



Suite 1600 Cathedral Place
925 West Georgia Street
Vancouver, BC
Canada V6C 3L2
T: 604.685.3456

May 14, 2021

E-FILED

British Columbia Utilities Commission
Suite 410, 900 Howe Street
Vancouver, BC V6Z 2N3

Attention: Mr. Patrick Wruck
Commission Secretary

Dear Sir:

Re: City of Richmond
Application to the BCUC for an Order pursuant to Section 36 of the UCA

On behalf of the City of Richmond (the City) and in accordance with the regulatory timetable established by Order G-121-21, we enclose the City's Reply to FEI's Submission of May 7, 2021.

Yours truly,

LAWSON LUNDELL LLP

Ian Webb

Enc.

cc. Anthony Capuccinello Iraci, City Solicitor, City of Richmond
FEI Regulatory Affairs Department

Ian Webb
D: 604.631.9117
F: 604.694.2932
iwebb@lawsonlundell.com

CITY OF RICHMOND
APPLICATION FOR AN ORDER PURSUANT TO SECTION 36 OF
THE UTILITIES COMMISSION ACT

THE CITY'S RESPONSE TO FORTISBC ENERGY SUBMISSION

MAY 14, 2021

As it may assist the Commission, this response is organized using the same structure as the submission of FortisBC Energy Inc. (FEI) dated May 7, 2021 (the **FEI Submission**).

The question of whether section 32 or 36 of the *Utilities Commission Act* applies to the Application is an academic one in that both parties agree that the BCUC has jurisdiction over the matters raised by the Application and the relief sought. The City nevertheless in the final part of this submission outlines the reasoning for referencing section 36 in the Application.

1. Background

The City has no comments on FEI's description of its gas lines in Richmond.

With respect to FEI's description of the 1955 CPCN, FEI is a separate legal entity from British Columbia Electric Company Ltd. The 1955 CPCN is made applicable to FEI pursuant to Order-in-Council 1849 approved and ordered September 30, 1988 (a copy of which is attached as **Appendix "A"**).

The City is not aware of other CPCNs the BCUC may have issued to FEI for system extensions in Richmond or in the Burkeville area specifically.

1.a. FEI and the City have No Operating Agreement

The City confirmed in the Application that there is no operating agreement between the City and FEI – there is no existing agreement addressing generally the terms of FEI's use of the City's highways for FEI's gas distribution infrastructure and/or the terms that apply in the event the City requires FEI to offset its infrastructure to accommodate a City project.

1.b. The Process for Addressing Municipal Requests in Richmond

The City notes that FEI's description in this section of its Submission overstates the extent to which the process described is standard or followed.

The City has reviewed its records, and confirms that FEI typically undertakes gas line offset projects requested by the City on the basis of a purchase order (**PO**) or PO number, as stated by FEI. However, contrary to statements in FEI's Submission, in several cases FEI undertook and completed its offset work on the basis of a PO only and without signed terms and conditions (refer to **Appendix "B"** of this response). As documented in Appendix B, the City has identified ten projects over the last ten years that required the City to request FEI to relocate its gas lines (some of these involved multiple gas line offsets). Of the ten,

- City staff signed FEI's terms and conditions six times,
- FEI completed its projects on the basis of a PO and without signed terms and conditions two times, and
- the City has not found a PO or terms and conditions for two of the projects FEI completed.

The City submits also that the historical inconsistency of process for addressing requests to relocate FEI gas lines in Richmond, and the fact that FEI sometimes undertakes requested offset projects on the basis of a PO only, supports the City's position that additional terms are not required.

2. The City's Burkeville Projects and FEI's Offset Project

As discussed in the section above, FEI's statement in this section of its Submission that "FEI actually went further than it typically does to advance the FEI Offset Project before having a signed Quote Letter and purchase order" is not accurate or at least might overstate the extent to which there is a typical process. The City's records (as reproduced in **Appendix "B"** of this response) indicate that FEI sometimes undertakes and completes offset projects requested by the City on the basis of a PO only and without terms and conditions.

2.a. Timeline

The City confirms that the revised time provided by FEI in Appendix “A” of the FEI Submission is accurate, with one exception. As submitted at the procedural conference, the chronology should also include that on April 1, 2021 the City notified FEI in writing that the City does not agree to the terms FEI had proposed for the offset project work, nor does the City agree to any revisions of those terms discussed with FEI representatives previously.

FEI has confirmed and reported in its revised Appendix “A” chronology the calls the City’s lawyer made to FEI’s lawyer on March 16, 17 and 18 of 2021, also as discussed at the procedural conference.

The City submits that the historical timeline is not relevant to the Application because it does not provide a basis one way or other for the Commission to, by order, specify particular terms.

2.b. FEI is Ready to Proceed Once Legal Terms are Addressed

The City appreciates FEI’s efforts to schedule the work for completion by June 14, 2021.

As discussed in the sections above, FEI’s statement in this section of its Submission that “This is a departure from FEI’s standard process...” is not accurate or at least might overstate the extent to which there is a standard process. The City’s records (as reproduced in **Appendix “B”** of this response) indicate that FEI sometimes undertakes and completes offset projects with a PO from the City and without terms and conditions.

3. The Relocation Work Terms

As stated at the procedural conference and above, the City has notified FEI in writing that the City does not agree to the terms FEI had proposed for the offset project work, nor does the City agree to any revisions of those terms discussed with FEI representatives previously.

The discussions between the parties in relation to terms prior to the filing of the Application have been expressly disclaimed by the City. Previous discussions of terms are not relevant to the Application because they do not provide a basis one way or other for the Commission to, by order, specify particular terms.

3.a. Terms sent to City on April 27, 2021

The City confirms that FEI did on April 27, 2021 proposed revised terms to the City, and the City's response was as provided by FEI in Appendix "C" of the FEI Submission. The City's response is reproduced below:

"The City has reviewed FEI's revised document. On behalf of the City, we confirm that the City does not agree to the revised terms FEI has proposed for the offset project work.

As discussed by both parties at the procedural conference, for these three offset projects in Burkeville the parties are in agreement that FEI will undertake to offset its gas lines at the three locations, design drawings for the offset project work have been prepared by FEI and approved by the City's Engineering Department, the City has agreed to pay FEI's costs of its projects so long as the costs are reasonable and the work is completed by the end of June, and FEI has committed to completing the work by mid-June. As stated at the procedural conference, the City reiterates that its agreement to pay FEI's reasonable costs should not be construed as the City's agreement that as a matter of law it is responsible for such costs.

We understand that FEI is looking at revising its standard terms for general application, however, we think that this proceeding and these three projects should not be burdened by that effort, nor should this proceeding be unnecessarily expanded to invite opposing positions on terms FEI intends to use for general application.

The City is of the view that for these three projects (with the above matters already agreed to and given that FEI install its infrastructure within City owned highway without an operating agreement in place), no additional terms beyond what is in the draft order included with the application are required or appropriate under these circumstances."

3.b. FEI's Proposed Terms are Reasonable [Please note that this is FEI's title, not ours]

As stated in the City's response, reproduced above, to FEI's revised terms, for these three offset projects in Burkeville the parties are in agreement that FEI will undertake to offset its gas lines at the three locations, design drawings for the offset project work have been prepared by FEI and

the locations have been approved by the City's Engineering Department, the City has agreed to pay FEI's costs of its projects so long as the costs are reasonable and the work is completed by the end of June, and FEI indicated it will or at least is able to complete the work by June 14, 2021.

FEI takes the position in section 2.b. of its Submission that it is ready to proceed with the requested offset projects at the three locations "once the legal terms governing the alteration work have been settled". We understand this to mean that FEI will not proceed with the offset projects voluntarily unless the City agrees to FEI's terms, necessitating the BCUC to issue an order requiring FEI to undertake the three projects and complete them by June 30, 2021.

With respect to terms, in the circumstances of the matters already agreed to and a BCUC order requiring FEI to undertake and complete the project and directing the payment of reasonable costs, the City maintains that no additional terms beyond those in the draft order included with the Application are required or appropriate.

FEI argues that its additional terms are "commercially reasonable". The City submits that the question is, rather, whether additional terms are necessary beyond those in the draft order included with the Application. Commercial reasonableness is not at issue – the Application is for a BCUC order, and this is not a negotiation. Moreover, it is not commercially reasonable to expect the City to indemnify FEI for damages that might be caused by FEI's work on FEI's own equipment. The offset projects do not require FEI to do any work on City infrastructure, nor the City to do any work on FEI's equipment; FEI will be doing work on its own infrastructure only.

The City also submits that the BCUC does not have jurisdiction to impose liability and indemnity obligations on the City as owner of the highway where the FEI works are located and where the FEI offset works will be placed, and that it would be unreasonable and not in the public interest to do so. The Application requests the BCUC to make an order directing FEI to complete the offset projects. The BCUC's power is to, by order, specify the terms on which FEI may use the City's highway; it is not to impose liability and indemnity obligations on the City.

Pursuant to s.35 of the *Community Charter*, the soil and freehold of the subject highway is vested in the City. The City also enjoys statutory immunities from liability under the *Local Government*

Act (ex. s.744) and policy and other defences available to municipalities at common law, as well as a limited duty of care in respect of highways under the *Occupiers Liability Act* (s.8(2)). It is not open to the BCUC to disregard the intent of the Legislature and impose liability and indemnity obligations on the City as owner of the highway that would have the effect of eliminating or lessening these immunities, defences and protections, nor would it be reasonable or in the public interest to do so. Moreover, the acquisition and maintenance costs of municipal highways are fully borne by the City, not FEI, and FEI does not currently pay the City an operating fee for its occupation and use of Richmond highways.

FEI also confirms in its Submission that some clauses in its proposal likely will never end up being used due to the circumstances of these offset projects (as outlined above).

The City provides in **Appendix “C”** a copy of an order of the B.C. Oil and Gas Commission (**OGC**) and a copy of an order of the National Energy Board (**NEB**) authorising the City of Surrey or its contractor to undertake work in proximity to a FEI high-pressure pipeline and the Trans Mountain oil pipeline, respectively. Although the circumstances of those orders are different from the present circumstances, the simplicity of the OGC and NEB orders is notable – there are no “commercial” terms at all, only those terms necessary to get the work done on a timely basis and safely.

FEI’s requested terms are not necessary. Rather, they are terms that FEI would like to have but does not need to have to undertake and complete its offset projects safely and efficiently.

4. Requested Order

The City’s requested order includes those terms that are necessary to complete the work:

- requires FEI to undertake specified offset projects (as designed by FEI and to be placed in the locations approved by the City’s Engineering Department),
- requires FEI to complete the projects by a date certain (June 30, 2021), and
- requires the City to pay to FEI the reasonable costs incurred by FEI to undertake and complete the projects.

Nothing else is required for the offset projects to be completed on a timely basis and safely and efficiently.

The City's requested order also includes ancillary relief – award of reasonable costs incurred by the City in relation to the Application, and direction as to a process for determination of reasonable costs, if necessary. The City believes that a costs award is appropriate because FEI continues to take the position that, while it is ready to proceed with the three offset projects, it will not do so until the legal terms governing the alteration work have been settled. FEI proposes unnecessary terms and an inappropriate requirement for the City to indemnify FEI for any damage resulting from FEI's work on its own equipment, and will not proceed with its projects until those terms are agreed or determined by the BCUC, necessitating the Application and the BCUC to issue an order. The BCUC has the power to award costs¹ and these are appropriate circumstances for the BCUC to do so.

FEI argues that if the BCUC was to make a costs award, the “facts would tend to support a costs award against the City, not FEI” on the basis of FEI's view that the City did not diligently pursue this matter with FEI. The City submits that FEI's argument misses the point. As discussed above, the Application was required and an order of the BCUC continues to be required because FEI will not proceed with its offset projects until the “legal terms... are settled” and FEI will not move off of unnecessary terms and an indemnity requirement.

