**UTILITY RIGHT OF WAY AGREEMENT**

***[Insert Name of Owner/Developer]***

(the "Grantor") is the registered owner of the following land:

***[Insert Legal Description of Land]***

(the "Land")

In consideration of One Dollar ($1.00) paid to the Grantor, the receipt of which the Grantor hereby acknowledges, the Grantor grants and transfers to the following utilities, their contractors and agents:

• FortisAlberta Inc., 320 – 17th Avenue SW, Calgary, Alberta T2S 2Vl

* ***[Insert names and*** ***addresses of other applicable Utilities]***

(the "Utility" or "Utilities")

a right of way within, on, over and under a portion of the Land (the "Right of Way") for the erection, installation, construction, operation, maintenance, inspection, testing, alteration, reconstruction, repair, removal, replacement and relocation of electric power line, telephone and telecommunications lines and gas line and all related equipment, apparatus and accessories which now or in the future may be necessary (the "Works"), upon the following terms and conditions:

**1.**  **DESCRIPTION OF RIGHT OF WAY**

The boundaries of the Right of Way will be limited to that portion of the Land described in Right of Way Plan No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ registered in the Land Titles Office (Alberta) containing hectares more or Less.

**2.** **RECONSTRUCTION, RELOCATION, REPLACEMENT**

Under this Agreement the Utilities are entitled to erect within, on, over or under the Right of Way such Works as each may deem necessary for the purpose of reconstructing, relocating or replacing the Works or any part thereof provided that the Utilities will, as soon as practicable under the circumstances, remove all such Works once they are no longer required. The Utilities will restore all parts of the Right of Way affected by the removal of such Works to the same condition it was prior to the Utilities entering onto and using the Right of Way, to the extent that

restoration is reasonably practicable. The replacement of trees, shrubs and landscaping, other than grass, shall be deemed to be impracticable.

**3.** **ACCESS**

The Utilities, and their contractors and agents will have a full, free and uninterrupted right to go on and cross any part of the Land for the purpose of gaining access to and exiting the Right of Way and will be entitled to use and occupy the Right of Way for all purposes incidental to the rights granted by this Agreement.

**4.** **DAMAGE AND INTERFERENCE**

The Utilities will exercise their rights under this Agreement reasonably, and in a proper and workmanlike manner so as to:

(a) minimize any damage to the Land; and

(b) minimize its interference with the Grantor's use of the Land.

**5.** **GRANTOR'S USE OF THE RIGHT OF WAY**

The Grantor will have free use of the Right of Way provided such use does not:

(a) interfere with the Utilities' Works located in, on, over or under the Right of Way; and

(b) interfere with the Utilities in their exercise of any of the rights granted to it by this

Agreement.

The Grantor covenants that it will not erect, build or maintain any buildings, structures, materials, equipment, vehicles, agricultural products or other obstructions, including any trees, shrubs or landscaping in, on, over or under the Right of Way without the Utilities' prior written consent, which consent may be arbitrarily withheld. If the Grantor erects, builds or maintains anything in, on, over or under the Rights of Way or makes any improvements to the Right of Way, including the planting of and trees, scrubs or and other hard or soft landscaping, either with or without the Utilities' prior written consent, the Grantor does so at the Grantor's own risk and the Utilities will not be liable for any damage to such thing if such damage results from the exercise by the Utilities of their rights under this Agreement.

**6.** **HAZARDS**

The Utilities will have the right to enter upon the Land, including the Right of Way, to cut or remove trees and other vegetation, pump and divert water and dismantle and remove any other obstruction in, on, over or under the Right of Way and the Land that in the sole opinion of the Utilities is causing or may cause a hazard, damage or interference to the Works.

7. INDEMNITY

The Utilities will, subject to the laws in force in Alberta, indemnify and hold harmless the Grantor from all cost, expense, loss or damage arising from actions and claims that may be lawfully brought against the Grantor by a third party which arise from the negligence or wilful misconduct of the Utilities in the exercise of the rights granted by this Agreement.

**8.** **RESERVATION OF TITLE TO THE WORKS**

The Grantor acknowledges that notwithstanding any rule of law or equity to the contrary, all Works placed on or under the Land are deemed to be chattels and not fixtures and will remain the property of the Utilities even though attached to the Land.

**9.** **DURATION OF GRANT OF RIGHT OF WAY AND REMOVAL OF WORKS**

The grant and transfer of a right of way under this Agreement will commence on the effective date of this Agreement and will continue until the Utilities indicate in writing to the Grantor that the Utilities no longer desire to use the rights granted. For greater certainty, removal of the Works or any part of the Works by the Utilities for any period of time shall not terminate this Agreement. Upon termination of this Agreement the Utilities will remove the Works and restore the Right of Way to the same condition, to the extent the restoration is reasonably practical, as it was prior to the Utilities entering onto and using the Right of Way and after that the Utilities will discharge any instrument registered against title to the Land in respect of its rights under this Agreement.

**10.** **NOTICES**

Notices to be given will be in writing and will be personally served, delivered or sent by registered mail to the addresses of the Utilities listed in this Agreement or at any other address that a Utility may from time to time direct in writing.

A Utility may provide notice to the Grantor at the address indicated in the certificate of title for the Land. A notice will be deemed to be given and received by the addressee upon personal service or delivery or, if served by registered mail, seven days after mailing postage prepaid. In the event of a postal interruption all notices will be personally served or delivered.

