gas Safety Regulation
    - Power Engineers, Boiler, Pressure Vessel and Refrigeration Safety Regulation

From these Acts and Regulations, prescribed CSA standards are required to be followed, including:

- CSA Z662 Oil and Gas Pipeline Systems
- CSA B51 Boiler, Pressure Vessel, and Pressure Piping Code

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 23

- CSA B149.1 Natural gas and propane installation code
- CSA C22.1 Canadian Electrical Code
- BCBC British Columbia Building Code
- NBCC National Building Code of Canada
- National Fire Code of Canada

6.2 What is FEI's definition of sound engineering practices? If referring to specific engineering codes or standards please list and discuss the applicability.

**Response:**

"Sound Engineering practices" and similar terms/variations are commonly applied in the construction industry and in construction related documents to reflect the exercise of good judgment in the circumstances, generally taking into account such factors as applicable laws (including those noted in the response to BCUC IR 1.6.1), standards and best practices of other natural gas utilities within North America, and site and/or work specific conditions that require more than minimum design standards for a safe installation.

The obligation to carry out all work (whether New Work, Service Line Work, relocation work, etc.) in accordance with sound engineering practices and in compliance with applicable Laws are positive obligations in the Standard Operating Agreement (Keremeos terms) (please refer to the response to BCUC IR 1.2.1, Attachment 2.1, Keremeos column, Sections 5.1 (Row R63) and Section 6.4 (Row R108) and the Proposed Operating Agreement column FEI Proposed Operating Agreement, Section 4.1 (Row R63)). These positive obligations were transferred as a required inclusion to the calculation of Relocation Costs to ensure the performance obligations and the reimbursement obligation were appropriately linked and aligned.

6.3 Please discuss any existing process or policies documents in relation to Relocation Costs for upgrades/betterment.



FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 24

**Response:**

The Company does not currently charge, and is not intending to charge, the City of Surrey for the portion of Relocation Costs associated with upgrade / betterment of Company facilities that exceed applicable Laws. As such, we do not have processes or policies related to such costs.

6.4 Please discuss if there will be a dispute resolution process under the proposed Operating Agreement in case FEI and City of Surrey do not agree on the Relocation Costs for upgrades/betterment.

**Response:**

Section 8.4(f) of FEI's Proposed Operating Agreement (refer to FEI's Application, Appendix A) states that if the parties are unable to reach agreement on an invoiced amount, the parties may refer the matter to dispute resolution as provided in Section 17 of FEI's Proposed Operating Agreement. Section 17 sets out a progressive process commencing with mediation prior to referral to binding arbitration similar to the process in the Standard Operating Agreement.

Disputes regarding scope of work and costs are additionally managed through the framework incorporated into the relocation provisions of FEI's Proposed Operating Agreement, which expand the provisions from those contained in the Standard Operating Agreement to include a comprehensive scope identification and cost determination and management process. Please refer to the following sections in Appendix A of the Application:

- Section 8.2 and Section 8.3 of FEI's Proposed Operating Agreement which describe the requirement for the Company to provide a detailed estimate of costs to relocate Company Facilities prior to undertaking any relocation work, and work commencing upon notice by the Municipality following received of the detailed estimate;
- Section 8.4(a) which sets out process during course of construction if actual costs are identified as exceeding the cost estimate, which include a requirement to stop work pending approval of revised costs; and
- Section 8.4(b) which describes the invoicing and payment process, including the requirements for detailed invoices and payment of undisputed amount.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 25

**7.0 Reference: CHANGES TO COMPANY FACILITIES**

**Exhibit B1-1 Appendix A, Section 8.2(c), p. 14**

**Relocation Costs Allocation**

On page 14 of the Operating Agreement, attached as Appendix A to the Application, it states:

(c) Despite the cost allocation provisions of the Pipeline Crossings Regulation (B.C. Reg.147/2012), the Municipality shall reimburse FortisBC for the Relocation Costs in the following amounts:

- i. 100% of the Relocation Costs when the affected Company Facilities are Gas Mains;
- ii. 50% of the Relocation Costs when the affected Company Facilities are High Pressure Pipelines.

7.1 Please compare the Gas Main and High Pressure Pipeline cost allocation terms under the Standard Operating Agreement and the proposed FEI Operating Agreement.

**Response:**

The comparison between the Standard Operating Agreement and FEI's Proposed Operating Agreement for costs associated with the relocation of Company Facilities at the request of the Municipality is as follows:

1. Gas Mains (<700kPa):

- Both the Standard Operating Agreement and FEI's Proposed Operating Agreement require the Municipality to pay 100 percent of the relocation of Company Facilities;

2. High Pressure Pipelines (700kPa and above):

- The Standard Operating Agreement requires the Municipality to pay 100 percent of the relocation of Company Facilities, whereas FEI's Proposed Operating Agreement requires the Municipality to pay 50 percent of the relocation of Company Facilities.

7.2 How many times in the last 10 years has FEI requested the relocation of City of Surrey facilities and what were the costs to the City of Surrey and FEI?

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 26

1    **Response:**

2    The Company has no record of relocating the City of Surrey facilities over the past 10 years.  
3    FEI has made several requests but has been instructed by the City to work around their  
4    facilities. Due to grade requirements, the City can be restricted in altering their facilities. As a  
5    result, it becomes necessary for FEI to work around the City's facilities with additional costs  
6    being incurred by the Company, which ultimately results in higher costs for all natural gas  
7    customers. As such, other than damage repairs to water services and sewer lines, according to  
8    the Company's records, FEI has made no payments to the City for relocation of their facilities in  
9    the past 10 years.

10

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 27

**C. JURISDICTION**

**8.0 Reference: INTRODUCTION AND OVERVIEW**

**Exhibit B1-1, Section 1, p. 1**

**Full Agreement Approval**

On page 1 of the Application, in reference to the Utilities Commission Act (UCA), FEI states “Section 32 applies in the present circumstances. FEI has the right to construct and operate its system, and extensions to that system, under its Certificate of Public Convenience and Necessity (CPCN) and the provisions of the Act and the Gas Utility Act. There is an existing 1957 operating agreement with the City (1957 Agreement) that establishes protocols and addresses cost allocations.”

Section 45(8) of the UCA states “the commission must not give its approval unless it determines that the privilege, concession or franchise proposed is necessary for the public convenience and properly conserves the public interest.”

8.1 Please confirm that FEI is requesting approval from the Commission for the entire proposed Operating Agreement. If not confirmed, please explain.

**Response:**

FEI confirms that it is seeking approval of the Proposed Operating Agreement as an overall package. The overall package will represent the Commission’s determination regarding the “manner and terms of use” upon which FEI should be allowed to use the streets or other public places in the City of Surrey. For reference, section 32(2) provides:

(2) On application and after any inquiry it considers advisable, the commission may, by order, allow the use of the street or other place by the public utility for that purpose and specify the manner and terms of use.

The Commission has the ability to substitute different terms, but FEI believes it is appropriate for any Commission order to incorporate those terms within FEI’s Proposed Operating Agreement that the parties agree are appropriate unless the terms substituted by the Commission would significantly impact the fairness of the other provisions.

Section 45(8), which is quoted in the preamble, does not apply in this context, as FEI’s Proposed Operating Agreement are not a “privilege, concession or franchise”.

8.2 Is FEI requesting for approval under section 45 of the UCA? Please discuss.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 28

1    **Response:**

2    No, FEI is not seeking approval under section 45. FEI's Proposed Operating Agreement is not a  
3    municipal franchise, concession or privilege agreement under the UCA that would require  
4    approval under section 45(8). A franchise, concession or privilege confers rights to operate  
5    within a municipality. In this case, FEI already has a CPCN and the right to operate within  
6    Surrey, so section 32 applies. FEI's Proposed Operating Agreement, like the prior agreement  
7    with Surrey, is an operating agreement establishing how the parties will interact with one  
8    another.

9

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 29

**9.0 Reference: CHANGES TO COMPANY FACILITIES**

**Exhibit B1-1 Appendix A, Section 8.2(c), p. 14**

***Oil and Gas Activities Act***

The definition of pipeline under the Oil and Gas Activities Act “does not include (f) piping used to transmit natural gas at less than 700 kPa to consumers by a gas utility as defined in the *Gas Utility Act*...”

Page 124 of the FortisBC Energy Inc. v. Surrey Decision states:

[497] I have found that the TLA [Trunk Line Agreement] was terminated by the plaintiff’s repudiation and fundamental breach, and the defendant’s acceptance of Terasen Gas’ repudiation of that agreement. I have also found that s. 9(c) of the former Pipeline Regulation was intra vires, and applied to allocate the Pipeline costs and Pipeline upgrade costs on and through the City land and the Angus Land equally between the plaintiff and Surrey<sup>7</sup>.

On page 14 of the proposed Operating Agreement, attached as Appendix A to the Application, it states:

(c) Despite the cost allocation provisions of the Pipeline Crossings Regulation (B.C. Reg.147/2012), the Municipality shall reimburse FortisBC for the Relocation Costs in the following amounts:

- i. 100% of the Relocation Costs when the affected Company Facilities are Gas Mains;
- ii. 50% of the Relocation Costs when the affected Company Facilities are High Pressure Pipelines.

9.1 In FEI’s view, does the Commission have jurisdiction to determine Relocation Costs related to High Pressure Pipelines? Please explain and provide evidence.

**Response:**

Yes, FEI believes the Commission does have jurisdiction to allocate costs in circumstances where a municipality has requested that FEI move a High Pressure Pipeline.

FEI assumes that the question is referencing Surrey’s argument that the *Pipeline Crossing Regulation* governs the allocation for relocation of High Pressure Pipelines, such that the Commission has no jurisdiction to deviate from the default cost allocation in the Regulation. Before addressing why FEI disagrees with that argument, it is worth noting two points:

- a. The *Pipeline Crossing Regulation* only relates to High Pressure Pipelines. Although the relocation of a High Pressure Pipeline is typically very costly, there

<sup>7</sup> FortisBC Energy Inc. v. Surrey (City), [2013] BCSC 2382 <http://canlii.ca/t/g2gq0>.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 30

are far more Gas Mains in Surrey than High Pressure Pipelines. FEI receives relocation requests for Gas Mains more frequently than High Pressure Pipelines. It is with respect to Gas Mains where there is the largest difference between Surrey's and FEI's proposals - Surrey wants all costs associated with its requests recovered from FEI and FEI is proposing all costs be recovered from Surrey.

- b. The *Pipeline Crossing Regulation* contemplates 50 percent-50 percent allocation for High Pressure Pipelines (the same as FEI is proposing) in two listed circumstances, which would cover many or most instances where High Pressure Pipelines would have to be moved. As such, FEI's proposed allocation does not differ significantly from the policy behind the Pipeline Crossing Regulation. Nonetheless, the listed circumstances of the Pipeline Crossing Regulation can be difficult to apply to each particular fact situation, as demonstrated by previous litigation between Surrey and FEI (where Surrey unsuccessfully sought to allocate 100 percent of the costs to FEI under the similar regulation then in effect). FEI is thus proposing a 50 percent-50 percent cost allocation for all relocations involving High Pressure Pipelines.

In any event, on the question of jurisdiction, FEI makes three points in this response:

- First, the Commission routinely regulates utilities with respect to High Pressure Pipelines when it comes to CPCNs and economic matters.
- Second, section 32 provides the Commission with jurisdiction to establish the terms of public utility use of the municipal highways and the allocation of costs falls squarely within terms of use; and
- Third, the Commission has previously exercised its section 32 jurisdiction to allocate costs in relation to upgrades or moves of the gas system, including those parts of the gas system that are regulated under the *Oil and Gas Activities Act* and its predecessor legislation.

The Commission is thus free to adopt FEI's proposal. It would also be able to order that Surrey pay all of the costs of relocation of High Pressure Pipelines, akin to what other municipalities currently pay.

### **Concurrent Jurisdiction**

The Oil and Gas Commission and the Utilities Commission have concurrent jurisdiction over High Pressure Pipelines. Not all pipeline owners are public utilities. When pipeline owners are also public utilities, the Commission has authority to authorize construction of the public utility's system, which includes High Pressure Pipelines, and set terms in that regard. The Commission also has authority to oversee FEI's operations and service, including in relation to High Pressure Pipelines. It also has authority under section 32, again, in relation to High Pressure Pipelines as well as in relation to the lower pressure parts of FEI's system.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 31

## **Section 32 Is the Governing Legislation in the Case of Public Utility Use of Municipal Streets**

The UCA confers jurisdiction on the Commission to resolve disputes over “use of the street or other place or on the terms of use” of municipal streets in circumstances where the pipeline owner is also a “public utility”. In such cases, section 32 specifies “the commission may, by order, allow the use of the street or other place by the public utility for that purpose and specify the manner and terms of use.” The allocation of costs is a “term of use”.

## **The Commission Has Previously Adopted This Approach**

The Commission has previously considered and exercised its jurisdiction under section 32 to set the terms on which a gas utility may use the highway and other public places in a municipality. Such terms have included the allocation of costs where a municipality has requested that the gas utility move part of its system, which implicitly included those parts of the gas system regulated under the *Oil and Gas Activities Act* or its predecessor legislation, the *Pipeline Act*. These examples are

- Commission Orders G-98-90 and G-106-90 (In the Matter of an Application by Vancouver Island Gas Company Ltd. and Victoria Gas Company (1988) Ltd. - terms that required the utility to move part of the system affected by a highway closure and for the municipality to pay for the utility’s relocation costs);
- Commission Order G-17-06 (Section 13 of the operating terms for Terasen Gas Inc. (now FEI) in the District of Chetwynd – provide that each of the utility and the municipality could request the other to relocate or make changes to its infrastructure and the requesting party had to pay the other’s entire costs to relocate or make those changes); and
- Commission Order G-113-12 (Section 8.1 and 8.2 of the operating terms for FEI in the District of Coldstream similarly provide that each of the utility and the municipality could request the other to relocate or make changes to its infrastructure and the requesting party had to pay all the other’s costs ).

FEI submits that, in this case of the Operating Agreement with Surrey, the Commission should exercise its jurisdiction to replace the default cost allocation provision set out in the *Pipeline Crossing Regulation* with the cost allocation proposed by FEI for the reasons set out below.

## **Why FEI’s Proposal is Fair**

FEI has considered multiple factors when determining an appropriate allocation, including the OGAA, the *Pipeline Crossings Regulation*, the reasons for judgement in the *FortisBC Energy Inc. v. Surrey* Decision and the implementation of the proposed Operating Fee. Like the *Pipeline Crossings Regulation* which was applied in the *FEI v. Surrey Decision*, FEI adopted a fixed 50/50 cost sharing model, but without importing the two criteria of the Regulation so it



FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 32

would apply to all High Pressure Pipeline relocations. Doing so is fair and reasonable to both parties since it:

- provides certainty to both parties of the financial impact of relocations when determining whether a relocation is required, reviewing estimates, proceeding with the work, and making payment;
- should reduce disputes on whether the work itself is subject to cost allocation; and
- recognizes the value of the operating terms as a whole, balancing the obligations imposed on a party with the rights granted to that party.

Further, the allocation in the *Pipeline Crossings Regulation* does not take into account other financial arrangements between FEI and the Municipality, such as the Operating Fee. While FEI's proposed allocation may shift to Surrey some of the burden of High Pressure Pipeline Relocation Costs (only those that are not reflected in the two categories in the Regulation), the cost determination provisions, the FEI Permit process (contained in section 13(b) of the proposed Operating Terms), and the Operating Fee provisions provide ancillary benefits to the Municipality to reduce and manage that burden. FEI's proposed Operating Terms overall are balanced and fair.

Acceding to Surrey's position on allocation generally – particularly given that Surrey is seeking to have FEI share 50 percent of the costs of relocating Gas Mains as well as High Pressure Pipelines -- would significantly and negatively affect the financial implications of the Proposed Operating Terms for our customers generally. If the Commission determines, consistent with Surrey's position, that it does not have jurisdiction to make an order with respect to cost allocations for relocation work undertaken with respect to High Pressure Pipelines (or declines to exercise its jurisdiction), and orders operating terms and conditions which are silent with respect to such costs or which refer to the *Pipeline Crossings Regulations*, then the Commission should address this imbalance by making two adjustments:

- First, reflecting the increased relocation cost burden on FEI by lowering the Operating Fee; and
- Second, excluding section 13(b) of the proposed Operating Terms which establish the process for the Municipality to obtain FEI's agreement to its work activity pursuant to section 76(1)(c) of the OGAA based on that same jurisdictional reason. FEI should not be required to provide a blanket approval for such activities in the event it is going to be required to pay costs in accordance with the allocation set out in the *Pipeline Crossing Regulation*. That result imposes insufficient discipline on the Municipality and could expose FEI and customers to very significant costs.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 33

**10.0 Reference: AREA OF DISAGREEMENT – ISSUE NO. 4: 1 RELEASE OF  
STATUTORY RIGHTS OF WAY**

**Exhibit B1-1, Section 3.5, p. 22**

**Statutory Rights of Ways**

On page 22 of the Application, it states:

Another area of dispute is with respect to the release of FEI's statutory rights of way for road dedications. In addition to FEI's authority and power, in accordance with and subject to the GUA, the Act, and other applicable Laws, to operate Company Facilities on, along, across, over or under municipal highways, FEI also holds statutory rights of way (i.e., a property right) to operate Company Facilities on titled lands. FEI understands that the City is seeking a blanket release of FEI's statutory rights of way for the purpose of road dedications. FEI is prepared to consider requests on a case by case basis, but is not prepared to provide a blanket waiver of its rights.

Further on page 22 of the Application, it states:

FEI does not believe that the Commission has jurisdiction under section 32 of the Act to order FEI to waive its statutory rights of way and give up its statutory protections under the Expropriation Act. Statutory rights of way are FEI's private interests in land, and not public places of the nature addressed in section 32."

10.1 Please provide a copy of the relevant right of way agreements.

**Response:**

As described below, there are approximately 900 SROWs related to Surrey spanning a period from approximately the 1950s to current date, which are not available without considerable cost and work over an extended period of time. FEI respectfully submits that it is unnecessary for the purposes of determining the Application to go through the cost and significant work required to comply with the request. As FEI's position is a jurisdictional one, it does not turn on the text of specific agreements. However, FEI is providing samples in order to be of assistance.

Based on a search of the Company's property records, the Company has the following registrations within the boundary limits of the City of Surrey:

- 400 properties/parcels of land are affected by transmission pipeline registrations (note: one SROW may be registered against multiple properties and therefore, there may be less than 400 SROWs for transmission pipelines); and
- 507 SROWs are registered for distribution pipelines (note: one SROW may be registered against multiple properties and therefore, there may be more than 507 properties/parcels of land affected by distribution pipelines SROWs).

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 34

1 These numbers are current but approximate and will fluctuate based on acquisitions, releases,  
2 subdivisions, etc.

3 While many of the Company's SROWs may run parallel to roads, without reviewing each SROW  
4 and/or property title and the related plans individually, the Company is unable to confirm the  
5 actual number of SROWs abutting or in proximity to roads, and more particularly roads under  
6 the jurisdiction of the Municipality.

7 Since SROWs are negotiated agreements between the Company and property owners dating  
8 back almost 70 years, there is not a standard version of an SROW which would be  
9 representative of the SROWs held by the Company. However, in Attachment 10.1, FEI  
10 provides eight SROWs registered in favour of the Company (reflecting both older and more  
11 recent registrations) which provide examples of terms and conditions which are generally  
12 included in SROWs.

13 Pursuant to Section 218 of the *Land Title Act [R.S.B.C. 1996], Chapter 250*, the Company, as a  
14 public utility, is entitled to negotiate an SROW with a property owner for the operation and  
15 maintenance of the Company's undertaking and have that SROW registered against and remain  
16 on title to the affected parcel, despite any transfer or sale of that parcel to another owner. The  
17 SROW enables the Company to use the affected portion of private property in accordance with  
18 the terms, conditions and covenants expressed in the SROW agreement. While each SROW  
19 may be different, they will all contain covenants which allow the Company to install, operate and  
20 maintain its facilities on and across the affected land for the Company's purpose.

21

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 35

**D. CUSTOMER CONSULTATION AND COMPLAINTS**

**11.0 Reference: FEI'S PROPOSED CITY OF SURREY OPERATING AGREEMENT  
TERMS**

**Exhibit B1-1, Appendix A, Section 8.2, p. 14, Section 12.1, p. 17**

**Customer Consultation and Complaints**

In the Application on page 3, it states that “the Proposed Operating Terms... address costs and fees in a manner that is fair to both the City and the FEI customers from whom the fees and costs are ultimately recovered.” [Emphasis added]

In terms of Relocation Costs, on page 14 of the proposed Operating Agreement, attached as Appendix A to the Application, it states:

8.2(c) Despite the cost allocation provisions of the Pipeline Crossings Regulation (B.C. Reg.147/2012), the Municipality shall reimburse FortisBC for the Relocation Costs in the following amounts:

- i. 100% of the Relocation Costs when the affected Company Facilities are Gas Mains;
- ii. 50% of the Relocation Costs when the affected Company Facilities are High Pressure Pipelines.

In terms of Operating Fee, on page 17 of the proposed Operating Agreement, under section 12.1 it states “Provided that FortisBC is permitted to collect the Operating Fee from customers within the Boundary Limits and effective commencing from the date established by the BCUC, FortisBC agrees to pay to the Municipality on an annual basis, a fee (the “Operating Fee”) of 0.70 % of the delivery revenue (excluding taxes) received by FortisBC from its customers for the distribution of gas consumed within the Boundary Limits (the “Delivery Revenue”)...”

11.1 Has FEI done any consultation with its customers if they agree with the following? If not, why not?

- The concession being made on the Relocation Costs, and
- The proposed Operating Fee

**Response:**

FEI has not done any consultation with its customers for the two items listed, which is consistent with the approach in prior circumstances where the Company has needed to negotiate commercial operating terms with municipalities.

FEI's interests are aligned with those of its customers in the current context. FEI wants to ensure that it is able to provide efficient and cost effective service to its customers, without the

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 36

provision of an excessive Operating Fee or assuming excessive obligations regarding relocations requested (i.e., caused) by the Municipality.

FEI is entertaining collecting an Operating Fee and remitting it to Surrey when it is currently not obligated to do so, and compromising on relocation cost sharing in the case of High Pressure Pipelines, in order to avoid costs otherwise involved in its dealings with Surrey. The proposed Operating Fee is calculated on a principled basis which reflects that approach. An excessive Operating Fee (that would in essence represent an indirect tax by the municipality on only a portion of its population) is obviously undesirable for our customers in Surrey. It is similarly undesirable for the Company itself, from a competitive perspective, to have our customers paying a higher Operating Fee or higher relocation costs than is necessary to secure a reasonable agreement to get the Company's work done efficiently and effectively.

Consultation would not have resulted in a change to what FEI has proposed in this Application, which FEI believes results in the fairest allocation of costs as between FEI's gas customers in the City of Surrey, City of Surrey residents in general, and FEI's gas customers in the province.

In the past, when the Commission has issued decisions approving operating agreements that commenced collection of an Operating Fee in municipalities where there previously had not been one, FEI did not undertake a consultation process with customers in advance, nor did the Commission require such consultation. Instead, FEI has supported informing customers that the Operating Fee line item would be appearing on their bill which FEI was collecting on behalf of their municipality. When FEI is approved to collect an Operating Fee in a municipality, it is the municipality's responsibility to advise its residents about their need for such an Operating Fee and how they intend to use that revenue.

11.1.1 If yes, please discuss the type of consultation conducted. If public workshop or similar, please provide:

- Number of consultation events
- The agenda(s)
- Public notice, including method of distribution
- The number of attendees in each event
- The outcome of the consultation in each event

**Response:**

Please refer to the response to BCUC IR 1.11.1.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 37

11.2 Has FEI taken into consideration public interest as part of its Application? Please discuss.

**Response:**

FEI is applying to the Commission under section 32 of the Act, which requires a more limited scope of review than the type of public interest review undertaken for a CPCN. The focus of the Commission's review should be on whether the Proposed Operating Terms provide a reasonable balancing of interests between (a) FEI and its customers, and (b) the City of Surrey. While it is not the statutory test, it would also serve the public interest to strike an appropriate balance between these interests.

Section 32 does not refer to the public interest. Rather it is concerned with the efficient operation of a utility that already has a public interest approval (i.e., a CPCN) to own operate and maintain its system in the municipality:

32 (1) This section applies if a public utility

(a) has the right to enter a municipality to place its distribution equipment on, along, across, over or under a public street, lane, square, park, public place, bridge, viaduct, subway or watercourse, and

(b) cannot come to an agreement with the municipality on the use of the street or other place or on the terms of the use.

(2) On application and after any inquiry it considers advisable, the commission may, by order, allow the use of the street or other place by the public utility for that purpose and specify the manner and terms of use.

FEI and its customers have an interest in FEI, as a utility with public interest approval to operate within the municipality, being able to provide service efficiently and effectively. FEI's ability to provide efficient and effective service requires being able to, for instance, (i) coordinate its construction and maintenance operations with Surrey, (ii) avoid undue delays in dealing with the City, and (iii) avoid disputes over the payment of municipal fees through payment of an Operating Fee, while not paying excessive Operating Fees or relocation fees to Surrey which would provide a windfall at the expense of FEI's customers who reside in Surrey.

Surrey's legitimate interest is in (i) coordinating its construction and maintenance operations with FEI, (ii) minimizing disruption to its citizens, recognizing that the utility is authorized to do business in the Municipality, and (iii) obtaining a reasonable Operating Fee to compensate Surrey for the administrative work related to FEI carrying-on business in the Municipality.

FortisBC Energy Inc. (FEI or the Company) Application for Approval of Terms for an Operating Agreement between the City of Surrey and FEI (the Application)	Submission Date: September 29, 2017
Response to British Columbia Utilities Commission (BCUC or the Commission) Information Request (IR) No. 1	Page 38

FEI's Proposed Operating Agreement strikes this balance. It provides for, among other things, protocols to facilitate coordination, a reasonable Operating Fee determined on a principled basis, and a compromise on the allocation of costs caused by Municipal relocation requests.

11.3 Since the filing of the Application, has FEI received any complaints related to the Application? If yes, please describe and provide:

- Comparison of the total number of complaints for the months of June, July and August (to date) from last year to the total number received this year. Please discuss.
- Number of complaints received related to this application
- Nature of the complaints

**Response:**

FEI has not received any formal complaints related to this Application through its customer service channels. FEI received 6 complaints from June to August during 2016, and the same number in the same three month period in 2017. The complaints in 2016 were related to Rebate Offering, Billing, Trespass, and Meter Exchanges. In 2017 they were related to Billing and Disconnection.

In order to fulfill the Commission's directive in Order G-98-17 to notify customers, FEI initiated a direct mailing sent to 113,158 customers who had active accounts as of June 30, 2017<sup>8</sup>, representing all current FEI customers in the City of Surrey at the time of mailing. To date, FEI has directly received approximately 409 telephone and 60 email inquiries seeking more information about the applications. While not formal complaints, some of these telephone and email inquiries did express concerns with the Operating Fee proposals in the applications. In responding to those inquiries, FEI has provided further information and advised customers of their options to submit letters of comment or register to participate in the review process. Some letters of comment from customers have been filed in the Commission's process (FEI will let those letters speak for themselves).

---

<sup>8</sup> As reported in a letter to the Commission dated July 28, 2017.

**Attachment 2.1**

---



Attachment 2.1

Notes:

- Redlining shows changes made to Keremeos Agreement
- Where Keremeos clauses/concepts were relocated within FEI Proposed Agreement, comparison was made at the FEI Proposed Agreement location (resulting in Keremeos numbering not always being in numerical order)
- Shaded sections reflect section/rows where City of Surrey and the Company were unable to come to an agreement, which became the subject matter of the BCUC application.

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R1	RECITALS	RECITALS:		
R2	A. FortisBC is a public utility pursuant to the <i>Utilities Commission Act</i> , R.S.B.C. 1996, c. 473, as amended.			NEW - Additional background
R3	B. Pursuant to the <i>Gas Utility Act</i> , R.S.B.C. 1996, c. 170, as amended and certificates of public convenience and necessity pursuant to the <i>Utilities Commission Act</i> , FortisBC is authorised and empowered to construct and operate gas distribution equipment within and which traverse the Boundary Limits of the Municipality, subject to those statutes.	A. Whereas by a certificate of public convenience and necessity (CPCN), FortisBC was granted the right to construct and operate gas distribution facilities within the Municipality;	B. <u>Pursuant to the <i>Gas Utility Act</i>, R.S.B.C. 1996, c. 170, as amended and</u> <del>Whereas by a</del> <u>certificates</u> of public convenience and necessity <u>pursuant to the <i>Utilities Commission Act</i>(CPCN),</u> FortisBC <u>is authorised and empowered</u> <del>was granted the right</del> to construct and operate gas distribution <u>equipment within and which traverse the Boundary Limits of the Municipality, subject to those statutes</u> <del>facilities within the Municipality;</del>	Revised - Expanded identification of the Company's authority
R4	C. Pursuant to the <i>Community Charter</i> , S.B.C. 2003, c. 26, as amended, a municipal council may, by resolution adopt and enter into a licensing and operating agreement.	B. And whereas pursuant to the Community Charter, S.B.C. 2003, a Municipal council may, by resolution adopt and enter into a licensing and operating agreement;	C. <del>And whereas</del> <u>p</u> Pursuant to the Community Charter, S.B.C. 2003, <u>c. 26, as amended,</u> a <del>m</del> <u>M</u> unicipal council may, by resolution adopt and enter into a licensing and operating agreement;	Similar
R5		C. And whereas FortisBC and the Municipality are the parties to a Franchise or Operating Agreement dated the 9th day of September, 1993 which has or will expire on October 15, 2014;		N/A
R6	D. FortisBC and the Municipality wish to enter into this Agreement with respect to the installation, construction, repair, maintenance, alteration, extension or removal of FortisBC's natural gas distribution equipment on, along, across, over or under municipal highways and identified properties owned and/or controlled by the Municipality and to clarify and settle the terms and conditions under which FortisBC shall exercise its rights to use such highways and listed properties in conducting its business of distributing natural gas as a public utility within the Boundary Limits of the Municipality.	D. And whereas FortisBC and the Municipality wish to enter into this Agreement to clarify and settle the terms and conditions under which FortisBC shall exercise its rights to use Public Places in conducting its business of distributing Gas within the Municipality.	D. <del>And whereas</del> <u>FortisBC and the Municipality wish to enter into this Agreement</u> <u>with respect to the installation, construction, repair, maintenance, alteration, extension or removal of FortisBC's natural gas distribution equipment on, along, across, over or under municipal highways and identified properties owned and/or controlled by the Municipality and</u> to clarify and settle the terms and conditions under which FortisBC shall exercise its rights to use <u>such highways and listed properties in conducting its business of distributing natural gas as a public utility within the Boundary Limits of</u> <del>Public Places in conducting its business of distributing Gas within</del> the Municipality.	Revised - Expanded detail as to purpose of agreement
R7	E. This Agreement is not intended to cover FortisBC's occupancy and use of:			NEW – provides exclusions to scope of agreement

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	1. privately owned lands, or titled lands of the Municipality not identified in Schedule A or which are not Highways; 2. lands of the Municipality over which FortisBC holds a statutory right of way granted by the Municipality; 3. Public Places for any purpose not related to the storage, transmission, distribution or supply of natural gas as a public utility.			
R8	1. DEFINITIONS AND INTERPRETATION	1. DEFINITIONS	1. DEFINITIONS <u>AND INTERPRETATION</u>	
R9	1.1 Definitions		<u>1.1 Definitions</u>	
R10	In this Agreement, the following words and phrases have the meanings set out below and other terms defined within this Agreement will have the meanings so ascribed:		<u>In this Agreement, the following words and phrases have the meanings set out below and other terms defined within this Agreement will have the meanings so ascribed:</u>	New
R11	(b) “Boundary Limits” means the boundary limits of the Municipality as they exist from time to time and that determine the area over which the Municipality has control and authority;	(a) “Boundary Limits” means the boundary limits of the Municipality as they exist from time to time and that determine the area over which the Municipality has control and authority;		Same
R12	(a) “BCUC” means the British Columbia Utilities Commission or its predecessor or successor having regulatory jurisdiction over natural gas distribution utilities in British Columbia;	(b) “BCUC” means the British Columbia Utilities Commission or successor having regulatory jurisdiction over natural gas distribution utilities in British Columbia;	(a) “BCUC” means the British Columbia Utilities Commission or <u>its predecessor or</u> successor having regulatory jurisdiction over natural gas distribution utilities in British Columbia;	Similar
R13		(c) “CPCN” means a Certificate of Public Convenience and Necessity granted by the BCUC which allows FortisBC to operate, maintain and install Company Facilities for the distribution of Gas within the Municipality;		Not used – instead, see section 3 (Rows R51 - R56) which identifies the Compnay’s authority pursuant to law generally
R14	(c) “Company Facilities” means any FortisBC Gas Main, High Pressure Pipeline and other equipment and appliances used or intended to be used to convey, test, monitor, distribute, mix, store, measure and deliver natural gas to FortisBC customers, but excludes pipes, equipment and appliances used or intended to be used to convey, test, monitor, distribute, mix, store, compress, measure and deliver: (i) liquefied natural gas, and (ii) natural gas at, or in excess of, 20 MPa for vehicle use;	(d) “Company Facilities” means FortisBC’s facilities, including pipes, buildings, structures, valves, signage, storage facilities, machinery, vehicles and other equipment used to maintain, operate, renew, repair, construct and monitor a natural Gas Distribution and transmission system;	(c) “Company Facilities” means <u>any FortisBC’s Gas Main, High Pressure Pipeline and other equipment and appliances</u> <del>facilities, including pipes, buildings, structures, valves, signage, storage facilities, machinery, vehicles and other equipment</del> used <u>or intended to be used to convey, test, monitor, distribute, mix, store, measure and deliver natural gas to FortisBC customers, but excludes pipes, equipment and appliances used or intended to be used to convey, test, monitor, distribute, mix, store, compress, measure and deliver: (i) liquefied natural gas, and (ii) natural gas at, or in excess of, 20 MPa for vehicle use;</u> <del>to maintain, operate, renew, repair, construct and monitor a natural Gas</del>	Combined Keremeos definitions of “Company Facilities” (Row R14) and “Gas Distribution” (Row R20).