¹ Section 118(1) of the *Utilities Commission Act* provides that “The commission may order a participant in a proceeding before the commission to pay all or part of the costs of another participant in the proceeding.”

COMMISSION JURISDICTION

The parties agree that the Commission has jurisdiction over the matter raised by the Application and the relief sought, and therefore further consideration of the Commission's jurisdiction is academic. The City nevertheless outlines below the reasoning for referencing section 36 of the *Utilities Commission Act* (the "Act") in the Application.

FEI is a gas utility company. FEI owns and operates a natural gas distribution system in the City's streets in the Burkeville area to provide gas service to FEI customers there. The FEI piping system in the area conveys gas at less than 700 kPa pressure, and therefore matters relating to offset of this piping are under the jurisdiction of the BCUC and not the Oil and Gas Commission.²

Sections 32 to 36 of the Act give the BCUC certain powers in relation to various scenarios involving FEI distribution and intermediate pressure piping in or on municipal property and public places or proposed to be.

Sections 33, 34 and 35 deal with scenarios involving a proposed extension of utility system from a place where the system exists to another place where it does not. Those sections are not applicable to the matters in the Application, leaving consideration of sections 32 and 36.

Section 32 of the Act provides as follows:

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 Pursuant to the *Oil and Gas Activities Act* the Oil and Gas Commission has jurisdiction over construction and operation of pipelines and relocation of pipelines used to convey natural gas, unless the piping conveys gas at less than 700 kPa to consumers by a gas utility as defined in the *Gas Utility Act*. The piping that is the subject matter of this Application falls within the prescribed exception and is therefore not under the jurisdiction of the Oil and Gas Commission.

- (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.

Subsection 32(2) contemplates a Commission order to “allow the use of the street or other place” and “specify the manner and terms of use”. The Application raises matters related to relocating FEI distribution gas lines that are in the road presently and operating, and so there is no need for an order to allow FEI to use the road, and section 32 is therefore not a perfect fit.

Section 36 of the Act provides as follows:

Subject to any agreement between a public utility and a municipality and to the franchise or rights of the public utility, and after any hearing the commission considers advisable, the commission may, by order, specify the terms on which the public utility may use for any purpose of its service

- (a) a highway in the municipality, or
- (b) a public bridge, viaduct or subway constructed or to be constructed by the municipality alone or jointly with another municipality, corporation or government.

There is no applicable operating agreement between the City and FEI nor are there any project-specific agreements or a franchise, therefore the limitation of the first clause in section 36 does not apply. Section 36 can then be distilled to the following fundamental words:

the commission may, by order, specify the terms on which FEI may use for any purpose of its service a highway in the municipality

The roads in question are “highway”. The term “highway” is not defined in the Act; it is defined in the *Community Charter* – “highway” includes a street, road, lane, bridge, viaduct and any other way open to public use, other than a private right of way on private property.

FEI is using the highway to supply its service, and the BCUC’s power under section 36 is to, by order, specify the terms on which FEI may use the highway for such purpose. Unlike section 32, section 36 does not specifically contemplate an order to allow FEI to use the highway. The

BCUC can, by order, specify terms requiring FEI to relocate its piping to accommodate the City's storm sewer main and manhole, as requested in the Application.

Appendix “A”

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

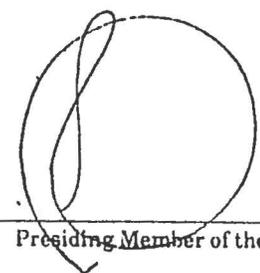
Order in Council No. 1814 , Approved and Ordered SEP. 30. 1988


Lieutenant Governor

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the Lieutenant Governor, by and with the advice and consent of the Executive Council, orders that the form and contents set out in the attached Schedule are specified as the form and contents of the certificate of public convenience and necessity that 74280 B C Ltd , a gas distribution intermediary, is, by section 14 of the *Hydro and Power Authority Privatization Act* deemed to have received.

Minister of Energy, Mines and Petroleum
Resources


Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Hydro and Power Authority Privatization Act, section 14

Other (specify):-

September 30, 1988

/88/11/mb

A.2

BX

SCHEDULE

PROVINCE OF BRITISH COLUMBIA

IN THE MATTER OF THE *HYDRO AND POWER AUTHORITY
PRIVATIZATION ACT* AND THE *UTILITIES COMMISSION ACT*

AND

IN THE MATTER OF 74280 B.C. LTD.

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

1. The Lieutenant Governor in Council hereby certifies that public convenience and necessity requires the operation, and construction and operation of extensions thereof by 74280 B.C. Ltd. of the gas system (together with feeder lines from the main transmission lines of Westcoast Energy Co. Ltd. for that system and the liquid natural gas storage facilities) in a service area comprising

- (a) the areas of land in
 - (i) Central Fraser Valley Regional District,
 - (ii) Dewdney-Alouette Regional District,
 - (iii) Greater Vancouver Regional District, and
 - (iv) Regional District of Fraser-Cheam other than the part of it in Electoral Area A, and
- (b) any additional area of land that form part of the service areas described in the Certificates of Public Convenience and Necessity that are identified below by date and person to whom issued:

<u>Date</u>	<u>Issued to</u>
(i) July 29, 1955 (as amended May 15, 1957, September 9, 1958 and May 13, 1959)	British Columbia Electric Company, Limited ("B.C. Electric"),
(ii) December 13, 1955	B.C. Electric,
(iii) February 20, 1957	B.C. Electric,
(iv) May 27, 1957	B.C. Electric,
(v) February 11, 1958 (as amended April 29, 1959)	B.C. Electric, and
(vi) January 13, 1959	B.C. Electric.

Appendix “B”

Purchase Order



**City of
Richmond**

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033446
FORTISBC - NATURAL GAS
PO Box 6666 Station Terminal
Vancouver BC V6B 6M9
Canada

Tax Exempt? N **Tax Exempt ID:**

Dispatch via E-Mail

Purchase Order CITY-000098238	Date 09/03/2020	Revision	Page 1
Payment Terms ASAP	Freight Terms Destination	Ship Via Common Carrier	
Buyer Richmond Purchasing	Phone 604/276-4000	Currency CAD	

Ship To:
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada
Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Attention: Huang, Leo
LHuang1@richmond.ca

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	Gas Service Alteration for 8971 Heather St	1.00	EA	3,500.00	3,500.00	09/03/2020	G
	GSTCDN (5.00%)				175.00		
	Total PO Amount				3,675.00		

Unless overridden by the City of Richmond ("the City"), the applicable General Terms and Conditions of Contract on the City's website apply to this Purchase Order. It is the sole responsibility of the Supplier to review this information. To view the General Terms and Conditions of Contract, please refer to <http://www.richmond.ca/busdev/tenders.htm>. All shipments, shipping, papers, invoices, and correspondence must be identified with the City's Purchase Order Number.



16705 Fraser Highway
Surrey, B.C.
V4N 0E8
Bus: 604-576-7000
Toll Free: 1-800-773-7001

September 2, 2020

City of Richmond
6911 No. 3 Road
Richmond, BC
V6Y 2C1

Attention: Leo Huang

FortisBC Job Reference: 2800504089
Start date: 4 weeks after P.O. received
Validity of the Quote: This quote is valid for 90 days

PO# 98238

Scope of work:

Gas service alteration for SFD 8971 Heather St, Rmd, relight appliances included.

Assumptions:

1. There is no underground water at the construction location.
2. There is no contaminated soil at the construction location.
3. FortisBC will not be responsible for repaving the road top pavement after alteration constructions.
(Only back filled)
4. FortisBC to sawcut and open our own bellholes for the alteration construction for the above location.
(If they have not been opened).
5. City of Richmond to have surveyor on site to confirm required depth of altered gas service to ensure there is no conflict with proposed utilities.

Estimated Cost: \$3,500 (excluding taxes)

The Customer agrees to the terms and conditions set out in this letter agreement ("Letter Agreement") and in FortisBC Energy Inc.'s ("FortisBC") standard terms and conditions set out in Schedule A attached, which terms and conditions form part of this Letter Agreement, to carry out above job reference # **2800504089**.

The Customer must sign and return this Letter Agreement to FortisBC via mail or email. The Customer must provide FortisBC with the full amount of the estimate as prepayment prior to the start of work. FortisBC will not schedule the work until it has received the signed Letter Agreement and the full

amount of the prepayment. Scheduling of work will remain the responsibility of FortisBC taking into consideration the Development Project schedule.

Important: This is a cost estimate. You will be billed on the basis of actual costs incurred. Please indicate your acceptance of these costs by signing and returning this letter agreement via mail or email.

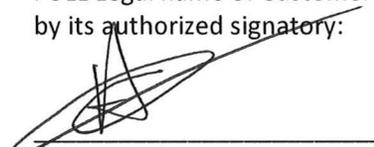
Planning and Design Technologist: Bobby Ho
Phone: 778-879-2035
Email: bobby.ho@fortisbc.com

Yours Sincerely,

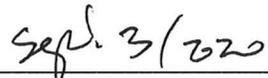
FortisBC Energy Inc.

THE ABOVE TERMS AND CONDITIONS ARE HEREBY AGREED TO:

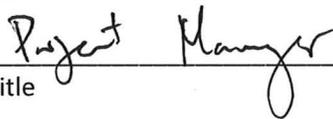
FULL Legal name of Customer
by its authorized signatory:



Signature



Date



Title

Purchase Order



**City of
Richmond**

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033559
FORTISBC ENERGY INC
16705 Fraser Highway
Surrey BC V4N 0E8
Canada

Tax Exempt? N **Tax Exempt ID:**

CHANGE ORDER

Dispatch via E-Mail

Purchase Order CITY-0000094927	Date 09/16/2019	Revision 1 - 10/07/2020	Page 1
Payment Terms Net 30	Freight Terms Destination	Ship Via Common Carrier	
Buyer Richmond Purchasing	Phone 604/276-4000	Currency CAD	

Ship To:
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada
Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Attention: Huang,Jason

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	Fortis BC - Alteration of gas service line	1.00	EA	9,800.29	9,800.29	09/16/2019	PG
	PST (7.00%)				686.02		
	GSTCDN (5.00%)				490.01		
	Total PO Amount				10,976.32		

Unless overridden by the City of Richmond ("the City"), the applicable General Terms and Conditions of Contract on the City's website apply to this Purchase Order. It is the sole responsibility of the Supplier to review this information. To view the General Terms and Conditions of Contract, please refer to <http://www.richmond.ca/busdev/tenders.htm>. All shipments, shipping, papers, invoices, and correspondence must be identified with the City's Purchase Order Number.



16705 Fraser Highway
Surrey, B.C.
V4N 0E8
Bus: 604-576-7000
Toll Free: 1-800-773-7001

September 4, 2019

City of Richmond
6911 No. 3 Road
Richmond, BC
V6Y 2C1

Attention: Manraj Gill

RE: 2800468850 - 26 ST DP gas service alteration - Wellington Cre & L.W. S of Douglas Cre, Rmd

FortisBC Job Reference: 2800468850
Start date: 4 weeks after City of Richmond approved gas main alteration drawing.
Validity of the Quote: This quote is valid for 90 days

Scope of work:

Alteration of gas service line @ Wildlife 3153 Templeton St, Richmond to accommodate the proposed new utilities install around the Burkeville area, Richmond.

Assumptions:

1. There is no underground water at the construction location.
2. There is no contaminated soil at the construction location.
3. FortisBC will not be responsible for repaving the road top pavement after alteration constructions.
(Only back filled)
4. FortisBC to sawcut and open our own bellholes for the alteration construction for the above 2 locations (If they have not been opened).
5. City of Richmond to have surveyor on site to confirm required depth of altered gas main & services to ensure there is no conflict with proposed utilities.