**11.** **COVENANT**

This Agreement is and will be of the same force and effect to all intents and purposes as a covenant running with the Land.

**12.** **ENUREMENT**

This Agreement will be binding upon and enure to the benefit of the parties, their heirs, executors, administrators, attorneys, trustees, successors, franchisees, licensees and assigns, as the case may be.

**13.** **ASSIGNMENTS AND LICENSES**

The Utilities will have the right from time to time to grant in their sole discretion, franchises, licenses or assignments of their rights under this Agreement, in whole or in part, without notice to the Grantor and without further compensation becoming payable to the Grantor under this Agreement.

**14.** **REGISTRATION OF INTEREST**

This Agreement or a caveat in respect of this Agreement can be registered against title to the

Land.

**15.** **GOVERNING LAW**

This Agreement shall be governed by, subject to and interpreted in accordance with the laws of the Province of Alberta and the Federal Laws of Canada applicable therein.

**16. EFFECTIVE DATE**

This Agreement is effective only if signed by the Grantor and two powers of attorney authorized by FortisAlberta to sign this Agreement and register this Agreement with the Land Titles Office.

The Grantor has signed this Agreement on , 20\_ and once signed by FortisAlberta will be effective as of that date.

|  |  |  |
| --- | --- | --- |
| \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Witness  On behalf of FortisAlberta Inc., by virtue of a Power of Attorney of record in the Land Titles Office, enabling them in that behalf, in the presence of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Witness | ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ]  ] | **GRANTOR:**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  **FORTISALBERTA INC.**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

|  |  |
| --- | --- |
|  |  |
| On behalf of [Insert Name of Utility], by virtue of a Power of Attorney of record in the Land Titles Office, enabling them in that behalf, in the presence of:  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Witness  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Witness | [Insert Name of Utility]  Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Per: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  |  |

**DOWER**

**CONSENT OF SPOUSE**

I, being married to the

within named

do hereby give my consent to the

disposition of our homestead, made in the within instrument, and I have executed this document for the purpose of giving up my life estate and other dower rights in the said property given to me by the Dower Act, to the extent necessary to give effect to the said disposition.

Witness

**CERTIFICATE OF ACKNOWLEDGEMENT BY SPOUSE**

1. This document was acknowledged before me by apart from her husband/his wife.

2. acknowledged to me that she/he:

(a) Is aware of the nature of the agreement.

(b) Is aware that the Dower Act gives her/him a life estate in the homestead and the right to prevent disposition of the homestead by withholding consent.

(c) Consents to the agreement for the purpose of giving up the life estate and other dower rights in the homestead given to her/him by the Dower Act to the extent necessary to give effect to the said agreement.

-7-

(d) Is executing the document freely and voluntarily without any compulsion on the part of her husband/his wife.

DATED at the  of in the Province of Alberta this

day of 20 .

A Commissioner for Oaths or Notary Public Name

Appointment Expires:

**DOWER AFFIDAVIT**

I, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of in the

Province of Alberta make oath and say:

(Occupation)

I. THAT I am the Grantor named in the within instrument.

2. THAT I am not married.

OR

2. THAT neither myself nor my spouse has resided on the within mentioned land at any time since our marriage.

OR

2. THAT I am married to being the person who executed the

Release of Dower Rights registered in the Land Titles Office on

20 as Instrument number

.

SWORN BEFORE ME at the

of \_

in the Province of Alberta, this \_

day

A Commissioner for Oaths in and for Alberta

Appointment Expires:

**AFFIDAVIT OF EXECUTION**

I, of in the

Province of Alberta MAKE OATH AND SAY:

(Occupation)

1. I was personally present and did see\_\_\_\_\_\_\_\_\_\_\_\_\_\_who is/are known to me to be the person(s) named in the within (or annexed) instrument, duly sign the instrument;

or

I was personally present and did see ,

who on the basis of the identification provided to me, I Believe to be the person(s) named in the within (or annexed) instrument, duly sign the instrument;

2. The instrument was signed at the of

in the Province of Alberta and I am the subscribing witness thereto;

3. I believe the person whose signature I witnessed is at least eighteen (18) years of age.

**SWORN BEFORE ME** at the

in the Province of Alberta, this \_

day 20

A Commissioner for Oaths in and for Alberta

Appointment Expires:

**LAND TITLES ACT**

**AFFIDAVIT OF ATTESTATION OF AN INSTRUMENT**

I,

Province of Alberta, MAKE OATH AND SAY:

of m the

1. I was personally present and did see and duly sign and execute the within instrument on behalf of FortisAlberta Inc., the Grantee, for the purposes named therein both of whom are known to me to be duly authorized to execute the same as aforesaid.

2. The same was executed in the vicinity of , in the Province of Alberta, and that l am subscribing witness thereto.

SWORN BEFORE ME at the

of

in the Province of Alberta, this

day 20

A Commissioner for Oaths in and for Alberta

Appointment Expires:

**FORTISALBERTA INC.**

**ELECTRIC DISTRIBUTION LINES**

**UTILITY RIGHT OF WAY AGREEMENT**

**MULTI-UTILITY RIGHT OF WAY AGREEMENT**

v. 2019