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
			<del>Distribution and transmission system;</del>	
R15	(d) <b>“Emergency Work”</b> means any work that, in the reasonable opinion of the party carrying out the work, is urgently required to preserve public safety or health or to preserve the safety of Company Facilities or Municipal Facilities, as the case may be, or other property;			NEW - Created separate definition to exclude from approval and permitting requirements (see section 5.2 (Row R76), section 5.5 (Row R95)and section 5.6 (Row R100) for usage). In Keremeos, emergency work imbedded as an exclusion in the definition of “New Work” (see Keremeos column, section 1(n) Row R31).
R16	(e) <b>“FEI Permit”</b> means a document representing FortisBC’s agreement to construction or other activities of the Municipality for the purposes of section 76(1)(c) of the <i>Oil and Gas Activities Act</i> , S.B.C. 2008, c. 36, as amended;			NEW – Added for new provision setting out obligations when work is performed near Company Facilities Refer to the following for usage: section 8.1 FEI column, Row R137 section 8.2(b) FEI column, Row R140 section 13(b) FEI column, Row R181
R17	(f) <b>“Gas Main”</b> means a natural gas pipe forming part of the Company Facilities operating at less than 700 kPa;	(e) <b>“Distribution Pipelines”</b> means pipelines operating at a pressure less than 2071 kilopascals (300 psi);	(f) <del>“Distribution Pipelines</del> <b>Gas Main”</b> means <u>a natural gas pipe pipelines forming part of the Company Facilities</u> operating at <del>a pressure less than 2071 kilopascals (300 psi)</del> <u>700kPa;</u>	Term “Distribution Pipeline” not used – instead used “Gas Mains” (under 700 kPa) and “High Pressure Pipelines” (over 700 kPa) (FEI column, Row R21).
R18		(f) <b>“FortisBC Employees”</b> means personnel employed by or engaged by FortisBC including officers, employees, directors, contractors, and agents;		Not used – replaced by term “Representatives” (see FEI column, Row R37)
R19		(g) <b>“Gas”</b> means natural gas, propane, methane, synthetic gas, liquefied petroleum in a gaseous form or any mixture thereof;		Not used
R20		(h) <b>“Gas Distribution”</b> means fixed equipment, structures, plastic and metal lines and pipe, valves, fittings, appliances and related facilities used or intended for the purpose of conveying, testing, monitoring, distributing, mixing, storing, measuring and delivering Gas and making it available for use within the Municipality;		Not used – instead rolled into new definition of “Company Facilities” (see FEI column, Row R14).
R21	(g) <b>“High Pressure Pipeline”</b> means a natural gas pipeline forming part of the Company Facilities operating at, or in excess of, 700 kPa;	(s) <b>“Transmission Pipeline”</b> means a pipeline of FortisBC having an operating pressure in excess of 2071 kilopascals (300 psi); and	(g) <del>“Transmission High Pressure Pipeline”</del> means a <u>natural gas pipeline forming part of the Company Facilities of FortisBC having an</u> operating pressure <u>at or in excess of</u> <del>2071 kilopascals (300 psi); and</del> <u>700 kPa;</u>	Transmission Pipeline not used – instead used “High Pressure Pipelines” (over 700 kPa). See also “Gas Main” (under 700 kPa) (FEI column, Row R17)
R22	(h) <b>“Highway”</b> means a street, road, lane, bridge, viaduct and any other way open to public use and under the jurisdiction of the Municipality, but excludes a private or statutory right of way on private property;	(i) <b>“Highway”</b> means street, road, lane, bridge or viaduct controlled by the Municipality or Provincial Government of British Columbia;	<del>(h) “Highway” means street, road, lane, bridge, or viaduct and any other way open to public use and under the jurisdiction of</del> <u>controlled by the Municipality, but excludes a private or statutory right of way on</u>	Limited definition to roads under jurisdiction of Municipality here instead of through definition of Public Places (since provincial highways are outside of scope of agreement).

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
			<del>private property; or Provincial Government of British Columbia;</del>	See also definition of “Public Places” (FEI column, Row R35) where “Unopened Road Allowances” are also excluded.
R23	(i) “ <b>Laws</b> ” means all laws, statutes, by-laws, rules, regulations, declarations, ordinances, directives, orders, requirements and directions of federal, provincial, municipal, local and other governmental, quasi-governmental or other competent body, authority, department, commission and board, and includes Municipal Specifications;			NEW
R24		(j) “ <b>Mains</b> ” means pipes used by FortisBC to carry gas for general or collective use for the purposes of Gas Distribution;		Not used – instead see “Gas Mains” (under 700 kPa) (FEI column, Row R17) and “High Pressure Pipelines” (over 700 kPa) (FEI column, Row R21)
R25		(k) “ <b>Municipal Employees</b> ” means personnel employed by or engaged by the municipality, including officers, employees, directors, contractors and agents;		Not used – replaced by term “Representatives” (see FEI column, Row R37)
R26	(j) “ <b>Maintenance Work</b> ” means any operation, repair, maintenance, inspection or testing of Company Facilities on, along, across, over or under Public Places, and includes vertical relocation of Gas Mains or High Pressure Pipelines, including Service Lines;			NEW – created separate categories for types of Work for permit/approval requirements. See also “New Work” (FEI column, Row R31), “Service Line Work” (FEI column, Row R39), “Emergency Work” (FEI column, Row R15), “Work” (FEI column, Row R43).
R27	(k) “ <b>Municipal Facilities</b> ” means any facilities and improvements, including Highways, sidewalks, conduits, manholes, equipment, machinery, pipes, wires, valves, buildings, structures, signage, and other equipment, on, along, across, over or under the Public Places used by the Municipality for the purposes of its public works or municipal operations;	(l) “ <b>Municipal Facilities</b> ” means any facilities, including highways, sidewalks, conduits, manholes, equipment, machinery, pipes, wires, valves, buildings, structures, signage, bridges, viaducts and other equipment within the Public Places used by the Municipality for the purposes of its public works or municipal operations;	(k) “ <b>Municipal Facilities</b> ” means any facilities <u>and improvements</u> , including <del>highways</del> <u>Highways</u> , sidewalks, conduits, manholes, equipment, machinery, pipes, wires, valves, buildings, structures, signage, <del>bridges, viaducts</del> and other equipment <u>on, along, across, over or under</u> <del>within</del> the Public Places used by the Municipality for the purposes of its public works or municipal operations;	Similar.
R28	(l) “ <b>Municipal Project</b> ” means any installation, relocation, extension or removal of Municipal Facilities, including any infrastructure or Highway widening or construction project, undertaken and financed by the Municipality for a municipal purpose and community benefit; but excludes any installation, relocation, extension or removal of Municipal Facilities where the Municipality is a co-partner or project delivery agent as part of a joint venture or joint development project			NEW - Distinguishes projects of the Municipality from Third Party Projects for the purposes of cost allocation provisions for relocation of Company Facilities (see section 8.2(b) (FEI column, Row R140 for usage)

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	with any level of government, a provincial or federal crown corporation, a railway or South Coast British Columbia Transportation Authority;			
R29	(m) “ <b>Municipal Specifications</b> ” means the standards and specifications, as may be amended from time to time, established and documented by the Municipality, which may include the degree and nature of traffic control, excavation, backfill, compaction, subsurface structure, surface restoration and landscaping required;			<i>NEW – used to identify municipal requirements</i>
R30		(m) “ <b>Municipal Supervisor</b> ” means the Municipal Engineer or other such person designated by the Municipality to receive notices and issue approval as set out in this Agreement;		<i>Not used</i>
R31	(n) “ <b>New Work</b> ” means any installation, relocation, extension or removal of Company Facilities on, along, across, over or under Public Places, but excludes Service Line Work, vertical relocation of Gas Mains or High Pressure Pipelines, including Service Lines, and Maintenance Work;	<p>(n) “<b>New Work</b>” means any installation, construction, repair, maintenance, alteration, extension or removal work of the Company Facilities in Public Places except;</p> <p>(i) routine maintenance and repair of the Company Facilities that does not involve any cutting of asphalted road surface;</p> <p>(ii) installation or repair of Service Lines whether or not such installation or repair involves cutting of asphalted road surface; or</p> <p>(iii) emergency work;</p> <p>but notwithstanding such exceptions, New Work shall include any installation, construction or removal of the Company Facilities in Public Places that are planned to disturb underground Municipal Facilities;</p>	<p>(n) “<b>New Work</b>” means any installation, <u>relocation, construction, repair, maintenance, alteration</u>, extension or removal <del>work of the Company Facilities</del> <u>on, along, across, over or under in</u> Public Places <u>but excludes Service Line Work, vertical relocation of Gas Mains or High Pressure Pipelines, including Service Lines, and Maintenance Work;</u><del>except;</del></p> <p><del>routine maintenance and repair of the Company Facilities that does not involve any cutting of asphalted road surface;</del></p> <p><del>installation or repair of Service Lines whether or not such installation or repair involves cutting of asphalted road surface; or</del></p> <p><del>emergency work;</del></p> <p><del>but notwithstanding such exceptions, New Work shall include any installation, construction or removal of the Company Facilities in Public Places that are planned to disturb underground Municipal Facilities;</del></p>	<i>Revised to create separate categories for types of Work for permit/approval sections. See also “Maintenance Work” (FEI column, Row R26, “Service Line Work” (FEI column, Row R39), “Emergency Work” (FEI column, Row R15), “Work” (FEI column, Row R43).</i>
R32	(o) “ <b>Operating Fee</b> ” has the meaning ascribed to that term in section 12 ( <i>Operating Fee</i> );			<i>NEW – for drafting purposes</i>
R33	(p) “ <b>Pipeline Markers</b> ” means post, signage or any means of identification used to show the general location of High Pressure Pipelines;	(o) “ <b>Pipeline Markers</b> ” means post, signage or any similar means of identification used to show the general location of Transmission Pipelines and distribution pipelines or FortisBC Rights of Way;	(p) “ <b>Pipeline Markers</b> ” means post, signage or any <del>similar</del> means of identification used to show the general location of <del>Transmission Pipelines and distribution pipelines or FortisBC Rights of Way</del> <u>High Pressure Pipelines;</u>	<i>Revised to reflect usage (see section 3.1(c)(iv), FEI column, Row R54, section 13(c), FEI column, Row R182)</i>
R34	(q) “ <b>Planned Facilities</b> ” means those Municipal	(p) “ <b>Planned Facilities</b> ” means those facilities not yet	(q) “ <b>Planned Facilities</b> ” means those <u>Municipal</u>	<i>Revised based on revised usage in Agreement</i>

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	Facilities and third party facilities not yet constructed but which have been identified by way of documented plans for: (i) the works of the Municipality, or (ii) the works of third parties, where such works are identified by documented plans permitted or approved by the Municipality;	constructed but which have been identified by way of documented plans for the works of the Municipality, for works of third parties, where such works are identified by documented plans approved by the Municipality, or for works of FortisBC submitted to the Municipality subject to Municipal approval;	<u>Facilities and third party</u> facilities not yet constructed but which have been identified by way of documented plans for; <u>(i)</u> the works of the Municipality, or <u>(ii)</u> the works of third parties, where such works are identified by documented plans <u>permitted or</u> approved <u>by the Municipality or for works of FortisBC submitted to the Municipality subject to Municipal approval;</u>	
R35	(r) <b>“Public Places”</b> means any Highway and the specified portions of the properties owned and controlled by the Municipality as identified in Schedule A, but excludes any Unopened Road Allowance;	(q) <b>“Public Places”</b> means any public thoroughfare, highway, road, street, lane, alley, trail, square, park, bridge, right of way, viaduct, subway, watercourse or other public place in the Municipality;	(r) <b>“Public Places”</b> means any <del>public thoroughfare, Highway and the specified portions of the properties owned and controlled by the Municipality as identified in Schedule A, but excludes any Unopened Road Allowance, road, street, lane, alley, trail, square, park, bridge, right of way, viaduct, subway, watercourse or other public place in the Municipality;</del>	<i>Revised to include Highways and certain other non-titled parcels used by FortisBC and specifically identified in Schedule A. Excludes “Unopened Road Allowances”.</i>
R36	(s) <b>“Relocation Costs”</b> means the costs of a party to: (i) realign, raise, lower, by-pass, relocate or protect the party’s facilities to accommodate the work of the other party; (ii) excavate material from around the facilities as needed to complete the work in (i); (iii) backfill the material referred to in (ii) and restore the surface; and (iv) flush water mains, shut down customer gas supply and customer relights as needed, and includes administration and overhead charges at rates consistent with the party’s policy, or standard rates, for such charges, which rates must be reasonable, on the costs of labour, equipment and materials in items (i), (ii), (iii) and (iv), above, and applicable taxes, but excludes the value or incremental costs of any upgrading and/or betterment of the party’s facilities or the facilities of third parties beyond that which is required to comply with applicable Laws or sound engineering practices;			NEW
R37	(t) <b>“Representatives”</b> means, with respect to each party, personnel employed by or retained by such party, including its officers, employees, directors, contractors, and agents;			NEW – Replaced definitions of “FortisBC Employees” and “Municipality Employees”.
R38	(u) <b>“Service Line”</b> means a natural gas pipe or pipeline forming part of the Company Facilities that extends	(r) <b>“Service Line”</b> means that portion of FortisBC’s gas distribution system extending from a Main to the inlet	<u>(u) “Service Line” means a natural gas pipe or pipeline forming part of the Company Facilities that extends</u>	<i>Revised to apply defined terms of High Pressure Pipeline or Gas Main.</i>



Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	approximately perpendicular for no more than approximately thirty (30) metres from a High Pressure Pipeline or Gas Main to a property line;	of a meter set and, for the purposes of this Agreement, includes a service header and service stubs;	<u>approximately perpendicular for no more than approximately thirty (30) metres from a High Pressure Pipeline or Gas Main to a property line</u> <del>that portion of FortisBC's gas distribution system extending from a Main to the inlet of a meter set and, for the purposes of this Agreement, includes a service header and service stubs;</del>	
R39	(v) <b>"Service Line Work"</b> means any installation, alteration, extension, or removal of Service Lines on, along, across, over or under Public Places;			<i>NEW –separate categories created for types of Work. See also "New Work" (FEI column, Row R31), "Maintenance Work", (FEI column, Row R26) "Emergency Work" (FEI column, Row R15), "Work" (FEI column, Row R43).</i>
R40	(w) <b>"Third Party Project"</b> means any work, including any infrastructure or Highway widening or construction project, undertaken and financed by a third party, which is approved by the Municipality, whether or not in the context of a public or private land development project, subdivision or rezoning, and includes a project where the Municipality is a co-partner or project delivery agent as part of a joint venture or joint development project with a third party, including any level of government, a provincial or federal crown corporation, a railway or South Coast British Columbia Transportation Authority;			<i>NEW - Distinguishes projects of the Municipality from Third Party Projects for cost allocation provisions for relocation of Company Facilities. (see section 8.2(a) (FEI column, Row R139 for usage)</i>
R41	(x) <b>"Unopened Road Allowance"</b> means a Highway that, as at the execution date of this Agreement and throughout the Term: (i) is not assumed to be and is not generally available for public use as a means of access or passage; and (ii) is undeveloped land or an unconstructed Highway;			<i>NEW – added to exclude properties which may be gazetted as "road" but not used as a road/ have an alternate use (example – Green Timbres which is forested land gazetted as "road" but without ingress/egress usage)</i>
R42	(y) <b>"Utilities"</b> means the facilities or operations of any water, waste water, sewer, telecommunications, energy, cable service or similar service provider located on, along, across, over or under Public Places; and	(t) <b>"Utilities"</b> means the facilities or operations of any water, waste water, sewer, telecommunications, energy, cable service or similar service provider located in Public Places within the Municipality.	(y) <b>Utilities</b> means the facilities or operations of any water, waste water, sewer, telecommunications, energy, cable service or similar service provider located <u>on, along, across, over or under</u> Public Places <del>within the Municipality;</del> <u>and</u>	<i>Similar</i>
R43	(z) <b>"Work"</b> means any Emergency Work, Maintenance Work, New Work or Service Line Work.			<i>NEW – added to identify any type of Work. See also "New Work" (FEI column, Row R31), "Maintenance Work", (FEI column, Row R26) "Emergency Work" (FEI column, Row R15), "Service Line Work" (FEI column, Row R39)</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
				<i>“Work” (FEI column, Row R43)</i>
R44	<b>1.2 Interpretation</b>	<b>2. INTERPRETATION</b>		
R45	For the purposes of interpreting this Agreement: (a) the headings are for convenience only and are not intended as a guide to interpretation of this Agreement;	For the purposes of interpreting this Agreement: (a) the headings are for convenience only and are not intended as a guide to interpretation of this Agreement;		<i>Same</i>
R46	(b) any reference to a specific section, subsection or other subdivision or to a Schedule is to the designated section, subsection or other subdivision of, or the Schedule to, this Agreement, unless the context otherwise requires;			<i>NEW</i>
R47	(c) words in the singular include the plural, words importing a corporate entity include individuals, and vice versa;  (d) in calculating time where the agreement refers to “at least” or “not less than” or “within” a number of days, weeks, months or years, the first and last days must be excluded and where the agreement refers to “at least” or “not less than” or “within” a number of days, Saturdays, Sundays and holidays must be excluded; and  (e) the word “including”, when following any general term or statement, is not to be construed as limiting the general term or statement to the specific items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement.	(b) words in the singular include the plural, words importing a corporate entity include individuals, and vice versa;  (c) in calculating time where the agreement refers to “at least” or “not less than” a number of days, weeks, months or years, the first and last days must be excluded and where the agreement refers to “at least” or “not less than” a number of days, Saturdays, Sundays and holidays must be excluded;  (d) the word “including”, when following any general term or statement, is not to be construed as limiting the general term or statement to the specific items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement.	(c) words in the singular include the plural, words importing a corporate entity include individuals, and vice versa;  (d) in calculating time where the agreement refers to “at least” or “not less than” <u>or “within”</u> a number of days, weeks, months or years, the first and last days must be excluded and where the agreement refers to “at least” or “not less than” <u>or “within”</u> a number of days, Saturdays, Sundays and holidays must be excluded;  (e) the word “including”, when following any general term or statement, is not to be construed as limiting the general term or statement to the specific items or matters, but rather as permitting the general term or statement to refer to all other items or matters that could reasonably fall within the broadest possible scope of the general term or statement.	<i>Same/similar</i>
R48	<b>2. OBLIGATION TO ACT IN GOOD FAITH</b>	<b>3. OBLIGATION TO ACT IN GOOD FAITH</b>	<b>2. OBLIGATION TO ACT IN GOOD FAITH</b>	
R49	2.1 FortisBC and the Municipality acknowledge and agree that they will act in good faith, in carrying out the terms and conditions of this Agreement and within reasonable time frames, carry out the obligations under this Agreement.  2.2 FortisBC and the Municipality will at all times carry out all work and operations with the due care and attention that is necessary to safeguard the interests of	FortisBC and the Municipality acknowledge and agree that they will act in good faith, in carrying out the terms and conditions of this Agreement and within reasonable time frames, carry out the obligations under this Agreement.  FortisBC and the Municipality will at all times carry out all work and operations with the due care and attention that is necessary to safeguard the interests of the	<u>2.1</u> FortisBC and the Municipality acknowledge and agree that they will act in good faith, in carrying out the terms and conditions of this Agreement and within reasonable time frames, carry out the obligations under this Agreement.  <u>2.2</u> FortisBC and the Municipality will at all times carry out all work and operations with the due care and attention that is necessary to safeguard the interests of	<i>Same</i>



ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	the public, their own employees, and the other party's employees.	public, their own employees, and the other party's employees.	the public, their own employees, and the other party's employees.	
R50	<b>3. FORTISBC RIGHTS TO OCCUPY AND USE PUBLIC PLACES</b>	<b>4. FORTISBC RIGHTS TO ACCESS &amp; USE PUBLIC PLACES</b>		
R51	<b>3.1 Occupancy and Use of Public Places</b>			
R52	(a) This Agreement governs the rights and obligations of the parties with respect to Company Facilities located or proposed to be located on, along, across, over or under Public Places and the conduct of Work by FortisBC in Public Places.			<i>NEW – general statement re: purpose of Agreement.</i>
R53	(b) This Agreement does not apply to or specify rights or obligations of the parties with respect to: (i) privately owned lands, titled lands of the Municipality not identified in Schedule A or which are not Highways, and Unopened Road Allowances; (ii) lands of the Municipality over which FortisBC holds a statutory right of way granted by the Municipality, except to the extent provided in section 9 ( <i>Highway Dedication for Crossings</i> ); and (iii) the occupancy and use of Public Places by FortisBC with respect to equipment and appliances used or intended to be used to convey, test, monitor, distribute, mix, store, compress, measure and deliver (i) liquefied natural gas, and (ii) natural gas at, or in excess of, 20 MPa for vehicle use.			<i>NEW – general statement of exclusions/limitations to Agreement.</i>
R54	(c) The Municipality hereby acknowledges FortisBC's authority and power, in accordance with and subject to the <i>Gas Utility Act, Utilities Commission Act</i> , and other applicable Laws, to:  (i) operate Company Facilities on, along, across, over or under Public Places; (ii) conduct Work on, along, across, over or under Public Places; (iii) enter on Public Places from time to time as may be reasonably necessary for the purpose of conducting Work and operating the Company Facilities; and (iv) place Pipeline Markers where required;  subject to terms and conditions set out in this	The Municipality hereby acknowledges FortisBC's rights to:  (a) develop, construct, install, maintain or remove Company Facilities on, over, in and under Public Places in the Municipality; (b) enter on Public Places from time to time as may be reasonably necessary for the purpose of maintaining, repairing, or operating the Company's Facilities; (c) place pipeline identification markers within Public Places where a Transmission Pipeline or Distribution Pipeline crosses or is otherwise within a Public Place;  subject to terms and conditions defined in this Agreement.	(c) The Municipality hereby acknowledges FortisBC's <del>rights</del> <u>authority and power, in accordance with and subject to the <i>Gas Utility Act, Utilities Commission Act</i>, and other applicable Laws</u> , to:  (i) <del>develop, construct, install, maintain or remove</del> <u>operate</u> Company Facilities on, <u>along, across, over, in and or</u> under Public Places <del>in the Municipality</del> ; (ii) <u>conduct Work on, along, across, over or under Public Places</u> ; (iii) <u>enter on Public Places from time to time as may be reasonably necessary for the purpose of</u> <del>maintaining, repairing, or conducting Work and</del> operating the <del>Company's</del> <u>Company</u> Facilities; and (iv) <del>place pipeline identification markers within Public</del>	<i>Similar – expanded to identify sources of authority</i> <i>Revised to use defined terms</i>

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	Agreement.		<del>Places where a Transmission Pipeline or Distribution Pipeline crosses or is otherwise within a Public Place;</del> <u>place Pipeline Markers where required;</u> subject to terms and conditions <del>defined</del> <u>set out</u> in this Agreement.	
R55	(d) FortisBC’s occupancy and use of Public Places pursuant to this Agreement shall not unduly interfere with the public use and enjoyment of such Public Places.			<i>NEW- general statement added</i>
R56	(e) Except to the extent specifically provided in this Agreement, nothing herein contained creates or grants any ownership or property rights in or to the Public Places to FortisBC or in or to the Company Facilities to the Municipality.			<i>NEW general statement added.</i>
R57	<b>3.2 Taxes and Utilities</b>			
R58	Nothing in this Agreement will alter or affect the taxes payable by FortisBC, including the taxes payable pursuant to section 644 of the <i>Local Government Act</i> , R.S.B.C. 2015, c. 1, as amended, or the payment of the costs of all services and utilities consumed in respect of FortisBC’s operations.			<i>NEW</i>
R59	<b>3.3 Insurance</b>			

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R60	<p>(a) FortisBC shall obtain and maintain throughout the term of this Agreement, the following insurance, from insurers registered in and licensed to underwrite insurance in British Columbia, and provide proof of coverage to the Municipality upon request from time to time:</p> <p>(i) Workers’ Compensation Insurance in accordance with the statutory requirements in British Columbia;</p> <p>(ii) For motor vehicles owned and operated by FortisBC and used in the performance of Work in Public Places, motor vehicle insurance coverage providing third party liability and accident benefits insurance with minimum inclusive limits for bodily injury and property damage (third party) of not less than \$2,000,000.00; and</p> <p>(iii) Comprehensive General Liability Insurance against claims for bodily injury, death and property damage in the amount of not less than \$5,000,000 per occurrence.</p> <p>(b) All such policies shall, to the extent attainable, provide that the insurance shall not be cancelled without the insurer giving at least thirty (30) calendar days’ written notice to the Municipality.</p>			NEW
R61	<b>4. COMPLIANCE WITH LAWS AND STANDARDS FOR USE OF PUBLIC PLACES</b>	<b>5. FORTISBC COMPLIANCE WITH STANDARDS FOR USE OF PUBLIC PLACES</b>	<b>4. COMPLIANCE WITH <u>LAWS AND</u> STANDARDS FOR USE OF PUBLIC PLACES</b>	
R62	<b>4.1 Laws and Standards</b>	<b>5.1 Non-discriminatory Standards for FortisBC</b>	<b>4.1 <del>Non-discriminatory</del><u>LAWS AAND</u> STANDARDS <del>for FortisBC</del></b>	
R63	<p>(a) In its occupancy and use of Public Places, including conduct of Work, FortisBC shall conform to sound engineering practices and comply with all applicable Laws, except for any by-laws, orders, standards and policies of the Municipality, including Municipal Specifications, that:</p> <p>(i) conflict with terms of this Agreement or limit any rights, approvals, permits or concessions granted to FortisBC by the Municipality under this Agreement; or</p> <p>(ii) conflict with other Laws governing FortisBC.</p>	<p>In its use of Public Places, FortisBC shall comply with all Federal and Provincial laws, regulations and codes and shall comply with all Municipal bylaws, standards and policies except that FortisBC shall not have to comply with such Municipal bylaws, standards and policies that:</p> <p>(a) conflict with terms of this Agreement or limit any rights or concessions granted to FortisBC by the Municipality under this Agreement; or</p> <p>(b) conflict with other legislation governing FortisBC.</p>	<p>(a) In its <u>occupancy and</u> use of Public Places, <u>including conduct of Work</u>, FortisBC shall <u>conform to sound engineering practices and</u> comply with all <del>Federal and Provincial laws, regulations and codes and shall comply with all Municipal bylaws, standards and policies</del><u>applicable Laws</u>, except <del>that FortisBC shall not have to comply with</del><u>for any such Municipal</u> bylaws, <u>orders</u>, standards and policies of the Municipality that:</p> <p>(i) conflict with terms of this Agreement or limit any rights, <u>approvals, permits</u> or concessions granted to FortisBC by the Municipality under this Agreement; or</p> <p>(ii) conflict with other <del>legislation</del><u>Laws</u> governing</p>	<p>Same/similar. Applied defined terms and incorporated references to sound engineering practices to eliminate duplication of wording in subsequent provisions.</p>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
			FortisBC.	
R64	(b) Where the Municipality has established requirements and standards for work in Public Places, the Municipality shall apply them to FortisBC in a fair, reasonable and non-discriminatory manner consistent with the manner that the Municipality establishes requirements on the owners and operators of other Utilities.	Further, where the Municipality has established requirements and standards for work in Public Places, the Municipality shall apply them in a fair, reasonable and non-discriminatory manner consistent with the manner that the Municipality establishes requirements on other Utilities.	(b) <u>Where</u> the Municipality has established requirements and standards for work in Public Places, the Municipality shall apply them <u>to FortisBC</u> in a fair, reasonable and non-discriminatory manner consistent with the manner that the Municipality establishes requirements on <u>the owners and operators of</u> other Utilities.	<i>Similar</i>
R65	<b>4.2 Provide emergency contacts</b>	<b>5.2 Provide emergency contacts.</b>		
R66	FortisBC will provide the Municipality with a 24 hour emergency contact number which the Municipality will use to notify FortisBC of emergencies including; gas leaks, third party accidents around work sites, ruptures of gas lines, and other potentially hazardous situations.	FortisBC will provide the Municipality with a 24 hour emergency contact number which the Municipality will use to notify FortisBC of emergencies including; gas leaks, third party accidents around work sites, ruptures of gas lines, and other potentially hazardous situations.		<i>Same</i>
R67	<b>4.3 Assist with facility locates</b>	<b>5.3 Assist with facility locates</b>	<b>4.3 Assist with facility locates</b>	
R68	FortisBC will, at no cost to the Municipality, provide locations of its Company Facilities within a time frame as may be reasonably requested by the Municipality, except in the event of an emergency in which case the information shall be provided forthwith. FortisBC shall provide gas locations from FortisBC records.	FortisBC will, at no cost to the Municipality, provide locations of its Company Facilities within a time frame as may be reasonably requested by the Municipality unless the reason for the request is the result of an emergency; in which case the information shall be provided forthwith. FortisBC shall provide gas locations from FortisBC records. FortisBC shall perform on site facility locates in accordance with the <i>Safety Standards Act</i> – Gas Safety Regulations Section 39.	FortisBC will, at no cost to the Municipality, provide locations of its Company Facilities within a time frame as may be reasonably requested by the Municipality <del>unless the reason for the request is the result</del> <u>except in the event</u> <del>se</del> of an emergency; in which case the information shall be provided forthwith. FortisBC shall provide gas locations from FortisBC records. <del>FortisBC shall perform on site facility locates in accordance with the Safety Standards Act – Gas Safety Regulations Section 39.</del>	<i>Similar. Deleted reference to Safety Standards Act - agreement contains general compliance with laws clause.</i>
R69		<b>6. FORTISBC WORK OBLIGATIONS:</b>		
R70	<b>5.1 GENERAL RULE</b>	<b>12. OTHER APPROVALS, PERMITS OR LICENSES</b>	<del><b>125.1. OTHER APPROVALS, PERMITS OR LICENSES</b></del> <u><b>GENERAL RULE</b></u>	