Estimated Cost: \$6,900 (excluding taxes)

The Customer agrees to the terms and conditions set out in this letter agreement ("Letter Agreement") and in FortisBC Energy Inc.'s ("FortisBC") standard terms and conditions set out in Schedule A attached, which terms and conditions form part of this Letter Agreement, to carry out above job reference # **2800468850**.

The Customer must sign and return this Letter Agreement to FortisBC via mail or email. The Customer must provide FortisBC with the full amount of the estimate as prepayment prior to the start of work. FortisBC will not schedule the work until it has received the signed Letter Agreement and the full amount of the prepayment. Scheduling of work will remain the responsibility of FortisBC taking into consideration the Development Project schedule.

Important: This is a cost estimate. You will be billed on the basis of actual costs incurred. Please indicate your acceptance of these costs by signing and returning this letter agreement via mail or email.

Planning and Design Technologist: Bobby Ho
Phone: 778-879-2035
Email: bobby.ho@fortisbc.com

Yours Sincerely,

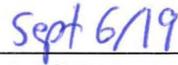
FortisBC Energy Inc.

THE ABOVE TERMS AND CONDITIONS ARE HEREBY AGREED TO:

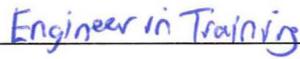
FULL Legal name of Customer
by its authorized signatory:



Signature



Date



Title

SCHEDULE A
Terms and Conditions of Order - Construction

1. General

- 1.1. FortisBC Energy Inc. ("FortisBC") has provided the Customer with an estimate of the cost (the "Estimate") to do certain work (the "Work") at Burkeville area (the "Site") for the Customer the details of which are attached to the Letter Agreement and in any addenda issued by FortisBC and these Terms and Conditions. The Customer acknowledges and agrees that the Estimate is an estimate only, and that the Customer shall be liable for payment for the Work in excess of the Estimate amount.
- 1.2. Letter Agreement, together with any addenda issued by FortisBC and these Terms and Conditions are collectively referred to as the "Letter Agreement".

2. Access

- 2.1. In the event the Customer is the owner of the Site and the land in the proximity of the Site (the "Lands"), the Customer shall provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.2. In the event the Customer is not the owner of the Site and/or the Lands or any portion thereof, the Customer shall obtain all necessary permissions and approvals from the owner(s) to provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.3. FortisBC shall remove its vehicles, equipment and materials from the Lands upon completion of the Work, and leave the Site and the Lands in a neat and tidy condition and good state of repair considering the nature of the Work completed hereunder.

3. Commencement of the Work

FortisBC shall commence the Work as soon as reasonably practicable having regard to the availability of FortisBC personnel, equipment and materials, provided however, that FortisBC will not commence the Work until (i) the Customer has delivered a certified cheque and/or bank draft in the amount of the Estimate to FortisBC as required pursuant to Clause 7; (ii) the Customer has provided confirmation that all permissions and approvals described in Clause 2 have been obtained; and (iii) FortisBC and the Customer have obtained all permits and approvals described in Clause 9. FortisBC does not covenant to prosecute the Work diligently or by any scheduled dates, whether or not such scheduled dates for commencement or completion of the Work have been specified by the Customer or by FortisBC.

SCHEDULE A
Terms and Conditions of Order - Construction

4. Change Orders and Extra Work

FortisBC may at any time make written requests for changes to the Work, and these changes shall become part of the Letter Agreement upon being mutually agreed upon, and include a mutually acceptable increase or decrease in the Estimate.

The Customer may request that FortisBC perform additional work ("Extra Work") which is not within the Scope of Work as set out in the Letter Agreement. The details of the Extra Work shall be discussed, mutually agreed upon and paid at a mutually agreed upon rate prior to commencing the Extra Work.

5. Delay

If there is any delay in the Work caused or attributable to the Customer then FortisBC may, without cost, suspend part or all of the Work under this Letter Agreement until the Work can again be performed efficiently, effectively and without delay.

6. Force Majeure

6.1. "Force Majeure" means any one or more of the following events:

- (a) war or hostilities;
- (b) riot or civil commotion;
- (c) earthquake, major flood not foreseeable in the area of the Site, forest fire or suspensions of work ordered by the Ministry of Forests, or other natural physical disaster preventing the performance of the Work;
- (d) governmental regulations or controls;
- (e) inability to obtain any material or services;
- (f) strike or lock-out or other industrial action; and
- (g) government embargo,

provided, however, that any such event is a major disabling event or circumstance in relation to the normal operations of the party concerned as a whole which is beyond the reasonable control of the party directly affected and results in a material delay, interruption or failure by such party in carrying out its duties, covenants or obligations under the Letter Agreement. Lack of money, financing or credit to resolve such contingencies will not be deemed an event of Force Majeure.

6.2. Lack of funds or other financial cause specific to the Customer shall not be construed as Force Majeure. If either party to the Letter Agreement is

SCHEDULE A
Terms and Conditions of Order - Construction

prevented from, or delayed in, performing any of its obligations under the Letter Agreement by Force Majeure, then it shall within two (2) days of the commencement of such circumstances notify the other party of the circumstances constituting the Force Majeure and of the obligation and performance of which is thereby delayed or prevented, and the party giving the notice shall thereupon be excused the performance or punctual performance, as the case may be, of such obligation for so long as the circumstances of prevention or delay continue. The provision of written notice by the Customer as aforesaid is a condition precedent to any claim for extra time or for delay in completion as a result of the Force Majeure.

- 6.3. Without limiting any other rights of FortisBC under any other provision of the Letter Agreement, if the suspension of Work exceeds a period of either fourteen (14) consecutive days or thirty (30) cumulative days as a result of Force Majeure, either party shall have the option to terminate the Letter Agreement on giving the other party written notice to that effect.
- 6.4. In the event of termination pursuant to Clause 10, the Customer shall be liable to pay FortisBC for that portion of the Work completed or goods delivered to the date of termination as well as any costs reasonably incurred by FortisBC in relation to the Work after termination.

7. Terms of Payment

- 7.1. If required by FortisBC, City of Richmond shall provide P.O. # that has pre-approved amount of the Estimate (the "Prepayment") on or **before 16th September, 2019** towards payment for the Work.
- 7.2. While FortisBC has used care in arriving at the Estimate, FortisBC does not warrant that the Estimate is a reasonable estimate of the cost of completing the Work (the "Cost"). The Cost includes all costs directly or indirectly incurred by FortisBC in completing the Work, and includes, but is not limited to labour, equipment, materials, overhead, necessary licenses and permits and any and all costs relating to access to the Site. Notwithstanding the foregoing, if the Cost is less than the Prepayment, FortisBC shall refund the difference to the Customer without interest; and if Cost of completing the work exceeds the Prepayment, the Customer agrees to and shall pay such deficiency (the "Deficiency Amount").
- 7.3. FortisBC shall send an invoice (the "Invoice") to the Customer for the Deficiency Amount, and payment for the Deficiency Amount shall be made by the Customer to FortisBC within thirty (30) days from the date of the invoice. The Invoice is due thirty (30) days from the date of the invoice. Late payment charges will accrue interest at a rate of prime plus two (2) percent for the first thirty (30) days the payment remains unpaid, and prime plus five (5) percent thereafter until the invoice is paid in full.

SCHEDULE A
Terms and Conditions of Order - Construction

7.4. In the event that the Work has not commenced by any scheduled date promised by FortisBC, for such reasons including, but not limited to, delay in acquiring required permissions, permits and approvals, force majeure and failure of the Customer to make payment pursuant to this Clause 7, this Letter Agreement shall be deemed to have expired, unless FortisBC and the Customer have agreed in writing to extend the Letter Agreement beyond that date. If the Customer has provided FortisBC with the Prepayment, prior to expiration of the Letter Agreement pursuant to this Clause 6.3, FortisBC shall return the Prepayment amount without interest to the Customer minus any expenses incurred by FortisBC to date.

8. FortisBC to Retain Ownership

The Customer acknowledges and agrees that all vehicles, equipment, supplies and materials provided by FortisBC, contractor or subcontractor in the course of the Work; howsoever changed, incorporated or used in the Work, shall remain the property of FortisBC, and shall in no event become the property of the Customer.

9. Permits and Approvals

FortisBC shall be responsible for obtaining any permits, certificates and approvals required in connection with the construction, gasification and operation of natural gas pipes, pipelines and associated works. The Customer shall be responsible for obtaining all other permits required for the Work unless otherwise agreed in writing between FortisBC and the Customer.

10. Termination

10.1. FortisBC may, at any time without cause and at its sole discretion, terminate this Letter Agreement by giving notice in writing to the Customer.

10.2. If FortisBC terminates this Letter Agreement in accordance with this Clause 10, FortisBC shall reimburse the Customer the Prepayment amount without any interest, minus any reasonable costs incurred by FortisBC in performing the Work up to or after the date of termination. Such reasonable costs shall include but not be limited to costs to FortisBC for the work performed to date (including but not limited to materials purchased), expenses incurred as a result of early termination of any contractor or third party, and work required to reinstate the facilities to their prior state (or equivalent). If FortisBC satisfies its obligations hereunder, the Customer shall have no further cause of action or right against FortisBC in respect of the termination of this Letter Agreement or otherwise.

SCHEDULE A
Terms and Conditions of Order - Construction

11. Confidentiality

- 11.1. All information or documentation received by the Customer pertaining to or arising from the Work or the business affairs or trade secrets of FortisBC, including but not limited to the Estimate and labour rates quoted in the Estimate, shall be deemed to be confidential and proprietary to FortisBC. Except as otherwise provided herein, the Customer shall not directly or indirectly disclose any such confidential information or documentation to any third party without the prior written consent of FortisBC. Such consent is not required where the third party is another contractor or consultant retained by FortisBC for the purposes of the Letter Agreement and to the extent that such disclosure is necessary for the proper performance of this Letter Agreement or to the extent that such disclosure is required by law.
- 11.2. Notwithstanding the foregoing, the Customer may use such confidential information or documentation pertaining to or arising from the Work in the preparation for and conduct of submissions to regulatory agencies.
- 11.3. The obligation of confidentiality set out above shall not apply to material, data or information which is known to the Customer prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same. The confidentiality covenants of the Customer herein shall survive the termination of this Letter Agreement.

12. Limitation of Liability and Indemnity

FortisBC, its employees, contractors, subcontractors or agents are not responsible or liable for any claim, expense, loss, cost, or other liability incurred by the Customer or any third party caused by or resulting directly or indirectly from the Work, unless the claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractors or agents. Notwithstanding the foregoing FortisBC, its employees, contractors, subcontractors and agents are in no event liable for any incidental, special, punitive, or consequential damages of any kind (including, but without limitation, loss of income, loss of profits, or other pecuniary loss), even if the loss is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

In no event shall FortisBC's aggregate liability to pay for any claim, expense, loss, cost, or other liability incurred by the Customer resulting from the Work exceed the total amount paid to FortisBC by the Customer for the Work.