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R71	<p>Except for taxes payable by FortisBC, including the taxes payable pursuant to section 644 of the <i>Local Government Act</i>, R.S.B.C. 2015, c. 1, as amended, the payment of the costs of all services and utilities consumed in respect of FortisBC's operations, or as specifically provided in this Agreement,</p> <p>(a) the Municipality will not charge or levy, or be entitled to receive from FortisBC, any approval, license, inspection or permit fee, or charge of any other type, or require a deposit or other form of security, that in any manner is related to or associated with FortisBC undertaking Work or operating Company Facilities in any Public Place or in any manner related to or associated with FortisBC exercising the powers and rights granted to it by this Agreement;</p> <p>(b) the Municipality will not require FortisBC to seek or obtain approvals, permits or licenses of or from the Municipality for FortisBC's occupancy and use of Public Places, including undertaking Work, pursuant to this Agreement; and</p>	<p>Except as specifically provided in this Agreement, the Municipality will not require FortisBC to seek or obtain approvals, permits or licenses. The Municipality will not charge or levy against FortisBC any approval, license, inspection or permit fee, or charge of any other type, that in any manner is related to or associated with FortisBC constructing, installing, renewing, altering, repairing, maintaining or operating Company Facilities on any Public Places or in any manner related to or associated with FortisBC exercising the powers and rights granted to it by this Agreement (other than for repair of damage to the Municipal Facilities or Public Places in accordance with Section 14).</p>	<p>Except <u>for taxes payable by FortisBC, including the taxes payable pursuant to section 644 of the <i>Local Government Act</i>, R.S.B.C. 2015, c. 1, as amended, the payment of the costs of all services and utilities consumed in respect of FortisBC's operations,</u> as specifically provided in this Agreement,</p> <p>(a) the Municipality will not charge or levy, <u>or be entitled to receive from</u> <del>against</del> FortisBC any approval, license, inspection or permit fee, or charge of any other type <u>or require a deposit or other form of security,</u> that in any manner is related to or associated with FortisBC <del>constructing, installing, renewing, altering, repairing, maintaining</del><u>undertaking Work</u> or operating Company Facilities <del>on-in</del> any Public Places or in any manner related to or associated with FortisBC exercising the powers and rights granted to it by this Agreement</p> <p><u>(b) the Municipality will not require FortisBC to seek or obtain approvals, permits of or licenses of or from the Municipality for FortisBC's occupancy and use of Public Places, including undertaking Work, pursuant to this Agreement; and</u></p>	<p><i>Concept in section 12 Keremeos moved up to section 6.1 FEI column.</i></p> <p><i>Similar.</i></p> <p><i>Clarification added that security deposits and other forms of security will not be required.</i></p>
R72	<p>(c) FortisBC will not charge or levy, or be entitled to receive from the Municipality, any approval, license, inspection or permit fee, or charge of any other type, or require a deposit or other form of security, that in any manner is related to or associated with the Municipality undertaking work on or operating Municipal Facilities in any Public Place or in any manner related to or associated with the Municipality exercising the powers and rights granted to it by this Agreement.</p>		<p><u>(c) FortisBC will not charge or levy, or be entitled to receive from the Municipality, any approval, license, inspection or permit fee, or charge of any other type, or require a deposit or other form of security, that in any manner is related to or associated with the Municipality undertaking work on or operating Municipal Facilities in any Public Place or in any manner related to or associated with the Municipality exercising the powers and rights granted to it by this Agreement. <del>(other than for repair of damage to the Municipal Facilities or Public Places in accordance with Section 14).</del></u></p>	<p><i>NEW – creates reciprocal obligation on FortisBC.</i></p>
R73		<p>If the Municipality does charge or levy fees or costs against FortisBC (other than for repair of damage to the Municipal Facilities or Public Places in accordance with Section 14) then FortisBC may reduce the annual operating fee payable to the Municipality under Section 11 by an amount equal to such charges, fees or costs or in the event no annual operating fee is payable,</p>		<p><i>Not used – Duplicate wording/concept</i></p>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
		FortisBC will not be required to pay such charges or fees or costs.		
R74		<b>6.1 Notices - General Requirements</b>		
R75	<b>5.2 Approval for New Work</b>	<b>6.1.1 Notice for New Work</b>	<b>5.2 Approval for New Work</b>	
R76	(a) FortisBC shall be required to apply for and obtain approval from the Municipality for New Work, and not for Emergency Work, Maintenance Work, including vertical relocations, or Service Line Work.			<i>NEW – general statement to identify approval requirement (note: definition of New Work similar to Keremeos except that exclusions are separately defined)</i>
R77	(b) FortisBC shall submit an application to the Municipality’s Engineering Department for approval when FortisBC intends to undertake New Work. The application shall include:	For New Work, FortisBC shall give notice to the Municipality or such officer or official thereof who has been designated from time to time by the Municipality that it intends to perform such New Work. The Notice shall include:	<del>(b) For New Work,</del> FortisBC shall <del>give notice</del> <u>submit an application</u> to the Municipality’s <u>Engineering Department</u> <del>or such officer or official thereof who has been designated for approval when FortisBC from time to time by the Municipality that it intends to perform undertake such</del> New Work. The <del>Notice</del> <u>application</u> shall include:	<i>Same/similar. Except obligation is to obtain approval – not limited to giving notice.</i>
R78	(i) a plan and specifications showing: 1. the size and dimensions of the Company Facilities and the proposed location of the Company Facilities, or, in the event of removal, the location of the Company Facilities to be removed, relative to property lines and/or edge of pavement; 2. the proposed location and offsets of the Company Facilities where the Company Facilities cross existing Utilities of the Municipality, provided such locations and offsets are made available to FortisBC by the Municipality; 3. the proposed elevations and clearances of Utilities for Gas Mains having a nominal diameter greater than 219 mm (8 inches), and for all High Pressure Pipelines, provided such locations are made available to FortisBC by the Municipality or owner of such Utilities; 4. the location of any trees greater than 0.3 meters in diameter at approximately 1.4 meters above the ground level, wetlands, water bodies or other areas of special environmental sensitivity, or areas designated by the Province of British Columbia or by the Municipality as heritage sites, which will likely be impacted by the New Work; and 5. boundaries and civic addresses of any private lands abutting the New Work;	(a) a plan and specifications showing the proposed location and dimensions of the New Work;	<u>(i) a plan and specifications showing:</u> <u>1. the <del>proposed location</del>size and dimensions of the <del>New Work</del>Company Facilities and the proposed location of the Company Facilities, or, in the event of removal, the location of the Company Facilities to be removed, relative to property lines and/or edge of pavement;</u> <u>2. the proposed location and offsets of the Company Facilities where the Company Facilities cross existing Utilities of the Municipality, provided such locations and offsets are made available to FortisBC by the Municipality;</u> <u>3. the proposed elevations and clearances of Utilities for Gas Mains having a nominal diameter greater than 219 mm (8 inches), and for all High Pressure Pipelines, provided such locations are made available to FortisBC by the Municipality or owner of such Utilities;</u> <u>4. the location of any trees greater than 0.3 meters in diameter at approximately 1.4 meters above the ground level, wetlands, water bodies or other areas of special environmental sensitivity, or areas designated by the Province of British Columbia or by the Municipality as heritage sites, which will likely be impacted by the New Work; and</u> <u>5. boundaries and civic addresses of any private lands</u>	<i>Detailed requirements added</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
			<u>abutting the New Work;</u>	
R79	(ii) FortisBC’s plans for the restoration of the Public Places affected by the New Work, including the material that will be used to backfill the trench, if different from those set out in the applicable of section 6.3 ( <i>Restoration and Maintenance</i> ) and section 6.4 ( <i>Depth of Cover</i> ); (iii) the name of a FortisBC representative who may be contacted for more information; (iv) projected commencement and completion dates; and (v) such other information relevant to the New Work as the Municipality may reasonably request from time to time.	(b) FortisBC’s plans for the restoration of the Public Place affected by the New Work if FortisBC’s restoration plans are different from those set out in Section 6.4.2 of this Agreement; (c) the name of a FortisBC representative who may be contacted for more information; (d) Projected commencement and completion dates; and (e) such other information relevant to the New Work as the Municipality may reasonably request from time to time.	<u>(ii)</u> FortisBC’s plans for the restoration of the Public Places affected by the New Work, <u>including the material that will be used to backfill the trench</u> , if <del>FortisBC’s restoration plans are</del> different from those set out in <u>the applicable of section 6.3 (<i>Restoration and Maintenance</i>) and section 6.4 (<i>Depth of Cover</i>);</u> <del>Section 6.4.2 of this Agreement;</del> <u>(iii)</u> the name of a FortisBC representative who may be contacted for more information; <u>(iv)</u> projected commencement and completion dates; and <u>(v)</u> such other information relevant to the New Work as the Municipality may reasonably request from time to time.	<i>Similar</i>
R80	(c) Subject to subsection (d) below, the Municipality shall use commercially reasonable efforts to grant approval to FortisBC for the New Work within ten (10) days of receipt of FortisBC’s application, except that in the case of large and complex New Work, the Municipality may, by notice to FortisBC extend the time for response by a maximum of ten (10) days.			<i>Timeline added</i>
R81	(d) The Municipality will not refuse to grant approval, except on the following grounds:  (i) the proposed location or design of the Company Facilities or the New Work:  1. conflicts with existing Utilities, Municipal Facilities, existing third party facilities or Planned Facilities; or	<b>6.1.3 Municipal Approval for New Work</b> The Municipality may object to the New Work on the following grounds:  (a) the proposed location of the New Work conflicts with existing Municipal Facilities, existing third party facilities or Planned Facilities; or	<u>(d)</u> The Municipality <u>will not refuse to grant approval, except may object to the New Work</u> on the following grounds:  <u>(i)</u> the proposed location <u>or design of the Company Facilities or of</u> the New Work: <u>1.</u> conflicts with existing <u>Utilities</u> , Municipal Facilities, existing third party facilities or Planned Facilities; or	<i>Similar Keremeos section 6.1.3 (Municipal Approval of New Work) moved up to approvals section.</i>
R82	2. unduly interferes with the public’s existing use and enjoyment of those properties identified in Schedule A, where the proposed New Work is within the specific portions of the properties identified in Schedule A; or 3. conflicts with trees greater than 0.3 meters in diameter at approximately 1.4 meters above the ground level, wetlands, water bodies or other areas of special environmental sensitivity, or areas designated by the Province of British Columbia or by the Municipality as heritage sites; or			<i>NEW</i>



Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R83	4. is likely to compromise public safety; or  5. does not conform with applicable Laws provided such Laws exclude any by-laws, orders, standards and policies of the Municipality, including Municipal Specifications, that conflict with terms of this Agreement; or	(b) the proposed location or design of the New Work is likely to compromise public safety or does not conform with Municipal bylaws, standards or policies; or	<del>4. the proposed location or design of the New Work</del> is likely to compromise public safety; or  <del>5. does not conform with Municipal bylaws, standards or policies</del> applicable Laws provided such Laws exclude any by-laws, orders, standards and policies of the Municipality, including Municipal Specifications, that conflict with terms of this Agreement; or	Similar
R84	(ii) the Municipality intends within the next one hundred and eighty (180) days to undertake work in the same location and wishes to co-ordinate both work, and FortisBC can delay the New Work without compromising the supply, capacity or safety of the Company Facilities or its customers' need for gas service; or	(c) in instances where FortisBC can delay the New Work without compromising the supply, capacity or safety of its Gas Distribution System or its customers' need for gas service and the Municipality intends within the next 3 months to undertake work in the same location and wishes to co-ordinate both work;	<del>(ii) the Municipality intends within the next one hundred and eighty (180) days to undertake work in the same location and wishes to co-ordinate both work, and in instances where</del> FortisBC can delay the New Work without compromising the supply, capacity or safety of its <del>Gas Distribution System</del> Company Facilities or its customers' need for gas service <del>and the Municipality intends within the next 3 months to undertake work in the same location and wishes to co-ordinate both work;</del>	Similar
R85	(iii) FortisBC has not provided the Municipality with the information required by subsection (b) above;			NEW – to reflect back to submittal requirements.
R86	and shall provide FortisBC with grounds for its refusal to grant approval and shall use commercially reasonable efforts to do so within ten (10) days after receiving FortisBC's application, except in the case of large and complex New Work, the Municipality may, by notice to FortisBC extend the time for response by a maximum of ten (10) days.	by providing FortisBC with notice of its objections, provided such objections are reasonable, no more than 10 days after receiving FortisBC's notice of New Work. If the Municipality has not provided such notice of its objections to FortisBC, or in the case of large and complex New Work, the Municipality has not provided FortisBC with a notice to extend the time to reply to FortisBC until a stated time, the Municipality shall be deemed to have granted its approval of the New Work. The Municipality shall not otherwise withhold or delay its approval.	<del>by providing</del> and shall provide FortisBC with grounds for its refusal to grant approval and shall use commercially reasonable efforts to do so within <del>with notice of its objections, provided such objections are reasonable, no more than</del> 10 days after receiving FortisBC's application, except <del>notice of New Work. If the Municipality has not provided such notice of its objections to FortisBC, or</del> in the case of large and complex New Work, the Municipality <u>may, by notice to FortisBC extend the time for response by a maximum of ten (10) days.</u> <del>has not provided FortisBC with a notice to extend the time to reply to FortisBC until a stated time, the Municipality shall be deemed to have granted its approval of the New Work. The Municipality shall not otherwise withhold or delay its approval.</del>	Similar. Except excluding deemed approval.
R87	5.2(e) The Municipality may: (i) require FortisBC to provide the public with reasonable notice of the New Work; and	In addition, the Municipality may request FortisBC to provide the public with notice of the New Work.	<del>5.2(e) In addition, the</del> The Municipality may: <del>(i) request</del> require FortisBC to provide the public with <u>reasonable</u> notice of the New Work <u>and</u>	Similar
R88	(ii) include conditions in its approval that,			NEW – refers back to submittal requirements.



Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	<p>1. address the matters set out in subsection (d) above; and</p> <p>2. require a greater depth of cover and alternate backfill material to accommodate Planned Facilities, when FortisBC has applied for approval to install or relocate a Gas Main or High Pressure Pipeline in the location of Planned Facilities,</p> <p>provided that any such conditions shall be of no force and effect to the extent such conditions are inconsistent with the terms of this Agreement.</p>			
R89	<b>5.3 Permits for Work</b>			
R90	<p>(a) When FortisBC intends to undertake:</p> <p>(i) New Work; or</p> <p>(ii) Maintenance Work, including vertical relocations, or Service Line Work, which is on, or obstructs traffic on or from, an arterial road or collector road identified in City of Surrey By-law No. 8830, as amended,</p> <p>FortisBC shall submit an application or applications to the Municipality's Engineering Department for the applicable of the following permits:</p> <p>(i) a City Road and Right-of-Way Use Permit under City of Surrey By-law No. 13007;</p> <p>(ii) a Traffic Obstruction Permit under City of Surrey By-law No. 13007;</p> <p>(iii) an Erosion and Sediment Control Permit under City of Surrey By-law No. 16138; and</p> <p>(iv) a Building Permit under City of Surrey By-law No. 17850.</p>			<i>NEW – identifies requirement to obtain permits.</i>
R91	<p>(b) The Municipality shall use commercially reasonable efforts to issue the applicable permit(s) to FortisBC within ten (10) days of receipt of FortisBC's application and shall not refuse to grant the applicable permit(s) provided FortisBC has provided the Municipality with the information required by the respective City of Surrey By-law.</p>			
R92	<p>(c) Where FortisBC performs Work for which a Traffic</p>			

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	Obstruction Permit is not required or has been waived by the Municipality, FortisBC will, to the extent practicable, comply with the Ministry of Transportation’s Traffic Control Manual for Work on Roadways, as amended, while undertaking the Work.			
R93	<b>5.4 Notice for Maintenance Work and Service Line Work on Local Roads</b>	<b>6.2 Notice of Service Lines</b>	<b>5.4 Notice for Maintenance Work and Service Line Work on Local Roads</b>	
R94	<p>Prior to conducting Maintenance Work or Service Line Work that requires the cutting of concrete and/or asphalted Highway surfaces and for which FortisBC is not required to obtain approval or permits from the Municipality under this Agreement, FortisBC shall provide at least two (2) days prior written notice of such work to the Municipality. After receiving such notice, the Municipality may:</p> <p>(a) advise FortisBC of any other person(s) undertaking work or using the Highway at the location of FortisBC’s work in a manner that could conflict with FortisBC’s work, provided the Municipality has notice of such other activities, to enable FortisBC to coordinate its work with such other person(s); and</p> <p>(b) require FortisBC to provide the public with reasonable notice of such FortisBC work.</p>	<p>FortisBC shall provide the Municipality with notice of its intent to install, remove or repair Service Lines no less than three (3) days prior to commencement of such work. FortisBC’s request for the location of the Municipality’s utilities shall be deemed to be a notice of FortisBC’s intent to install, remove or repair Service Lines. The Municipality may object to such work on the same grounds as set out in Subsection 6.1.3 (a) and (b) above by providing FortisBC with notice of its objections within two (2) days of receiving FortisBC’s notice. If the Municipality has not provided such notice of its objections to FortisBC, the Municipality shall be deemed to have granted its approval of the installation, removal or repair of the Service Lines. The Municipality shall not otherwise withhold or delay its approval.</p>	<p><u>Prior to conducting Maintenance Work or Service Line Work that requires the cutting of concrete and/or asphalted Highway surfaces and for which FortisBC is not required to obtain approval or permits from the Municipality under this Agreement, FortisBC shall provide at least two (2) days prior written notice of such work to the Municipality. After receiving such notice, the Municipality may:</u></p> <p><u>(a) advise FortisBC of any other person(s) undertaking work or using the Highway at the location of FortisBC’s work in a manner that could conflict with FortisBC’s work, provided the Municipality has notice of such other activities, to enable FortisBC to coordinate its work with such other person(s); and</u></p> <p><u>(b) require FortisBC to provide the public with reasonable notice of such FortisBC work.</u></p>	NEW/REPLACED
R95	<b>5.5 Exception for Emergency Work</b>	<b>6.1.2 Exception for Emergency</b>	<b>5.5 Exception for Emergency Work</b>	
R96	Where FortisBC is required to carry out Emergency Work, FortisBC shall not be required to give notice to the Municipality or to the public, or obtain municipal permits or approvals prior to undertaking the Emergency Work, but shall give notice to the Municipality as soon as practicable.	Where FortisBC is required to carry out work urgently in the interests of public safety or health or to preserve the safety of property and Company Facilities, FortisBC shall not be required to give prior notice but shall do so as soon as possible thereafter.	Where FortisBC is required to carry out <u>Emergency W</u> ork <del>urgently in the interests of public safety or health or to preserve the safety of property and Company Facilities</del> , FortisBC shall not be required to give <del>prior</del> notice <u>to the Municipality or to the public, or obtain municipal permits or approval prior to undertaking the Emergency Work</u> , but shall <del>do so</del> give notice <u>to the Municipality</u> as soon as <del>possible</del> thereafter <u>practicable</u> .	Similar
R97		<b>6.1.4 Work Not to Proceed</b>		
R98		If the Municipality has notified FortisBC of its objections or has requested a time extension, no more than 10 days after receiving FortisBC’s notice of New Work, FortisBC shall not proceed with the New Work until FortisBC and the Municipality have agreed upon a		Not used - See section 5.6 (Failure to Receive Approval or Permit) (Row R100), which identifies obligation not to proceed for both failure to obtain required approval or permits.

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
		resolution to the Municipality’s objections. If the Municipality and FortisBC are unable to agree, then the matter shall be resolved in accordance with Section 17 (Resolution of Disputes).		
R99	<b>5.6 Failure to Receive Approval or Permit</b>			
R100	<p>If the Municipality:</p> <p>(a) fails to provide FortisBC with a permit or approval within the timelines set out in sections 5.2(c) (<i>Approval for New Work</i>) or 5.3(b) (<i>Permits for Work</i>); or</p> <p>(b) notifies FortisBC that the Municipality objects to the New Work pursuant to section 5.2(d) (<i>Approval for New Work</i>);</p> <p>FortisBC may refer the matter to dispute resolution in accordance with section 17 (<i>Dispute Resolution</i>). If such dispute is resolved in favour of requiring issuance of an approval or permit(s), the Municipality will promptly issue the applicable approval or permit(s) to FortisBC. Except for Emergency Work, FortisBC shall not proceed with the Work until the Municipality provides FortisBC with the permit(s) and approval(s) required under this Agreement for such Work including a permit or an approval issued as a result of the resolution of a dispute by the parties.</p>			<i>Concepts same/similar to Keremeos section 6.1.4 (Work Not to Proceed) (Row R98).</i>
R101	<b>5.7 Expiry of Permit or Approval</b>			
R102	An approval or permit issued by the Municipality will expire if FortisBC does not carry out the applicable Work within one hundred and eighty (180) days of the issuance date.			<i>NEW</i>
R103	<b>6. FORTISBC WORK OBLIGATIONS</b>			
R104	<p><b>6.1 No Nuisance or Damage</b></p> <p>(a) FortisBC shall perform its Work, and maintain Company Facilities located on, along, across, over or under Public Places, in a manner that does not unreasonably interfere with or damage other pre-existing support structures, Utilities, Municipal Facilities, equipment, facilities or improvements located within or abutting Public Places.</p>			<i>NEW</i>
R105		<b>6.3 FortisBC to Obtain Locate Information</b>		

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R106		Prior to conducting any New Work, FortisBC shall locate other Utilities and satisfy itself that it is clear to proceed.		<i>Not used –obligation at law already covered by section 4.1 (Laws and Standards (Row R62)).</i>
R107		<b>6.4 Work Standards</b>		
R108		All work carried out by FortisBC shall be carried out in accordance with sound engineering practices.		<i>Not used - Merged concept into section 4.1 (Laws and Standards) (Row R62).</i>
R109		<b>6.4.1 Specific Work Requirements Remove Materials</b>		
R110	6.1(b) FortisBC shall not leave any part of the Company Facilities located on, along, across, over or under Public Places in such a state as to constitute a nuisance or a danger to the public through neglect, non-use and want of repair.	The Company shall not leave any part of its gas system in such a state as to constitute a nuisance or a danger to the public through neglect, non-use and want or repair.	6.1(b) <del>The Company</del> FortisBC shall not leave any part of <del>its gas system</del> the Company Facilities located on, along, across, over or under Public Places in such a state as to constitute a nuisance or a danger to the public through neglect, non-use and want or repair.	<i>Similar</i>
R111	6.1(c) FortisBC shall keep its Work sites clean and tidy. FortisBC shall remove all rubbish and surplus material from Public Places upon completion of the Work.	FortisBC shall keep its work sites clean and tidy. FortisBC shall remove all rubbish and surplus material from Public Places upon completion of its work.	6.1(c) FortisBC shall keep its <del>W</del> work sites clean and tidy. FortisBC shall remove all rubbish and surplus material from Public Places upon completion of <del>its the</del> <del>W</del> work.	<i>Similar</i>
R112	<b>6.2 Pavement Cuts</b>	<b>6.4.2 Restore Surface and Subsurface</b>	<b>6.2 Pavement Cuts</b>	
R113	If FortisBC is required to cut asphalt or concrete surfaces on a Public Place, such cuts will be limited to less than 1.5 meters in width unless in the reasonable opinion of FortisBC a larger excavation is warranted due to the depth or size of the pipe or requirements of applicable Laws.  6.3(b) If FortisBC has cut asphalt or concrete surfaces on a Public Place, FortisBC shall be responsible for repairs and maintenance of such pavement restoration for a period of one (1) year, except where the pavement restoration work has been conducted by the Municipality, including on FortisBC’s behalf.	Where FortisBC is required to cut pavement on a Public Place such cuts and restoration will be limited to less than 1.5 meters unless at the discretion of FortisBC a larger excavation is warranted due to the depth or size of the pipe or requirements of the Workers’ Compensation Board or other relevant Provincial or Federal regulations. FortisBC will be responsible for any repairs and maintenance of the surface repair for a period of three (3) years. However, where pavement restoration has been conducted by the Municipality, whether or not such work was undertaken to repair cuts on FortisBC’s behalf, FortisBC shall not be responsible for the repairs or maintenance of the surface repair.	<del>Where-If</del> FortisBC is required to cut <del>pavement-asphalt or concrete surfaces</del> on a Public Place, such cuts <del>and restoration</del> will be limited to less than 1.5 meters <del>in width</del> unless <del>at the discretion</del> <del>in the reasonable opinion</del> of FortisBC a larger excavation is warranted due to the depth or size of the pipe or requirements of <del>the Workers’ Compensation Board or other relevant Provincial or Federal regulations</del> <u>applicable Laws</u> .  6.3(b) <u>If FortisBC has cut asphalt or concrete surfaces on a Public Place</u> , FortisBC <del>will-shall</del> be responsible for <del>any</del> repairs and maintenance of <del>the surface repairs</del> <u>such pavement restoration</u> for a period of <del>three-one (31)</del> years, <del>except. — However, —</del> where <del>the</del> pavement restoration <u>work</u> has been conducted by the Municipality, <del>whether or not such work was undertaken to repair cuts</del> <u>including</u> on FortisBC’s behalf, <del>FortisBC shall not be responsible for the repairs or maintenance of the surface repair.</del>	<i>Similar</i>
R114	<b>6.3 Restoration and Maintenance</b>	<b>6.4.2 Restore Surface and Subsurface</b>	<b>6.3 Restoration aAnd Maintenance</b>	
R115	(a) Where FortisBC has performed any Work, FortisBC shall restore the affected portion of the Public Place to applicable Municipal Specifications without unreasonable delay and return such portion of the	Where FortisBC has performed any operations or New Work in a Public Place, FortisBC shall restore without unreasonable delay and return such Public Place, as much as reasonably practical, to the condition and use	(a) Where FortisBC has performed any <del>operations or New Work in a Public Place</del> , FortisBC shall restore <u>the affected portion of the Public Place to applicable Municipal Specifications</u> without unreasonable delay	<i>Similar</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	Public Place, as much as reasonably practical, to the condition and use which existed prior to such activity.	which existed prior to such activity. The restoration will be in accordance with the specifications set out by the Municipality. Such specifications may include the degree and nature of compaction, subsurface structure, surface finish and landscaping required.	and return such <u>portion of the</u> Public Place, as much as reasonably practical, to the condition and use which existed prior to such activity. <del>The restoration will be in accordance with the specifications set out by the Municipality. Such specifications may include the degree and nature of compaction, subsurface structure, surface finish and landscaping required.</del>	
R116	Despite the foregoing, FortisBC shall, if required by the Municipality, make a temporary repair to accommodate Planned Facilities, and shall pay to the Municipality the estimated difference between the cost of a permanent repair and the cost of the temporary repair as agreed between the parties. In such event, the permanent repair shall be undertaken by the Municipality and FortisBC shall have no further restoration or maintenance obligations with respect to such affected portion of the Public Place.	Without limiting the generality of this section and by way of example only, the Municipality may require FortisBC to restore asphalt and concrete surfaces with a permanent repair or a temporary repair. Should a temporary repair be directed, FortisBC or the Municipality at its discretion will subsequently construct a permanent repair in accordance to its usual maintenance/replacement schedule for that area. The cost of permanent and temporary repairs to remediate Highway surfaces will be at the expense of FortisBC proportional to the surface area affected by the New Work.	<del>Without limiting the generality of this section and by way of example only, the Municipality may require FortisBC to restore asphalt and concrete surfaces with a permanent repair or a temporary repair. Should a temporary repair be directed, FortisBC or the Municipality at its discretion will subsequently construct a permanent repair in accordance to its usual maintenance/replacement schedule for that area. The cost of permanent and temporary repairs to remediate Highway surfaces will be at the expense of FortisBC proportional to the surface area affected by the New Work.</del> <u>Despite the foregoing, FortisBC shall, if required by the Municipality, make a temporary repair to accommodate Planned Facilities, and shall pay to the Municipality the estimated difference between the cost of a permanent repair and the cost of the temporary repair as agreed between the parties. In such event, the permanent repair shall be undertaken by the Municipality and FortisBC shall have no further restoration or maintenance obligations with respect to such affected portion of the Public Place.</u>	<i>Revised obligations re: temporary repairs.</i>
R117	<i>Section 6.3(b) shown as second paragraph in 6.2 above (Row R113)</i>			
R118	<b>6.4 Depth of Cover</b>			
R119	FortisBC may install Gas Mains and High Pressure Pipelines with a greater depth of cover than required by applicable Laws or industry standards: (i) to accommodate the presence of other Utilities; (ii) upon mutual agreement with the Municipality on a case by case basis to address site specific requirements or conditions; or (iii) when recommended by an engineering assessment.			<i>NEW</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R120	<b>6.5 Repair Damage to Municipal Facilities</b>	<b>6.4.3 Repair Damage to Municipal Facilities</b>	<b>6.5 Repair Damage to Municipal Facilities</b>	
R121	To the extent that any of the Work being done by FortisBC results in damage to Municipal Facilities or Public Places, other than the usual physical disruption to Public Places caused by the installation of Company Facilities that FortisBC shall restore in accordance with section 6.3 ( <i>Restoration and Maintenance</i> ), FortisBC will, as soon as practicable, provide notice to the Municipality of such damage and either repair such damage or reimburse the Municipality for its reasonable costs of repairing such damage.	To the extent that any of the work being done by FortisBC results in damage to Municipal Facilities or Public Places, other than the usual physical disruption to Public Places caused by the installation of Company Facilities that FortisBC shall restore in accordance with Section 6.4.2 above, FortisBC will, as soon as reasonably possible, report such damage and reimburse the Municipality for its costs arising from such damage calculated in accordance with Section 14.1 below. Where such damage results directly from inaccurate or incomplete information supplied by Municipality, and FortisBC has complied with all applicable laws and regulations, and with instructions supplied by the Municipality, then the cost of repairing damaged Municipal Facilities or Public Places will be at the expense of the Municipality.	To the extent that any of the <del>w</del> Work being done by FortisBC results in damage to Municipal Facilities or Public Places, other than the usual physical disruption to Public Places caused by the installation of Company Facilities that FortisBC shall restore in accordance with Section <del>6.4.23</del> ( <del>Restoration and Maintenance</del> ) <del>-above</del> , FortisBC will, as soon as <del>reasonably possible</del> <u>practicable</u> , <del>report</del> <u>provide notice to the Municipality of</u> such damage and <u>either repair such damage or</u> reimburse the Municipality for its <u>reasonable</u> costs <del>arising from</del> <u>of repairing</u> such damage <del>-calculated in accordance with Section 14.1 below. Where such damage results directly from inaccurate or incomplete information supplied by Municipality, and FortisBC has complied with all applicable laws and regulations, and with instructions supplied by the Municipality, then the cost of repairing damaged Municipal Facilities or Public Places will be at the expense of the Municipality.</del>	<i>Similar</i>
R122	<b>6.6 Conformity Requirement</b>	<b>6.5 Conformity Requirement</b>	<b>6.6 Conformity Requirement</b>	
R123	(a) FortisBC shall carry out Work in conformity with the applicable permit or approval. (b) FortisBC may make in-field design changes when carrying out New Work to accommodate field conditions which could not have been reasonably foreseen by FortisBC. If such in-field conditions materially impact FortisBC's plans for restoration or materially change the impact of the New Work on Municipal Facilities and/or Utilities relative to the information FortisBC submitted to the Municipality pursuant to sections 5.2(b) ( <i>Approval for New Work</i> ) or 5.3(a) ( <i>Permits for Work</i> ), as applicable, other than in respect of projected commencement and completion dates, FortisBC shall notify the Municipality of the proposed changes to the New Work and the reasons for them and obtain written consent of the Municipality to the proposed changes prior to continuing the New Work. The Municipality shall not refuse to grant consent or condition its consent, except on the grounds set out in section 5.2(d)(i)( <i>Approval for</i>	The New Work must be carried out in conformity with FortisBC's notice of New Work except that FortisBC may make in-field design changes when carrying out the New Work to accommodate field conditions which could not have been reasonably foreseen by FortisBC. If such in-field conditions materially impact FortisBC's plans for restoration or materially change the impact of FortisBC's work on Municipal Facilities, other than in respect of projected commencement and completion dates, FortisBC shall notify the Municipality of the changes and the reasons for them as soon as reasonably possible.	<del>(a) FortisBC shall carry out The New Work must be carried out</del> in conformity with <u>the applicable permit or approval</u> . <del>(b) FortisBC's notice of New Work except that</del> FortisBC may make in-field design changes when carrying out <del>the</del> New Work to accommodate field conditions which could not have been reasonably foreseen by FortisBC. If such in-field conditions materially impact FortisBC's plans for restoration or materially change the impact of <del>FortisBC's work</del> <u>the New Work</u> on Municipal Facilities <u>and/or Utilities relative to the information FortisBC submitted to the Municipality pursuant to sections 5.2(b) (Approval for New Work) or 5.3(a) (Permits for Work), as applicable</u> , other than in respect of projected commencement and completion dates, FortisBC shall notify the Municipality of the <u>proposed</u> changes <u>to the New Work</u> and the reasons for them <del>-as soon as reasonably possible</del> <u>and obtain written consent of the Municipality to the proposed changes prior to continuing the New Work. The Municipality shall not</u>	<i>Similar</i>



ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	<i>New Work</i> ).		<u>refuse to grant consent or condition its consent, except on the grounds set out in section 5.2(d)(i)(Approval for New Work).</u>	
R124		<b>6.6 Non-Compliance</b>		
R125	(c) If Company Facilities installed on, along, across, over or under Public Places are later found not to be located in compliance with, or within 0.3 metres of the alignment set out in, the applicable approval obtained pursuant to section 5.2 ( <i>Approval for New Work</i> ), as may be modified during the course of New Work pursuant to subsection (b) above, then FortisBC will be responsible for any alteration or upgrading required to bring such Company Facilities into compliance. FortisBC shall not be responsible for non-compliance which arose subsequent to FortisBC's completion of New Work.	If Company Facilities located in Public Places are later found not to be located in compliance with FortisBC's notice of New Work provided in accordance with Section 6.1 and 6.5, then any alteration or upgrading required to bring them into compliance with such notice will be at the expense of FortisBC provided that the work has not been altered, damaged or modified by the Municipality or a third party.	(c) If Company Facilities <del>located in</del> <u>installed on, along, across, over or under</u> Public Places are later found not to be located in compliance with <del>FortisBC's notice, or within 0.3 metres of the alignment set out in, the applicable approval obtained pursuant to section 5.2 (Approval for New Work) provided in accordance with Section 6.1 and 6.5), as may be modified during the course of New Work pursuant to subsection (b) above,</del> then <u>FortisBC will be responsible for any alteration or upgrading required to bring them—such Company Facilities into compliance—</u> <del>with such notice will be at the expense of.</del> FortisBC <del>provided that the work has</del> <u>shall not been altered, damaged</u> <del>be</del> responsible for non-compliance which arose subsequent to FortisBC's completion of New Work.	<i>Similar. Added in a +/- margin of difference to reflect acceptable standards/deviations.</i>
R126	<b>6.7 Prime Contractor</b>			
R127	(a) FortisBC shall act as the prime contractor for all Work, or designate in writing its contractor to act as the prime contractor, within the meaning of section 118 of the <i>Workers Compensation Act</i> , R.S.B.C. 1996, c. 492, unless otherwise designated in writing by the Municipality or a third party working in the applicable Public Place.  (b) If FortisBC intends to undertake Work in a Public Place and a third party or third parties are working at the location of FortisBC's intended workplace, FortisBC shall not proceed with its Work until it has a written agreement with the third party or third parties designating the prime contractor for the workplace and ensuring the activities of all parties relating to occupational health and safety are coordinated in compliance with Part 5 of the <i>Workers Compensation Act</i> and regulations thereunder.			<i>NEW</i>
R128	<b>6.8 Responsibility for Work</b>			
R129	Except as otherwise provided in this Agreement, including section 8.2 ( <i>Changes to Company Facilities</i> ),			<i>NEW</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	FortisBC shall be responsible for the Work, including the costs thereof.			
R130	<b>7. CLOSURE OR EXPROPRIATION OF PUBLIC PLACES</b>	<b>7. COMPANY FACILITY CHANGES REQUIRED BY THE MUNICIPALITY</b>	<b>7. <u>CLOSURE OR EXPROPRIATION OF PUBLIC PLACES</u></b>	
R131	<b>7.1 Closure of Public Places</b>	<b>7.1 Notice of Closure of Public Places</b>	<b>7.1 <del>Notice of</del> Closure of Public Places</b>	
R132	The parties acknowledge and agree that sections 40 and 41 of the <i>Community Charter</i> apply to the closure of Public Places.	Before any Public Places containing Company Facilities may be legally closed or alienated by the Municipality, the Municipality shall as soon as reasonably possible notify FortisBC of its intent to close or alienate such Public Places and either:  (a) grant FortisBC a registered statutory right of way in a form satisfactory to FortisBC so as to maintain FortisBC's right to use the land; or (b) request FortisBC to remove and (if possible and practicable) relocate those Company Facilities affected by such closure or alienation at the sole cost of the Municipality.	<u>The parties acknowledge and agree that sections 40 and 41 of the <i>Community Charter</i> apply to the closure of Public Places.</u>	<i>Revised to reference applicable provisions in Community Charter re: such closures.</i>
R133	<b>7.2 Expropriation</b>		<b><u>7.2 Expropriation</u></b>	
R134	If the Public Places are expropriated by an expropriating authority and FortisBC is required to remove Company Facilities then the Municipality shall as soon as practicable notify FortisBC of the expropriation. This provision is applicable when the Municipality receives official notice of expropriation or otherwise becomes aware of expropriation through communications with the expropriating authority.	If the Public Places are expropriated by an expropriating authority and FortisBC is required to remove the Company Facilities then the Municipality shall as soon as reasonably possible notify FortisBC of the expropriation. This provision is applicable when the Municipality receives official notice of expropriation or otherwise becomes aware of expropriation through communications with the expropriating authority.	If the Public Places are expropriated by an expropriating authority and FortisBC is required to remove <del>the</del> Company Facilities then the Municipality shall as soon as <u>practicable</u> <del>reasonably possible</del> notify FortisBC of the expropriation. This provision is applicable when the Municipality receives official notice of expropriation or otherwise becomes aware of expropriation through communications with the expropriating authority.	<i>Similar</i>
R135	<b>8. CHANGES TO FACILITIES</b>	<b>8. FACILITY CHANGES REQUIRED</b>	<b><u>8. CHANGES TO FACILITIES</u></b>	
R136	<b>8.1 Changes to Municipal Facilities</b>	<b>8.1 By FortisBC</b>	<b><u>8.1 Changes to Municipal Facilities</u></b>	
R137	(a) If FortisBC plans to undertake New Work, Maintenance Work or Service Line Work that might require Municipal Facilities to be realigned, raised lowered, protected by-passed, or relocated to accommodate the work, FortisBC may submit details of its planned work and request that the Municipality provide an estimate of its Relocation Costs to accommodate FortisBC's work. (b) The Municipality shall provide the requested Relocation Costs estimate and a detailed description of the required changes to the affected Municipal	FortisBC may provide Notice to the Municipality that it requires Municipal Facilities to be altered, changed, temporarily shut-down, temporarily by-passed, or relocated to accommodate its requirements. The Municipality will comply with FortisBC's requests to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of written request. FortisBC agrees to pay for all of the costs for changes to the affected Municipal Facilities.	<u>(a) If FortisBC plans to undertake New Work, Maintenance Work or Service Line Work that might <del>may provide Notice to the Municipality that it requires</del> Municipal Facilities to be <del>altered, changed, temporarily shut-down, temporarily</del> realigned, raised lowered, <del>protected</del> by-passed, or relocated to accommodate <del>its requirements</del> the work, FortisBC may submit details of its planned work and request that the Municipality provide an estimate of its Relocation Costs to accommodate FortisBC's work.</u> <u>(b) The Municipality <del>will comply with FortisBC's</del></u>	<i>Process added to prepare/provide a cost estimate prior to proceeding with work</i>



ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	<p>Facilities to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of such request.</p> <p>(c) The Municipality shall not proceed with the changes to Municipal Facilities identified pursuant to subsection (b) above until it receives: (i) written confirmation in the form of a purchase order from FortisBC that the undertaking contemplated in subsection (a) above will be proceeding, and (ii) an FEI Permit in respect of such changes, if applicable.</p> <p>(d) If FortisBC provides written confirmation pursuant to subsection (c) above, the Municipality shall use commercially reasonable efforts to promptly apply to FortisBC for an FEI Permit if applicable and, upon receipt of such FEI Permit, shall make such changes to the affected Municipal Facilities with reasonable speed and dispatch.</p> <p>(e) FortisBC agrees to reimburse the Municipality for its Relocation Costs.</p>		<p><del>request</del>shall provide the requested Relocation Costse estimate and a detail description of the required changes to the affected Municipal Facilities to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of <del>written</del> such request.</p> <p><del>(c) The Municipality shall not proceed with the changes to Municipal Facilities identified pursuant to subsection (b) above until it receives: (i) written confirmation in the form of a purchase order from FortisBC that the undertaking contemplated in subsection (a) above will be proceeding, and (ii) an FEI Permit in respect of such changes, if applicable.</del></p> <p><del>(d) If FortisBC provides written confirmation pursuant to subsection (c) above, the Municipality shall use commercially reasonable efforts to promptly apply to FortisBC for an FEI Permit if applicable and, upon receipt of such FEI Permit, shall make such changes to the affected Municipal Facilities with reasonable speed and dispatch.</del></p> <p><del>(e) FortisBC agrees to pay for all of thereimburse the Municipality for its Relocation Ceosts-for changes-to the affected Municipal Facilities.</del></p>	
R138	<b>8.2 Change to Company Facilities</b>	<b>8.2 By the Municipality</b>		
R139	<p>(a) If the Municipality requests that FortisBC realign, raise, lower, protect, by-pass, or relocate Company Facilities to accommodate a Third Party Project, FortisBC shall use commercially reasonable efforts to apply to the Municipality for approval pursuant to section 5.2 (<i>Approval for New Work</i>) and permit(s) pursuant to section 5.3 (<i>Permits for Work</i>), if applicable, in a timely manner, and upon receipt of such approval and permit(s) shall make such changes to the affected Company Facilities in coordination with the work schedule of the Third Party Project. The recoverability or allocation of FortisBC costs will be determined in accordance with applicable Laws or as otherwise negotiated between FortisBC and the third party or parties undertaking the Third Party Project.</p>			<i>NEW – reflects Third Party Projects</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R140	<p>(b) If the Municipality plans to undertake a Municipal Project that might require Company Facilities to be realigned, raised, lowered, protected, by-passed, or relocated to accommodate the work, the Municipality may submit details of its planned work and request that FortisBC provide an estimate of its Relocation Costs to accommodate the Municipality’s work, and,</p> <p>(i) FortisBC shall provide the requested Relocation Costs estimate and a detailed description of the required changes to the affected Company Facilities to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of such request;</p> <p>(ii) FortisBC shall not proceed with such changes to Company Facilities until: (A) FortisBC has received written confirmation from the Municipality that the Municipality has received an FEI Permit pursuant to section 14.1(b) or approval of the Oil and Gas Commission, as applicable, for the construction of the Municipal Project contemplated in subsection (b) above and confirmation in the form of a purchase order from the Municipality that the Municipal Project will be proceeding, and (B) FortisBC has received applicable approval(s) and permit(s) from the Municipality pursuant to sections 5.2 (<i>Approval for New Work</i>) and 5.3 (<i>Permits for Work</i>);</p> <p>(iii) if the Municipality provides written confirmation pursuant to subsection (ii) above, FortisBC shall use commercially reasonable efforts to promptly apply to the Municipality for applicable approval(s) and permit(s) under this Agreement and, upon receipt of such approval(s) and permit(s), shall make such changes to the affected Company Facilities with reasonable speed and dispatch.</p>	<p>The Municipality may provide Notice to FortisBC that it requires Company Facilities to be altered, changed or relocated to accommodate its requirements. FortisBC will comply with the Municipality’s requests to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of written request.</p>	<p><u>(b) If the Municipality plans to undertake a Municipal Project that might require Company Facilities to be realigned, raised, lowered, protected, by-passed, or relocated to accommodate the work, the Municipality may submit details of its planned work and request that FortisBC provide an estimate of its Relocation Costs to accommodate the Municipality’s work, and,</u></p> <p><u>(i) FortisBC shall provide the requested Relocation Costs estimate and a detailed description of the required changes to the affected Company Facilities to the extent it is reasonably able to do so and with reasonable speed and dispatch after receipt of <del>written</del> request-such request;</u></p> <p><u>(ii) FortisBC shall not proceed with such changes to Company Facilities until: (A) FortisBC has received written confirmation from the Municipality that the Municipality has received an FEI Permit pursuant to section 14.1(b) or approval of the Oil and Gas Commission, as applicable, for the construction of the Municipal Project contemplated in subsection (b) above and confirmation in the form of a purchase order from the Municipality that the Municipal Project will be proceeding, and (B) FortisBC has received applicable approval(s) and permit(s) from the Municipality pursuant to sections 5.2 (<i>Approval for New Work</i>) and 5.3 (<i>Permits for Work</i>);</u></p> <p><u>(iii) if the Municipality provides written confirmation pursuant to subsection (ii) above, FortisBC shall use commercially reasonable efforts to promptly apply to the Municipality for applicable approval(s) and permit(s) under this Agreement and, upon receipt of such approval(s) and permit(s), shall make such changes to the affected Company Facilities with reasonable speed and dispatch.</u></p>	<p><i>Process added to prepare/provide a cost estimate prior to proceeding with work</i></p>
R141	<p>(c) Despite the cost allocation provisions of the Pipeline Crossings Regulation (B.C. Reg. 147/2012), the Municipality shall reimburse FortisBC for the Relocation Costs in the following amounts:</p> <p>(i) 100% of the Relocation Costs when the affected</p>	<p>The Municipality agrees to pay for all of the costs for changes to the affected Company Facilities. This section 8.2 is an agreement between the Municipality and FortisBC for the purpose of section 76(1)(c) of the <i>Oil and Gas Activities Act</i>.</p>	<p><u>(c) Despite the cost allocation provisions of the Pipeline Crossings Regulation (B.C. Reg. 147/2012), the Municipality shall reimburse FortisBC for the Relocation Costs in the following amounts:</u></p> <p><u>(i) 100% of the Relocation Costs when the affected</u></p>	<p><i>Alternate allocation</i></p>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	Company Facilities are Gas Mains; (ii) 50% of the Relocation Costs when the affected Company Facilities are High Pressure Pipelines.  (d) This section 8.2 is an agreement between the Municipality and FortisBC for the purpose of section 3(6) of the Pipeline Crossings Regulation.		<u>Company Facilities are Gas Mains;</u> <u>(ii) 50% of the Relocation Costs when the affected Company Facilities are High Pressure Pipelines.</u>  <u>(d) This section 8.2 is an agreement between the Municipality and FortisBC for the purpose of section 3(6) of the Pipeline Crossings Regulation.</u>	
R142	<b>8.3 Estimation of Costs</b>			
R143	The Relocation Costs estimates to be provided pursuant to sections 8.1(b) ( <i>Changes to Municipal Facilities</i> ) and 8.2(b)(i) ( <i>Changes to Company Facilities</i> ) shall contain sufficient detail to enable the party that requested the estimate to assess the reasonableness of the estimate, and shall identify:  (a) the scope of work, including descriptions of the main tasks to be performed; (b) costs of each of the main tasks to be performed; (c) administration and overhead charges if not included in the costs under subsection (b) above; and (d) applicable taxes.			<i>NEW – provides details required for cost estimates</i>
R144	<b>8.4 NOTIFICATION OF COSTS, INVOICING AND PAYMENT</b>			
R145	(a) If, during the course of undertaking requested changes to its facilities pursuant to this section 8 (Change to Facilities), a party determines that the actual Relocation Costs to make such changes will exceed the Relocation Costs estimate provided pursuant to section 8.1(b) (Changes to Municipal Facilities) or section 8.2(b)(i) (Changes to Company Facilities), as applicable, by more than the greater of \$5,000.00 or ten (10%) percent, such party shall:  (i) promptly notify the other party and provide a revised Relocation Costs estimate and a detailed description of the facts giving rise to the increase in costs; (ii) not proceed with further work on the requested changes until the other party has provided written confirmation to proceed;			<i>NEW – replaces concepts in Keremeos section 14 re: costs generally</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	<p>(iii) undertake such actions as are necessary to make the workplace safe, clean and tidy; safeguard the interests of the public; and restore any interrupted Utilities including natural gas service; and</p> <p>(iv) if the other party provides written confirmation cancelling the requested changes, restore the affected portion of the Public Place to applicable Municipal Specifications without unreasonable delay and return such portion of the Public Place, as much as reasonably practical, to the condition and use which existed prior to such activity.</p> <p>(b) Upon completion of the requested changes to its facilities or cancellation pursuant to subsection (a)(iv) above, the party shall issue an invoice to the other party of the amount of Relocation Costs to be paid by the other party in accordance with section 8.1(e) (<i>Changes to Municipal Facilities</i>) or section 8.2(c) (<i>Changes to Company Facilities</i>) as applicable, and provide sufficient detail to enable the other party to assess the reasonableness of the Relocation Costs, including:</p> <p>(i) the time period during which the costs were incurred;</p> <p>(ii) descriptions of the main tasks performed, including any changes to scope from the original Relocation Costs estimate provided; and</p> <p>(iii) a breakdown of the Relocation Costs by own workforce labour, vehicles / equipment, materials and contractor costs.</p> <p>(c) FortisBC shall provide to the Municipality, and promptly provide any revisions to, a schedule of FortisBC's rates for administration and overhead charges, and the Municipality shall keep such schedule of rates confidential in accordance with section 18.9 (<i>Confidentiality</i>).</p> <p>(d) All payments due and owing pursuant to this section 8 (<i>Changes to Facilities</i>) shall be made within thirty (30) days of the day the invoice is received, without deduction or set-off. Late payments shall be subject to interest at the rate consistent with the</p>			

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	<p>invoicing party’s policy for charging for late payments, which rate must be reasonable.</p> <p>(e) If a party disputes an invoice provided by the other party, in whole or in part, the party shall notify the other party of the dispute. Any undisputed amount(s) of the invoice shall be paid while the parties review and validate the disputed amount.</p> <p>(f) Where the parties are unable to reach agreement as to a disputed amount, the parties may refer the matter to dispute resolution under section 17 (<i>Dispute Resolution</i>).</p> <p>(g) If a party has not disputed an invoice provided by the other party under subsection (b) above within ninety (90) days of receipt of such invoice, then the invoice shall be deemed to be accepted and binding on the parties.</p>			
R146	9. HIGHWAY DEDICATION FOR CROSSINGS			
R147	<p>(a) If the Municipality intends to create or widen a Highway, or requires as a condition of subdivision, rezoning and/or development approval that a Highway be created or widened, on or through lands over which FortisBC holds a statutory right of way and the proposed new or widened Highway crosses or overlaps a portion of FortisBC’s statutory right of way area, then, at the request of the Municipality and provided the Highway project is proceeding, FortisBC will consider releasing its statutory right of way interest in the portion of the statutory right of way area required for the Highway without requiring the Municipality to exercise its rights of expropriation. If FortisBC agrees to release its statutory right of way interest, FortisBC shall use commercially reasonable efforts to execute the necessary plans and other documents provided by the Municipality, including subdivision and/or road dedication plans, within ten (10) days of receipt of such documents from the Municipality, all at no cost to the Municipality and without compensation payable to FortisBC.</p> <p>(b) If FortisBC agrees to release its statutory right of way interest, FortisBC further agrees to use</p>			NEW

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	commercially reasonable efforts to obtain the necessary consents, releases or discharges from any of its mortgagees or chargeholders holding an interest in the statutory right of way or in the affected statutory right of way area under subsection (a) above, all at no cost to and without compensation payable by the Municipality.			
R148	<b>10. JOINT PLANNING, COOPERATION AND COORDINATION</b>	<b>9. JOINT PLANNING, COOPERATION AND COORDINATION</b>	<b>910. JOINT PLANNING, COOPERATION AND COORDINATION</b>	
R149	<b>10.1 Conduct of Construction and Maintenance Activities</b>	<b>9.1 Conduct of Construction and Maintenance Activities</b>	<b>10.1 Conduct of Construction and Maintenance Activities</b>	
R150	The Municipality and FortisBC agree to use reasonable efforts in carrying out their construction and maintenance activities in a manner that has regard to the effect that such activities may have on the other party and other users of Public Places. Such reasonable efforts shall include attending planning, safety and construction meetings at the request of the other party and reducing, as much as is practical, the obstruction of access to Public Places and interference with the facilities and activities of others in Public Places.	The Municipality and FortisBC agree to use reasonable efforts in carrying out their construction and maintenance activities in a manner that is responsive to the effect that it may have on the other party, as well as other users of Public Places. Such reasonable efforts include attending the planning meetings described in Section 9.2 below and reducing as much as is practical, the obstruction of access to Public Places, and interference with the facilities and activities of others in Public Places.	The Municipality and FortisBC agree to use reasonable efforts in carrying out their construction and maintenance activities in a manner that <del>is responsive</del> <u>has regard</u> to the effect that <del>such activities-it</del> may have on the other party, <del>as well as</del> <u>and</u> other users of Public Places. Such reasonable efforts <u>shall</u> include attending <del>the—</del> <u>planning, safety and construction</u> meetings <del>described in Section 9.2 below</del> <u>at the request of the other party</u> and reducing, as much as is practical, the obstruction of access to Public Places, and interference with the facilities and activities of others in Public Places.	<i>Similar</i>
R151		<b>9.2 Communication and Coordination Activities</b>		

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R152		<p>At the initiation of the Municipality, representatives of the Municipality, FortisBC and other affected Utilities and third parties will meet each year, prior to the construction season, to discuss the parties’ anticipated construction activities for that year. Such discussions will include:</p> <p>(a) the use of common trenching, common utility access facilities and such other common facilities as may be commercially reasonable and comply with operating and safety standards; and</p> <p>(b) the consolidation of planned maintenance work where pavement must be cut in order to avoid multiple excavations.</p> <p><b>9.3 Municipal Planning Lead</b></p> <p>During such annual planning meetings, the Municipality shall lead the planning process for all Utilities and third parties with Planned Facilities in Public Places.</p>		<i>Not used. Meetings re: planning, safety, etc. contemplated on a request basis pursuant to section 10.1. (Row R150)</i>
R153	<b>10.2 Mapping Information</b>			
R154	<p>(a) The Municipality shall supply to FortisBC, at no cost, all record drawings and pertinent information it has for Municipal Facilities.</p> <p>(b) FortisBC shall supply to the Municipality, at no cost, all record drawings and pertinent information it has for Company Facilities located on, along, across, over or under Public Places, including abandoned facilities.</p> <p>(c) The parties shall co-operate to improve their mapping systems so they are compatible, provide the necessary information and are easily accessible to both parties.</p>			<i>NEW</i>
R155	<b>10.3 Other Assistance</b>			
R156	10.3 The Municipality shall use commercially reasonable efforts to assist FortisBC in FortisBC’s efforts to reduce instances of residences being built over Company Facilities.	13.1.5 The Municipality shall assist FortisBC in FortisBC’s efforts to reduce instances of residences being built over gas lines and other similarly unsafe building practices by third parties.	10.3 The Municipality shall <u>use commercially reasonable efforts to</u> assist FortisBC in FortisBC’s efforts to reduce instances of residences being built over <del>gas lines and other similarly unsafe building practices by third parties</del> Company Facilities.	<i>Same/similar</i>
R157	<b>11. INDEMNITY AND LIMITATIONS OF LIABILITY</b>	<b>10. MUTUAL INDEMNITY</b>	<b><u>11. <del>MUTUAL</del> INDEMNITY AND LIMITATIONS OF LIABILITY</u></b>	
R158	<b>11.1 Indemnity by FortisBC</b>	<b>10.1 Indemnity by FortisBC</b>	<b><u>11.1 Indemnity by FortisBC</u></b>	

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R159	<p>(a) FortisBC indemnifies and protects and saves the Municipality harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property caused by FortisBC in:</p> <p>(i) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Company's Facilities on, along, across, over or under any Public Places;</p> <p>(i) any breach of this Agreement by FortisBC;</p> <p>except to the extent contributed by negligence or default of the Municipality or the Municipality's Representatives.</p> <p>(b) This indemnity expressly extends to all acts and omissions of FortisBC's Representatives.</p>	<p>10.1.1 FortisBC indemnifies and protects and saves the Municipality harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property caused by FortisBC in:</p> <p>(a) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Company's Facilities on or under any Public Places;</p> <p>(b) any breach of this Agreement by FortisBC;</p> <p>except to the extent contributed by negligence or default of the Municipality or the Municipal Employees.</p> <p>10.1.2 This indemnity expressly extends to all acts and omissions of FortisBC Employees.</p>	<p>(a) FortisBC indemnifies and protects and saves the Municipality harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property caused by FortisBC in:</p> <p>(i) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Company's Facilities on, <u>along, across, over</u> or under any Public Places;</p> <p>(i) any breach of this Agreement by FortisBC;</p> <p>except to the extent contributed by negligence or default of the Municipality or the Municipality's <u>EmployeesRepresentatives</u>.</p> <p>(b) This indemnity expressly extends to all acts and omissions of FortisBC's <u>EmployeesRepresentatives</u>.</p>	<i>Similar</i>
R160	<b>11.2 Indemnity by Municipality</b>	<b>10.2 Indemnity by the Municipality</b>	<b>101.2 Indemnity by <del>the</del> Municipality</b>	
R161	<p>(a) The Municipality indemnifies and protects and saves FortisBC harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property to the extent caused by the Municipality in:</p> <p>(i) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Municipal Facilities on, along, across, over or under any Public Places;</p> <p>(i) any breach of this Agreement by the Municipality;</p> <p>except to the extent contributed by the negligence or default of FortisBC or FortisBC's Representatives.</p> <p>(b) This indemnity expressly extends to all acts and omissions of the Municipality's Representatives.</p>	<p>10.2.1 The Municipality indemnifies and protects and saves FortisBC harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property to the extent caused by the Municipality in:</p> <p>(a) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Municipal Facilities on or under any Public Places;</p> <p>(b) any breach of this Agreement by the Municipality;</p> <p>except to the extent contributed by the negligence or default of FortisBC or FortisBC Employees.</p> <p>10.2.2 This indemnity expressly extends to all acts and omissions of Municipal Employees.</p>	<p>(a) The Municipality indemnifies and protects and saves FortisBC harmless from and against all claims by third parties in respect to loss of life, personal injury (including, in all cases, personal discomfort and illness), loss or damage to property to the extent caused by the Municipality in:</p> <p>(i) placing, constructing, renewing, altering, repairing, maintaining, removing, extending, operating or using the Municipal Facilities on, <u>along, across, over</u> or under any Public Places;</p> <p>(i) any breach of this Agreement by the Municipality;</p> <p>except to the extent contributed by the negligence or default of FortisBC or FortisBC's <u>EmployeesRepresentatives</u>.</p> <p>(b) This indemnity expressly extends to all acts and omissions of Municipality's <u>EmployeesRepresentatives</u>.</p>	<i>Similar</i>
R162	<b>11.3 Limitations on Municipality's Liability</b>	<b>10.3 Limitations on Municipality's Liability</b>	<b>110.3 Limitations on Municipality's Liability</b>	
R163	All property of FortisBC kept or stored on the Public	All property of FortisBC kept or stored on the Public		<i>Same</i>



ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	Places will be kept or stored at the risk of FortisBC. For further certainty, FortisBC acknowledges that the Municipality has made no representations or warranties as to the state of repair or the suitability of the Public Places for any business, activity or purpose whatsoever. FortisBC accepts its use of Public Places on an “as is” basis.	Places will be kept or stored at the risk of FortisBC. For further certainty, FortisBC acknowledges that the Municipality has made no representations or warranties as to the state of repair or the suitability of the Public Places for any business, activity or purpose whatsoever. FortisBC accepts its use of Public Places on an “as is” basis.		
R164	<b>11.4 No Liability for Approval of Drawings and Plans</b>			
R165	The Municipality shall not be liable to FortisBC as a result only of the Municipality’s approval of drawings and plans submitted by FortisBC to the Municipality pursuant to this Agreement.			NEW
R166	<b>11.5 Limitation of Liability</b>			
R167	Except as otherwise specifically provided for in sections 8 ( <i>Changes to Facilities</i> ), 11.1 ( <i>Indemnity by FortisBC</i> ) and 11.2 ( <i>Indemnity by Municipality</i> ), neither party shall be liable to any person in any way for special, incidental, indirect, consequential, exemplary or punitive damages, including damages for economic loss, business loss, loss of profits, delay costs, stand-by costs or for failure to realize expected profits, howsoever caused or contributed to, in connection with this Agreement or non-performance of its obligations hereunder.			NEW
R168	<b>12. OPERATING FEE</b>	<b>11. OPERATING FEE</b>	<b>122. OPERATING FEE</b>	
R169	<b>12.1 Fee Calculation</b>	<b>11.1 Fee Calculation</b>	<b>122.1 Fee Calculation</b>	
R170	Provided that FortisBC is permitted to collect the Operating Fee from customers within the Boundary Limits and effective commencing from the date established by the BCUC, FortisBC agrees to pay to the Municipality on an annual basis, a fee (the “ <b>Operating Fee</b> ”) of 0.70 % of the delivery revenue (excluding taxes) received by FortisBC from its customers for the distribution of gas consumed within the Boundary Limits (the “ <b>Delivery Revenue</b> ”), but excluding compressed natural gas distributed from fueling stations and the delivery of liquefied natural gas. Delivery Revenue further does not include (i) any gas commodity revenue, or (ii) any delivery revenue from customers from whom the BCUC has not allowed	<p>11.1.1 FortisBC agrees to pay to the Municipality a fee of three percent (3%) of the gross revenues (excluding taxes) received by FortisBC for provision and distribution of all gas consumed within the Boundary Limits of the Municipality provided that the Municipality is permitted by law to charge such a fee. Such amount will not include any amount received by FortisBC for gas supplied or sold for resale.</p> <p>11.1.2 The Municipality will provide FortisBC with thirty (30) days prior written notice of any boundary expansion so that existing and new customers in the expanded area can be included as a part of the annual payment fee.</p>	<p><del>12.2.1</del>—<u>Provided that FortisBC is permitted to collect the Operating Fee from customers within the Boundary Limits and effective commencing from the date established by the BCUC, FortisBC agrees to pay to the Municipality on an annual basis, a fee (the “Operating Fee”) of three percent (3%)0.70 % of the gross revenuesdelivery revenue (excluding taxes) received by FortisBC from its customers for provision andthe distribution of all gas consumed within the Boundary Limits of the Municipality provided that the Municipality is permitted by law to charge such a fee. Such amount will not include any amount received by FortisBC for</u>(the “<b>Delivery Revenue</b>”), but excluding compressed natural gas</p>	

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	FortisBC to collect the Operating Fee. <b>12.2 Change to Boundary Limits</b> FortisBC will, upon receipt of written notice from the Municipality of an expansion to the Boundary Limits, collect the Operating Fee from the applicable customers in the expanded Boundary Limits effective the date that is the later of the date of actual change to the Boundary Limits or thirty (30) days after receipt of notice from the Municipality.	11.1.3 FortisBC will be responsible for adding those existing and new customers within the new Municipal boundary upon receipt of such notice from the Municipality and the revised calculation of the fee will commence effective the date that is the later of the date of actual boundary change or thirty (30) days after the notification under section	<del>supplied or sold for resale.</del> <del>The Municipality will providedistributed from fueling stations and the delivery of liquefied natural gas. Delivery Revenue further does not include (i) any gas commodity revenue, or (ii) any delivery revenue from customers from whom the BCUC has not allowed FortisBC with thirty (30) days prior written notice of any boundary expansion so that existing and new customers in the expanded area can be included as a part of the annual payment feeto collect the Operating Fee.</del>	
R171			<b>12.2 Change to Boundary Limits</b> <del>FortisBC will be responsible for adding those existing and new customers within the new Municipal boundary, upon receipt of suchwritten notice from the Municipality andof an expansion to the revised calculation of Boundary Limits, collect the fee will commence</del> Operating Fee from the applicable customers in the expanded Boundary Limits effective the date that is the later of the date of actual <del>boundary</del> change <u>to the Boundary Limits</u> or thirty (30) days after <del>the notification under section 11.1.2.receipt of notice from the Municipality.</del>	
R172	<b>12.3 Payment Date and Period</b>	<b>11.2 Payment Date and Period</b>	<b>12.3 Payment Date and Period</b>	
R173	FortisBC will pay the Operating Fee to the Municipality annually by the first day of March of each year calculated with respect to the preceding calendar year.	Payments by FortisBC to the Municipality will be made on the first day of March of each year of the Agreement in respect of the amount received by FortisBC during that portion of the term of this Agreement which is in the immediately preceding calendar year. By way of example only, payment made on March 1, 2014 will be the amount received during the 2013 calendar year.	<del>Payments by</del> FortisBC <u>will pay the Operating Fee</u> to the Municipality <del>will be made on</del> <u>annually by</u> the first day of March of each year <del>of the Agreement-incalculated with respect oft</del> o the <del>amount received by FortisBC during that portion of the term of this Agreement which is in the immediately preceding calendar year. By way of example only, payment made on March 1, 2014 will be the amount received during the 2013 calendar year.</del>	Similar
R174	<b>12.4 BCUC Decision or Provincial Legislation</b>	<b>11.3 BCUC Decision or Provincial Legislation</b>	<b>12.4 BCUC Decision or Provincial Legislation</b>	
R175	If a decision by the BCUC, other than periodic rate changes as a result of delivery or margin increases or decreases, or new legislation by the Provincial Government, impacts the Operating Fee being paid to the Municipality by more than +/- 5% annually, the	In the event that a decision by the BCUC, other than periodic rate changes as a result of commodity, delivery or margin increases or decreases, or new legislation by the Provincial Government, impacts the operating fee being paid to the Municipality so as to increase it or	<del>In the event that</del> <u>If</u> a decision by the BCUC, other than periodic rate changes as a result of <del>commodity,</del> delivery or margin increases or decreases, or new legislation by the Provincial Government, impacts the <del>operating fee</del> <u>Operating Fee</u> being paid to the Municipality <del>so as</del>	Similar

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	parties shall negotiate a new Operating Fee formula which best reflects the amount paid to the Municipality under this Agreement.	decrease it by more than 5% annually at the time of the decision or in subsequent years, the parties shall negotiate a new operating fee formula which best reflects the revenue stream received by the Municipality under this Agreement. For greater certainty, the parties acknowledge that a change to the BCUC’s decision that FortisBC shall provide the agency billing and collections service for marketers on a mandatory basis, as set out in the “Business Rules for Commodity Unbundling dated June 5, 2003 as set out in Appendix A to Letter No. L-25-03, may impact the operating fee being paid to the Municipality	<del>to increase it or decrease it</del> by more than <u>+/-</u> 5% annually <del>at the time of the decision or in subsequent years,</del> the parties shall negotiate a new <del>operating fee</del> <u>Operating Fee</u> formula which best reflects the <del>revenue stream received by the Municipality under this Agreement.</del> <del>For greater certainty, the parties acknowledge that a change to the BCUC’s decision that FortisBC shall provide the agency billing and collections service for marketers on a mandatory basis, as set out in the “Business Rules for Commodity Unbundling dated June 5, 2003 as set out in Appendix A to Letter No. L-25-03, may impact the operating fee being</del> <u>amount</u> paid to the Municipality <u>under this Agreement.</u>	
R176		<b>13. MUNICIPAL OBLIGATIONS</b>		
R177	<b>13. Municipal Work</b>	<b>13.1 Municipal Work</b>		
R178		13.1.1 Before the Municipality undertakes any construction or maintenance activity which is likely to affect a part of the Company Facilities, excluding routine maintenance and repair that does not involve any cutting of asphalted road surface, it must give FortisBC notice not less than 10 days before commencing such construction or maintenance activity. Before the Municipality undertakes routine maintenance and repair that does not involve any cutting of asphalted road surface and is likely to affect Company Facilities, it must give FortisBC notice not less than 3 days before commencing such construction or maintenance activity.		<i>Not used – requirements of Law (including contacting BCOne Call).</i>
R179		13.1.2 Where the Municipality is required to carry out work urgently in the interests of public safety or health or to preserve the safety of property and Municipal Facilities, the Municipality shall not be required to give prior notice but shall do so as soon as possible thereafter.		<i>Not used</i>
R180	(a) FortisBC will be entitled to appoint, at its cost, a representative to inspect any construction, maintenance or repair activity undertaken by the Municipality over or around Company Facilities. The provisions of this section do not relieve the Municipality of its responsibilities under all applicable	13.1.3 FortisBC will be entitled to appoint at its cost a representative to inspect any construction or maintenance activity undertaken by the Municipality. The provisions of this section do not relieve the Municipality of its responsibilities under the <i>Gas Safety Act, Oil and Gas Activities Act</i> , and successor legislation,	(a) FortisBC will be entitled to appoint at its cost a representative to inspect any construction, <del>or</del> <u>or repair</u> maintenance activity undertaken by the Municipality <u>over or around Company Facilities</u> . The provisions of this section do not relieve the Municipality of its responsibilities under <u>all applicable</u>	<i>Similar</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	Laws, including the <i>Gas Safety Act, Oil and Gas Activities Act</i> , and successor legislation, regulations thereunder, or the requirements of the BC Workers' Compensation Board.	regulations thereunder, or the requirements of the BC Workers' Compensation Board.	<u>Laws, including</u> the <i>Gas Safety Act, Oil and Gas Activities Act</i> , and successor legislation, regulations thereunder, or the requirements of the BC Workers' Compensation Board.	
R181	(b) If the Municipality plans to undertake construction or other activities that are subject to section 76(1) of the <i>Oil and Gas Activities Act</i> , and the Municipality applies to FortisBC for an FEI Permit in respect of the construction or other activities, FortisBC shall use commercially reasonable efforts to issue the FEI Permit to the Municipality within ten (10) days of receipt of the Municipality's request, except in the case of large and complex work, FortisBC may, by notice to the Municipality, extend the time for response by a maximum of ten (10) days. Any terms and conditions of such permit shall be of no force and effect to the extent such terms and conditions are inconsistent with the terms of this Agreement.	13.1.4 In addition, the Municipality shall provide Notice to FortisBC of any work planned that will be adjacent to, across, over or under a Transmission Pipeline or within a right-of-way for a Transmission Pipeline. To the extent that FortisBC requires that permit be issued for construction or other activities within a Transmission Pipeline right-of-way, the Municipality will submit an application for such a permit in sufficient time for the application to be reviewed and approved by FortisBC prior to the commencement of the construction or other activity.	(b) <u>If the Municipality plans to undertake construction or other activities that are subject to section 76(1) of the <i>Oil and Gas Activities Act</i>, and the Municipality applies to FortisBC for an FEI Permit in respect of the construction or other activities, FortisBC shall use commercially reasonable efforts to issue the FEI Permit to the Municipality within ten (10) days of receipt of the Municipality's request, except in the case of large and complex work, FortisBC may, by notice to the Municipality, extend the time for response by a maximum of ten (10) days. Any terms and conditions of such permit shall be of no force and effect to the extent such terms and conditions are inconsistent with the terms of this Agreement.</u> <del>In addition, the Municipality shall provide Notice to FortisBC of any work planned that will be adjacent to, across, over or under a Transmission Pipeline or within a right-of-way for a Transmission Pipeline. To the extent that FortisBC requires that permit be issued for construction or other activities within a Transmission Pipeline right-of-way, the Municipality will submit an application for such a permit in sufficient time for the application to be reviewed and approved by FortisBC prior to the commencement of the construction or other activity.</del>	<i>Revised to reference the statutory obligations re: the permit and include a turnaround time.</i>
R182	13.(c) If the Municipality removes, covers or obstructs Pipeline Markers, the Municipality shall promptly provide notice to FortisBC to enable FortisBC to replace such Pipeline Markers.	13.1.6 The Municipality shall not interfere with Transmission Pipeline markers.		<i>Obligation revised to provide notification to enable replacement of Pipeline Marker by FortisBC.</i>
R183	13.(d) The Municipality shall provide notice to FortisBC of any damage to Company Facilities located on, along, across, over or under Public Places, caused by any work being done by the Municipality and pay FortisBC its reasonable costs to repair such damage. Where such damage results directly from inaccurate or incomplete information supplied by FortisBC, and the Municipality has complied with all applicable Laws, and with	13.1.7 The Municipality shall provide notice to FortisBC of any damage caused by the Municipality to Company Facilities or Transmission Pipeline Markers as soon as reasonably possible. To the extent that any of the work being done by the Municipality results in damage to the Company Facilities, the Municipality will report such damage and pay FortisBC its costs arising from such damage in accordance with Section 14.1 below.	13.(d) The Municipality shall provide notice to FortisBC of any damage <del>caused by the Municipality</del> to Company Facilities <u>located on, along, across, over or under Public Places, caused by any work being done by the Municipality or Transmission Pipeline Markers as soon as reasonably possible. To the extent that any of the work being done by the Municipality results in damage to the Company Facilities, the Municipality will report</u>	<i>Similar</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	instructions supplied by FortisBC, then the cost of repairing the damaged Company Facilities will be at the expense of FortisBC.	Where such damage results directly from inaccurate or incomplete information supplied by FortisBC, and the Municipality has complied with all applicable laws and regulations, and with instructions supplied by FortisBC, then the cost of repairing the damaged Company Facilities will be at the expense of FortisBC.	<del>such damage</del> and pay FortisBC its <u>reasonable</u> costs <del>arising from to repair</del> such damage <del>in accordance with Section 14.1 below</del> . Where such damage results directly from inaccurate or incomplete information supplied by FortisBC, and the Municipality has complied with all applicable <del>laws—Laws</del> and <del>regulations</del> , and with instructions supplied by FortisBC, then the cost of repairing the damaged Company Facilities will be at the expense of FortisBC.	
R184		13.1.8 The Municipality shall notify FortisBC of any new bylaws, standards or policies adopted or passed by the Municipality that are likely to affect FortisBC’s operations in Public Places.		<i>Not used</i>
R185		<b>14. COSTS AND PAYMENT PROCEDURES</b>		
R186		<b>14.1 Definition of Costs</b>		
R187		Wherever one party is required to pay the other party Costs as a result of damage caused by one party to the other’s property, the Costs shall be:  (a) all direct expenses and disbursements incurred to restore such property to as good a state of repair as had existed prior to the damage; (b) reasonable administration and overhead charges on labour, equipment and materials; (c) such taxes as may be required in the appropriate jurisdiction; (d) in the case of loss of gas or re-lights, the cost of the commodity as determined by the length of time that the gas is leaking, size of pipe and hole and the pressure; and (e) in the case of water, electrical or sewer, cost of supplying alternate service.		<i>Provisions not used. See: Definition of “Relocation Costs” Section 8.3 Estimation of Costs</i>
R188		<b>14.2 Cost Claim Procedures</b>		