The Customer shall indemnify FortisBC and save it harmless from any claim, expense, loss, cost or other liability of any third parties arising out of Work, unless such claim, expense, loss, cost or other liability is directly attributable to

SCHEDULE A
Terms and Conditions of Order - Construction

the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

13. Disputes

- 13.1. Except for applications for injunctions required to protect confidential information, where any dispute arises out of or in connection with this Letter Agreement, including failure of the parties to reach agreement hereunder:
- (a) If the parties have been unable to settle the dispute within thirty (30) days after receipt of notice of such dispute from the other party, a senior officer of each party's management shall meet within fifteen (15) days after that period in an attempt to resolve such dispute.
 - (b) If the senior officers of the parties are not able pursuant to sub-Clause 13.1(a) to resolve the dispute within the fifteen (15) day period stipulated in sub-Clause 13.1(a), the parties agree to promptly try to resolve the dispute by participating in a structured mediation conference with a mediator under the National Arbitration Rules of the ADR Institute of Canada Inc.
- 13.2. If the parties fail to resolve the dispute through mediation within thirty (30) days after the end of the fifteen (15) day period stipulated in sub-Clause 13.1(a), subject to sub-Section 13.3 either party at its sole option may pursue litigation to resolve such dispute in any court of competent jurisdiction in the Province of British Columbia. The parties hereto agree that the Courts of the Province of British Columbia shall have exclusive jurisdiction to resolve any and all disputes between the parties.
- 13.3. By separate written agreement to arbitrate signed by all parties concerned, which agreement may be arbitrarily withheld, the particular unresolved disputes identified in the agreement to arbitrate shall be referred to and finally resolved or determined by arbitration under the National Arbitration Rules of the ADR Institute of Canada Inc. In the absence of such rules, the rules shall be as agreed by the parties or, failing agreement, the rules as prescribed in such case by, as applicable, the *Commercial Arbitration Act* or *International Arbitration Act* of the Province of British Columbia. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.
- 13.4. 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 law in arbitration proceedings.

SCHEDULE A
Terms and Conditions of Order - Construction

- 13.5. In addition to awarding monetary damages and interest on unpaid amounts, the arbitrator shall have the authority to provide injunctive relief, order specific performance and grant permanent relief.
- 13.6. Each party shall bear its own costs and expenses of the arbitration. 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 on substantially all issues. In such case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.
- 13.7. The parties will continue to fulfill their respective obligations pursuant to this Letter Agreement during the resolution of any dispute in accordance with this Clause 13.

14. Subcontracting

FortisBC may retain the services of a qualified third party to perform some or all of its obligations under this Letter Agreement.

15. Assignment

The Customer shall not assign its rights or obligations under this Letter Agreement without the prior written consent of FortisBC, which consent may be arbitrarily withheld.

16. Law

This Letter Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

17. Enurement

This Letter Agreement shall be for the benefit of and be binding upon FortisBC and the Customer and their respective successors and permitted assigns.

18. Amendments

- 18.1. The Letter Agreement embodies the entire agreement between the parties and supersedes all communications, negotiations and agreements, either written or oral, relating to the Work that were made prior to the date of execution of the Letter Agreement. The Letter Agreement contains all the representations, warranties, covenants, agreements, conditions and understandings between the parties with respect to the subject matter of the Letter Agreement and there are no other representations, warranties,

SCHEDULE A
Terms and Conditions of Order - Construction

covenants, agreements, conditions or understandings with respect to the Letter Agreement that are not contained herein.

- 18.2. The Customer hereby represents and warrants that in entering into the Letter Agreement it has not and does not rely upon any previous representation of FortisBC, consultant, or any employee, director, officer, servant, consultant or agent of FortisBC, whether express or implied, or upon any inducement or agreement of any kind or nature.
- 18.3. The Letter Agreement may only be amended by written agreement, signed by both parties.

Purchase Order



**City of
Richmond**

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033559
FORTISBC ENERGY INC
16705 Fraser Highway
Surrey BC V4N 0E8
Canada

Tax Exempt? N **Tax Exempt ID:**

Dispatch via E-Mail

Purchase Order CITY-000094046	Date 06/17/2019	Revision	Page 1
Payment Terms Net 30	Freight Terms Destination	Ship Via Common Carrier	
Buyer Percival Smith, Beverly	Phone 604/276-4106	Currency CAD	

Ship To:
City Hall
6911 No 3 Road
Richmond BC V6Y 2C1
Canada
Attention: Keating, Roger
RKeating@richmond.ca

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada
Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	6660S Gilley and Westminster Hwy Culvert Replacement	1.00	EA	83,585.19	83,585.19	06/17/2019	G
	GSTCDN (5.00%)				4,179.26		
	Total PO Amount				87,764.45		

The Terms and Conditions of Contract take precedence over the standard Terms and Conditions of the Purchase Order. Unless specifically overridden, the Terms and Conditions on the City of Richmond web site, either for product, services and both apply to this PO. It is the responsibility of the vendor to review this information. To view the Standard Terms and conditions, please refer to <http://www.richmond.ca/busdev/tenders.htm> All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.



16705 Fraser Highway
Surrey, B.C.
V4N 0E8
Bus: 604-576-7000
Toll Free: 1-800-773-7001

May 31, 2019

City of Richmond
6911 No. 3 Rd
Richmond, BC V6Y 2C1

Attention: Roger Keating

RE: Gilley Rd. & Westminster Hwy, Richmond – gas main alteration

FortisBC Job Reference: #2800394075
City of Richmond Reference: LC-1280
Start date: Late June/early July 2019
Validity of the Quote: This quote is valid for 60 days

Scope of work:

4" steel gas main lowering and rerouting alterations in two different locations in the intersection of Gilley Rd and Westminster Hwy to accommodate City installation of storm and water mains. See MCO 2800394075.

("Work")

Assumptions:

1. Construction activities will generally take place between 8:00am and 4:00pm, Monday to Friday with no overtime.
2. City of Richmond to excavate, backfill, compact, and temporarily and permanently repair road gas main alteration locations.
3. FortisBC only to do pipework and sandpad gas main alterations.
4. City of Richmond will provide FortisBC crews or contractors with shoring or sloping to WCB standards where depths exceed 1.1m.
5. City of Richmond will have traffic control in place.
6. There is no contaminated soil at the construction locations.
7. No de-watering by FortisBC.

Estimated Cost: \$87,764.45 (\$83,585.19 + \$4,179.26 tax)

The City of Richmond (the "Customer") agrees to the terms and conditions set out in this letter agreement ("Letter Agreement") and in FortisBC Energy Inc.'s ("FortisBC") standard terms and

A handwritten signature in the bottom right corner of the page.

conditions set out in Schedule A attached, which terms and conditions form part of this Letter Agreement, to carry out above job reference #2800394075.

The Customer must provide FortisBC with a Purchase Order for not less than the full amount of the Estimate along with its acceptance of the estimate and these terms and conditions by signing and returning this form via mail or email. FortisBC will not schedule the work until it has received the Purchase order.

Important: This is a cost estimate. You will be billed on the basis of actual costs incurred. Please indicate your acceptance of these costs by signing and returning this letter agreement via mail or email.

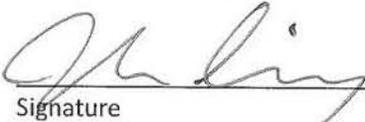
Planning and Design Technologist: Erin Sagarbarria
Phone: 604-293-8522
Email: erin.sagarbarria@fortisbc.com

Yours Sincerely,

FortisBC Energy Inc.

THE ABOVE TERMS AND CONDITIONS ARE HEREBY AGREED TO:

FULL Legal name of Customer
by its authorized signatory:


Signature

June 10/19
Date

John Irving, P. Eng. MPA,
Acting General Manager, Engineering and Public Works
Title

Purchase Order # _____

Amount of Purchase Order \$83,585.19 + tax

City of Richmond
APPROVED for content by originating dept. <i>MC</i>
Legal Advice
BRB
DATE OF COUNCIL APPROVED (if applicable)

MC

SCHEDULE A
Terms and Conditions of Order - Construction

1. General

- 1.1. FortisBC Energy Inc. ("FortisBC") has provided the Customer with an estimate of the cost (the "Estimate") to do certain work (the "Work") at Gilley Rd and Westminster Hwy (the "Site") for the Customer the details of which are attached to the Letter Agreement and in any addenda issued by FortisBC and these Terms and Conditions. The Customer acknowledges and agrees that the Estimate is an estimate only, and that the Customer shall be liable for payment for the Work in excess of the Estimate amount.
- 1.2. Letter Agreement, together with any addenda issued by FortisBC and these Terms and Conditions are collectively referred to as the "Letter Agreement".

2. Access

- 2.1. In the event the Customer is the owner of the Site and the land in the proximity of the Site (the "Lands"), the Customer shall provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.2. In the event the Customer is not the owner of the Site and/or the Lands or any portion thereof, the Customer shall obtain all necessary permissions and approvals from the owner(s) to provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.3. FortisBC shall remove its vehicles, equipment and materials from the Lands upon completion of the Work, and leave the Site and the Lands in a neat and tidy condition and good state of repair considering the nature of the Work completed hereunder.

3. Commencement of the Work

FortisBC shall commence the Work as soon as reasonably practicable having regard to the availability of FortisBC personnel, equipment and materials, provided however, that FortisBC will not commence the Work until (i) the Customer has delivered a certified cheque and/or bank draft in the amount of the Estimate to FortisBC as required pursuant to Clause 7; (ii) the Customer has provided confirmation that all permissions and approvals described in Clause 2 have been obtained; and (iii) FortisBC and the Customer have obtained all permits and approvals described in Clause 9. FortisBC does not covenant to prosecute the Work diligently or by any scheduled dates, whether or not such scheduled dates for commencement or completion of the Work have been specified by the Customer or by FortisBC.

SCHEDULE A
Terms and Conditions of Order - Construction

4. Change Orders and Extra Work

FortisBC may at any time make written requests for changes to the Work, and these changes shall become part of the Letter Agreement upon being mutually agreed upon, and include a mutually acceptable increase or decrease in the Estimate.

The Customer may request that FortisBC perform additional work ("Extra Work") which is not within the Scope of Work as set out in the Letter Agreement. The details of the Extra Work shall be discussed, mutually agreed upon and paid at a mutually agreed upon rate prior to commencing the Extra Work.

5. Delay

If there is any delay in the Work caused or attributable to the Customer then FortisBC may, without cost, suspend part or all of the Work under this Letter Agreement until the Work can again be performed efficiently, effectively and without delay.

6. Force Majeure

6.1. "Force Majeure" means any one or more of the following events:

- (a) war or hostilities;
- (b) riot or civil commotion;
- (c) earthquake, major flood not foreseeable in the area of the Site, forest fire or suspensions of work ordered by the Ministry of Forests, or other natural physical disaster preventing the performance of the Work;
- (d) governmental regulations or controls;
- (e) inability to obtain any material or services;
- (f) strike or lock-out or other industrial action; and
- (g) government embargo,

provided, however, that any such event is a major disabling event or circumstance in relation to the normal operations of the party concerned as a whole which is beyond the reasonable control of the party directly affected and results in a material delay, interruption or failure by such party in carrying out its duties, covenants or obligations under the Letter Agreement. Lack of money, financing or credit to resolve such contingencies will not be deemed an event of Force Majeure.

6.2. Lack of funds or other financial cause specific to the Customer shall not be construed as Force Majeure. If either party to the Letter Agreement is



SCHEDULE A
Terms and Conditions of Order - Construction

prevented from, or delayed in, performing any of its obligations under the Letter Agreement by Force Majeure, then it shall within two (2) days of the commencement of such circumstances notify the other party of the circumstances constituting the Force Majeure and of the obligation and performance of which is thereby delayed or prevented, and the party giving the notice shall thereupon be excused the performance or punctual performance, as the case may be, of such obligation for so long as the circumstances of prevention or delay continue. The provision of written notice by the Customer as aforesaid is a condition precedent to any claim for extra time or for delay in completion as a result of the Force Majeure.

- 6.3. Without limiting any other rights of FortisBC under any other provision of the Letter Agreement, if the suspension of Work exceeds a period of either fourteen (14) consecutive days or thirty (30) cumulative days as a result of Force Majeure, either party shall have the option to terminate the Letter Agreement on giving the other party written notice to that effect.
- 6.4. In the event of termination pursuant to Clause 10, the Customer shall be liable to pay FortisBC for that portion of the Work completed or goods delivered to the date of termination as well as any costs reasonably incurred by FortisBC in relation to the Work after termination.