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R189		<p>14.2.1 Wherever one party is claiming Costs of the other party in regard to any work or issue arising under this Agreement the claiming party shall:</p> <p>(a) provide an invoice to the other party no later than one year after incurring Costs; (b) provide detailed descriptions of the cost items; (c) provide the time period the invoice covers; (d) provide a minimum of 21 day terms for payment of the invoice; and</p> <p>(e) provide for late payment interest at the rate consistent with the party's policy for charging for late payments, which rate must be reasonable;</p> <p>14.2.2 The party claiming Costs shall have no right of set off for these invoices against any amounts otherwise payable to the other party, except to the extent so approved in writing by the other party.</p>		<p><i>Cost claim procedures not used – instead see FEI column section 8.4 Notification of Costs, Invoicing and Payments (Row R145)</i></p>
R190		<b>14.3 Cost Verification Procedures</b>		
R191		<p>14.3.1 Wherever either party is the recipient of or is claiming Costs and or fees that party may at its own discretion request from the other party:</p> <p>(a) Certification by an officer or designated representative verifying the calculations and computations of the Costs and or fees, or (b) An internal review or audit of the calculations and computations of the Costs and or fees, with the internal review or audit to be carried out by a person appointed by the party being asked to provide the review; or (c) An independent external audit of the calculations and computations of the costs and fees, with the independent external auditor being a Chartered or a Certified General Accountant in British Columbia appointed by the party requesting the external audit;</p> <p>14.3.2 The costs of this cost verification process shall be borne by the party who is required to supply the information except as otherwise specified providing the</p>		<p><i>Cost Verification Procedures not included – instead, see:</i> <i>FEI sections 8.1 (Row R137) - obligation of Municipality to provide estimate</i> <i>FEI section 8.2 (Row R140) – obligation of FortisBC to provide estimate</i> <i>FEI section 8.3 (Row R143) – detailed requirements for estimates</i> <i>FEI section 8.4 (Row R145) – effect of costs exceeding estimates and referral of unresolved disputes to Dispute Resolution Process.</i></p>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
		<p>frequency of such requests does not exceed once per calendar year. For all future cases which occur in that calendar year, the costs of such further verifications shall be at the expense of the requester.</p> <p>Where the independent external audit finds and establishes errors representing a variance greater than 2% of the originally calculated value in favour of the party claiming Costs, the costs shall be at the expense of the party supplying the information. Once an error has been verified, payment or refund of the amount found to be in error will be made within 21 days.</p>		
R192	<b>14. CESSATION OF USE OF COMPANY FACILITIES</b>			
R193	<b>14.1 Removal or Abandonment</b>			
R194	<p>If FortisBC intends to permanently cease use of Company Facilities located on, along, across, over or under Public Places, FortisBC shall promptly notify the Municipality of its plans for such Company Facilities, provided that:</p> <p>(a) FortisBC shall remove Company Facilities located above ground; and</p> <p>(b) FortisBC may, in its discretion, remove or leave in place underground Company Facilities.</p>			NEW
R195	<b>14.2 Continuing Obligations and Responsibility</b>			
R196	<p>(a) FortisBC shall fill any pipes forming part of Company Facilities left in place which have a nominal diameter greater than 323 mm (12 inches) with sand, controlled density fill or similar material to prevent their collapse.</p> <p>(b) If the Municipality reasonably determines that Company Facilities left in place must be removed to accommodate Municipal Projects, Third Party Projects or Utilities, the Municipality may by written notice to FortisBC require FortisBC to remove such Company Facilities, provided that:</p> <p>(i) FortisBC shall coordinate the removal of such Company Facilities with the Municipality;</p> <p>(ii) FortisBC shall obtain the applicable approvals and permits under this Agreement; and</p>			NEW



ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	<p>(iii) FortisBC shall be responsible for the costs of removing and disposing the Company Facilities, but excluding the costs of excavation, backfilling and surface restoration.</p> <p>(c) FortisBC shall continue to own and be responsible for any Company Facilities left in place. This section 14 (<i>Cessation of Use of Company Facilities</i>) does not relieve FortisBC of its responsibilities under all applicable Laws with respect to Company Facilities left in place.</p>			
R197		<b>15. START, TERMINATION AND CONTINUITY</b>		
R198		<b>15.2 Agreement Not Binding Until Approved by BCUC</b>		
R199		15.2.1 This Agreement will not come into effect and does not bind the parties until FortisBC has obtained such approvals of this Agreement, or its terms, as may be required under the <i>Utilities Commission Act</i> . Upon executing this Agreement FortisBC shall make reasonable efforts to fulfill this condition. If this condition is not fulfilled or waived within one (1) year of the date of execution of this Agreement, then the obligation on FortisBC to make reasonable efforts to fulfill this condition will terminate, and neither party will have any further obligation to the other under this Agreement.		<i>Not used. Not applicable</i>
R200	<b>15.1 Termination of Franchise Agreement</b>	<b>15.3 Termination of Franchise Agreement</b>	<b>15.1 Termination of Franchise Agreement</b>	
R201	If not already terminated or expired, any franchise and/or operating agreements between the Municipality and FortisBC with respect to the subject matter of this Agreement, including the Natural Gas Distribution Agreement dated June 13, 1957, are terminated as at the effective date of this Agreement.	If not already terminated or expired, any franchise and operating agreement between the Municipality and FortisBC is terminated upon the effective date of this Agreement as referred to in section 15.2 of this Agreement.	If not already terminated or expired, any franchise and/or operating agreements between the Municipality and FortisBC <u>with respect to the subject matter of this Agreement, including the Natural Gas Distribution Agreement dated June 13, 1957, are</u> terminated <del>upon</del> <u>as at</u> the effective date of this Agreement <del>as referred to in section 15.2 of this Agreement.</del>	<i>Similar</i>
R202	<b>15.2 Term of Agreement</b>	<b>15.4 Term of Agreement</b>	<b>15.2 Term of Agreement</b>	
R203	This Agreement shall have a term of twenty (20) years commencing on the date it is made effective as first set out above, and after the initial twenty (20) year term shall continue indefinitely unless terminated in accordance with section 15.3 ( <i>Termination of Agreement</i> ).	This Agreement will have a term of 20 years from the date that it comes into effect and after the initial term shall continue indefinitely unless terminated in accordance with Section 15.5 below.	This Agreement <del>will</del> <u>shall</u> have a term of <u>twenty (20)</u> years <del>commencing on from</del> the date <del>that it comes into it</del> <u>is made</u> effective as first set out above, and after the initial <u>twenty (20) year</u> term shall continue indefinitely unless terminated in accordance with <u>section 15.3</u> ( <i>Termination of Agreement</i> ) <del>or section 17.2 (Changes to</del>	<i>Similar</i>



ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
			<del>Laws</del> Section 15.5 below.	
R204	<b>15.3 Termination of Agreement</b>	<b>15.5 Termination of Agreement</b>	<b>15.3 Termination of Agreement</b>	
R205	(a) Either party may terminate this Agreement by providing the other party with at least ninety (90) days written notice of termination if the BCUC orders that FortisBC is not authorized to recover the Operating Fee from its customers.			NEW – Note: FEI Section 15.4 (b) (Row R209)(Negotiations on Termination or Expiry of this Agreement) below also contemplates application to BCUC in such event to establish new terms and conditions.
R206	<p>(b) The Municipality may terminate this Agreement by providing FortisBC with at least twenty-four (24) hours written notice of termination if FortisBC 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 <i>Companies’ Creditors Arrangement Act</i> or the <i>Bankruptcy and Insolvency Act</i>.</p> <p>(c) Either party may terminate this Agreement by providing the other party with written notice of termination if the other party breaches any term, provision or obligation hereunder and such breach is a material breach and has not been cured within sixty (60) days of receipt of notice of such breach. A party will not be considered to be in material breach if the party has sought resolution of such matter through the Dispute Resolution process under section 17 (<i>Dispute Resolution</i>) and the outcome of which is pending.</p>	<p>15.5.1 This Agreement may be terminated by the Municipality upon the occurrence of any of the following events:</p> <p>(a) FortisBC admits its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency;</p> <p>(b) FortisBC starts proceedings or takes any action to commence or executes an agreement to authorize its participation in any proceeding:</p> <p>(i) seeking to adjudicate it bankrupt or insolvent;</p> <p>(ii) seeking liquidation, reorganization, arrangement, protection, relief or composition of it or any of its property or debt or making a proposal with respect to it under any law relating to bankruptcy, insolvency, reorganization or compromise of debts or other similar laws; or</p> <p>(iii) seeking the appointment of a receiver, trustee, agent, custodian or other similar official for it or for any substantial part of its assets or if a creditor seeks the appointment of a receiver, trustee, agent, custodian or other similar official for any substantial part of its assets; and such proceeding is not dismissed, discharged, stayed or restrained within 20 days of the Municipality becoming aware of it.</p> <p>15.5.2 Either party may terminate if other breaches any term, provision, obligation hereunder and such breach, is a material major breach, and has not been cured within sixty (60) days of receipt of Notice of such breach. A Party will not be considered to be in default if such matter is in dispute or has been referred to</p>	<p>(b) <del>The Municipality may terminate this Agreement by providing FortisBC with at least twenty-four (24) hours written notice of termination if FortisBC 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 <i>Companies’ Creditors Arrangement Act</i> or the <i>Bankruptcy and Insolvency Act</i>.</del></p> <p><del>This Agreement may be terminated by the Municipality upon the occurrence of any of the following events:</del></p> <p><del>FortisBC admits its inability to pay its debts generally as they become due or otherwise acknowledges its insolvency;</del></p> <p><del>FortisBC starts proceedings or takes any action to commence or executes an agreement to authorize its participation in any proceeding:</del></p> <p><del>seeking to adjudicate it bankrupt or insolvent;</del></p> <p><del>seeking liquidation, reorganization, arrangement, protection, relief or composition of it or any of its property or debt or making a proposal with respect to it under any law relating to bankruptcy, insolvency, reorganization or compromise of debts or other similar laws; or</del></p> <p><del>seeking the appointment of a receiver, trustee, agent, custodian or other similar official for it or for any substantial part of its assets or if a creditor seeks the appointment of a receiver, trustee, agent, custodian or other similar official for any substantial part of its assets; and such proceeding is not dismissed, discharged, stayed or restrained within 20 days of the Municipality becoming aware of it.</del></p> <p><del>15.5.2(c)</del> Either party may terminate <u>this Agreement by</u></p>	Similar

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
		commercial arbitration, the outcome of which is pending, or is being resolved in good faith compliance with the dispute resolution and arbitration processes of this Agreement.	<del>providing-if the other party with written notice of termination if the other party breaches any term, provision, or obligation hereunder and such breach, is a material major breach, and has not been cured within sixty (60) days of receipt of A notice of such breach. A P party will not be considered to be in material breach default if the party has sought resolution of such matter through is in dispute or has been referred to commercial arbitration, the outcome of which is pending, or is being resolved in good faith compliance with the dDispute RResolution process under section 17 (Dispute Resolution) and the outcome is which is pending arbitration processes of this Agreement.</del>	
R207	(d) Either party may terminate this Agreement in accordance with section 16.2(b) ( <i>Changes to Laws</i> ).		<del>(d) Either party may terminate this Agreement in accordance with section 16.2(b) (Changes to Laws).</del>	Cross referencing provision added to keep termination references together
R208	(e) After the initial twenty (20) year term of this Agreement, either party may terminate this Agreement by giving the other party not less than one (1) year's written notice of termination.	15.5.3 After the initial twenty (20) year term of this Agreement, either party may terminate this Agreement by giving the other not less than one (1) year's notice of termination.	(e) After the initial twenty (20) year term of this Agreement, either party may terminate this Agreement by giving the other <u>party</u> not less than one (1) year's <u>written</u> notice of termination.	Similar
R209	<b>15.4 Negotiations on Termination or Expiry of this Agreement</b>	<b>15.7 Negotiations on Termination or Expiry of this Agreement</b>		
R210	Upon one party giving notice to the other party of termination of this Agreement:  (a) the parties shall negotiate in good faith to enter into a new agreement with respect to the terms and conditions under which FortisBC may occupy and use the Public Places, and if such negotiations break down and in the opinion of one or other of the parties acting in good faith settlement is unlikely, either party may apply to the BCUC to establish the terms and conditions applicable to FortisBC's continued occupancy and use of the Public Places; and	Upon one party giving Notice to the other of termination of this Agreement, the parties shall negotiate in good faith to enter into a new agreement with respect to the terms and conditions under which FortisBC may use the Public Places. In the event that such negotiations break down and in the opinion of one or other of the parties acting in good faith that settlement is unlikely, either party may give Notice to the other of its intention to apply to the BCUC to seek resolution of the terms and conditions applicable to FortisBC's continued operations and construction activities within the Municipality.	Upon one party giving <del>Notice</del> <u>notice</u> to the other <u>party</u> of termination of this Agreement;  (a) _____, the parties shall negotiate in good faith to enter into a new agreement with respect to the terms and conditions under which FortisBC may <u>occupy and use the Public Places and if</u> <del>,-In the event that-</del> such negotiations break down and in the opinion of one or other of the parties acting in good faith <del>that</del> settlement is unlikely, either party may <del>give Notice to the other of its intention to</del> apply to the BCUC to <del>seek resolution of establish</del> the terms and conditions applicable to FortisBC's continued <del>operations and construction activities within the Municipality</del> <u>occupancy and use of the Public Places.; and</u>	Similar
R211		<b>15.8 Continuity In The Event No Agreement Is Settled</b>		

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R212	(b) FortisBC will, with the support of the Municipality, take such steps necessary to seek BCUC approvals on an interim basis of the extension of terms and conditions of this Agreement during negotiations of a new agreement, provided that if FortisBC is no longer authorized to recover the Operating Fee from its customers, the Municipality shall be free to apply to the BCUC for substitute terms and conditions related to compensation, cost allocations, indemnity and liability and to apply such approval, permit and licence fees, charges and levies it is legally entitled to collect.	<p>Upon termination of this Agreement, if a new agreement has not been ratified or if the BCUC has not imposed the terms and conditions under which FortisBC may use the Public Places, the following provisions will apply:</p> <p>(a) The Company Facilities within the boundary limits of the Municipality both before and after the date of this Agreement, shall remain FortisBC's property and shall remain in the Public Places.</p> <p>(b) The Company Facilities may continue to be used by FortisBC for the purposes of its business, or removed from Public Places in whole or in part at FortisBC's sole discretion.</p> <p>(c) FortisBC may continue to use Public Places within the Municipality for the purposes of its business. FortisBC's employees, may enter upon all the Public Places within the Boundary Limits of the Municipality to maintain, operate, install, construct, renew, alter, or place Company Facilities; provided that FortisBC continues to operate in a manner consistent with the terms and conditions of this Agreement as if the term had been extended except with respect to the payment of the operating fee.</p> <p>(d) FortisBC will with the support of the Municipality take such steps necessary to seek BCUC approvals of the extension of terms and conditions including payment of the operating fee under the terminated agreement during negotiations of a new agreement.</p> <p>(e) Should FortisBC no longer be authorized or required to pay the operating fee under any Agreement between it and the Municipality or by any order of the BCUC, the Municipality shall be free to apply such approval, permit and licence fees, charges and levies it is legally entitled to collect.</p>	<p>(b) <del>Upon termination of this Agreement, if a new agreement has not been ratified or if the BCUC has not imposed the terms and conditions under which FortisBC may use the Public Places, the following provisions will apply:</del></p> <p><del>The Company Facilities within the boundary limits of the Municipality both before and after the date of this Agreement, shall remain FortisBC's property and shall remain in the Public Places.</del></p> <p><del>The Company Facilities may continue to be used by FortisBC for the purposes of its business, or removed from Public Places in whole or in part at FortisBC's sole discretion.</del></p> <p><del>FortisBC may continue to use Public Places within the Municipality for the purposes of its business. FortisBC's employees, may enter upon all the Public Places within the Boundary Limits of the Municipality to maintain, operate, install, construct, renew, alter, or place Company Facilities; provided that FortisBC continues to operate in a manner consistent with the terms and conditions of this Agreement as if the term had been extended except with respect to the payment of the operating fee.</del></p> <p><del>FortisBC will,</del> with the support of the Municipality, take such steps necessary to seek BCUC approvals <u>on an interim basis</u> of the extension of terms and conditions <del>including payment of the operating fee under the terminated agreement of this Agreement</del> during negotiations of a new agreement.</p> <p><del>Should, provided that if</del> FortisBC <u>is</u> no longer <del>be</del> authorized <del>or required to pay the operating fee under any Agreement between it and the Municipality or by any order of the BCUC</del> <u>to recover the Operating Fee from its customers</u>, the Municipality shall be free <u>to apply to the BCUC for substitute terms and conditions related to compensation, cost allocations, indemnity and liability and</u> to apply such approval, permit and licence fees, charges and levies it is legally entitled to collect.</p>	Revised
R213	16. ACCOMMODATION OF FUTURE CHANGES	16. ACCOMMODATION OF FUTURE CHANGES		

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R214	<b>16.1 Outsourcing of Infrastructure Management</b>	<b>16.1 Outsourcing of Infrastructure Management</b>	<b>16.1 Outsourcing of Infrastructure Management</b>	
R215	<p>If the Municipality assigns the task of infrastructure management to a third party the Municipality will ensure that:</p> <p>(a) its contracts for such infrastructure management contain provisions that will allow the Municipality to meet its obligations under and to comply with the terms and conditions of, this Agreement, and</p> <p>(b) FortisBC will accept the appointment of such third party as the Municipality’s agent or subcontractor to enable such third party to deal directly with FortisBC so as to enable the Municipality to comply with the terms, obligations and conditions of this Agreement.</p>	<p>In the event that the Municipality assigns the task of infrastructure management to a third party the Municipality will ensure that:</p> <p>(a) its contracts for such infrastructure management contain provisions that will allow the Municipality to meet its obligations under and to comply with the terms and conditions of, this Agreement, and</p> <p>(b) FortisBC will accept the appointment of such third party as the Municipality’s agent or subcontractor to enable such third party to deal directly with FortisBC so as to enable the Municipality to comply with the terms, obligations and conditions of this Agreement.</p>	<p><del>In the event that</del>If the Municipality assigns the task of infrastructure management to a third party the Municipality will ensure that:</p> <p>(a) its contracts for such infrastructure management contain provisions that will allow the Municipality to meet its obligations under and to comply with the terms and conditions of, this Agreement, and</p> <p>(b) FortisBC will accept the appointment of such third party as the Municipality’s agent or subcontractor to enable such third party to deal directly with FortisBC so as to enable the Municipality to comply with the terms, obligations and conditions of this Agreement.</p>	<i>Similar</i>
R216	<b>16.2 Changes to Laws</b>	<b>16.2 Changes to the Community Charter</b>	<b>16.2 Changes to <del>the Community Charter</del>Laws</b>	
R217	<p>If the provisions of any Laws, affecting the rights, powers and/or entitlements of either of the parties in respect of matters dealt with in this Agreement, including the <i>Community Charter</i>, the <i>Gas Utility Act</i> or the <i>Utilities Commission Act</i>, as the case may be, change in such a way as to materially, in the opinion of the affected party, affect such rights, powers and/or entitlements,</p> <p>(a) the affected party may within one year of the change coming into effect propose new agreement terms with respect to only those specific changes and the other party agrees to negotiate such terms; and</p> <p>(b) failing satisfactory resolution of the new agreement terms either of the parties may terminate this Agreement by providing the other party not less than ninety (90) days written notice of termination.</p>	<p>In the event that the provisions of the <i>Community Charter</i> or other legislation affecting the rights and powers of municipalities change in such a way as to materially, in the opinion of the Municipality, affect municipal powers in respect to matters dealt with in this Agreement,</p> <p>(a) the Municipality may within one year of the change coming into effect propose new agreement terms with respect to only those specific changes and FortisBC agrees to negotiate such terms; and</p> <p>(b) failing satisfactory resolution of the terms of the Agreement either of the parties may seek resolution through the Dispute Resolution Process, Section 17.</p> <p><b>16.3 Changes to the Utilities Commission Act</b></p> <p>In the event that the provisions of the <i>Utilities Commission Act</i> or other legislation affecting the rights and powers of regulated Utilities change in such a way as to materially, in FortisBC’s opinion, affect FortisBC’s powers in respect to matters dealt with in this Agreement,</p> <p>(a) FortisBC may within one year of the change coming</p>	<p><del>In the event that</del>If the provisions of <del>the Community Charter or other legislation</del><u>any applicable Laws</u> affecting the rights, <del>and</del> powers <u>and/or entitlements</u> of <del>municipalities either of the parties in respect of matters dealt with in this Agreement, including the Community Charter, the Gas Utility Act or the Utilities Commission Act, as the case may be,</del> change in such a way as to materially, in the opinion of the <del>Municipality</del><u>affected party</u>, affect <del>municipal such rights, powers in respect to matters dealt with in this Agreement</del><u>and/or entitlements</u>,</p> <p>(a) the <del>Municipality-affected party</del> may within one year of the change coming into effect propose new agreement terms with respect to only those specific changes and <del>FortisBC the other party</del> agrees to negotiate such terms; and</p> <p>(b) failing satisfactory resolution of the <del>new agreement terms of the Agreement</del>either of the parties <del>may seek resolution through the Dispute Resolution Process, Section 17</del> may terminate this Agreement by providing the other party not less than ninety (90) days written notice of termination.</p> <p><b>Changes to the Utilities Commission Act</b></p> <p><del>In the event that the provisions of the Utilities</del></p>	<i>Similar. Consolidated original provisions and used defined term “Laws”.</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
		into effect propose new agreement terms with respect to only those specific changes and the Municipality agrees to negotiate such terms; and (b) failing satisfactory resolution either of the parties will seek resolution through the Dispute Resolution Process, Section 17.	<del>Commission Act or other legislation affecting the rights and powers of regulated Utilities change in such a way as to materially, in FortisBC's opinion, affect FortisBC's powers in respect to matters dealt with in this Agreement;</del> <del>FortisBC may within one year of the change coming into effect propose new agreement terms with respect to only those specific changes and the Municipality agrees to negotiate such terms; and</del> <del>failing satisfactory resolution either of the parties will seek resolution through the Dispute Resolution Process, Section 17.</del>	
R218	<b>17. DISPUTE RESOLUTION</b>	<b>17. DISPUTE RESOLUTION</b>	<b>17 DISPUTE RESOLUTION</b>	
R219	<b>17.1 Mediation</b>	<b>17.1 Mediation</b>	<b>17.1 Mediation</b>	
R220	Where any dispute arises out of or in connection with this Agreement, including failure of the parties to reach agreement on any matter arising in connection with this Agreement after escalation to senior management, the parties agree to try to resolve the dispute by participating in a structured mediation conference with a mediator under the Rules of Procedure for Commercial Mediation of The Canadian Foundation for Dispute Resolution.	Where any dispute arises out of or in connection with this Agreement, including failure of the parties to reach agreement on any matter arising in connection with this Agreement, the parties agree to try to resolve the dispute by participating in a structured mediation conference with a mediator under the Rules of Procedure for Commercial Mediation of The Canadian Foundation for Dispute Resolution.	Where any dispute arises out of or in connection with this Agreement, including failure of the parties to reach agreement on any matter arising in connection with this Agreement <u>after escalation to senior management</u> , the parties agree to try to resolve the dispute by participating in a structured mediation conference with a mediator under the Rules of Procedure for Commercial Mediation of The Canadian Foundation for Dispute Resolution.	<i>Similar. Incorporated escalation to senior management.</i>
R221	<b>17.2 Referral to the BCUC, OGC or Arbitration</b>	<b>17.2 Referral to the BCUC or Arbitration</b>	<b>17.2 Referral to the BCUC, <u>OGC</u> or Arbitration</b>	
R222	If the parties fail to resolve the dispute through mediation or if the meditation has not taken place within thirty (30) days of a party providing a written request to the other party to mediate, the unresolved dispute shall be referred to the BCUC or the Oil and Gas Commission, as the case may be, if within its jurisdiction. If the matter is not within the jurisdiction of the BCUC or the Oil and Gas Commission, such unresolved dispute shall be referred to, and finally resolved or determined by arbitration under the Rules of Procedure for Commercial Arbitration of The Canadian Foundation for Dispute Resolution. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.	If the parties fail to resolve the dispute through mediation, the unresolved dispute shall be referred to the BCUC if within its jurisdiction. If the matter is not within the jurisdiction of the BCUC, such unresolved dispute shall be referred to, and finally resolved or determined by arbitration under the Rules of Procedure for Commercial Arbitration of The Canadian Foundation for Dispute Resolution. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.	If the parties fail to resolve the dispute through mediation, <u>or if the meditation has not taken place within thirty (30) days of a party providing a written request to the other party to mediate</u> , the unresolved dispute shall be referred to the BCUC <u>or the Oil and Gas Commission, as the case may be</u> , if within its jurisdiction. If the matter is not within the jurisdiction of the BCUC <u>or the Oil and Gas Commission</u> , such unresolved dispute shall be referred to, and finally resolved or determined by arbitration under the Rules of Procedure for Commercial Arbitration of The Canadian Foundation for Dispute Resolution. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.	<i>Similar. Reference added to the OGC.</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R223	<b>17.3 Additional Rules of Arbitration</b>	<b>17.3 Additional Rules of Arbitration</b>	<b>17.3 Additional Rules of Arbitration</b>	
R224	The arbitrator shall issue a written award that sets forth the essential findings and conclusions on which the award is based. The arbitrator shall allow discovery as of right in accordance with the Rules of Court.	The arbitrator shall issue a written award that sets forth the essential findings and conclusions on which the award is based. The arbitrator will allow discovery as required by the <i>Commercial Arbitration Act</i> of British Columbia in arbitration proceedings.	The arbitrator shall issue a written award that sets forth the essential findings and conclusions on which the award is based. The arbitrator <del>will</del> <u>shall</u> allow discovery as <del>required by the <i>Commercial Arbitration Act</i> of British Columbia</del> <u>right in arbitration proceedings</u> <del>accordance with the Rules of Court.</del>	<i>Similar - application of Rules of Court added.</i>
R225	<b>17.4 Appointment of Arbitrator</b>	<b>17.4 Appointment of Arbitrator</b>		
R226	If the arbitrator fails to render a decision within thirty (30) days following the final hearing of the arbitration, any party to the arbitration may terminate the appointment of the arbitrator and a new arbitrator shall be appointed in accordance with these provisions. If the parties are unable to agree on an arbitrator or if the appointment of an arbitrator is terminated in the manner provided for above, then any party to Agreement shall be entitled to apply to a judge of the British Columbia Supreme Court to appoint an arbitrator and the arbitrator so appointed shall proceed to determine the matter mutatis mutandis in accordance with the provisions of this Section.	If the arbitrator fails to render a decision within thirty (30) days following the final hearing of the arbitration, any party to the arbitration may terminate the appointment of the arbitrator and a new arbitrator shall be appointed in accordance with these provisions. If the parties are unable to agree on an arbitrator or if the appointment of an arbitrator is terminated in the manner provided for above, then any party to Agreement shall be entitled to apply to a judge of the British Columbia Supreme Court to appoint an arbitrator and the arbitrator so appointed shall proceed to determine the matter mutatis mutandis in accordance with the provisions of this Section.		<i>Same</i>
R227	<b>17.5 Award of Arbitrator</b>	<b>17.5 Award of Arbitrator</b>		
R228	The arbitrator shall have the authority to award: (a) money damages; (b) Interest on unpaid amounts from the date due; (c) specific performance; and (d) permanent relief.	The arbitrator shall have the authority to award: (a) money damages; (b) interest on unpaid amounts from the date due; (c) specific performance; and (d) permanent relief.		<i>Same</i>
R229	<b>17.6 Cost of Arbitration</b>	<b>17.6 Cost of Arbitration</b>		
R230	The costs and expenses of the arbitration, but not those incurred by the parties, shall be shared equally, unless the arbitrator determines that a specific party prevailed. In such a case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.	The costs and expenses of the arbitration, but not those incurred by the parties, shall be shared equally, unless the arbitrator determines that a specific party prevailed. In such a case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.		<i>Same</i>
R231	<b>17.7 Continuation of Obligations</b>	<b>17.7 Continuation of Obligations</b>	<b>17.7 Continuation of Obligations</b>	



ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
R232	The parties will continue to fulfill their respective obligations pursuant to this Agreement during the resolution of any dispute in accordance with this section 17 ( <i>Dispute Resolution</i> ), provided that, neither party shall proceed with any work or activity or take any further action which is the subject matter of the dispute.	The parties will continue to fulfill their respective obligations pursuant to this Agreement during the resolution of any dispute in accordance with this section 17, provided that, neither party shall proceed with any work or activity or take any further action which is the subject matter of the dispute.	The parties will continue to fulfill their respective obligations pursuant to this Agreement during the resolution of any dispute in accordance with this section 17 ( <i>Dispute Resolution</i> ), provided that, neither party shall proceed with any work or activity or take any further action which is the subject matter of the dispute.	<i>Same</i>
R233	<b>18. GENERAL TERMS AND CONDITIONS</b>	<b>18. GENERAL TERMS &amp; CONDITIONS</b>	<b>18. GENERAL TERMS <del>&amp;</del>AND CONDITIONS</b>	
R234	<b>18.1 Rights Reserved</b>			
R235	Except as specifically provided in this Agreement and to the extent permitted by applicable Laws, this Agreement shall not affect, interfere with, estop, bar, limit or prevent either party from seeking or being granted any order, remedy or relief available to it under any applicable Laws, nor shall this Agreement or any part of it constitute or be construed as a limitation on the jurisdiction of the Oil and Gas Commission or of the BCUC or constitute or be construed as a waiver, relinquishment, limitation, restriction or abandonment in whole or in part by either party of any right, power, benefit, entitlement, privilege, immunity, remedy or relief under any applicable Laws.			<i>NEW</i>
R236	<b>18.2 No Liens</b>	<b>18.1 No Liens</b>	<b>18.2 No Liens</b>	
R237	FortisBC shall not allow, suffer or permit any liens to be registered against the Public Places as a result of the acts or omissions of FortisBC. If any such liens are registered, FortisBC shall start action to clear any lien so registered against the Public Place within ten (10) days of being made aware such lien has been registered. FortisBC shall notify the Municipality as to the status of the lien on a regular basis. If such liens are not removed within ninety (90) days of the registration of such lien, FortisBC will pay them in full or post sufficient security to ensure they are discharged from title.	FortisBC will do its best to not allow, suffer or permit any liens to be registered against the Company Facilities located in Public Places as a result of the conduct of FortisBC. If any such liens are registered, FortisBC will start action to clear any lien so registered to the Public Place within ten (10) days of being made aware such lien has been registered. FortisBC will keep the Municipality advised as to the status of the lien on a regular basis. In the event that such liens are not removed within ninety (90) days of the registration of such lien, FortisBC will pay them in full or post sufficient security to ensure they are discharged from title.	FortisBC <del>will do its best to</del> shall not allow, suffer or permit any liens to be registered against the <del>Company</del> <i>Facilities located in</i> Public Places as a result of the <del>conduct-acts or omissions</del> of FortisBC. If any such liens are registered, FortisBC <del>shall</del> <i>will</i> start action to clear any lien so registered <del>to against</del> the Public Place within ten (10) days of being made aware such lien has been registered. FortisBC <del>will keep</del> <i>shall</i> <del>notify</del> the Municipality <del>advised</del> as to the status of the lien on a regular basis. <del>In the event that</del> <i>If</i> such liens are not removed within ninety (90) days of the registration of such lien, FortisBC will pay them in full or post sufficient security to ensure they are discharged from title.	<i>Similar</i>
R238	<b>18.3 Authority to Enter into Agreement</b>	<b>18.2 Corporate Authority</b>	<b>18.3 <del>Corporate Authority</del> to Enter into Agreement</b>	
R239	(a) FortisBC now warrants, represents and acknowledges that: (i) it has the full right, power and authority to enter	FortisBC now warrants, represents and acknowledges that:	(a) FortisBC now warrants, represents and acknowledges that:	<i>Similar</i>

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	into this Agreement; (ii) it is a corporation, duly organized, legally existing and in good standing under the applicable Laws of its jurisdiction of incorporation or continuance and is lawfully registered and licensed to do business in British Columbia; (iii) it is a public utility under the <i>Utilities Commission Act</i> and has entered into this Agreement as such.	(a) it has the full right, power and authority to enter into this Agreement; (b) it is a corporation, duly organized, legally existing and in good standing under the laws of its jurisdiction of incorporation or continuance and is lawfully registered and licensed to do business in British Columbia.	(i) it has the full right, power and authority to enter into this Agreement; (ii) it is a corporation, duly organized, legally existing and in good standing under the <del>laws</del> <u>applicable Laws</u> of its jurisdiction of incorporation or continuance and is lawfully registered and licensed to do business in British Columbia; (iii) <u>it is a public utility under the <i>Utilities Commission Act</i> and has entered into this Agreement as such.</u>	
R240		<b>15.1 Municipal Authority to Enter into Agreement</b>		
R241	(b) The Municipality warrants, represents and acknowledges that it has completed all procedures, obtained all consents and enacted and brought into force all resolutions required under the <i>Community Charter</i> , and amendments thereto, and all other applicable legislation, to approve and authorize this Agreement.	Prior to entering into this Agreement the Municipality will complete all procedures, obtain all consents and enact and bring into force all resolutions required under the <i>Community Charter</i> , and amendments thereto, and all other applicable legislation, to approve and authorize this Agreement.	(b) <del>Prior to entering into this Agreement the</del> <u>The Municipality warrants, represents and acknowledges that it has</u> <del>will</del> <u>completed</u> all procedures, obtained all consents and enacted <u>ed</u> and <del>bring</del> <u>brought</u> into force all resolutions required under the <i>Community Charter</i> , and amendments thereto, and all other applicable legislation, to approve and authorize this Agreement.	<i>Similar. Consolidates authority provisions into one section. Keremeos section 15.1 moved to this later position in agreement.</i>
R242	<b>18.4 Representations</b>	<b>18.3 Representations</b>		
R243	Nothing in this Agreement shall be deemed in any way or for any purpose to constitute either party as the legal representative, agent, partner or joint venturer of the other, nor shall either party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name of, or on behalf of the other party.	Nothing in this Agreement shall be deemed in any way or for any purpose to constitute either party as the legal representative, agent, partner or joint venturer of the other, nor shall either party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against, in the name of, or on behalf of the other party.		<i>Same</i>
R244	<b>18.5 Amendments and Waivers</b>	<b>15.6 Amendments and Waivers</b>	<b>18.5 Amendments and Waivers</b>	
R245	(a) This Agreement may be amended only by an agreement in writing signed by the parties. No waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the parties to be bound, and then only to the specific purpose, extent and instance so provided. No waiver, delay or failure to exercise any rights under this Agreement shall be construed as a continuing waiver of such right or as a waiver of any other right under this Agreement. 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	This Agreement may be amended only by an agreement in writing signed by the parties. No waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the parties to be bound, and then only to the specific purpose, extent and instance so provided. No waiver, delay or failure to exercise any rights under this Agreement shall be construed as a continuing waiver of such right or as a waiver of any other right under this Agreement.	(a) This Agreement may be amended only by an agreement in writing signed by the parties. No waiver of any provision nor consent to any exception to the terms of this Agreement shall be effective unless in writing and signed by the parties to be bound, and then only to the specific purpose, extent and instance so provided. No waiver, delay or failure to exercise any rights under this Agreement shall be construed as a continuing waiver of such right or as a waiver of any other right under this Agreement. <u>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</u>	<i>Similar</i>



Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	other term or condition of this Agreement.		<u>other term or condition of this Agreement.</u>	
R246	(b) The parties agree to meet to discuss the operations of the Agreement within thirty (30) days of either party making the request. Such a meeting will determine whether any amendments are required to this Agreement and the parties shall discuss any proposed amendments with a view to maximizing the benefit of the relationship.	The parties agree to meet to discuss the operations of the Agreement within thirty (30) days of either party making the request. Such a meeting will determine whether any amendments are required to this Agreement and the parties shall discuss any proposed amendments with a view to maximizing the benefit of the relationship.		Same
R247	<b>18.6 Assignments and Enurement</b>	<b>18.4 Assignments and Enurement</b>		
R248	This Agreement and any rights or obligations under it are not assignable by either party, without the prior written consent of the other party hereto, such consent not to be unreasonably withheld. This Agreement shall be binding upon, enure to the benefit of, and be enforceable by, the successors and permitted assigns of the parties hereto.	This Agreement and any rights or obligations under it are not assignable by either party, without the prior written consent of the other party hereto, such consent not to be unreasonably withheld. This Agreement shall be binding upon, enure to the benefit of, and be enforceable by, the successors and permitted assigns of the parties hereto.		Same
R249	<b>18.7 Governing Law</b>	<b>18.5 Governing Law</b>		
R250	This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia. This Agreement is subject to the laws of Province of British Columbia and the applicable laws of Canada, and nothing in this Agreement will be deemed to exclude the application of the provisions of such laws, or regulations thereunder.	This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia. <b>18.6 General</b> This Agreement is subject to the laws of Province of British Columbia and the applicable laws of Canada, and nothing in this Agreement will be deemed to exclude the application of the provisions of such laws, or regulations thereunder.		Same
R251	<b>18.8 Time</b>			
R252	Time is of the essence in this Agreement.			NEW
R253	<b>18.9 Confidentiality</b>			
R254	Each party, at the request of the other party, shall keep sensitive business information, including third party information, confidential, to the extent permitted by applicable Laws.			NEW
R255	<b>18.10 Entire Agreement</b>	<b>18.7 Entire Agreement</b>	<b>18.10 Entire Agreement</b>	
R256	This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter herein contained and supersedes all prior agreements and undertakings with respect thereto. No other terms or conditions either party may submit to the other party as part of a purchase order,	This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter herein contained and supersedes all prior agreements and undertakings with respect thereto.	This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter herein contained and supersedes all prior agreements and undertakings with respect thereto. <u>No other terms or conditions either party may submit to the other party as part of a purchase order, invoice,</u>	Similar

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	invoice, pipeline permit or any other approval or permit from time to time, shall in any way or under any condition modify the terms of this Agreement.		<u>pipeline permit or any other approval or permit from time to time, shall in any way or under any condition modify the terms of this Agreement.</u>	
R257	<b>18.11 Severability</b>	<b>18.8 Severability</b>	<b>18.11 Severability</b>	
R258	If any provision of this Agreement is held invalid by any court, governmental agency or regulatory body, the other provisions, to the extent permitted by law, shall remain in full force and effect.	If any provision of this Agreement is held invalid by any court, governmental agency or regulatory body, the other provisions to the extent permitted by law shall remain in full force and effect. To the extent permitted by applicable law, the parties hereby waive any provision of law that renders any provision hereof prohibitive or unenforceable in any respect.	If any provision of this Agreement is held invalid by any court, governmental agency or regulatory body, the other provisions to the extent permitted by law shall remain in full force and effect. <del>To the extent permitted by applicable law, the parties hereby waive any provision of law that renders any provision hereof prohibitive or unenforceable in any respect.</del>	<i>Similar</i>
R259	<b>18.12 Force Majeure</b>	<b>18.9 Force Majeure</b>		
R260	Neither party shall be liable to the other for temporary failure to perform hereunder, if such failure is caused by reason of an Act of God, labour dispute, strike, temporary breakdown of facilities, fire, flood, government order or regulations, civil disturbance, non-delivery by program suppliers or others, or any other cause beyond the parties’ respective control.	Neither party shall be liable to the other for temporary failure to perform hereunder, if such failure is caused by reason of an Act of God, labour dispute, strike, temporary breakdown of facilities, fire, flood, government order or regulations, civil disturbance, non-delivery by program suppliers or others, or any other cause beyond the parties’ respective control.		<i>Same</i>
R261	<b>18.13 Notice</b>	<b>18.10 Notice</b>	<b>18.13 Notice</b>	
R262	<p>(a) Any general notice or written communication required, or permitted to be made or given pursuant to this Agreement, including with respect to construction, permitting, approvals and other operational or municipal matters will be sufficiently and validly given if sent to either party at the following addresses:</p> <p><i>Addresses for notice given</i></p> <p>(b) Despite the foregoing, any formal notice or written communication with respect a formal process or significant legal matter, including breach or potential breach or termination of this Agreement, initiation of the dispute resolution process, referral to a regulatory authority or court or administrative proceedings, shall be in writing and shall be deemed to have been validly given if delivered in person or transmitted electronically and acknowledged by the respective parties as follows:</p>	<p>Any notice or other written communication required, or permitted to be made or given pursuant to this Agreement (the “Notice”) shall be in writing and shall be deemed to have been validly given if delivered in person or transmitted electronically and acknowledged by the respective parties as follows:</p> <p><i>Addresses for notice given</i></p>	<p>(a) Any <u>general</u> notice or <del>other</del> written communication required, or permitted to be made or given pursuant to this Agreement, <u>including with respect to construction, permitting, approvals and other operational or municipal matters will be sufficiently and</u> <del>—(the “Notice”) shall be in writing and shall be deemed to have been</del> validly given if <u>sent to either party at the following addresses:</u><del>delivered in person or transmitted electronically and acknowledged by the respective parties as follows:</del></p> <p><i>Addresses for notice given</i></p> <p>(b) <u>Despite the foregoing, any formal notice or written communication with respect a formal process or significant legal matter, including breach or potential breach or termination of this Agreement, initiation of the dispute resolution process, referral to a regulatory authority or court or administrative proceedings,</u> shall be in writing and shall be deemed to have been validly</p>	<i>Revised – distinguishes contact for non-formal communications and formal/legal notice requirements.</i>

Attachment 2.1

ROW #	FEI PROPOSED AGREEMENT - CLEAN	KEREMEOS AGREEMENT - CLEAN	FEI/KEREMEOS REDLINED	NOTES
	<i>Addresses for notice given</i>		given if delivered in person or transmitted electronically and acknowledged by the respective parties as follows:  <i><u>Addresses for notice given</u></i>	
R263	<b>18.14 Execution</b> This Agreement may be executed in counterparts, each of which shall be deemed as an original, but all of which shall constitute one and the same instrument. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission hereof shall be as effective as delivery of an originally executed counterpart hereof.			NEW
R264	<b>Schedule A - Non-Highway Public Places</b>			NEW



302466 //

Parcel 81 Ft. L

U.G. (r)-

FN158

1961.

2003  
E.P.S.  
#711 S.THIS AGREEMENT made as of the 17<sup>th</sup> day of May

WITNESSETH THAT:

1.

EDWARD TUNIS GUNST, Salesman, and  
HELEN MARGARET KATHLEEN GUNST, His  
 Wife, both of 931 Quadling Avenue,  
 in the City of New Westminster,  
 Province of British Columbia, as  
 "Joint Tenants",

(hereinafter called "the Owner")

for and in consideration of the sum of \_\_\_\_\_

Fifty  
(\$50.00)

Dollars

), the receipt of which he hereby acknowledges, hereby grants  
 in perpetuity to British Columbia Electric Company Limited, of 970 Burrard  
 Street, in the City of Vancouver, Province of British Columbia (hereinafter  
 called "the Company"), the right and easement for the Company, its servants,  
 agents and all others the licensees of the Company:

- (a) To excavate for, install, replace (with pipe of the initial or any other size), remove, repair, maintain and operate one or more pipe lines of whatsoever kinds or dimensions with necessary and proper valves, meters and other appliances and fittings, and devices for controlling corrosion, all for use in connection with such line or lines (all of which are hereinafter collectively called "the works") within that portion (hereinafter called "the right of way") of the land described in schedule I hereto (hereinafter called "the land") which is described in schedule II hereto;
- (b) To clear the right of way and keep it cleared of all or any part of any trees, growth, buildings or obstructions, now or hereafter on the right of way which might, in the opinion of the Company, interfere with or endanger the excavation for, installation, replacement, removal, repair, maintenance or operation of the works or any part thereof;
- (c) To pass and repass over the land for the purpose of ingress and egress to and from the right of way including the right to construct, maintain and use on the land any road or roads reasonably required in connection with the exercise of its rights hereunder;
- (d) To install, maintain and use gates in all fences which now or hereafter shall cross the right of way;
- (e) To use such portion of the land alongside the right of way as may be reasonably necessary in connection with the excavation for, installation, replacement, removal, repair and maintenance of the works or any part thereof; and
- (f) Generally to do all acts necessary or incidental to the business of the Company in connection with the foregoing.

MEMORANDUM OF REGISTRATION



302466

- 2 -

r

2. The Owner hereby covenants with the Company:

- (a) Not to make, place, erect or maintain on the right of way any building, structure, foundation, pavement, excavation, well, pile of material or obstruction without first obtaining the written permission of the Company which permission shall not be withheld if, in the opinion of the Company, the proposed work will not or is not apt to interfere with or endanger the installation, replacement, removal, repair, maintenance or operation of the works or any part thereof;
- (b) Not to carry out blasting on or adjacent to the right of way unless permission in writing from the Company has first been received, which permission shall not be unreasonably withheld;
- (c) Not to diminish or substantially add to the ground cover over the works or any part thereof; and
- (d) Not to do or knowingly permit to be done any act or thing which might, in the opinion of the Company, interfere with or injure the works or any part thereof.

3. The Company hereby covenants with the Owner:

- (a) To pay full compensation to the Owner for any damage done to buildings, crops (including timber), fences, bridges, livestock, culverts, drains, ditches, roads and fruit, nut or ornamental trees on the land caused by the Company in the exercise of its rights hereunder and without negligence on the part of the Owner; and
- (b) That it will, as soon as weather and soil conditions permit, and insofar as it is practicable so to do, bury and maintain all pipe lines constructed hereunder so as not to interfere with the drainage or ordinary cultivation and use of the land.

4. It is mutually agreed between the Owner and the Company:

- (a) That the amount of any compensation payable under paragraph 3 hereof shall be such as may be mutually agreed upon between the Owner and the Company and in the event of disagreement as may be settled by arbitration pursuant to the Arbitration Act;
- (b) That the title to all timber cut on the land by the Company in the exercise of its rights hereunder shall vest in the Company;
- (c) That this Agreement shall be construed as running with the land, that no part of the fee of the soil shall pass to or be vested in the Company under or by these presents and that the Owner may fully use and enjoy the right of way subject only to the rights and restrictions herein provided;
- (d) That the expressions "Owner" and "Company" herein contained shall be deemed to include the executors, administrators, successors and assigns of such parties wherever the context so admits; and
- (e) That wherever the singular and masculine are used in this Agreement they shall be construed as meaning the plural or the feminine or body corporate where the context or the parties hereto so require.

302466

IN WITNESS WHEREOF the Owner has caused these presents to be executed as of the day and year first above written.

SIGNED, SEALED AND DELIVERED  
by Edward Tunis Gunst, in the  
presence of:

E. H. Burton  
3227 - E. 51<sup>st</sup> Ave. Van.  
Land Representative.

*Edward Gunst*

SIGNED, SEALED AND DELIVERED  
by Helen Margaret Kathleen  
Gunst in the presence of:

E. H. Burton  
3227 - E. 51<sup>st</sup> Ave. Van.  
Land Representative.

*H. M. Kathleen Gunst*

#### SCHEDULE

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Municipality of Surrey ----- Province of British Columbia, and more particularly known and described as the West Half ( $\frac{1}{2}$ ) of Lot Four (4), Block Two (2) of the North-east Quarter ( $\frac{1}{4}$ ) of Section Thirty-one (31), Township Eight (8), Plan Six Thousand Eight Hundred and Seventy (6870), New Westminster District.

#### SCHEDULE II

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Municipality of Surrey, Province of British Columbia, and more particularly known and described as that part of the North Fifty (50) feet of a 8.98 acre part Plan 4599 lying within the West Half ( $\frac{1}{2}$ ) of Lot Four (4), Block Two (2) of the North-east Quarter ( $\frac{1}{4}$ ) of Section Thirty-one (31), Township Eight (8), Plan Six Thousand Eight Hundred and Seventy (6870), New Westminster District.

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Municipality of Surrey ----- Province of British Columbia, and more particularly known and described as the West Half ( $\frac{1}{2}$ ) of Lot Four (4), Block Two (2) of the North-east Quarter ( $\frac{1}{4}$ ) of Section Thirty-one (31), Township Eight (8), Plan Six Thousand Eight Hundred and Seventy (6870), New Westminster District.

## SCHEDULE II

ALL AND SINGULAR that certain parcel or tract of land and premises situate, lying and being in the Municipality of Surrey, Province of British Columbia, and more particularly known and described as that part of the North Fifty (50) feet of a 8.98 acre part Plan 4599 lying within the West Half ( $\frac{1}{2}$ ) of Lot Four (4), Block Two (2) of the North-east Quarter ( $\frac{1}{4}$ ) of Section Thirty-one (31), Township Eight (8), Plan Six Thousand Eight Hundred and Seventy (6870), New Westminster District. *SK*

- 4 -

302466

## CONSENT

the holder of a  
Office, under Charge Number  
and consents to the foregoing grant of easement and to its registration in  
the Land Registry Office with priority over the registration of the said  
registered in the Land Registry  
hereby approves of, joins in



AFFIDAVIT OF WITNESS

PROVINCE OF BRITISH COLUMBIA }  
TO WIT:

302466

I, *Edward Henry Burton*, of the *City of Vancouver, B.C.*

make oath and say:

1. I was personally present and did see the within instrument duly signed and executed by *Edward Tunis Ernst and Helen Margaret Kathleen Ernst*, the parties thereto, for the purposes named therein.
2. The said instrument was executed at *Vancouver B.C.*
3. I know the said parties, and that they are of the full age of twenty-one years.
4. I am the subscribing witness to the said instrument and am of the full age of sixteen years.

Sworn before me at *Vancouver*,  
in the Province of British Columbia,  
this *18th* day of *May*, 19*61*.

*[Signature]*  
A Commissioner for taking Affidavits within  
British Columbia  
A Notary Public in and for the Province of  
British Columbia

*E.H. Burton*

AC257295

20 OCT 89 11 14

FORM 17 - CHARGE over the  
NATURE: Statutory Right of Way necessary for the  
operation and maintenance of B.C. Hydro's  
undertaking

68.1 square metre  
portion shown on  
Explanatory Plan of  
Easement 83228.

TRUE VALUE: \$ 100.00

HEREWITH FEES OF \$ Nil

APPLICANT

ALISON MARIE WILLOUGHBY  
AGENT FOR B.C. HYDRO, 970 BURBARD ST.,  
VANCOUVER, B.C. V6Z 1Y3 663-4377

WETMORE SERVICES LTD.

THIS AGREEMENT made as of the 13 day of

BETWEEN:

TRUSTEES OF THE CONGREGATION OF  
WHITE ROCK BAPTIST CHURCH, of  
1657-140th Street, in the District  
of Surrey, in the Province of  
British Columbia, V4A 1H1

LAND TITLE ACT  
Form 1 (Section 36)  
MEMORANDUM OF REGISTRATION  
Registered on application received on  
the day and at the time written hereon  
Registrar  
New Westminster Land Title Office 1

(hereinafter called "the Owner")

OF THE FIRST PART

AND:

BC GAS INC., Incorporation Number 368681,  
a company duly incorporated under the  
laws of the Province of British Columbia,  
and having its registered office at  
Box 12503, 23rd Floor, 1066 West Hastings  
Street, in the City of Vancouver, in the  
Province of British Columbia, V6E 3G3,

(hereinafter called "the Company")

OF THE SECOND PART

10/20/89 H1580f CHG FREE .00

WITNESSETH THAT:

1. The Owner, in consideration of the sum of Ten Dollars (\$10.00) of the lawful money of Canada (the receipt and sufficiency whereof is hereby acknowledged), hereby grants unto the Company in perpetuity the full and free right, liberty and statutory right of way for the Company, its servants, agents and all others the licensees of the Company:

- (a) To excavate for, install, operate, maintain, remove and replace (with pipe of the initial or any other size) one or more underground pipelines of whatsoever kinds or dimensions with necessary and proper aboveground or underground valves, meters, anchors and other appliances and fittings, and devices for controlling corrosion, all for use in connection with such pipeline or lines for the transmission and distribution of gas (all of which are hereinafter collectively called "the works") upon and within the portion described

U.G.D.  
Survey/Specific

- 2 -

257295

in Schedule II hereto) hereinafter called "the right of way area") of the land described in Schedule I hereto (hereinafter called "the land");

- (b) (i) To trim or fell all or any trees or growth now or hereafter on the right of way area;
- (ii) To clear the right of way area and keep it cleared of all or any part of any trees or growth now or hereafter on the right of way area;
- (iii) To clear the right of way area and keep it cleared of all or any part of any buildings or obstructions now or hereafter on the right of way area which might, in the opinion of the Company, interfere with or endanger the installation, operation, maintenance, removal or replacement of or access to the works or any part thereof or the operation, use, maintenance or existence of which on the right of way area might, in the opinion of the Company, create or increase any hazard to persons;
- (c) To install marking posts with warning signs attached to mark the location of the works;
- (d) To install, maintain and use gates in all fences which now or hereafter shall cross the right of way area;
- (e) To use such portion of the land alongside the right of way area as may be reasonably necessary in connection with the excavation for, installation, replacement, removal, repair and maintenance of the works or any part thereof;
- (f) Generally to do all acts necessary or incidental to the business of the Company in connection with the foregoing.

2. The Owner hereby covenants with the Company:

- (a) Not to make, place, erect, operate, use or maintain any pipe, wire, cable, utility, building, structure, foundation, excavation, pavement, well, pile of material, obstruction or equipment, (hereinafter called "the Owner's works"), or to plant any growth exceeding two (2) metres in height upon the right of way area, if any such actions, in the opinion of the Company:
  - (i) might interfere with or endanger the excavation for, installation, operation, maintenance, removal or replacement of the works or any part thereof; or
  - (ii) might obstruct access by the Company's servants, agents or licensees to the works or any part thereof; or

- 3 -

257295

- (iii) might by the operation, use, maintenance or existence of the Owner's works on the right of way area create or increase any hazard to persons, vehicles or equipment; or
- (iv) might interfere with or endanger the works or any part thereof;
- (b) Not to carry out blasting on or adjacent to any portion of the right of way area unless permission in writing from the Company has first been received, which permission shall not be unreasonably withheld;
- (c) Not to use the right of way area or any part thereof or permit the same to be used for the regular or organized parking of vehicles without specific written permission from the Company and then only in compliance with the terms and conditions upon which such permission is granted;
- (d) Not to diminish or substantially to add to the ground cover over such of the works as may be from time to time installed, operated or maintained below the surface of the right of way area and, in particular, without in any way limiting the generality of the foregoing, not to construct open drains or ditches along or across such of the works as may at any time be installed under the right of way area;
- (e) Not to do or knowingly permit to be done any act or thing which might, in the opinion of the Company, in any way whatsoever interfere with or injure or endanger the works or any part thereof or impair the operating efficiency thereof or create or increase any hazard to persons.

3. The Company hereby covenants with the Owner:

- (a) To pay compensation to the Owner for any damage to any buildings outside the right of way area, and to crops (other than timber), livestock, drains, ditches, culverts, fences, bridges, roads and fruit, nut or ornamental trees anywhere on the land caused by the Company in the exercise of any of its rights hereunder and without negligence on the part of the Owner;
- (b) To pay all royalties, scaling fees and other charges which may be levied by the Crown against any timber that the Company cuts on the land;
- (c) To pay compensation to the Owner for all merchantable timber cut or damaged on the land by the Company in the exercise of any of its rights hereunder;
- (d) That it will, as soon as weather and soil conditions permit and insofar as it is practicable to do so, bury and maintain the works installed hereunder so as not to interfere with the drainage or ordinary cultivation and use of the land.

- 4 -

257295

4. It is mutually agreed between the Owner and the Company that:

- (a) The amount of any compensation payable under Paragraph 3 hereof shall be such as may be mutually agreed upon between the Owner and the Company and in the event of disagreement as may be settled by arbitration pursuant to the Commercial Arbitration Act, but no such compensation shall be payable for any damage or cutting for which compensation has theretofore been paid;
- (b) The title to all timber cut on the land by the Company in the exercise of its rights hereunder shall vest in the Company;
- (c) This Agreement shall be construed as running with the land and that no part of the fee of the soil shall pass to or be vested in the Company under or by this Agreement;
- (d) The expressions "Owner" and "the Company" herein contained shall be deemed to include the executors, administrators, successors and assigns of such parties wherever the context so admits;
- (e) Where the expression "Owner" includes more than one person, all covenants herein on the part of the Owner shall be construed as being several as well as joint;
- (f) Wherever the singular and masculine are used in this Agreement they shall be construed as meaning the plural or the feminine or body corporate where the context or the parties hereto so require.

IN WITNESS WHEREOF the Owner has caused these presents to be executed as of the day and year first above written.

SIGNED BY THE  
~~THESE~~ TRUSTEES OF THE  
CONGREGATION OF WHITE ROCK  
BAPTIST CHURCH ~~was~~ ~~hereunto~~  
affixed in the presence of:

Witness: ALAN HAMMER  
~~ATTORNEY~~ ~~WHITE ROCK~~  
Address: 15248 NORTH BLUFF ROAD  
WHITE ROCK, B.C.  
V4A 1R8 TEL: 531-1441  
Occupation: Attorney & Solicitor  
~~ATTORNEY~~  
(As to all three signatures)

Harold Plain  
HAROLD PLAIN  
Mike Kelly  
MIKE KELLY  
George Burden  
GEORGE BURDEN

- 5 -

257295

SCHEDULE I

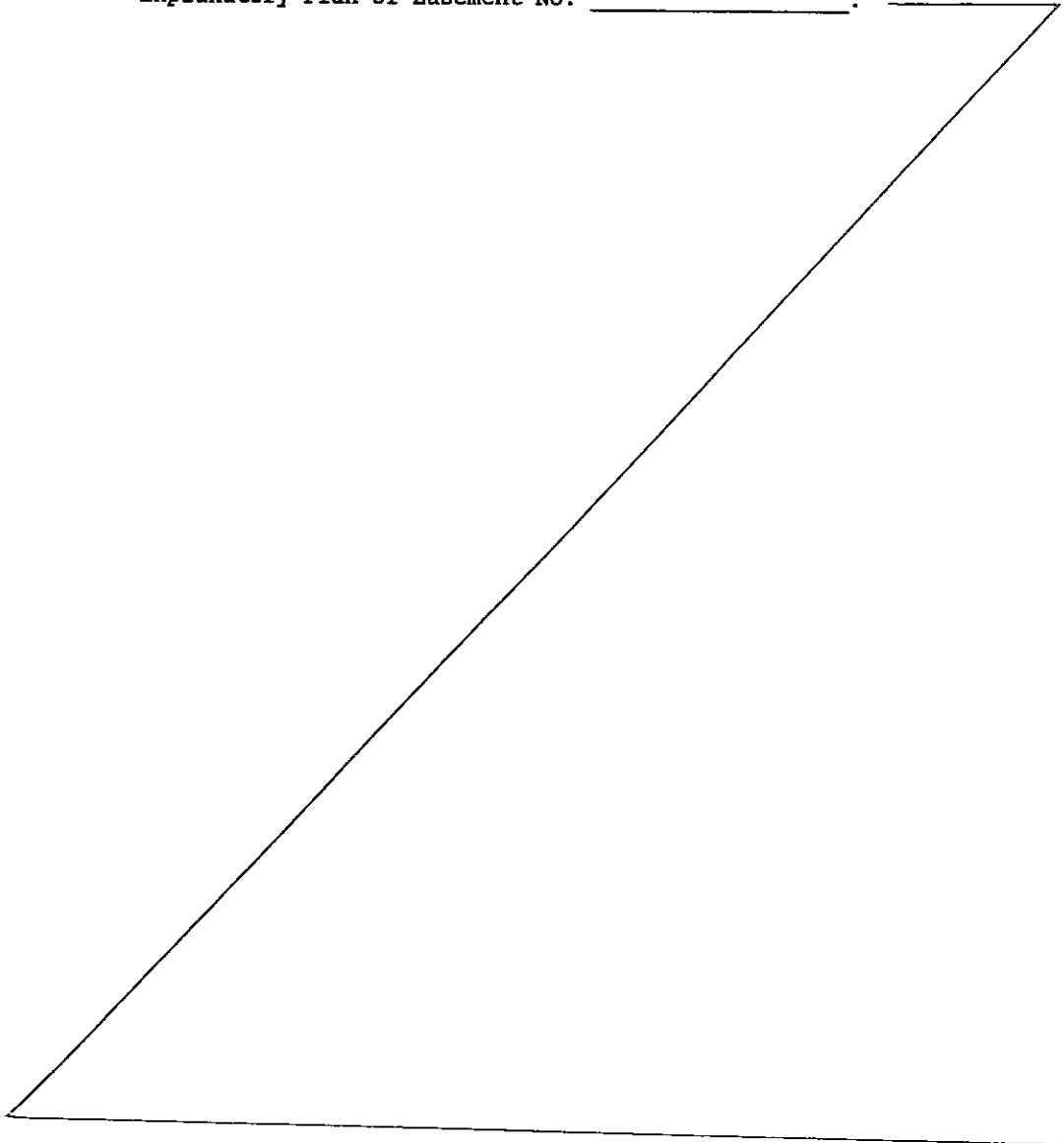
ALL AND SINGULAR that certain parcel or tract of land  
and premises situate, lying and being in the  
Municipality of Surrey, in the Province of British  
Columbia, and more particularly known and described as:

P.I.D. # 010-307-338

Lot 2, Section 16, Township 1, New  
Westminster District, Plan 77224

SCHEDULE II

The 268.1 square metre portion of the land and premises  
described in Schedule I hereto, shown in heavy outline on  
Explanatory Plan of Easement No. \_\_\_\_\_



HW9/18/1

257295

DATED \_\_\_\_\_ 19 \_\_\_\_\_

TRUSTEES OF THE CONGREGATION OF  
WHITE ROCK BAPTIST CHURCH

and

BC GAS INC.

STATUTORY RIGHT OF WAY

BC Gas Inc.  
Box 12503, 23rd Floor  
1066 West Hastings Street  
Vancouver, B. C.  
V6E 3G3

File: 414-1002.0(X290)  
ANW/nm 3 October 1989

HW9/18/LA

257295

DATED 19

TRUSTEES OF THE CONGREGATION OF  
WHITE ROCK BAPTIST CHURCH

and

BC GAS INC.

STATUTORY RIGHT OF WAY

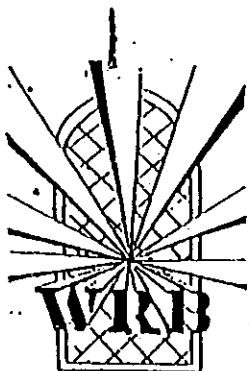
BC Gas Inc.  
Box 12503, 23rd Floor  
1066 West Hastings Street  
Vancouver, B. C.  
V6E 3G3

File: 414-1002.0(X290)  
AMW/nm 3 October 1989

HW9/18/LA



257295

FILM  
AC257295

## White Rock Baptist Church

1657 - 140th Street, Surrey, B.C., V4A 4H1  
531-2344 531-8213

## Senior Pastor:

Rev. Leslie Drew  
14254 - 16A Ave.,  
Surrey, B.C.  
536-8121

## Associate Pastor

Rev. Dennis Stone  
2323 - 153A St.,  
Surrey, B.C.  
538-3916

## Pastor to Seniors

Rev. Warren Hale  
309 - 15272 - 19th Ave.,  
Surrey, B.C.  
536-4210TRUSTEES OF THE CONGREGATION OF THE  
WHITE ROCK BAPTIST CHURCH

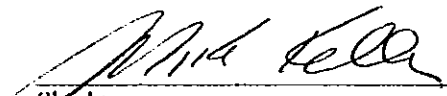
## CERTIFICATE

We hereby certify that the following persons were duly appointed at a general meeting of the congregation as Trustees of the Congregation of the White Rock Baptist Church:

1. HAROLD PLAIN
2. Peter Heinrichs
3. George Burden

In the absence of any one of those persons, Mike Kelly is authorized to act as a Trustee.

Dated October 12, 1989.

  
Chairman  
Mike Kelly

FORM\_C\_V18 (Charge)

LAND TITLE ACT  
FORM C (Section 233) CHARGE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia

30 OCT 2012 13 10

BB3002452

PAGE 1 OF 7 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

PATTY RONEY

FORTISBC ENERGY INC.

16705 FRASER HWY

SURREY

NORRIE E. BELTON  
#010372

BC V4N 0E8

(604) 576-7326  
FILE: D-SUR-415Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:
- 
- [PID] [LEGAL DESCRIPTION]

SEE SCHEDULE

STC? YES ☐04 30/10/2012 1:10:57 PM 2 2  
Charge 1 \$74.00

3. NATURE OF INTEREST CHARGE NO. ADDITIONAL INFORMATION

Statutory Right of Way

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

0882742 B.C. LTD. (INCORPORATION NO. BC0882742)

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

FORTISBC ENERGY INC.

16705 FRASER HWY

SURREY

V4N 0E8

BRITISH COLUMBIA

CANADA

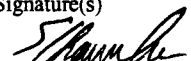
Incorporation No  
BC0778288

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

  
STEFAN CHARLES  
Barrister & Solicitor  
200 - 8120 128th Street  
Surrey, B.C. V3W 1R1

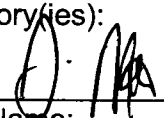
Execution Date

Y	M	D
12	10	13

Transferor(s) Signature(s)

0882742 B.C. LTD. by its authorized signatory(ies):

Print Name:

  
SUNITAR NAGRA  
Print Name:

## OFFICER CERTIFICATION:

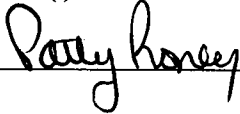
Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

FORM\_D1\_V18

**LAND TITLE ACT  
FORM D****EXECUTIONS CONTINUED**

PAGE 2 of 7 pages

Officer Signature(s)

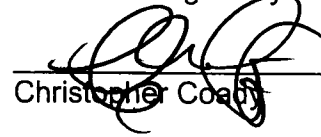


PATRICIA JANE RONEY  
A Commissioner for taking Affidavits  
for British Columbia  
FORTISBC ENERGY INC.  
16705 Fraser Highway  
Surrey, B.C. V4N 0E8

**Execution Date**

Y	M	D
12	10	18

Transferor / Borrower / Party Signature(s)

FORTISBC ENERGY INC. by its  
authorized signatory:  
Christopher Coats**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

FORM\_E\_V18

**LAND TITLE ACT  
FORM E****SCHEDULE**

PAGE 3 OF 7 PAGES

**2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND**~~STC for each PID listed below?~~ YES ☒ *pr*

[PID]	[LEGAL DESCRIPTION – must fit in a single text line]
028-630-319	LOT 1 SEC 17 TP 8 NWD PLAN BCP48773
028-630-327	LOT 2 SEC 17 TP 8 NWD PLAN BCP48773
028-630-335	LOT 3 SEC 17 TP 8 NWD PLAN BCP48773
028-630-343	LOT 4 SEC 17 TP 8 NWD PLAN BCP48773
028-630-351	LOT 5 SEC 17 TP 8 NWD PLAN BCP48773
028-630-360	LOT 6 SEC 17 TP 8 NWD PLAN BCP48773
028-630-378	LOT 7 SEC 17 TP 8 NWD PLAN BCP48773
028-630-386	LOT 8 SEC 17 TP 8 NWD PLAN BCP48773

**TERMS OF INSTRUMENT -- PART 2****STATUTORY RIGHT OF WAY AGREEMENT****WHEREAS:**

- A. "Owner" means the party(ies) described as Transferor(s) in Form C - Part 1, item 5 hereto.
- B. "FortisBC Energy" means the party described as Transferee(s) in Form C - Part 1, item 6 hereto.
- C. "Land" means the land described in Form C - Part 1, item 2 hereto.
- D. The Owner is the registered owner or is entitled to become the registered owner of the Land.
- E. It is necessary for the operation and maintenance of FortisBC Energy's undertaking to obtain a statutory right of way through, under and across the Land.
- F. The Owner has agreed to grant to FortisBC Energy a statutory right of way on the terms contained herein.