7. Terms of Payment

- 7.1. If required by FortisBC, the Customer shall deliver a certified cheque and/or bank draft in the amount of the Estimate (the "Prepayment") on or before June 30th, 2019 towards payment for the Work.
- 7.2. While FortisBC has used care in arriving at the Estimate, FortisBC does not warrant that the Estimate is a reasonable estimate of the cost of completing the Work (the "Cost"). The Cost includes all costs directly or indirectly incurred by FortisBC in completing the Work, and includes, but is not limited to labour, equipment, materials, overhead, necessary licenses and permits and any and all costs relating to access to the Site. Notwithstanding the foregoing, if the Cost is less than the Prepayment, FortisBC shall refund the difference to the Customer without interest; and if Cost of completing the work exceeds the Prepayment, the Customer agrees to and shall pay such deficiency (the "Deficiency Amount").
- 7.3. FortisBC shall send an invoice (the "Invoice") to the Customer for the Deficiency Amount, and payment for the Deficiency Amount shall be made by the Customer to FortisBC within thirty (30) days from the date of the invoice. The Invoice is due thirty (30) days from the date of the invoice. Late payment charges will accrue interest at a rate of prime plus two (2) percent for the first thirty (30) days the payment remains unpaid, and prime plus five (5) percent thereafter until the invoice is paid in full.

SCHEDULE A
Terms and Conditions of Order - Construction

7.4. In the event that the Work has not commenced by any scheduled date promised by FortisBC, for such reasons including, but not limited to, delay in acquiring required permissions, permits and approvals, force majeure and failure of the Customer to make payment pursuant to this Clause 7, this Letter Agreement shall be deemed to have expired, unless FortisBC and the Customer have agreed in writing to extend the Letter Agreement beyond that date. If the Customer has provided FortisBC with the Prepayment, prior to expiration of the Letter Agreement pursuant to this Clause 6.3, FortisBC shall return the Prepayment amount without interest to the Customer minus any expenses incurred by FortisBC to date.

8. FortisBC to Retain Ownership

The Customer acknowledges and agrees that all vehicles, equipment, supplies and materials provided by FortisBC, contractor or subcontractor in the course of the Work; howsoever changed, incorporated or used in the Work, shall remain the property of FortisBC, and shall in no event become the property of the Customer.

9. Permits and Approvals

FortisBC shall be responsible for obtaining any permits, certificates and approvals required in connection with the construction, gasification and operation of natural gas pipes, pipelines and associated works. The Customer shall be responsible for obtaining all other permits required for the Work unless otherwise agreed in writing between FortisBC and the Customer.

10. Termination

- 10.1. FortisBC may, at any time without cause and at its sole discretion, terminate this Letter Agreement by giving notice in writing to the Customer.
- 10.2. If FortisBC terminates this Letter Agreement in accordance with this Clause 10, FortisBC shall reimburse the Customer the Prepayment amount without any interest, minus any reasonable costs incurred by FortisBC in performing the Work up to or after the date of termination. Such reasonable costs shall include but not be limited to costs to FortisBC for the work performed to date (including but not limited to materials purchased), expenses incurred as a result of early termination of any contractor or third party, and work required to reinstate the facilities to their prior state (or equivalent). If FortisBC satisfies its obligations hereunder, the Customer shall have no further cause to action or right against FortisBC in respect of the termination of this Letter Agreement or otherwise.

SCHEDULE A
Terms and Conditions of Order - Construction

11. Confidentiality

- 11.1. All information or documentation received by the Customer pertaining to or arising from the Work or the business affairs or trade secrets of FortisBC, including but not limited to the Estimate and labour rates quoted in the Estimate, shall be deemed to be confidential and proprietary to FortisBC. Except as otherwise provided herein, the Customer shall not directly or indirectly disclose any such confidential information or documentation to any third party without the prior written consent of FortisBC. Such consent is not required where the third party is another contractor or consultant retained by FortisBC for the purposes of the Letter Agreement and to the extent that such disclosure is necessary for the proper performance of this Letter Agreement or to the extent that such disclosure is required by law.
- 11.2. Notwithstanding the foregoing, the Customer may use such confidential information or documentation pertaining to or arising from the Work in the preparation for and conduct of submissions to regulatory agencies.
- 11.3. The obligation of confidentiality set out above shall not apply to material, data or information which is known to the Customer prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same. The confidentiality covenants of the Customer herein shall survive the termination of this Letter Agreement.

12. Limitation of Liability and Indemnity

FortisBC, its employees, contractors, subcontractors or agents are not responsible or liable for any claim, expense, loss, cost, or other liability incurred by the Customer or any third party caused by or resulting directly or indirectly from the Work, unless the claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractors or agents. Notwithstanding the foregoing FortisBC, its employees, contractors, subcontractors and agents are in no event liable for any incidental, special, punitive, or consequential damages of any kind (including, but without limitation, loss of income, loss of profits, or other pecuniary loss), even if the loss is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

In no event shall FortisBC's aggregate liability to pay for any claim, expense, loss, cost, or other liability incurred by the Customer resulting from the Work exceed the total amount paid to FortisBC by the Customer for the Work.

The Customer shall indemnify FortisBC and save it harmless from any claim, expense, loss, cost or other liability of any third parties arising out of Work, unless such claim, expense, loss, cost or other liability is directly attributable to

SCHEDULE A
Terms and Conditions of Order - Construction

the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

13. Disputes

- 13.1. Except for applications for injunctions required to protect confidential information, where any dispute arises out of or in connection with this Letter Agreement, including failure of the parties to reach agreement hereunder:
- (a) If the parties have been unable to settle the dispute within thirty (30) days after receipt of notice of such dispute from the other party, a senior officer of each party's management shall meet within fifteen (15) days after that period in an attempt to resolve such dispute.
 - (b) If the senior officers of the parties are not able pursuant to sub-Clause 13.1(a) to resolve the dispute within the fifteen (15) day period stipulated in sub-Clause 13.1(a), the parties agree to promptly try to resolve the dispute by participating in a structured mediation conference with a mediator under the National Arbitration Rules of the ADR Institute of Canada Inc.
- 13.2. If the parties fail to resolve the dispute through mediation within thirty (30) days after the end of the fifteen (15) day period stipulated in sub-Clause 13.1(a), subject to sub-Section 13.3 either party at its sole option may pursue litigation to resolve such dispute in any court of competent jurisdiction in the Province of British Columbia. The parties hereto agree that the Courts of the Province of British Columbia shall have exclusive jurisdiction to resolve any and all disputes between the parties.
- 13.3. By separate written agreement to arbitrate signed by all parties concerned, which agreement may be arbitrarily withheld, the particular unresolved disputes identified in the agreement to arbitrate shall be referred to and finally resolved or determined by arbitration under the National Arbitration Rules of the ADR Institute of Canada Inc. In the absence of such rules, the rules shall be as agreed by the parties or, failing agreement, the rules as prescribed in such case by, as applicable, the *Commercial Arbitration Act* or *International Arbitration Act* of the Province of British Columbia. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.
- 13.4. 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 law in arbitration proceedings.

SCHEDULE A
Terms and Conditions of Order - Construction

- 13.5. In addition to awarding monetary damages and interest on unpaid amounts, the arbitrator shall have the authority to provide injunctive relief, order specific performance and grant permanent relief.
- 13.6. Each party shall bear its own costs and expenses of the arbitration. 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 on substantially all issues. In such case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.
- 13.7. The parties will continue to fulfill their respective obligations pursuant to this Letter Agreement during the resolution of any dispute in accordance with this Clause 13.
- 14. Subcontracting**
- FortisBC may retain the services of a qualified third party to perform some or all of its obligations under this Letter Agreement.
- 15. Assignment**
- The Customer shall not assign its rights or obligations under this Letter Agreement without the prior written consent of FortisBC, which consent may be arbitrarily withheld.
- 16. Law**
- This Letter Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.
- 17. Enurement**
- This Letter Agreement shall be for the benefit of and be binding upon FortisBC and the Customer and their respective successors and permitted assigns.
- 18. Amendments**
- 18.1. The Letter Agreement embodies the entire agreement between the parties and supersedes all communications, negotiations and agreements, either written or oral, relating to the Work that were made prior to the date of execution of the Letter Agreement. The Letter Agreement contains all the representations, warranties, covenants, agreements, conditions and understandings between the parties with respect to the subject matter of the Letter Agreement and there are no other representations, warranties,

SCHEDULE A
Terms and Conditions of Order - Construction

covenants, agreements, conditions or understandings with respect to the Letter Agreement that are not contained herein.

- 18.2. The Customer hereby represents and warrants that in entering into the Letter Agreement it has not and does not rely upon any previous representation of FortisBC, consultant, or any employee, director, officer, servant, consultant or agent of FortisBC, whether express or implied, or upon any inducement or agreement of any kind or nature.
- 18.3. The Letter Agreement may only be amended by written agreement, signed by both parties.

Purchase Order



**City of
Richmond**

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033446
FORTISBC - NATURAL GAS
PO Box 6666 Station Terminal
Vancouver BC V6B 6M9
Canada

Tax Exempt? N **Tax Exempt ID:**

Dispatch via E-Mail

Purchase Order CITY-0000090068	Date 04/25/2018	Revision	Page 1
Payment Terms ASAP	Freight Terms Destination	Ship Via Common	
Buyer Sharma, Drea	Phone 604/276-4142	Currency CAD	

Ship To:
City Hall
6911 No 3 Road
Richmond BC V6Y 2C1
Canada

Attention: Maxwell, Michael L.
MMaxwell@richmond.ca

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada
Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	Gas main alteration on No. 2 Road north of London Road required for proposed construction of multi-use pathway and intersection improvements.	1.00	EA	44,838.34	44,838.34	04/25/2018	G
	GSTCDN (5.00%)				2,241.92		
	Total PO Amount				47,080.26		

The Terms and Conditions of Contract take precedence over the standard Terms and Conditions of the Purchase Order. Unless specifically overridden, the Terms and Conditions on the City of Richmond web site, either for product, services and both apply to this PO. It is the responsibility of the vendor to review this information. To view the Standard Terms and conditions, please refer to <http://www.richmond.ca/busdev/tenders.htm> All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.



16705 Fraser Highway
Surrey, BC V4N 0E8
Tel: (604) 576-7000
FortisBC.com

April 10, 2018

City of Richmond
6911 No 3 Road
Richmond, BC
V6Y 2C1

Attention: Mike Maxwell

Subject: Gas Main Alteration at No2 Road & London Road. Richmond

FortisBC Job Reference: - 30932336 & 30932283

Anticipated Start date: - To be Determined

Validity of the Quote: - This quote is valid for 60 days

Scope of work: Existing 60DP/ST main on No 2 Road has to be altered to accommodate the proposed head wall (sierra slope) by City of Richmond

Assumptions:

1. Construction activities will generally take place between 8.00AM and 4.00PM, Monday to Friday and no over time.
2. No contaminated soil conditions.
3. Length of the proposed main alteration (60PE) = 47.0m
4. This estimate does not include for shoring, sod replacement, dewatering.
5. Final paving of the road by City Contractor to city standard.

Estimated Cost: \$ 44,838.34

The City of Richmond agrees to the terms and conditions set out in this letter agreement and in FortisBC Energy Inc.'s ("FortisBC") standard terms and conditions set out in Schedule A attached, to carry out the alteration of the existing 60 DP/ST main(1968) on No 2 Road to accommodate the proposed Retaining Wall by City of Richmond

Scheduling of this work will take place as per the following:

- Receipt of signed letter agreement
- Receipt of Purchase Order

The Customer must provide FortisBC with a Purchase Order for not less than the full amount of the estimate along with its acceptance of the estimate and these terms and conditions by signing and returning this form via mail or fax. FortisBC will not complete the work until it has received the Purchase Order.

A handwritten signature in blue ink, appearing to be "Mike Maxwell", located in the bottom right corner of the page.



Important: This is a cost estimate only. You will be billed on the basis of the actual costs incurred.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronil Perera".

Perera, Ronil AScT
Planning & Design Technologist
FortisBC Energy Inc.
Coquitlam Muster
Tel: (604)-468-1604
Fax: (604)-552-2958
Email: ronil.perera@fortisbc.com

Enclosures

A small, faint handwritten mark or signature in blue ink, possibly initials, located in the lower-left quadrant of the page.

A handwritten signature in blue ink, located in the bottom right corner of the page.



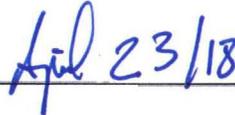
16705 Fraser Highway
Surrey, B.C.
V4N 0E8
Bus: 604-576-7000
Toll Free: 1-800-773-7001

THE ABOVE TERMS AND CONDITIONS ARE HEREBY AGREED TO:

FULL Legal name of Customer: Robert Gonzalez by its authorized signatory:



Signature

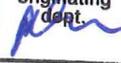


Date

Robert Gonzalez
Deputy CAO & General Manager
Engineering & Public Works
City of Richmond



Title

City of Richmond
APPROVED for content by originating dept.

Legal Advice
LB
DATE OF COUNCIL APPROVED (if applicable)



SCHEDULE A
Terms and Conditions of Order - Construction

1. General

- 1.1. FortisBC Energy Inc. ("FortisBC") has provided the Customer with an estimate of the cost (the "Estimate") to do certain work (the "Work") at No 2 Road & London Road, Richmond.(the "Site") for the Customer the details of which are attached to the Letter Agreement and in any addenda issued by FortisBC and these Terms and Conditions. The Customer acknowledges and agrees that the Estimate is an estimate only, and that the Customer shall be liable for payment for the Work in excess of the Estimate amount.
- 1.2. Letter Agreement, together with any addenda issued by FortisBC and these Terms and Conditions are collectively referred to as the "Letter Agreement".

2. Access

- 2.1. In the event the Customer is the owner of the Site and the land in the proximity of the Site (the "Lands"), the Customer shall provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.2. In the event the Customer is not the owner of the Site and/or the Lands or any portion thereof, the Customer shall obtain all necessary permissions and approvals from the owner(s) to provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.3. FortisBC shall remove its vehicles, equipment and materials from the Lands upon completion of the Work, and leave the Site and the Lands in a neat and tidy condition and good state of repair considering the nature of the Work completed hereunder.

3. Commencement of the Work

FortisBC shall commence the Work as soon as reasonably practicable having regard to the availability of FortisBC personnel, equipment and materials, provided however, that FortisBC will not commence the Work until (i) the Customer has delivered a certified cheque and/or bank draft in the amount of the Estimate to FortisBC as required pursuant to Clause 7; (ii) the Customer has provided confirmation that all permissions and approvals described in Clause 2 have been obtained; and (iii) FortisBC and the Customer have obtained all permits and approvals described in Clause 9. FortisBC does not covenant to prosecute the Work diligently or by any scheduled dates, whether or not such scheduled dates for commencement or completion of the Work have been specified by the Customer or by FortisBC.



SCHEDULE A
Terms and Conditions of Order - Construction

4. Change Orders and Extra Work

FortisBC may at any time make written requests for changes to the Work, and these changes shall become part of the Letter Agreement upon being mutually agreed upon, and include a mutually acceptable increase or decrease in the Estimate.

The Customer may request that FortisBC perform additional work ("Extra Work") which is not within the Scope of Work as set out in the Letter Agreement. The details of the Extra Work shall be discussed, mutually agreed upon and paid at a mutually agreed upon rate prior to commencing the Extra Work.

5. Delay

If there is any delay in the Work caused or attributable to the Customer then FortisBC may, without cost, suspend part or all of the Work under this Letter Agreement until the Work can again be performed efficiently, effectively and without delay.

6. Force Majeure

6.1. "Force Majeure" means any one or more of the following events:

- (a) war or hostilities;
- (b) riot or civil commotion;
- (c) earthquake, major flood not foreseeable in the area of the Site, forest fire or suspensions of work ordered by the Ministry of Forests, or other natural physical disaster preventing the performance of the Work;
- (d) governmental regulations or controls;
- (e) inability to obtain any material or services;
- (f) strike or lock-out or other industrial action; and
- (g) government embargo,

provided, however, that any such event is a major disabling event or circumstance in relation to the normal operations of the party concerned as a whole which is beyond the reasonable control of the party directly affected and results in a material delay, interruption or failure by such party in carrying out its duties, covenants or obligations under the Letter Agreement. Lack of money, financing or credit to resolve such contingencies will not be deemed an event of Force Majeure.

6.2. Lack of funds or other financial cause specific to the Customer shall not be construed as Force Majeure. If either party to the Letter Agreement is



SCHEDULE A
Terms and Conditions of Order - Construction

prevented from, or delayed in, performing any of its obligations under the Letter Agreement by Force Majeure, then it shall within two (2) days of the commencement of such circumstances notify the other party of the circumstances constituting the Force Majeure and of the obligation and performance of which is thereby delayed or prevented, and the party giving the notice shall thereupon be excused the performance or punctual performance, as the case may be, of such obligation for so long as the circumstances of prevention or delay continue. The provision of written notice by the Customer as aforesaid is a condition precedent to any claim for extra time or for delay in completion as a result of the Force Majeure.

- 6.3. Without limiting any other rights of FortisBC under any other provision of the Letter Agreement, if the suspension of Work exceeds a period of either fourteen (14) consecutive days or thirty (30) cumulative days as a result of Force Majeure, either party shall have the option to terminate the Letter Agreement on giving the other party written notice to that effect.
- 6.4. In the event of termination pursuant to Clause 10, the Customer shall be liable to pay FortisBC for that portion of the Work completed or goods delivered to the date of termination as well as any costs reasonably incurred by FortisBC in relation to the Work after termination.

7. Terms of Payment

- 7.1. If required by FortisBC, the Customer shall deliver a Purchase Order No in the amount of the Estimate (the "Prepayment") as soon as possible towards payment for the Work.
- 7.2. While FortisBC has used care in arriving at the Estimate, FortisBC does not warrant that the Estimate is a reasonable estimate of the cost of completing the Work (the "Cost"). The Cost includes all costs directly or indirectly incurred by FortisBC in completing the Work, and includes, but is not limited to labour, equipment, materials, overhead, necessary licenses and permits and any and all costs relating to access to the Site. Notwithstanding the foregoing, if the Cost is less than the Prepayment, FortisBC shall refund the difference to the Customer without interest; and if Cost of completing the work exceeds the Prepayment, the Customer agrees to and shall pay such deficiency (the "Deficiency Amount").
- 7.3. FortisBC shall send an invoice (the "Invoice") to the Customer for the Deficiency Amount, and payment for the Deficiency Amount shall be made by the Customer to FortisBC within thirty (30) days from the date of the invoice. The Invoice is due thirty (30) days from the date of the invoice. Late payment charges will accrue interest at a rate of prime plus two (2) percent for the first thirty (30) days the payment remains unpaid, and prime plus five (5) percent thereafter until the invoice is paid in full.



SCHEDULE A
Terms and Conditions of Order - Construction

7.4. In the event that the Work has not commenced by any scheduled date promised by FortisBC, for such reasons including, but not limited to, delay in acquiring required permissions, permits and approvals, force majeure and failure of the Customer to make payment pursuant to this Clause 7, this Letter Agreement shall be deemed to have expired, unless FortisBC and the Customer have agreed in writing to extend the Letter Agreement beyond that date. If the Customer has provided FortisBC with the Prepayment, prior to expiration of the Letter Agreement pursuant to this Clause 7.4, FortisBC shall return the Prepayment amount without interest to the Customer minus any expenses incurred by FortisBC to date.

8. FortisBC to Retain Ownership

The Customer acknowledges and agrees that all vehicles, equipment, supplies and materials provided by FortisBC, contractor or subcontractor in the course of the Work; howsoever changed, incorporated or used in the Work, shall remain the property of FortisBC, and shall in no event become the property of the Customer.

9. Permits and Approvals

FortisBC shall be responsible for obtaining any permits, certificates and approvals required in connection with the construction, gasification and operation of natural gas pipes, pipelines and associated works. The Customer shall be responsible for obtaining all other permits required for the Work unless otherwise agreed in writing between FortisBC and the Customer.

10. Termination

10.1. FortisBC may, at any time without cause and at its sole discretion, terminate this Letter Agreement by giving notice in writing to the Customer.

10.2. If FortisBC terminates this Letter Agreement in accordance with this Clause 10, FortisBC shall reimburse the Customer the Prepayment amount without any interest, minus any reasonable costs incurred by FortisBC in performing the Work up to or after the date of termination. Such reasonable costs shall include but not be limited to costs to FortisBC for the work performed to date (including but not limited to materials purchased), expenses incurred as a result of early termination of any contractor or third party, and work required to reinstate the facilities to their prior state (or equivalent). If FortisBC satisfies its obligations hereunder, the Customer shall have no further cause to action or right against FortisBC in respect of the termination of this Letter Agreement or otherwise.



SCHEDULE A
Terms and Conditions of Order - Construction

11. Confidentiality

- 11.1. All information or documentation received by the Customer pertaining to or arising from the Work or the business affairs or trade secrets of FortisBC, including but not limited to the Estimate and labour rates quoted in the Estimate, shall be deemed to be confidential and proprietary to FortisBC. Except as otherwise provided herein, the Customer shall not directly or indirectly disclose any such confidential information or documentation to any third party without the prior written consent of FortisBC. Such consent is not required where the third party is another contractor or consultant retained by FortisBC for the purposes of the Letter Agreement and to the extent that such disclosure is necessary for the proper performance of this Letter Agreement or to the extent that such disclosure is required by law.
- 11.2. Notwithstanding the foregoing, the Customer may use such confidential information or documentation pertaining to or arising from the Work in the preparation for and conduct of submissions to regulatory agencies.
- 11.3. The obligation of confidentiality set out above shall not apply to material, data or information which is known to the Customer prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same. The confidentiality covenants of the Customer herein shall survive the termination of this Letter Agreement.

12. Limitation of Liability and Indemnity

FortisBC, its employees, contractors, subcontractors or agents are not responsible or liable for any claim, expense, loss, cost, or other liability incurred by the Customer or any third party caused by or resulting directly or indirectly from the Work, unless the claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractors or agents. Notwithstanding the foregoing FortisBC, its employees, contractors, subcontractors and agents are in no event liable for any incidental, special, punitive, or consequential damages of any kind (including, but without limitation, loss of income, loss of profits, or other pecuniary loss), even if the loss is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

In no event shall FortisBC's aggregate liability to pay for any claim, expense, loss, cost, or other liability incurred by the Customer resulting from the Work exceed the total amount paid to FortisBC by the Customer for the Work.

The Customer shall indemnify FortisBC and save it harmless from any claim, expense, loss, cost or other liability of any third parties arising out of Work, unless such claim, expense, loss, cost or other liability is directly attributable to



SCHEDULE A
Terms and Conditions of Order - Construction

the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

13. Disputes

- 13.1. Except for applications for injunctions required to protect confidential information, where any dispute arises out of or in connection with this Letter Agreement, including failure of the parties to reach agreement hereunder:
- (a) If the parties have been unable to settle the dispute within thirty (30) days after receipt of notice of such dispute from the other party, a senior officer of each party's management shall meet within fifteen (15) days after that period in an attempt to resolve such dispute.
 - (b) If the senior officers of the parties are not able pursuant to sub-Clause 13.1(a) to resolve the dispute within the fifteen (15) day period stipulated in sub-Clause 13.1(a), the parties agree to promptly try to resolve the dispute by participating in a structured mediation conference with a mediator under the National Arbitration Rules of the ADR Institute of Canada Inc.
- 13.2. If the parties fail to resolve the dispute through mediation within thirty (30) days after the end of the fifteen (15) day period stipulated in sub-Clause 13.1(a), subject to sub-Section 13.3 either party at its sole option may pursue litigation to resolve such dispute in any court of competent jurisdiction in the Province of British Columbia. The parties hereto agree that the Courts of the Province of British Columbia shall have exclusive jurisdiction to resolve any and all disputes between the parties.
- 13.3. By separate written agreement to arbitrate signed by all parties concerned, which agreement may be arbitrarily withheld, the particular unresolved disputes identified in the agreement to arbitrate shall be referred to and finally resolved or determined by arbitration under the National Arbitration Rules of the ADR Institute of Canada Inc. In the absence of such rules, the rules shall be as agreed by the parties or, failing agreement, the rules as prescribed in such case by, as applicable, the *Commercial Arbitration Act* or *International Arbitration Act* of the Province of British Columbia. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.
- 13.4. 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 law in arbitration proceedings.