**WITNESSES THAT:****1. GRANT OF RIGHTS TO FORTISBC ENERGY**

The Owner, in consideration of the sum of One Dollar (\$1.00) of the lawful money of Canada now paid by FortisBC Energy to the Owner (the receipt and sufficiency of which are hereby acknowledged), grants to FortisBC Energy, for so long as FortisBC Energy shall require it, a full, free and uninterrupted statutory right of way over the Land, for FortisBC Energy, its employees, contractors, agents, invitees and licensees at all times hereafter:

- (a) To excavate for, install, construct, operate, maintain, repair, abandon, remove and replace one or more underground pipelines of any kind or dimension with any aboveground or underground valves, structures, meters and other appliances and fittings, and devices for controlling corrosion, all for use in connection with such pipeline(s), for the distribution of gas (the "Works") upon that portion of the Land shown in heavy black outline on Plan BCP48772 prepared by Shannon Aldridge, B.C.L.S. dated the 24th day of September, 2009 (the "Right of Way Area");
- (b) To clear the Right of Way Area and keep it cleared of any trees or other vegetation, buildings, structures, foundations, pavement, improvements or obstructions which, in the opinion of FortisBC Energy, may interfere with any

page 5 of 7

of the rights granted to FortisBC Energy herein;

- (c) To install, maintain and use gates in all fences which now or hereafter shall cross the Right of Way Area;
- (d) To install marking posts with warning signs attached to mark the location of the Works; and
- (e) Generally to do all acts necessary or incidental to the foregoing or to the business of FortisBC Energy.

## **2. ANCILLARY RIGHTS**

The Owner grants to FortisBC Energy and its employees, contractors, agents, invitees and licensees as rights ancillary to and for the duration of the statutory right of way and rights granted herein:

- (a) The right to enter upon and pass and repass over the Land, with or without vehicles, supplies, machinery or equipment, as may be, from time to time, reasonably required, in the opinion of FortisBC Energy, for the purposes of access to and from the Right of Way Area or any part thereof, or for the exercise and enjoyment of the rights granted in paragraph 1 hereof; and
- (b) The right to use such portion of the Land adjacent to the Right of Way Area as may be, from time to time, reasonably required in the opinion of FortisBC Energy, for any uses or purposes reasonably ancillary to those permitted by paragraph 1 hereof.

## **3. DUTIES OF THE OWNER**

The Owner covenants and agrees with FortisBC Energy:

- (a) Not to do or knowingly permit to be done anything which may, in the opinion of FortisBC Energy, interfere with or injure the Works or impair the operating efficiency of the Works or create any hazard. Such acts include, but are not limited to, the acts referred to in this paragraph 3;
- (b) Not to store or use any inflammable substance or to burn or permit the burning of anything on the Right of Way Area;
- (c) Not to make, place, erect, operate, use or maintain upon the Right of Way Area any building, structure, foundation, pavement, excavation, well, culvert, swimming pool, open drain or ditch, pond, pile of material, obstruction, equipment or thing, or to plant any vegetation which, in the opinion of FortisBC Energy, may:

page 6 of 7

- (i) interfere with or endanger the Works or the installation, construction, operation, maintenance, repair, removal, or replacement of the Works; or
- (ii) obstruct access by FortisBC Energy's employees, contractors, agents, invitees or licensees to the Works; or
- (iii) create any hazard by its operation, use, maintenance or existence on the Right of Way Area;
- (d) Subject to subparagraph 3(c), not to cultivate the Land inside the Right of Way Area to a depth of more than thirty (30) centimetres; and
- (e) Not to add or remove ground cover over the Works or carry out blasting on or next to the Right of Way Area without the prior written consent of FortisBC Energy and, if such consent is granted, only in accordance with the written requirements of FortisBC Energy.

**4. DUTIES OF FORTISBC ENERGY**

FortisBC Energy covenants and agrees with the Owner:

- (a) To pay compensation to the Owner for any damage caused by FortisBC Energy to the Owner's buildings, structures, livestock and vegetation on the Land as a result of FortisBC Energy's exercise of any of its rights under this Agreement (the "Damage"); provided that there is no negligence or wilful misconduct on the part of the Owner;
- (b) To pay all fees and other charges which may be levied by the Crown against any timber that FortisBC Energy cuts on the Land;
- (c) To pay compensation to the Owner for all merchantable timber cut or damaged on the Land by FortisBC Energy in the exercise of any of its rights under this Agreement; and
- (d) That it shall, as soon as weather and soil conditions permit and where practicable to do so, bury and maintain any underground Works so the Works do not interfere with the drainage of the Land.

**5. AGREEMENTS BETWEEN THE OWNER AND FORTISBC ENERGY**

The Owner and FortisBC Energy covenant and agree that:

- (a) The amount of any compensation for Damage caused by FortisBC Energy and payable under paragraph 4 herein shall be mutually agreed upon

page 7 of 7

between the Owner and FortisBC Energy but failing such agreement, shall be settled by arbitration pursuant to the Commercial Arbitration Act of British Columbia before a single arbitrator. No compensation shall be payable by FortisBC Energy to the Owner for any Damage for which compensation has already been paid;

- (b) FortisBC Energy has ownership of all timber cut on the Land by FortisBC Energy in the exercise of its rights under this Agreement;
- (c) This Agreement shall be construed as running with the Land but no part of the fee of the soil shall pass to FortisBC Energy by this Agreement;
- (d) Subject to subparagraph 5(e) and notwithstanding any rule of law or equity to the contrary, the Works shall remain the property of FortisBC Energy who may remove them in whole or in part;
- (e) If FortisBC Energy abandons the Works, it may, at its option, leave the Works, or any part thereof, and FortisBC Energy shall release the rights granted by this Agreement. Upon the release of the rights granted to FortisBC Energy by this Agreement any abandoned Works shall belong to the Owner;
- (f) The provisions hereof are severable and if any of them should be found to be void or unenforceable at law, the remaining provisions shall not be affected thereby;
- (g) The expressions "Owner" and "FortisBC Energy" shall include, and this Agreement shall enure to the benefit of and be binding upon, the executors, administrators, successors and legal assigns of the Owner and FortisBC Energy;
- (h) Where the expression "Owner" includes more than one person, all of the covenants granted by the Owner in this Agreement shall be construed as being several as well as joint;
- (i) Nothing contained herein shall diminish or otherwise interfere with rights enjoyed by FortisBC Energy by statute or otherwise;
- (j) Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or body corporate or politic where the context so requires or the parties so require; and

In witness whereof the parties acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D.

END OF DOCUMENT



## LAND TITLE ACT

FORM C

(Section 219.81)

Province of British Columbia

GENERAL INSTRUMENT (PART 1) (This area for Land Title Office use)

Page 1 of 9 Pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

FARRIS, VAUGHAN, WILLS &amp; MURPHY

26th Floor Toronto Dominion Bank Tower,

700 West Georgia Street VANCOUVER, B.C. V7Y 1B3

684-9151

Signature of solicitor Agent

David R. Bromley

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*

(PID)

(LEGAL DESCRIPTION)

SEE SCHEDULE

3. NATURE OF INTEREST:\*

08/07/92 E24991 CHARGE 50.00

DESCRIPTION

DOCUMENT REFERENCE

PERSON ENTITLED TO INTEREST

Statutory Right-  
of-Way

Entire Instrument

Transferee

Pages 4 to 9

4. Terms: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms \_\_\_\_\_ D.F. No.

(b) Express Charge Terms XX Annexed as Part 2

(c) Release \_\_\_\_\_ There is no Part 2 of this instrument

5. TRANSFEROR(S):\* STEVE DE JONG, Dairy Farmer and TINA DE JONG, his wife,  
8129 Harvie Road, Surrey, B.C. V3S 4P1 JOINT TENANTS6. TRANSFEREE(S):\* BC GAS INC., (Incorp. No. 368681), Box 12503, 23rd  
Floor, 1066 West Hastings Street, Vancouver, British  
Columbia V6E 3G3

7. ADDITIONAL OR MODIFIED TERMS: N/A

8. EXECUTION(S):\*\* This instrument creates, assigns, modifies, enlarges,  
discharges or governs the priority of the interest(s) described in item 3 and the  
Transferor(s) and every other signatory agree to be bound by this instrument and  
acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

LAND TITLE ACT


Form 1 (Section 36)

## EXECUTION DATE

Y M D

MEMORANDUM OF REGISTRATION  
Registered on application received on  
the day and at the time written hereon

Officer Signatures(s)

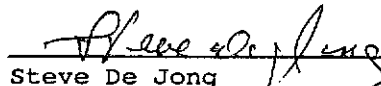
Party(ies) Signatures, Registrar  
New Westminster Land Title Office

92.08.01

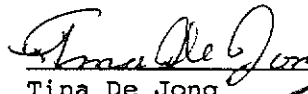
Solicitor/Notary Public

Commissioner

HERBERT RAYMOND WEBSTER

A Commissioner for taking  
Affidavits for British Columbia  
#2300 - 1066 West Hastings Street  
(as to both signatories)  
Vancouver, B.C. V6E 3G3

Steve De Jong



Tina De Jong

## OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary  
public or other person authorized by the Evidence Act, R.S.B.C. 1979, C. 116, to  
take affidavits for use in British Columbia and certifies the matters set out in  
Part 5 of the Land Title Act as they pertain to the execution of this instrument

\* if space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E

\*\* if space insufficient, continue executions on additional page(s) in Form D

DAVID R. BROMLEY

FARRIS, VAUGHAN, WILLS &amp; MURPHY

LAND TITLE ACT  
FORM D

EXECUTIONS CONTINUED

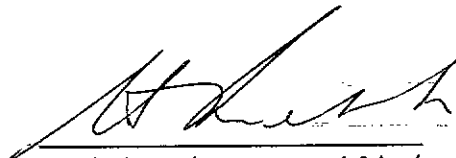
Page 2 of 9 Pages

EXECUTION DATEY M D

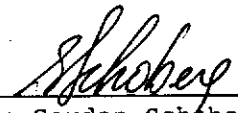
Officer Signature(s)

Party(ies) Signatures

BC GAS INC. by its Attorneys

  
Solicitor/Notary Public/  
Commissioner  
Name and Address**HERBERT RAYMOND WEBSTER**  
A Commissioner for taking  
Affidavits for British Columbia  
#2300 - 1066 West Hastings Street  
Vancouver, B.C. V6B 3G3

(as to all signatures)

  
John Gordon Schoberg  
Howard Ronald Wong

Robert Edward Owen

(DF Number AC224852)

## OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the Evidence Act, R.S.B.C. 1979, C. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the Land Title Act as they pertain to the execution of this instrument.

LAND TITLE ACT  
FORM E

## SCHEDULE

Page 3 of 9 pages

---

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR  
ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM OR GENERAL DOCUMENT FORM

## 2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:

(Parcel Identifier)	(Legal Description)
010-624-937	Lot 1, Section 29, Township 8, New Westminster District, Plan 2975
010-625-089	Lot 8, EXCEPT: Parcel A (Reference Plan 6444); Section 29, Township 8, New Westminster District, Plan 2975
010-625-186	Lot 9, Section 29, Township 8, New Westminster District, Plan 2975

Page 4 of 9 pages

## TERMS OF INSTRUMENT - PART 2

## STATUTORY RIGHT-OF-WAY AGREEMENT

## WHEREAS:

- A. "Owner" means the party (ies) described as Transferor(s) in Form C - Part 1, Item 5 hereto.
- B. "BC Gas" means the party described as Transferee(s) in Form C - Part 1, item 6 hereto.
- C. "Land" means the land described in Form C - Part 1, Item 2 hereto.
- D. The Owner is the registered owner or is entitled to become the registered owner of the Land.
- E. It is necessary for the operation and maintenance of BC Gas' undertaking to obtain a statutory right of way through, under and across the Land.
- F. The Owner has agreed to grant to BC Gas a statutory right of way on the terms contained herein.

## WITNESSES THAT:

## 1. GRANT OF RIGHTS TO BC GAS

The Owner, in consideration of the sum of Thirty Two Thousand Dollars (\$32,000.00) of lawful money of Canada now paid by BC Gas to the Owner (the receipt and sufficiency of which is hereby acknowledged), grants to BC Gas, for so long as BC Gas shall require it, a full, free and uninterrupted statutory right-of-way for BC Gas, its employees, agents, invitees and licensees over the Land at all times hereafter:

- (a) To excavate for, install, construct, operate, maintain, repair, ~~abandon~~, remove and replace one or more underground pipelines of any kind or dimension with any aboveground or underground valves, meters and other appliances and fittings, and devices for controlling corrosion, all for use in connection with such pipeline(s), for the distribution and transmission of gas (the "Works") for the purposes of the operation and maintenance of the

Page 5 of 9 pages

undertaking of BC Gas on the Land. Upon completion of the initial excavation and installation of the Works on the Land, the rights granted to BC Gas under this sub-paragraph shall be restricted to a strip of the Land not more than 15.24 metres in perpendicular width which contain the Works (the "Right-of-Way Area"), which Right-of-Way Area shall subsequently be defined by a survey made by a British Columbia land surveyor and delineated by a statutory right-of-way plan to be filed by BC Gas at the appropriate Land Title Office;

- (b) To clear the Right-of-Way Area and keep it cleared of any trees, growth, buildings, structures, improvements or obstructions which, in the opinion of BC Gas, may interfere with any of the rights granted to BC Gas herein;
- (c) For the purposes of access to and from the Works and any other uses or purposes permitted by this paragraph 1, to enter upon, pass, repass, labour and be on and along the Right-of-Way Area, with or without vehicles, supplies, machinery and equipment, and to dig up, excavate and disturb the surface of the Right-of-Way Area together with any trees, growth, buildings, structures, obstructions, or other improvements therein or thereon, and, subject to subparagraph 1(b), BC Gas shall within a reasonable time restore the surface of the Right-of-Way Area as nearly as reasonably practicable in the circumstances to the condition it was in before being dug up, excavated or disturbed;
- (d) To install, maintain and use gates in all fences which now or hereafter shall cross the Right-of-Way Area;
- (e) To install and maintain legal survey posts to mark the boundaries of the Right-of-Way Area and marking posts with warning signs attached to mark the location of the Works upon the Right-of-Way Area; and
- (f) Generally to do all acts necessary or incidental to the foregoing or to the business of BC Gas in connection with the foregoing.

## 2. ANCILLARY RIGHTS

The Owner grants to BC Gas and its employees, agents, invitees and licensees as rights ancillary to and for the duration of the statutory right-of-way and rights granted above:

Page 6 of 9 pages

- (a) The right to enter upon and pass and repass over the Land, with or without vehicles, supplies, machinery and equipment, as may from time to time be reasonably required for the purposes of access to and from the Right-of-Way Area or any part thereof, or for the exercise and enjoyment of the rights granted in paragraph 1 hereof; and
- (b) The right to use such portion of the Land adjacent to the Right-of-Way Area as may from time to time be reasonably required for any uses or purposes reasonably ancillary to those permitted by paragraph 1 hereof.

### 3. DUTIES OF THE OWNER

The Owner covenants and agrees with BC Gas:

- (a) Not to do or knowingly permit to be done anything which may, in the opinion of BC Gas, interfere with or injure the Works or impair the operating efficiency of the Works or create any hazard. Such acts include, but are not limited to, the acts referred to in this paragraph;
- (b) Not to burn or permit the burning of anything on the Right-of-Way Area except the normal burning of land for crop clearing purposes;
- (c) Not to store or use any inflammable substance or make, place, erect, operate, use or maintain any building, structure, foundation, pavement, excavation, well, swimming pool, pile of material, obstruction, detention or retention pond, equipment, thing, or to plant any growth upon, or running parallel within the Right-of-Way Area which in the opinion of BC Gas may:
  - i) interfere with or endanger the Works or the installation, operation, maintenance, removal, repair or replacement of the Works; or
  - ii) obstruct access by BC Gas' employees, agents, invitees or licensees to the Works; or
  - iii) create any hazard by the operation, use, maintenance or existence on the Right-of-Way Area;
- (d) Subject to subparagraph 3(c), not to cultivate the ground inside the Right-of-Way Area to a depth of more than forty-five (45) centimetres;

Page 7 of 9 pages

- (e) Not to add or remove ground cover over the Works or carry out blasting on or next to the Right-of-Way Area without the prior written consent of BC Gas and only in accordance with the written requirements of BC Gas;
- (f) Not to construct or maintain culverts, open drains, ditches, utility crossings or roads across the Right-of-Way Area without the prior written consent of BC Gas; and
- (g) Execute all further documents and agreements whatsoever required for the better assuring to BC Gas of the statutory right-of-way hereby granted and to register the statutory right-of-way hereby granted as a first charge against the Land.

#### 4. DUTIES OF BC GAS

BC Gas covenants and agrees with the Owner:

- (a) To pay compensation to the Owner for any damage to:
  - i) any buildings, structures, or to fruit, nut or ornamental trees outside the Right-of-Way Area caused by BC Gas in the exercise of any of its rights under this Agreement and without any negligence on the part of the Owner; or
  - ii) any buildings, structures or to fruit, nut or ornamental trees inside the Right-of-Way Area associated only with the initial excavation and installation of the Works upon the Land and without any negligence on the part of the Owner; or
  - iii) any crops (other than timber), livestock, drains, ditches, culverts, fences, bridges and roads, anywhere on the Land caused by BC Gas in the exercise of any of its rights under this Agreement and without any negligence on the part of the Owner;
- (b) To pay all fees and other charges which may be levied by the Crown against any timber that BC Gas cuts on the Land;
- (c) To pay compensation to the Owner for all merchantable timber cut or damaged on the Land by BC Gas in the exercise of any of its rights under this Agreement; and

Page 8 of 9 pages

- (d) That it shall, as soon as weather and soil conditions permit, and where practicable to do so, bury and maintain any underground Works so the Works do not interfere with the drainage of the Land;

#### 5. AGREEMENTS BETWEEN THE OWNER AND BC GAS

The Owner and BC Gas covenant and agree that:

- (a) Upon completion of the initial excavation and installation of the Works upon the Land, BC Gas shall cause a survey of the Right-of-Way Area to be made. BC Gas shall then make application for registration of a statutory right-of-way plan in the appropriate Land Title Office and such plan shall fully define the Right-of-Way Area. The Land, excluding the Right-of-Way Area, shall be released, except for ancillary rights, from the rights granted under this Agreement. The Owner agrees to accept the accuracy of this plan without further examination or approval;
- (b) This Agreement shall terminate within three (3) years of the date of this Agreement if BC Gas has not either applied to register the plan described in subparagraph 5(a) or commenced exercising its rights granted in paragraph 1 of this Agreement. Upon termination of this Agreement, BC Gas shall execute and file such documents in the appropriate Land Title Office as may be necessary to effect a release of this Agreement from the Land;
- (c) The amount of any compensation for damages payable under paragraph 4 herein shall be mutually agreed upon between the Owner and BC Gas but failing such agreement, shall be settled by arbitration pursuant to the Commercial Arbitration Act of British Columbia before a single arbitrator. No Compensation shall be payable by BC Gas to the Owner for any damage for which compensation has already been paid;
- (d) BC Gas has ownership of all timber cut on the Land by BC Gas in the exercise of its rights under this Agreement;
- (e) This Agreement shall be construed as running with the Land but no part of the fee of the soil shall pass to BC Gas by this Agreement;





Page 9 of 9 pages

- (f) The provisions hereof are severable and if any of them should be found to be void or unenforceable at law, the remaining provisions will not be affected thereby;
- (g) Subject to paragraph 5(i) of this Agreement, and notwithstanding any rule of law or equity to the contrary, the Works shall remain the property of BC Gas who may remove them in whole or in part;
- (h) ~~If BC Gas abandons the Works, it may, at its option, leave the Works or any part thereof, and BC Gas may release the rights granted by this Agreement;~~ *Sal* *40* *9/2/92*
- (i) The expressions "Owner" and "BC Gas" shall include, and this Agreement shall enure to the benefit of and be binding upon, the executors, administrators, successors and legal assigns of the Owner and BC Gas;
- (j) Where the expression "Owner" includes more than one person, all of the covenants granted by the Owner in this Agreement shall be construed as being several as well as joint;
- (k) Nothing contained herein shall diminish or otherwise interfere with rights enjoyed by BC Gas by statute or otherwise; and
- (l) Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or body corporate or politic where the context so requires or the parties so require.
- (m) In witness whereof the parties hereto hereby acknowledge that this agreement has been duly executed and delivered by the parties executing Forms C and D (pages 1 and 2) hereto.

END OF DOCUMENT

BF305293  
Land Title Act **B6265948**  
FORM C  
(Section 219.81)  
Province of  
British Columbia

94 NOV -9 11 28  
LAND TITLE OFFICE  
NEW WESTMINSTER/  
VANCOUVER

BH402530

**GENERAL INSTRUMENT—PART 1**

(This area for Land Title Office Use)

Page 1 of 8 pages

1. APPLICATION: (Name, address, phone number and signature of applicant, applicant's solicitor or agent)

Ron Pavlakovic, Agent for BC Gas Utility Ltd.  
16705 Fraser Highway  
Surrey, B.C. V3S 2X7  
Phone: 576-7121

  
RON PAVLAKOVIC

2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*
- (PID) (LEGAL DESCRIPTION)

SEE SCHEDULE

3. NATURE OF INTEREST:\*
- DESCRIPTION

DOCUMENT REFERENCE  
(page and paragraph)

PERSON ENTITLED TO INTEREST

Statutory Right of Way

Entire Instrument  
Pages 4 - 8

Transferee

11/09/94 D1977e CHARGE 50.00 *DRW*

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) Filed Standard Charge Terms

☐

D.F. No.

(b) Express Charge Terms

☒

Annexed as Part 2

(c) Release

☐

There is no Part 2 of instrument

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument. If (c) is selected, the charge described in Item 3 is released or discharged as a charge on the land described in Item 2.

5. TRANSFEROR(S):\*

STEVE DE JONG and TINA DE JONG

6. TRANSFeree(S): (including postal address(es) and postal code(s))\*

... BC GAS UTILITY LTD. (Incorporation No. 368681) a company incorporated in British Columbia and having its registered and records office at 1111 West Georgia Street, in the City of Vancouver, Province of British Columbia, V6E 4M4.

7. ADDITIONAL OR MODIFIED TERMS:\*
- N/A

\* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

QUICK FAX REGISTRY SERVICES LTD.

2 of 8 pages

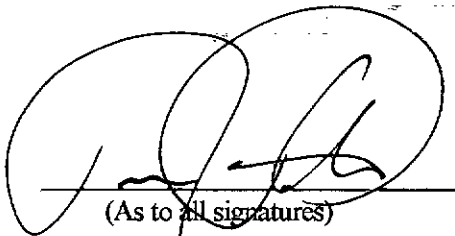
**GENERAL INSTRUMENT – PART 1**

8. EXECUTION(S):\*\* This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

Execution Date

Party(ies) Signature(s)




(As to all signatures)


**RONALD BORIS PAVLAKOVIC**

A Commissioner for taking  
Affidavits for British Columbia  
24th Floor-1111 West Georgia Street  
Vancouver, B.C. V6E 4M4

Y	M	D
94	11	04
94	11	07



**STEVE DE JONG**



**TINA DE JONG**

**BC GAS UTILITY LTD.**

by its attorneys



**JOHN GORDON SCHOBURG**



**HOWARD RONALD WONG**



(As to all signatures)

**LESLEE ANN ELLIS**  
A Commissioner for taking  
Affidavits for British Columbia  
24th Floor - 1111 West Georgia Street  
Vancouver, B.C. V6E 4M4

AC224852  
D.F. Number XC024603

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1979, c. 116, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

\* If space insufficient, enter "SEE SCHEDULE" and attach schedule in Form E.

\*\* If space insufficient, continue executions on additional page(s) in Form D.

3 of 8 pages

*LAND TITLE ACT***FORM E  
SCHEDULE**

---

Enter the required information in the same order as the information must appear on the Freehold Transfer Form, Mortgage Form or General Document Form.

---

## 2. PARCEL IDENTIFIER(S) AND LEGAL DESCRIPTION(S) OF LAND:\*

*(PID)**(LEGAL DESCRIPTION)*

010-624-937	Lot 1, Section 29, Township 8, NWD, Plan 2975 (Registered Owners: Steve De Jong and Tina De Jong)
010-625-089	Lot 8, EXCEPT: Parcel A (Reference Plan 6444); Section 29, Township 8, NWD, Plan 2975 (Registered Owner: Steve De Jong)
010-625-186	Lot 9, Section 29, Township 8, NWD, Plan 2975 (Registered Owners: Steve De Jong and Tina De Jong)

**TERMS OF INSTRUMENT -- PART 2****STATUTORY RIGHT OF WAY AGREEMENT****WHEREAS:**

- A. "Owner" means the party(ies) described as Transferor(s) in Form C - Part 1, item 5 hereto.
- B. "BC Gas" means the party described as Transferee(s) in Form C - Part 1, item 6 hereto.
- C. "Land" means the land described in Form C - Part 1, item 2 hereto.
- D. The Owner is the registered owner or is entitled to become the registered owner of the Land.
- E. It is necessary for the operation and maintenance of BC Gas' undertaking to obtain a statutory right of way through, under and across the Land.
- F. The Owner has agreed to grant to BC Gas a statutory right of way on the terms contained herein.

**WITNESSES THAT:****1. GRANT OF RIGHTS TO BC GAS**

The Owner, in consideration of the sum of One Dollar (\$1.00) of the lawful money of Canada now paid by BC Gas to the Owner (the receipt and sufficiency of which is hereby acknowledged), grants to BC Gas, for so long as BC Gas shall require it, a full, free and uninterrupted statutory right of way over the Land for BC Gas, its employees, agents, invitees and licensees at all times hereafter:

- (a) To enter over, on and under the Land at all times hereafter by day and night and at its will and pleasure, to enter, go, pass and repass upon, along and use the Land for the purpose of obtaining access to and egress from, and carrying out work related to, any of its pipelines and ancillary equipment (the "Works") located within an adjacent statutory right of way. Within one (1) year of the date of registration of this Agreement, the rights granted to BC Gas under this sub-paragraph shall be restricted to a strip of the Land not more than 2.76 metres in perpendicular width (the "Right of Way Area"), which Right of Way Area shall be defined by a survey made by a British Columbia Land Surveyor and delineated by a statutory right of way plan to be filed by BC Gas at the appropriate Land Title Office;
- (b) To clear the Right of Way Area and keep it cleared of any trees, growth, buildings, structures, improvements or obstructions which, in the opinion of BC Gas, may interfere with any of the rights granted to BC Gas herein;

- (c) For the purposes of access to and from the Works and any other uses or purposes permitted by this paragraph 1, to enter upon, pass, repass, labour and be on and along the Right of Way Area, with or without vehicles, supplies, machinery and equipment, and to dig up, excavate and disturb the surface of the Right of Way Area together with any trees, growth, buildings, structures, obstructions, or other improvements therein or thereon, and, subject to subparagraph 1(b), BC Gas shall within a reasonable time restore the surface of the Right of Way Area as nearly as reasonably practicable in the circumstances to the condition it was in before being dug up, excavated or disturbed;
- (d) To install, maintain and use gates in all fences which now or hereafter shall cross the Right of Way Area;
- (e) To install and maintain legal survey posts to mark the boundaries of the Right of Way Area and marking posts with warning signs attached to mark the location of the Works upon the Right of Way Area; and
- (f) Generally to do all acts necessary or incidental to the foregoing or to the business of BC Gas.

## **2. ANCILLARY RIGHTS**

The Owner grants to BC Gas and its employees, agents, invitees and licensees as rights ancillary to and for the duration of the statutory right of way and rights granted above:

- (a) The right to enter upon and pass and repass over the Land, with or without vehicles, supplies, machinery and equipment, as may from time to time be reasonably required for the purposes of access to and from the Right of Way Area or any part thereof, or for the exercise and enjoyment of the rights granted in paragraph 1 hereof; and
- (b) The right to use such portion of the Land adjacent to the Right of Way Area as may from time to time be reasonably required for any uses or purposes reasonably ancillary to those permitted by paragraph 1 hereof.

## **3. DUTIES OF THE OWNER**

The Owner covenants and agrees with BC Gas:

- (a) Not to do or knowingly permit to be done anything which may, in the opinion of BC Gas, interfere with or injure the Works or impair the operating efficiency of the Works or create any hazard. Such acts include, but are not limited to, the acts referred to in this paragraph;
- (b) Not to burn or permit the burning of anything on the Right of Way Area except the normal burning of land for crop clearing purposes;
- (c) Not to store or use any inflammable substance or make, place, erect, operate, use or maintain any building, structure, foundation, pavement, excavation, well, swimming pool, pile of material, obstruction, detention or retention pond, equipment, thing, or to plant any growth upon, or within the Right of Way Area which in the opinion of BC Gas may:

6 of 8 pages

- (i) interfere with or endanger the Works or the installation, operation, maintenance, removal, repair or replacement of the Works; or
- (ii) obstruct access by BC Gas' employees, agents, invitees or licensees to the Works; or
- (iii) create any hazard by the operation, use, maintenance or existence on the Right of Way Area;
- (d) Subject to subparagraph 3(c), not to cultivate the ground inside the Right of Way Area to a depth of more than forty-five (45) centimetres;
- (e) Not to add or remove ground cover over the Works or carry out blasting on or next to the Right of Way Area without the prior written consent of BC Gas and only in accordance with the written requirements of BC Gas;
- (f) Not to construct or maintain culverts, open drains, ditches, utility crossings or roads across the Right of Way Area without the prior written consent of BC Gas;
- (g) Execute all further documents and agreements whatsoever required for the better assuring to BC Gas of the statutory right of way hereby granted and to register the statutory right of way hereby granted as a first charge against the Land; and
- (h) If the Owner is registered with Revenue Canada for Goods and Services Tax purposes, the Owner shall be responsible for collecting the appropriate amount of Goods and Services Tax and remitting same to the appropriate District Taxation Office of Revenue Canada within the prescribed time. Prior to collecting the Goods and Services Tax from BC Gas, the Owner shall provide BC Gas with evidence of the Owner's Goods and Services Tax registration number.

#### **4. DUTIES OF BC GAS**

BC Gas covenants and agrees with the Owner:

- (a) To pay compensation to the Owner for any damage to:
  - (i) any buildings, structures, or to fruit, nut or ornamental trees outside the Right of Way Area caused by BC Gas in the exercise of any of its rights under this Agreement and without any negligence on the part of the Owner; or
  - (ii) any buildings, structures or to fruit, nut or ornamental trees inside the Right of Way Area associated only with the initial excavation and installation of the Works upon the Land and without any negligence on the part of the Owner; or
  - (iii) any crops (other than timber), livestock, drains, ditches, culverts, fences, bridges and roads, anywhere on the Land caused by BC Gas in the exercise of any of its rights under this Agreement and without any negligence on the part of the Owner;
- (b) To pay all fees and other charges which may be levied by the Crown against any timber that BC Gas cuts on the Land;

- (c) To pay compensation to the Owner for all merchantable timber cut or damaged on the Land by BC Gas in the exercise of any of its rights under this Agreement; and
- (d) That it shall, as soon as weather and soil conditions permit and where practicable to do so, bury and maintain any underground Works so the Works do not interfere with the drainage of the Land.

## **5. AGREEMENTS BETWEEN THE OWNER AND BC GAS**

The Owner and BC Gas covenant and agree that:

- (a) Upon completion of the initial excavation and installation of the Works upon the Land, BC Gas shall cause a survey of the Right of Way Area to be made. BC Gas shall then make application for registration of a statutory right of way plan in the appropriate Land Title Office and such plan shall fully define the Right of Way Area. The Land, excluding the Right of Way Area, shall be released, except for ancillary rights, from the rights granted under this Agreement. The Owner agrees to accept the accuracy of this plan without further examination or approval;
- (b) This Agreement shall terminate within three (3) years of the date of this Agreement if BC Gas has not either applied to register the plan described in subparagraph 5(a) or commenced exercising its rights granted in paragraph 1 of this Agreement. Upon termination of this Agreement, BC Gas shall execute and file such documents in the appropriate Land Title Office as may be necessary to effect a release of this Agreement from the Land;
- (c) The amount of any compensation for damages payable under paragraph 4 herein shall be mutually agreed upon between the Owner and BC Gas but failing such agreement shall be settled by arbitration pursuant to the Commercial Arbitration Act of British Columbia before a single arbitrator. No compensation shall be payable by BC Gas to the Owner for any damage for which compensation has already been paid;
- (d) BC Gas has ownership of all timber cut on the Land by BC Gas in the exercise of its rights under this Agreement;
- (e) This Agreement shall be construed as running with the Land but no part of the fee of the soil shall pass to BC Gas by this Agreement;
- (f) The provisions hereof are severable and if any of them should be found to be void or unenforceable at law, the remaining provisions will not be affected thereby;
- (g) Subject to subparagraph 5(h) of this Agreement and notwithstanding any rule of law or equity to the contrary, the Works shall remain the property of BC Gas who may remove them in whole or in part;
- (h) If BC Gas abandons the Works, it may, at its option, leave the Works or any part thereof, and BC Gas may release the rights granted by this Agreement;
- (i) The expressions "Owner" and "BC Gas" shall include, and this Agreement shall enure to the benefit of and be binding upon, the executors, administrators, successors and legal assigns of the Owner and BC Gas;



8 of 8 pages ✓

- (j) Where the expression "Owner" includes more than one person, all of the covenants granted by the Owner in this Agreement shall be construed as being several as well as joint;
- (k) Nothing contained herein, shall diminish or otherwise interfere with rights enjoyed by BC Gas by statute or otherwise;
- (l) Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or body corporate or politic where the context so requires or the parties so require; and
- (m) In witness whereof the parties hereto hereby acknowledge that this agreement has been duly executed and delivered by the parties executing Forms C and D (pages 1 & 2) hereto.

**END OF DOCUMENT**

## NEW WESTMINSTER LAND TITLE OFFICE

LAND TITLE ACT  
FORM C (Section 233) CHARGE  
GENERAL INSTRUMENT - PART 1 Province of British Columbia

Feb-21-2017 09:49:28.001

CA5829152 CA5829154

1477932143 PAGE 1 OF 14 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Mark Edward  
Standerwick  
3H914H

Digitally signed by Mark  
Edward Standerwick  
3H914H  
Date: 2017.02.21 09:26:44  
-08'00'

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

Campbell Froh May &amp; Rice LLP

Barristers &amp; Solicitors

200 - 5611 Cooney Road

Richmond

BC V6X 3J6

File: 84644

Phone: 604-273-8481

Nana Aizawa, Auth-Agent

Document Fees: \$214.74

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

002-334-151

LOT 1 SECTION 32 TOWNSHIP 2 NEW WESTMINSTER DISTRICT 20628

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

SEE SCHEDULE

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

SEE SCHEDULE

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

FORTISBC ENERGY INC.