SCHEDULE A
Terms and Conditions of Order - Construction

- 13.5. In addition to awarding monetary damages and interest on unpaid amounts, the arbitrator shall have the authority to provide injunctive relief, order specific performance and grant permanent relief.
- 13.6. Each party shall bear its own costs and expenses of the arbitration. 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 on substantially all issues. In such case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.
- 13.7. The parties will continue to fulfill their respective obligations pursuant to this Letter Agreement during the resolution of any dispute in accordance with this Clause 13.

14. Subcontracting

FortisBC may retain the services of a qualified third party to perform some or all of its obligations under this Letter Agreement.

15. Assignment

The Customer shall not assign its rights or obligations under this Letter Agreement without the prior written consent of FortisBC, which consent may be arbitrarily withheld.

16. Law

This Letter Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

17. Enurement

This Letter Agreement shall be for the benefit of and be binding upon FortisBC and the Customer and their respective successors and permitted assigns.

18. Amendments

- 18.1. The Letter Agreement embodies the entire agreement between the parties and supersedes all communications, negotiations and agreements, either written or oral, relating to the Work that were made prior to the date of execution of the Letter Agreement. The Letter Agreement contains all the representations, warranties, covenants, agreements, conditions and understandings between the parties with respect to the subject matter of the Letter Agreement and there are no other representations, warranties,



SCHEDULE A
Terms and Conditions of Order - Construction

covenants, agreements, conditions or understandings with respect to the Letter Agreement that are not contained herein.

- 18.2. The Customer hereby represents and warrants that in entering into the Letter Agreement it has not and does not rely upon any previous representation of FortisBC, consultant, or any employee, director, officer, servant, consultant or agent of FortisBC, whether express or implied, or upon any inducement or agreement of any kind or nature.
- 18.3. The Letter Agreement may only be amended by written agreement, signed by both parties.

Purchase Order



**City of
Richmond**

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033446
FORTISBC - NATURAL GAS
PO Box 6666 Station Terminal
Vancouver BC V6B 6M9
Canada

Tax Exempt? N **Tax Exempt ID:**

Dispatch via E-Mail

Purchase Order CITY-0000089567	Date 03/14/2018	Revision	Page 1
Payment Terms ASAP	Freight Terms Destination	Ship Via Common	
Buyer Sharma, Drea	Phone 604/276-4142	Currency CAD	

Ship To:
City Hall
6911 No 3 Road
Richmond BC V6Y 2C1
Canada

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Attention: Paller,Elena
EPaller@richmond.ca

Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	6227S Gas Main Alterations	1.00	EA	62,100.00	62,100.00	03/14/2018	G
	GSTCDN (5.00%)				3,105.00		
	Total PO Amount				65,205.00		

The Terms and Conditions of Contract take precedence over the standard Terms and Conditions of the Purchase Order. Unless specifically overridden, the Terms and Conditions on the City of Richmond web site, either for product, services and both apply to this PO. It is the responsibility of the vendor to review this information. To view the Standard Terms and conditions, please refer to <http://www.richmond.ca/busdev/tenders.htm> All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.



City of Richmond

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033446
FORTISBC - NATURAL GAS
PO Box 6666 Station Terminal
Vancouver BC V6B 6M9
Canada

Tax Exempt? N **Tax Exempt ID:**

Purchase Order

CHANGE ORDER

Dispatch via E-Mail

Purchase Order CITY-0000089567	Date 03/14/2018	Revision 1 - 03/28/2018	Page 1
Payment Terms ASAP	Freight Terms Destination	Ship Via Common	
Buyer Sharma, Drea	Phone 604/276-4142	Currency CAD	

Ship To:
City Hall
6911 No 3 Road
Richmond BC V6Y 2C1
Canada

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Attention: Paller,Elena
EPaller@richmond.ca

Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	6227S Gas Main Alterations	1.00	EA	83,000.00	83,000.00	03/14/2018	G
	GSTCDN (5.00%)				4,150.00		
	Total PO Amount				87,150.00		

The Terms and Conditions of Contract take precedence over the standard Terms and Conditions of the Purchase Order. Unless specifically overridden, the Terms and Conditions on the City of Richmond web site, either for product, services and both apply to this PO. It is the responsibility of the vendor to review this information. To view the Standard Terms and conditions, please refer to <http://www.richmond.ca/busdev/tenders.htm> All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.



City of Richmond

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033446
FORTISBC - NATURAL GAS
PO Box 6666 Station Terminal
Vancouver BC V6B 6M9
Canada

Tax Exempt? N **Tax Exempt ID:**

Purchase Order

CHANGE ORDER

Dispatch via E-Mail

Purchase Order CITY-0000089567	Date 03/14/2018	Revision 2 - 10/26/2018	Page 1
Payment Terms ASAP	Freight Terms Destination	Ship Via Common Carrier	
Buyer Sharma, Drea	Phone 604/276-4142	Currency CAD	

Ship To:
City Hall
6911 No 3 Road
Richmond BC V6Y 2C1
Canada
Attention: Paller,Elena
EPaller@richmond.ca

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada
Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	6227S Gas Main Alterations	1.00	EA	94,250.00	94,250.00	03/14/2018	G
	GSTCDN (5.00%)				4,712.50		
	Total PO Amount				98,962.50		

The Terms and Conditions of Contract take precedence over the standard Terms and Conditions of the Purchase Order. Unless specifically overridden, the Terms and Conditions on the City of Richmond web site, either for product, services and both apply to this PO. It is the responsibility of the vendor to review this information. To view the Standard Terms and conditions, please refer to <http://www.richmond.ca/busdev/tenders.htm> All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.



City of Richmond

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033446
FORTISBC - NATURAL GAS
PO Box 6666 Station Terminal
Vancouver BC V6B 6M9
Canada

Tax Exempt? N **Tax Exempt ID:**

Purchase Order

CHANGE ORDER

Dispatch via E-Mail

Purchase Order CITY-0000089567	Date 03/14/2018	Revision 3 - 01/18/2019	Page 1
Payment Terms ASAP	Freight Terms Destination	Ship Via Common Carrier	
Buyer Ilg,Drea	Phone 604/276-4142	Currency CAD	

Ship To:
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Attention: Paller,Elena
EPaller@richmond.ca

Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	6227S Gas Main Alterations	1.00	EA	40,000.00	40,000.00	03/14/2018	G
2 - 1	6227S Gas Main Alterations	1.00	EA	78,295.01	78,295.01	01/18/2019	G
	GSTCDN (5.00%)				5,914.75		
	Total PO Amount				124,209.76		

The Terms and Conditions of Contract take precedence over the standard Terms and Conditions of the Purchase Order. Unless specifically overridden, the Terms and Conditions on the City of Richmond web site, either for product, services and both apply to this PO. It is the responsibility of the vendor to review this information. To view the Standard Terms and conditions, please refer to <http://www.richmond.ca/busdev/tenders.htm> All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.



3700-2nd Ave
Burnaby, BC V5C 6S4
Tel: (778) 879-2035

FortisBC.com

February 5, 2018

City of Richmond
6911 No. 3 Rd
Richmond, B.C.
V6Y 2C1

Attention: Elena Paller / Susan Discusso

RE: Spires Gate / Spires Rd / Cook Cres / Cook Gate area
Gas main alteration for 5 separate locations.

FortisBC Job Reference: #2800407605 Rev 1
Start date: T.B.A. after City of Rmd advise about their utilities installation schedule.
Validity of the Quote: This quote is valid for 90 days

Scope of Work:

Alteration of existing DP/Steel gas main located on:

- 1) West section on Spires Gate near Cooney Road;
- 2) Southwest corner of the intersection of Spires Gate & Spires Road;
- 3) Southwest corner of Spires Road;
- 4) West Intersection of Cook Crescent & Spires Road; and
- 5) Intersection of Spires Rd & Cook Gate.

Assumptions:

1. All proposed future utilities design is based on the drawing package 16-013 - IFT - Spires Area Utility Upgrades - 2017-07-04.pdf, and also the telus drawing TELUS-2670884U-1.pdf.
2. There is no contaminated soil at the construction location.
3. FortisBC will not be responsible for repaving the road top pavement after alteration constructions. (Only back filled)
4. FortisBC to sawcut and open our own bellholes for the alteration construction at the following 5 locations:
 - 1) West section on Spires Gate near Cooney Road;
 - 2) Southwest corner of the intersection of Spires Gate & Spires Road;
 - 3) Southwest corner of the Spire Road;
 - 4) West Intersection of Cook Crescent & Spires Road; and
 - 5) Intersection of Spires Rd. & Cook Gate.
6. If any customers' appliance pilot lights turn off due to the gas main alteration construction, FortisBC will relight such appliances for all the affected customers.

Estimated Cost: \$62,100 (excluding taxes)

The City of Richmond (the "Customer") agrees to the terms and conditions set out in this letter agreement ("Letter Agreement") and in FortisBC Energy Inc.'s ("FortisBC") standard terms and conditions set out in Schedule A attached, which terms and conditions form part of this Letter Agreement, to carry out above job reference # #2800407605.

The Customer must sign and return this Letter Agreement to FortisBC via mail or email. The Customer must provide purchase order # as prepayment prior to the start of work. FortisBC will not schedule the work until it has received the signed Letter Agreement and purchase order # for the prepayment. Scheduling of work will remain the responsibility of FortisBC taking into consideration the Development Project schedule.

Important: This is a cost estimate. You will be billed on the basis of actual costs incurred. Please indicate your acceptance of these costs by signing and returning this letter agreement via mail or email.

Planning and Design Technologist: Bobby Ho
Phone: 778-879-2035
Email: bobby.ho@fortisbc.com

Yours Sincerely,

FortisBC Energy Inc.

THE ABOVE TERMS AND CONDITIONS ARE HEREBY AGREED TO:

CITY OF RICHMOND by its authorized signatory:



Robert Gonzalez, P.Eng.
Deputy CAO and General Manager,
Engineering and Public Works

Mar. 10/18

Date

City of Richmond
APPROVED for content by originating dept. <i>E.P.</i>
Legal Advice <i>BRB</i>
DATE OF COUNCIL APPROVED (if applicable) <i>N/A</i>

SCHEDULE A
Terms and Conditions of Order - Construction

1. General

- 1.1. FortisBC Energy Inc. ("FortisBC") has provided the Customer with an estimate of the cost (the "Estimate") to do certain work (the "Work") at Spires Gate / Spires Rd / Cook Cres / Cook Gate area (the "Site") for the Customer the details of which are attached to the Letter Agreement and in any addenda issued by FortisBC and these Terms and Conditions. The Customer acknowledges and agrees that the Estimate is an estimate only, and that the Customer shall be liable for payment for the Work in excess of the Estimate amount.
- 1.2. Letter Agreement, together with any addenda issued by FortisBC and these Terms and Conditions are collectively referred to as the "Letter Agreement".