16705 FRASER HIGHWAY

SURREY

V4N 0E8

BRITISH COLUMBIA

CANADA

Incorporation No.

BC1023718

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

J. Scott Brodie

Barrister &amp; Solicitor

439 Helmcken Street

Vancouver, BC V6B 2E6

Tel.: 604-684-3323

Execution Date

Y M D

16 11 27

Transferor(s) Signature(s)

JACK BACKE

## OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT  
FORM D****EXECUTIONS CONTINUED**

PAGE 2 of 14 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

---

Patricia Jane Roney

Commissioner for Taking Affidavits in British Columbia

FORTISBC ENERGY INC.  
16705 Fraser Highway  
Surrey, BC V4N 0E8

Y	M	D
17	02	16

FORTISBC ENERGY INC., by its  
authorized signatory(ies):

---

Name: Chris Coady

## OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**EXECUTIONS CONTINUED**

PAGE 3 of 14 PAGES

Transferor / Borrower / Party Signature(s)

CIBC MORTGAGES INC., by its  
authorized signatory(ies):

Name: Walter Lobo

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**LAND TITLE ACT  
FORM D**

**EXECUTIONS CONTINUED**

PAGE 4 of 14 PAGES

Officer Signature(s)

\_\_\_\_\_  
Mohammad Shoaib Rauf  
Notary Public  
220 - 13711 72 Avenue  
Surrey, BC V3W 2P2  
Tel.: 604-596-1861

(as to all signatures)

\_\_\_\_\_

\_\_\_\_\_

**Execution Date**

Y	M	D
17	02	15

Transferor / Borrower / Party Signature(s)

CANADIAN IMPERIAL BANK OF  
COMMERCE, by its authorized  
signatory(ies):

\_\_\_\_\_  
Name: Bradley Thompson

\_\_\_\_\_  
Name: Sajendra Singh

**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

FORM\_E\_V21

**LAND TITLE ACT  
FORM E****SCHEDULE**

PAGE 5 OF 14 PAGES

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Statutory Right of Way

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Priority Agreement granting the Statutory Right of  
Way herein priority over Mortgage CA3898352

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

Priority Agreement

Priority Agreement granting the Statutory Right of  
Way herein priority over Mortgage CA4974680

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

FORM\_E\_V21

**LAND TITLE ACT  
FORM E**

**SCHEDULE**

**PAGE 6 OF 14 PAGES**

ENTER THE REQUIRED INFORMATION IN THE SAME ORDER AS THE INFORMATION MUST APPEAR ON THE FREEHOLD TRANSFER FORM, MORTGAGE FORM, OR GENERAL INSTRUMENT FORM.

**5. TRANSFEROR(S):**

JACK BACKE  
CIBC MORTGAGES INC. (Incorporation No. A33457) as to Priority Agreement  
CANADIAN IMPERIAL BANK OF COMMERCE as to Priority Agreement

**TERMS OF INSTRUMENT -- PART 2****STATUTORY RIGHT OF WAY AGREEMENT****WHEREAS:**

- A. "Owner" means the party(ies) described as Transferor(s) in Form C - Part 1, item 5 hereto.
- B. "FortisBC" means the party described as Transferee(s) in Form C - Part 1, item 6 hereto.
- C. "Land" means the land described in Form C - Part 1, item 2 hereto.
- D. The Owner is the registered owner or is entitled to become the registered owner of the Land.
- E. It is necessary for the operation and maintenance of FortisBC's undertaking to obtain a statutory right of way through, under and across the Land.
- F. The Owner has agreed to grant to FortisBC a statutory right of way on the terms contained herein.

**WITNESSES THAT:****1. GRANT OF RIGHTS TO FORTISBC**

The Owner, in consideration of the sum of One Dollar (\$1.00) of the lawful money of Canada now paid by FortisBC to the Owner (the receipt and sufficiency of which are hereby acknowledged), grants to FortisBC, for so long as FortisBC shall require it, a full, free and uninterrupted statutory right of way over the Land for FortisBC, its employees, contractors, agents, invitees and licensees at all times hereafter:

- (a) To excavate for, install, construct, operate, maintain, repair, abandon, remove and replace one or more underground pipelines of any kind or dimension with any underground valves, structures, meters and other appliances and fittings, and devices for inspection, controlling corrosion and erosion, all for use in connection with such pipeline(s), for the distribution and transmission of natural and artificial gas and other gaseous or liquid hydrocarbons or any product or by-product thereof (the "Works") for the purposes of the operation and maintenance of the undertaking of FortisBC wherever located. Upon completion of the initial excavation, installation and

LSTA



construction of the Works on the Land, the rights granted to FortisBC under this sub-paragraph shall be restricted to a strip of the Land not more than nine (9.0) metres in perpendicular width which contain the Works (the "Right of Way Area"), which Right of Way Area shall subsequently be defined by a survey made by a British Columbia land surveyor and delineated by a statutory right of way plan to be filed by FortisBC at the appropriate Land Title Office;

- (b) To clear the Right of Way Area and keep it cleared of any trees, or other vegetation, buildings, structures, foundations, pavement, improvements or obstructions which, in the opinion of FortisBC, may interfere with any of the rights granted to FortisBC herein;
- (c) For the purposes of access to and from the Works and any other uses or purposes permitted by this paragraph 1, to enter upon, pass, repass, labour and be on and along the Right of Way Area, with or without vehicles, supplies, machinery or equipment, and to dig up, excavate and disturb the surface of the Right of Way Area together with any trees, or other vegetation, buildings, structures, foundations, pavement, obstructions, or other improvements therein or thereon, and, subject to subparagraph 1(b), FortisBC shall restore, within a reasonable time, the surface of the Right of Way Area as nearly as reasonably practicable in the circumstances to the condition it was in before being dug up, excavated or disturbed;
- (d) To use such of the Land as may reasonably be required adjacent to either side of the Right of Way in connection with the construction, repair or replacement of the pipelines and for ingress to and egress from the Right of Way including the right to construct, maintain and use on the Land any road or roads for all purposes useful or convenient in connection with or incidental to the exercise and enjoyment of the rights and privileges granted in paragraph 1 for so long as FortisBC desires to exercise the same;
- (e) To install, maintain and use gates in all fences which now or hereafter shall cross the Right of Way Area;
- (f) To install and maintain legal survey posts to mark the boundaries of the Right of Way Area and marking posts with warning signs attached to mark the location of the Works upon the Right of Way Area; and
- (g) Generally to do all acts necessary or incidental to the foregoing or to the business of FortisBC.

**2. DUTIES OF THE OWNER**

The Owner covenants and agrees with FortisBC:

- (a) Not to do or knowingly permit to be done anything which may, in the opinion of FortisBC, interfere with or injure or endanger the Works or impair the operating efficiency of the Works or any part of them or create any hazard. Such acts include, but are not limited to, the acts referred to in this paragraph 2;
- (b) Not to burn or permit the burning of anything on the Right of Way Area except the normal burning of land for crop clearing purposes;
- (c) Except with the prior written consent of FortisBC and, if such consent is granted, only in accordance with the written requirements of FortisBC, not to store or use any inflammable substance or make, place, erect, operate, use or maintain any building, structure, foundation, pavement, excavation, well, swimming pool, pile of material, obstruction, detention or retention pond, equipment, thing, or to plant any vegetation upon, or within the Right of Way Area which, in the opinion of FortisBC, may:
  - (i) interfere with or endanger the Works or the installation, contractors, operation, maintenance, repair, removal, or replacement of the Works; or
  - (ii) obstruct access by FortisBC's employees, contractors, agents, invitees or licensees to the Works; or
  - (iii) create any hazard by its operation, use, maintenance or existence on the Right of Way Area;
- (d) Subject to subparagraph 2(c), not to cultivate the Land inside the Right of Way Area to a depth of more than forty-five (45) centimetres;
- (e) Not to add or remove ground cover over the Works or carry out blasting on or next to the Right of Way Area without the prior written consent of FortisBC and, if such consent is granted, only in accordance with the written requirements of FortisBC;
- (f) Not to construct or maintain culverts, open drains, ditches, utility crossings or roads across the Right of Way Area without the prior written consent of FortisBC and, if such consent is granted, only in accordance with the written requirements of FortisBC;
- (g) To execute all further documents and agreements whatsoever required, the Land Title Office fees for which shall be at the cost of FortisBC, for the better

assuring to FortisBC of the statutory right of way hereby granted and to register the statutory right of way hereby granted in priority to any financial charges against the Land; and

- (h) The Owner shall keep the Land free of contaminants and contamination, except in amounts permitted by, and in compliance with, environmental law, regulations and bylaws in effect in British Columbia.

### **3. DUTIES OF FORTISBC**

FortisBC covenants and agrees with the Owner:

- (a) To pay compensation to the Owner in the circumstances set out below for any damage caused by FortisBC to the Owner's Land, buildings, structures, livestock and vegetation as a result of FortisBC's exercise of any of its rights under this Agreement (the "Damage"); provided that there is no negligence or wilful misconduct on the part of the Owner and provided further that all such Damage shall be rectified in accordance with FortisBC's landscape standards:
  - (i) Damage within the Right of Way Area done in connection with the initial exercise by FortisBC of its rights herein or after the Owner has, under permit issued by FortisBC pursuant to subparagraph 2(c) hereof, made, placed, erected, operated, used or maintained upon the Right of Way Area such building, structure or other improvement, obstruction, equipment or vegetation for which the permit was issued; and
  - (ii) Damage outside the Right of Way Area done in connection with the exercise by FortisBC of its rights herein;
- (b) To pay all fees and other charges which may be levied by the Crown against any timber that FortisBC cuts on the Land;
- (c) To pay compensation to the Owner for all merchantable timber cut or damaged on the Land by FortisBC in the exercise of any of its rights under this Agreement;
- (d) That it shall, as soon as weather and soil conditions permit and where practicable to do so, bury and maintain any underground Works so the Works do not interfere with the drainage of the Land; and
- (e) Notwithstanding 1(d), wherever practicable, to access the Right of Way Area from the adjacent right of way area to avoid use of the Owner's private driveway.

**4. AGREEMENTS BETWEEN THE OWNER AND FORTISBC**

The Owner and FortisBC covenant and agree that:

- (a) Upon completion of the initial excavation, installation and construction of the Works on the Land, FortisBC shall cause a survey of the Right of Way Area to be made. FortisBC shall then make application for registration of a statutory right of way plan in the appropriate Land Title Office and such plan shall fully define the Right of Way Area. The Land, excluding the Right of Way Area, shall be released, except for ancillary rights, from the rights granted under this Agreement. The Owner agrees to accept the accuracy of this plan without further examination or approval;
- (b) This Agreement shall terminate within three (3) years of the date of execution of this Agreement by FortisBC if FortisBC has not either applied to register the plan described in subparagraph 4(a) or commenced exercising its rights granted in paragraph 1. Upon termination of this Agreement, FortisBC shall execute and file such documents in the appropriate Land Title Office as may be necessary to effect a release of this Agreement from the Land;
- (c) The amount of any compensation for Damages caused by FortisBC and payable under paragraph 3 herein shall be mutually agreed upon between the Owner and FortisBC but failing such agreement, shall be settled by arbitration pursuant to the Commercial Arbitration Act of British Columbia before a single arbitrator. No compensation shall be payable by FortisBC to the Owner for any Damage for which compensation has already been paid;
- (d) FortisBC has ownership of all timber cut on the Land by FortisBC in the exercise of its rights under this Agreement;
- (e) This Agreement shall be construed as running with the Land but no part of the fee of the soil shall pass to FortisBC by this Agreement;
- (f) The provisions hereof are severable and if any of them should be found to be void or unenforceable at law, the remaining provisions shall not be affected thereby;
- (g) Subject to subparagraph 5(h) of this Agreement and notwithstanding any rule of law or equity to the contrary, the Works shall remain the property of FortisBC who may remove them in whole or in part;
- (h) If FortisBC abandons the Works, it may, at its option, leave the Works or any part thereof, and FortisBC shall release the rights granted by this Agreement. Upon the release of the rights granted to FortisBC by this Agreement any abandoned Works shall belong to the Owner;

- (i) The expressions "Owner" and "FortisBC" shall include, and this Agreement shall enure to the benefit of and be binding upon, the executors, administrators, successors and legal assigns of the Owner and FortisBC;
- (j) FortisBC may assign this Agreement without the consent of the Owner;
- (k) Where the expression "Owner" includes more than one person, all of the covenants granted by the Owner in this Agreement shall be construed as being several as well as joint;
- (l) Nothing contained herein shall diminish or otherwise interfere with rights enjoyed by FortisBC by statute or otherwise; and
- (m) Wherever the singular or the masculine is used in this Agreement, the same shall be construed as meaning the plural or the feminine or body corporate or politic where the context so requires or the parties so require.

In witness whereof the parties acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D (pages 1 & 2) hereto.

## PRIORITY CONSENT

For One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by CIBC Mortgages Inc. (the "**Chargeholder**"), being the holder of Mortgage CA3898352 (the "**Charge**"), hereby approves and consents to the granting of the Statutory Right of Way (the "**Encumbrance**") attached, and consents and agrees that the Encumbrance shall be binding upon the Chargeholder's interest in or charge upon the Lands and shall be encumbrances upon the Lands in priority to the Charge in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Lands prior to the dating, execution and registration of the Charge and the advance of any monies thereunder.

IN WITNESS WHEREOF the Chargeholder has executed this priority agreement by causing its proper officers to sign the General Instrument - Part I attached hereto.

LSTA

**PRIORITY CONSENT**

For One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged and agreed to by Canadian Imperial Bank of Commerce (the “**Chargeholder**”), being the holder of Mortgage CA4974680 (the “**Charge**”), hereby approves and consents to the granting of the Statutory Right of Way (the “**Encumbrance**”) attached, and consents and agrees that the Encumbrance shall be binding upon the Chargeholder’s interest in or charge upon the Lands and shall be encumbrances upon the Lands in priority to the Charge in the same manner and to the same effect as if the Encumbrance had been granted and registered against title to the Lands prior to the dating, execution and registration of the Charge and the advance of any monies thereunder.

IN WITNESS WHEREOF the Chargeholder has executed this priority agreement by causing its proper officers to sign the General Instrument - Part I attached hereto.

**END OF DOCUMENT**

**LSTA**

## NEW WESTMINSTER LAND TITLE OFFICE

LAND TITLE ACT  
FORM C (Section 233) CHARGE

Aug-01-2017 08:51:48.001

CA6190577

GENERAL INSTRUMENT - PART 1 Province of British Columbia

PAGE 1 OF 6 PAGES

Your electronic signature is a representation that you are a subscriber as defined by the Land Title Act, RSBC 1996 c.250, and that you have applied your electronic signature in accordance with Section 168.3, and a true copy, or a copy of that true copy, is in your possession.

Alisa  
Corscadden  
PITXHW

Digitally signed by Alisa Corscadden  
PITXHW  
DN: c=CA, cn=Alisa Corscadden  
PITXHW, o=Authorized Subscriber,  
ou=Verify ID at www.juricert.com/  
LKUP.dlm?id=PITXHW  
Date: 2017.08.01 08:50:53 -0700

1. APPLICATION: (Name, address, phone number of applicant, applicant's solicitor or agent)

ALISA CORSCADDEN  
FORTISBC ENERGY INC.  
16705 FRASER HWY  
SURREY  
Document Fees: \$71.58

(604) 576-7091  
FILE: D-SUR-583

BC V4N 0E8

Deduct LTSA Fees? Yes ☒

2. PARCEL IDENTIFIER AND LEGAL DESCRIPTION OF LAND:

[PID]

[LEGAL DESCRIPTION]

**030-120-802 LOT A SECTION 6 TOWNSHIP 7 NWD PLAN EPP68272**

STC? YES ☐

3. NATURE OF INTEREST

CHARGE NO.

ADDITIONAL INFORMATION

**Statutory Right of Way**

4. TERMS: Part 2 of this instrument consists of (select one only)

(a) ☐ Filed Standard Charge Terms D.F. No.(b) ☒ Express Charge Terms Annexed as Part 2

A selection of (a) includes any additional or modified terms referred to in Item 7 or in a schedule annexed to this instrument.

5. TRANSFEROR(S):

**DAWSON & SAWYER DEVELOPMENTS (DOUGLAS) LTD. (INC. NO. BC0988228)**

6. TRANSFEREE(S): (including postal address(es) and postal code(s))

**FORTISBC ENERGY INC.**

16705 FRASER HWY  
SURREY

V4N 0E8

BRITISH COLUMBIA  
CANADA

Incorporation No  
BC1023718

7. ADDITIONAL OR MODIFIED TERMS:

N/A

8. EXECUTION(S): This instrument creates, assigns, modifies, enlarges, discharges or governs the priority of the interest(s) described in Item 3 and the Transferor(s) and every other signatory agree to be bound by this instrument, and acknowledge(s) receipt of a true copy of the filed standard charge terms, if any.

Officer Signature(s)

John B. Tome  
Barrister & Solicitor  
205-15240 56 Avenue  
Surrey, BC, V3S 5K7

Execution Date		
Y	M	D
17	07	31

Transferor(s) Signature(s)

DAWSON & SAWYER  
DEVELOPMENTS (DOUGLAS)  
LTD. by its authorized signatory(ies):

Print Name: David Danny Dawson

Print Name:

## OFFICER CERTIFICATION:

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.



**LAND TITLE ACT  
FORM D****EXECUTIONS CONTINUED**

PAGE 2 of 6 PAGES

Officer Signature(s)

Execution Date

Transferor / Borrower / Party Signature(s)

\_\_\_\_\_  
Alisa Mary Corscadden

Commissioner for Taking Affidavits in British Columbia

FortisBC Energy Inc.  
16705 Frase Hwy  
Surrey, BC, V4N 0E8

Y M D

17 08 01

FORTISBC ENERGY INC. by its  
authorized signatory:\_\_\_\_\_  
Lorne Sandstrom**OFFICER CERTIFICATION:**

Your signature constitutes a representation that you are a solicitor, notary public or other person authorized by the *Evidence Act*, R.S.B.C. 1996, c.124, to take affidavits for use in British Columbia and certifies the matters set out in Part 5 of the *Land Title Act* as they pertain to the execution of this instrument.

**TERMS OF INSTRUMENT -- PART 2****STATUTORY RIGHT OF WAY AGREEMENT****WHEREAS:**

- A. "Owner" means the party(ies) described as Transferor(s) in Form C - Part 1, item 5 hereto.
- B. "FortisBC Energy" means the party described as Transferee(s) in Form C - Part 1, item 6 hereto.
- C. "Land" means the land described in Form C - Part 1, item 2 hereto.
- D. The Owner is the registered owner or is entitled to become the registered owner of the Land.
- E. It is necessary for the operation and maintenance of FortisBC Energy' undertaking to obtain a statutory right of way through, under and across the Land.
- F. The Owner has agreed to grant to FortisBC Energy a statutory right of way on the terms contained herein.

**WITNESSES THAT:****1. GRANT OF RIGHTS TO FORTISBC ENERGY**

The Owner, in consideration of the sum of One Dollar (\$1.00) of the lawful money of Canada now paid by FortisBC Energy to the Owner (the receipt and sufficiency of which are hereby acknowledged), grants to FortisBC Energy, for so long as FortisBC Energy shall require it, a full, free and uninterrupted statutory right of way over the Land, for FortisBC Energy, its employees, contractors, agents, invitees and licensees at all times hereafter:

- (a) To excavate for, install, construct, operate, maintain, repair, abandon, remove and replace one or more underground pipelines on the Land with any meters and fittings for use in connection with such pipeline(s), for the distribution of gas (the "Works");
- (b) To enter upon and have continual access to the Works over the Land, with or without vehicles, supplies, machinery or equipment, for any of the purposes set out in this paragraph 1;
- (c) To keep 1.5 meters on either side of the Works cleared of any trees or other vegetation, buildings, structures, foundations, improvements or obstructions which, in the opinion of FortisBC Energy, may interfere with any of the rights granted to FortisBC Energy herein;
- (d) Generally to do all acts necessary or incidental to the foregoing or to the business of FortisBC Energy.

## **2. DUTIES OF THE OWNER**

The Owner covenants and agrees with FortisBC Energy:

- (a) Not to do or knowingly permit to be done anything which may, in the opinion of FortisBC Energy, interfere with or injure the Works or impair the operating efficiency of the Works or create any hazard. Such acts include, but are not limited to, the acts referred to in this paragraph 2;
- (b) Not to store or use any inflammable substance or to burn or permit the burning of anything within 1.5 meters on either side of the Works;
- (c) Not to make, place, erect, operate, use or maintain within 1.5 meters on either side of the Works any building, structure, foundation, excavation, well, culvert, swimming pool, open drain or ditch, pond, pile of material, obstruction, equipment or thing, or to plant any vegetation which, in the opinion of FortisBC Energy, may:
  - (i) interfere with or endanger the Works or the installation, construction, operation, maintenance, repair, removal, or replacement of the Works; or
  - (ii) obstruct access by FortisBC Energy's employees, contractors, agents, invitees or licensees to the Works; or
  - (iii) create any hazard by its operation, use, maintenance or existence on the Land;
- (d) Subject to subparagraph 2(c), not to cultivate the Land to a depth of more than thirty (30) centimetres; and
- (e) Not to add or remove ground cover over the Works or carry out blasting on the Land without the prior written consent of FortisBC Energy and if such consent is granted, only in accordance with the written requirements of FortisBC Energy.

## **3. DUTIES OF FORTISBC ENERGY**

FortisBC Energy covenants and agrees with the Owner:

- (a) To pay compensation to the Owner for any damage caused by FortisBC Energy to the Owner's buildings, structures, livestock and vegetation on the Land as a result of FortisBC Energy's exercise of any of its rights under this Agreement (the "Damage"); provided that there is no negligence or wilful misconduct on the part of the Owner;
- (b) To assist the Owner, upon request, to determine the location of the Works by providing documentation and, if necessary, by attending at the Land and undertaking the necessary work to locate the pipe at no charge to the Owner;
- (c) That it shall, as soon as weather and soil conditions permit and where

practicable to do so, bury and maintain any underground Works so the Works do not interfere with the drainage of the Land;

- (d) Upon formation of a strata corporation in respect of the Land, the strata corporation will automatically assume the Owner's obligations under this Agreement and the Owner will cease to be liable for any obligations of the Owner under this Agreement; and
- (e) At the request of the Owner or the strata corporation at any time following the registration of a strata plan in respect of the Land, FortisBC Energy will execute and deliver to the Owner or the strata corporation, as the case may be, a release of this Agreement in a form acceptable for registration in the New Westminster Land Title Office insofar as it charges any strata lot in the strata plan, it being the intention of the parties that, following the registration of such strata plan, this Agreement will charge only the common property of the strata plan.

#### **4.0 AGREEMENTS BETWEEN THE OWNER AND FORTISBC ENERGY**

The Owner and FortisBC Energy covenant and agree that:

- (a) The amount of any compensation for Damage caused by FortisBC Energy and payable under paragraph 3 herein shall be mutually agreed upon between the Owner and FortisBC Energy but failing such agreement, shall be settled by arbitration pursuant to the Arbitration Act of British Columbia before a single arbitrator. No compensation shall be payable by FortisBC Energy to the Owner for any Damage for which compensation has already been paid;
- (b) This Agreement shall be construed as running with the Land but no part of the fee of the soil shall pass to FortisBC Energy by this Agreement;
- (c) Subject to subparagraph 4(d) and notwithstanding any rule of law or equity to the contrary, the Works shall remain the property of FortisBC Energy who may remove them in whole or in part;
- (d) If FortisBC Energy abandons the Works, it may, at its option, leave the Works, or any part thereof, and FortisBC Energy shall release the rights granted by this Agreement. Upon the release of the rights granted to FortisBC Energy by this Agreement any abandoned Works shall belong to the Owner;
- (e) The provisions hereof are severable and if any of them should be found to be void or unenforceable at law, the remaining provisions shall not be affected thereby;
- (f) The expressions "Owner" and "FortisBC Energy" shall include, and this Agreement shall enure to the benefit of and be binding upon, the executors, administrators, successors and legal assigns of the Owner and FortisBC Energy;
- (g) Where the expression "Owner" includes more than one person, all of the

covenants granted by the Owner in this Agreement shall be construed as being several as well as joint;

- (h) Nothing contained herein shall diminish or otherwise interfere with rights enjoyed by FortisBC Energy by statute or otherwise;

In witness whereof the parties acknowledge that this Agreement has been duly executed and delivered by the parties executing Forms C and D.

END OF DOCUMENT



## LAND REGISTRY ACT

FORM C  
(Section 127)

## Application for Registration of Charge

G84946

Date September 20th, 1971

I, CAROL A. MARTIN

solemnly declare

that I am [~~or Solicitor for or the duly authorized~~ Agent of] **BRITISH COLUMBIA HYDRO & POWER**

AUTHORITY

and that he is] entitled to a

Charge by way of RIGHT OF WAY

over the land hereunder described, and hereby make application under the provisions of the "Land Registry Act" and claim registration of a charge accordingly.

The full name, address, and occupation of the person so entitled to be registered as owner of the charge is  
**BRITISH COLUMBIA HYDRO & POWER AUTHORITY, 970 Burrard Street,**  
**Vancouver, B.C.**

† Not applicable where the applicant is a corporation. Strike out words not applicable.

~~I am a British subject or~~ ~~I am not a British subject or~~

I am informed by

n/a  
(Adapt to suit circumstances.)

and

† For one where the application is made by a solicitor or agent.

verily believe, that the person so entitled to be registered as owner of the charge is a British subject [or] is not a British subject.†

The fee-simple is registered in Vol. , Fol. , of the Register.

## DESCRIPTION OF LAND

MUNICIPALITY OR ASSESSMENT DISTRICT	LOT OR SECTION	ADMEASUREMENT OR ACREAGE
Municipality of Surrey	Lot 6 of the South West Quarter Section 32, Township 2, Plan 3270 except part shown as road on Explanatory Plan 15081 thereof, NWD and except part subdivided by Plan 39586 <i>ON PLANS 15243 4603 17341</i>	

## LIST OF INSTRUMENTS 282626 LsA 5 500

DATE	PARTIES	CHARACTER OF DEED
Sept 16/71	BRITISH COLUMBIA HYDRO & POWER AUTHORITY and SUR-DEL BUILDERS DEVELOPMENT LTD.	RIGHT OF WAY <i>B226671</i>

And I solemnly declare that I have investigated and ascertained the value of the interest covered by the charge, registration of which is hereby applied for, and that the true value thereof at the date of this application is **nominal** dollars: [in the case of a Solicitor or Agent, add] and I am duly authorized by the owner to make this application [in the case of an Agent, add] and I reside in the Province of British Columbia, and am of the full age of twenty-one years.

And I make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath and by virtue of the "Canada Evidence Act."

DECLARED before me this 20th

day of September

at New Westminster British Columbia.

(Signature)

HOGARTH, OLIVER &amp; HUGHES, Barristers &amp; Solicitors

(Full post-office address) P.O. Box 320, 318-604 Columbia St.,

For signing notices and documents.

New Westminster, B.C.

A Commissioner for taking Affidavits for British Columbia.

\* NOTE.—Insert here the estate less than the fee simple, or encumbrance or equitable interest claimed in, over, or upon the land, e.g., mortgage in fee simple for \$500, estate for life, its pendens (according to circumstances, upon, in, over).

THIS AGREEMENT made as of the 16th day of September, 1971.

WITNESSETH THAT:

G84946

1. SUR-DEL BUILDERS DEVELOPMENT LTD.,  
of 8306 - 120th Street, Surrey, in  
the Province of British Columbia,

(hereinafter called "the Owner")

for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which he hereby acknowledges, hereby grants in perpetuity to British Columbia Hydro and Power Authority, of 970 Burrard Street, in the City of Vancouver, Province of British Columbia (hereinafter called "B.C. Hydro"), the right, liberty and right of way for B.C. Hydro, its servants, agents and all others the licensees of B.C. Hydro:

- (a) (i) To construct, erect, string, operate, maintain, remove and replace towers and poles with anchors, guy wires, brackets, crossarms, insulators, above-ground or underground transformers and their several attachments and one or more lines of wire, and
- (ii) To excavate for, install, operate, maintain, remove and replace (with conduits, cables or pipe of the initial or any other size) one or more underground conduits, whether or not encased by concrete or other protective material, and cables with all necessary attachments and fittings, and one or more underground pipe lines of whatsoever kinds or dimensions with necessary and proper above-ground or underground valves, meters and other appliances and fittings and devices for controlling corrosion, all for use in connection with such pipe line or lines,

for the transmission and distribution of electric energy and gas and for communication and aircraft warning purposes (all of which are hereinafter collectively called "the works") upon and within the portions described in Schedule II hereto (hereinafter called "the right of way") of the land described in Schedule I hereto (hereinafter called "the land");

- (b) (i) To trim or fell all or any trees or growth now or hereafter on the right of way,
- (ii) To clear the right of way and keep it cleared of all or any part of any trees, growth, buildings, or obstructions now or hereafter on the right of way,

which might, in the opinion of B.C. Hydro, interfere with or endanger the construction, erection, stringing, excavation for

MEMORANDUM OF REGISTRATION  
Registered  
on application  
or stamped on the application

SA 164-71

**G84946**

- 2 -

installation, operation, maintenance, removal or replacement of the works or any part thereof;

(c) To make, place, install and maintain marker posts along the boundaries of the right of way; and

(d) Generally to do all acts necessary or incidental to the business of B.C. Hydro in connection with the foregoing.

2. The Owner hereby covenants with B.C. Hydro:

(a) Not to make, place, erect or maintain any building, structure, foundation, pavement, excavation, well, pile of material, obstruction or inflammable substance or to plant any growth except lawn grass, flower or vegetable garden upon the right of way;

(b) Not to make, place, erect or maintain any fences upon the right of way whatsoever;

(c) Not to carry out blasting or aerial logging operations on or adjacent to the right of way unless permission in writing from B.C. Hydro has first been received, which permission shall not be unreasonably withheld;

(d) Not to diminish or substantially add to the ground cover over such of the works as may be from time to time installed, operated or maintained below the surface of the right of way and, in particular, without in any way limiting the generality of the foregoing, not to construct open drains or ditches along or across any underground conduit, cable or pipe line which may at any time be installed on the right of way; and

(e) Not to move construction or other equipment on or across the right of way at any time without the prior written consent of B.C. Hydro; and

(f) Not to do or knowingly permit to be done any act or thing which might, in the opinion of B.C. Hydro:

(i) in any way whatsoever interfere with or injure the works or any part thereof or impair the operating efficiency thereof,

(ii) damage or disturb the marker posts mentioned in paragraph 1(c) hereof.

3. B.C. Hydro hereby covenants with the Owner:

(a) To pay compensation to the Owner for any damage to any buildings, fences, fruit, nut or ornamental trees outside the right of way caused by B.C. Hydro in the exercise of any of its rights hereunder and without negligence on the part of the Owner; and

(b) That it will, as soon as weather and soil conditions permit and insofar as it is practicable to do so, bury and maintain all conduits, cables and pipelines installed hereunder so as not to interfere with the drainage or ordinary cultivation and use of the land.

4. It is mutually agreed between the Owner and B.C. Hydro that:

(a) The amount of any compensation payable under paragraph 3 hereof shall be such as may be mutually agreed upon between



- 3 -

G84946

the Owner and B.C. Hydro and in the event of disagreement as may be settled by arbitration pursuant to the Arbitration Act of British Columbia;

(b) This Agreement shall be construed as running with the land, that no part of the fee of the soil shall pass to or be vested in B.C. Hydro under or by these presents and that the Owner may fully use and enjoy the land subject only to the rights and restrictions herein provided;

(c) The expressions "Owner" and "B.C. Hydro" herein contained shall be deemed to include the executors, administrators, successors and assigns of such parties wherever the context so admits;

(d) Where the expression "Owner" includes more than one person, all covenants herein on the part of the Owner shall be construed as being several as well as joint; and

(e) Wherever the singular and masculine are used in this Agreement they shall be construed as meaning the plural or the feminine or body corporate where the context or the parties hereto so require.

IN WITNESS WHEREOF the Owner has caused these presents to be executed as of the day and year first above written.

The Seal of SUR-DEL BUILDERS  
DEVELOPMENT LTD. was hereun-  
to affixed in the presence  
of:

  
Name:

8306-120th Street  
Address:

Surrey, B. C.

President

Occupation:

- 4 -

G84946

SCHEDULE I  
above referred to

ALL AND SINGULAR those certain parcels or tracts of lands and premises situate, lying and being in the Municipality of Surrey, in the Province of British Columbia, and more particularly known and described as:

Lot Six (6) of the South-west Quarter ( $SW\frac{1}{4}$ ), Section Thirty-two (32), Township Two (2), Plan 3270, except part shown as road on Explanatory Plan 15081 thereof, New Westminster District AND EXCEPT part subdivided by Plan 39586.

*only lot 239 in Plan 40114*

SCHEDULE II  
above referred to

Those portions of the land which are shown outlined in red on Plans 13243, 4603 and 17341, respectively.

**G84946**

Page 6 of

G84946

Do not use space above this line.

For Land Registry use only.

SUBSTITUTE FORM "C" - PARTICULARS

Right of Way \_\_\_\_\_

Signature of Applicant \_\_\_\_\_

Declared Value \_\_\_\_\_

Full Name of Applicant Hajime Maeno

Solicitor/Agent for B.C. Hydro,  
970 Burrard Street,  
Vancouver 1, B. C.,  
Telephone: 683-8711 Local: 2436

Land Department,  
British Columbia Hydro and  
Power Authority,  
970 Burrard Street,  
Vancouver 1, B. C.

RIGHT OF WAY

BRITISH COLUMBIA HYDRO AND POWER  
AUTHORITY

- and -

SUR-DEL BUILDERS DEVELOPMENT  
LTD.

DATED 19 71

AFFIDAVIT OF WITNESS

PROVINCE OF BRITISH COLUMBIA )  
TO WIT )

I, \_\_\_\_\_, of the \_\_\_\_\_,  
in the Province of British Columbia, make oath and say:

1. I was personally present and did see the within instrument duly signed and  
executed by

the part thereto, for the purposes named therein.

2. The said instrument was executed at

3. I know the said part \_\_\_\_\_, and that \_\_\_\_\_ of the full age of  
nineteen years.

4. I am the subscribing witness to the said instrument and am of the full age  
of sixteen years.

Sworn before me at \_\_\_\_\_ )  
in the Province of British Columbia )  
this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ )

A Commissioner for taking Affidavits for  
British Columbia.

A Notary Public in and for the Province  
of British Columbia.