2. Access

- 2.1. In the event the Customer is the owner of the Site and the land in the proximity of the Site (the "Lands"), the Customer shall provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.2. In the event the Customer is not the owner of the Site and/or the Lands or any portion thereof, the Customer shall obtain all necessary permissions and approvals from the owner(s) to provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.3. FortisBC shall remove its vehicles, equipment and materials from the Lands upon completion of the Work, and leave the Site and the Lands in a neat and tidy condition and good state of repair considering the nature of the Work completed hereunder.

3. Commencement of the Work

FortisBC shall commence the Work as soon as reasonably practicable having regard to the availability of FortisBC personnel, equipment and materials, provided however, that FortisBC will not commence the Work until (i) the Customer has delivered a certified cheque and/or bank draft in the amount of the Estimate to FortisBC as required pursuant to Clause 7; (ii) the Customer has provided confirmation that all permissions and approvals described in Clause 2 have been obtained; and (iii) FortisBC and the Customer have obtained all permits and approvals described in Clause 9. FortisBC does not covenant to prosecute the Work diligently or by any scheduled dates, whether or not such

SCHEDULE A
Terms and Conditions of Order - Construction

scheduled dates for commencement or completion of the Work have been specified by the Customer or by FortisBC.

4. Change Orders and Extra Work

FortisBC may at any time make written requests for changes to the Work, and these changes shall become part of the Letter Agreement upon being mutually agreed upon, and include a mutually acceptable increase or decrease in the Estimate.

The Customer may request that FortisBC perform additional work ("Extra Work") which is not within the Scope of Work as set out in the Letter Agreement. The details of the Extra Work shall be discussed, mutually agreed upon and paid at a mutually agreed upon rate prior to commencing the Extra Work.

5. Delay

If there is any delay in the Work caused or attributable to the Customer then FortisBC may, without cost, suspend part or all of the Work under this Letter Agreement until the Work can again be performed efficiently, effectively and without delay.

6. Force Majeure

6.1. "Force Majeure" means any one or more of the following events:

- (a) war or hostilities;
- (b) riot or civil commotion;
- (c) earthquake, major flood not foreseeable in the area of the Site, forest fire or suspensions of work ordered by the Ministry of Forests, or other natural physical disaster preventing the performance of the Work;
- (d) governmental regulations or controls;
- (e) inability to obtain any material or services;
- (f) strike or lock-out or other industrial action; and
- (g) government embargo,

provided, however, that any such event is a major disabling event or circumstance in relation to the normal operations of the party concerned as a whole which is beyond the reasonable control of the party directly affected and results in a material delay, interruption or failure by such party in carrying out its duties, covenants or obligations under the Letter Agreement. Lack of money, financing or credit to resolve such contingencies will not be deemed an event of Force Majeure.

SCHEDULE A
Terms and Conditions of Order - Construction

- 6.2. Lack of funds or other financial cause specific to the Customer shall not be construed as Force Majeure. If either party to the Letter Agreement is prevented from, or delayed in, performing any of its obligations under the Letter Agreement by Force Majeure, then it shall within two (2) days of the commencement of such circumstances notify the other party of the circumstances constituting the Force Majeure and of the obligation and performance of which is thereby delayed or prevented, and the party giving the notice shall thereupon be excused the performance or punctual performance, as the case may be, of such obligation for so long as the circumstances of prevention or delay continue. The provision of written notice by the Customer as aforesaid is a condition precedent to any claim for extra time or for delay in completion as a result of the Force Majeure.
- 6.3. Without limiting any other rights of FortisBC under any other provision of the Letter Agreement, if the suspension of Work exceeds a period of either fourteen (14) consecutive days or thirty (30) cumulative days as a result of Force Majeure, either party shall have the option to terminate the Letter Agreement on giving the other party written notice to that effect.
- 6.4. In the event of termination pursuant to Clause 10, the Customer shall be liable to pay FortisBC for that portion of the Work completed or goods delivered to the date of termination as well as any costs reasonably incurred by FortisBC in relation to the Work after termination.

7. Terms of Payment

- 7.1. If required by FortisBC, the Customer shall deliver a certified cheque and/or bank draft in the amount of the Estimate (the "Prepayment") on or **before 16th February, 2018** towards payment for the Work.
- 7.2. While FortisBC has used care in arriving at the Estimate, FortisBC does not warrant that the Estimate is a reasonable estimate of the cost of completing the Work (the "Cost"). The Cost includes all costs directly or indirectly incurred by FortisBC in completing the Work, and includes, but is not limited to labour, equipment, materials, overhead, necessary licenses and permits and any and all costs relating to access to the Site. Notwithstanding the foregoing, if the Cost is less than the Prepayment, FortisBC shall refund the difference to the Customer without interest; and if Cost of completing the Work exceeds the Prepayment, the Customer agrees to and shall pay such deficiency (the "Deficiency Amount").
- 7.3. FortisBC shall send an invoice (the "Invoice") to the Customer for the Deficiency Amount, and payment for the Deficiency Amount shall be made by the Customer to FortisBC within thirty (30) days from the date of the Invoice. The Invoice is due thirty (30) days from the date of the Invoice. Late payment charges will accrue interest at a rate of prime plus two (2) percent

SCHEDULE A
Terms and Conditions of Order - Construction

for the first thirty (30) days the payment remains unpaid, and prime plus five (5) percent thereafter until the Invoice is paid in full.

- 7.4. In the event that the Work has not commenced by any scheduled date promised by FortisBC, for such reasons including, but not limited to, delay in acquiring required permissions, permits and approvals, Force Majeure and failure of the Customer to make payment pursuant to this Clause 7, this Letter Agreement shall be deemed to have expired, unless FortisBC and the Customer have agreed in writing to extend the Letter Agreement beyond that date. If the Customer has provided FortisBC with the Prepayment, prior to expiration of the Letter Agreement pursuant to this Clause 7.4, FortisBC shall return the Prepayment amount without interest to the Customer minus any expenses incurred by FortisBC to date.

8. FortisBC to Retain Ownership

The Customer acknowledges and agrees that all vehicles, equipment, supplies and materials provided by FortisBC, contractor or subcontractor in the course of the Work, howsoever changed, incorporated or used in the Work, shall remain the property of FortisBC, and shall in no event become the property of the Customer.

9. Permits and Approvals

FortisBC shall be responsible for obtaining any permits, certificates and approvals required in connection with the construction, gasification and operation of natural gas pipes, pipelines and associated works. The Customer shall be responsible for obtaining all other permits required for the Work unless otherwise agreed in writing between FortisBC and the Customer.

10. Termination

- 10.1. FortisBC may, at any time without cause and at its sole discretion, terminate this Letter Agreement by giving notice in writing to the Customer.
- 10.2. If FortisBC terminates this Letter Agreement in accordance with this Clause 10, FortisBC shall reimburse the Customer the Prepayment amount without any interest, minus any reasonable costs incurred by FortisBC in performing the Work up to or after the date of termination. Such reasonable costs shall include but not be limited to costs to FortisBC for the work performed to date (including but not limited to materials purchased), expenses incurred as a result of early termination of any contractor or third party, and work required to reinstate the facilities to their prior state (or equivalent). If FortisBC satisfies its obligations hereunder, the Customer shall have no

SCHEDULE A
Terms and Conditions of Order - Construction

further cause to action or right against FortisBC in respect of the termination of this Letter Agreement or otherwise.

11. Confidentiality

- 11.1. All information or documentation received by the Customer pertaining to or arising from the Work or the business affairs or trade secrets of FortisBC, including but not limited to the Estimate and labour rates quoted in the Estimate, shall be deemed to be confidential and proprietary to FortisBC. Except as otherwise provided herein, the Customer shall not directly or indirectly disclose any such confidential information or documentation to any third party without the prior written consent of FortisBC. Such consent is not required where the third party is another contractor or consultant retained by FortisBC for the purposes of the Letter Agreement and to the extent that such disclosure is necessary for the proper performance of this Letter Agreement or to the extent that such disclosure is required by law.
- 11.2. Notwithstanding the foregoing, the Customer may use such confidential information or documentation pertaining to or arising from the Work in the preparation for and conduct of submissions to regulatory agencies.
- 11.3. The obligations of confidentiality set out above are subject to applicable laws (including in the case of Customer, the Freedom of Information and Protection of Privacy Act) and shall not apply to material, data or information which is known to the Customer prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same. The confidentiality covenants of the Customer herein shall survive the termination of this Letter Agreement.

12. Limitation of Liability and Indemnity

FortisBC, its employees, contractors, subcontractors or agents are not responsible or liable for any claim, expense, loss, cost, or other liability incurred by the Customer or any third party caused by or resulting directly or indirectly from the Work, unless the claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractors or agents. Notwithstanding the foregoing FortisBC, its employees, contractors, subcontractors and agents are in no event liable for any incidental, special, punitive, or consequential damages of any kind (including, but without limitation, loss of income, loss of profits, or other pecuniary loss), even if the loss is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

SCHEDULE A
Terms and Conditions of Order - Construction

In no event shall FortisBC's aggregate liability to pay for any claim, expense, loss, cost, or other liability incurred by the Customer resulting from the Work exceed the total amount paid to FortisBC by the Customer for the Work.

The Customer shall indemnify FortisBC and save it harmless from any claim, expense, loss, cost or other liability of any third parties arising out of Work, unless such claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

13. Disputes

13.1. Except for applications for injunctions required to protect confidential information, where any dispute arises out of or in connection with this Letter Agreement, including failure of the parties to reach agreement hereunder:

(a) If the parties have been unable to settle the dispute within thirty (30) days after receipt of notice of such dispute from the other party, a senior officer of each party's management shall meet within fifteen (15) days after that period in an attempt to resolve such dispute.

(b) If the senior officers of the parties are not able pursuant to sub-Clause 13.1(a) to resolve the dispute within the fifteen (15) day period stipulated in sub-Clause 13.1(a), the parties agree to promptly try to resolve the dispute by participating in a structured mediation conference with a mediator under the National Arbitration Rules of the ADR Institute of Canada Inc.

13.2. If the parties fail to resolve the dispute through mediation within thirty (30) days after the end of the fifteen (15) day period stipulated in sub-Clause 13.1(a), subject to sub-Section 13.3 either party at its sole option may pursue litigation to resolve such dispute in any court of competent jurisdiction in the Province of British Columbia. The parties hereto agree that the Courts of the Province of British Columbia shall have exclusive jurisdiction to resolve any and all disputes between the parties.

13.3. By separate written agreement to arbitrate signed by all parties concerned, which agreement may be arbitrarily withheld, the particular unresolved disputes identified in the agreement to arbitrate shall be referred to and finally resolved or determined by arbitration under the National Arbitration Rules of the ADR Institute of Canada Inc. In the absence of such rules, the rules shall be as agreed by the parties or, failing agreement, the rules as prescribed in such case by, as applicable, the *Commercial Arbitration Act* or *International Arbitration Act* of the Province of British Columbia. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.

E.P.

SCHEDULE A
Terms and Conditions of Order - Construction

- 13.4. 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 law in arbitration proceedings.
- 13.5. In addition to awarding monetary damages and interest on unpaid amounts, the arbitrator shall have the authority to provide injunctive relief, order specific performance and grant permanent relief.
- 13.6. Each party shall bear its own costs and expenses of the arbitration. 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 on substantially all issues. In such case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.
- 13.7. The parties will continue to fulfill their respective obligations pursuant to this Letter Agreement during the resolution of any dispute in accordance with this Clause 13.

14. Subcontracting

FortisBC may retain the services of a qualified third party to perform some or all of its obligations under this Letter Agreement.

15. Assignment

The Customer shall not assign its rights or obligations under this Letter Agreement without the prior written consent of FortisBC, which consent may be arbitrarily withheld.

16. Law

This Letter Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

17. Enurement

This Letter Agreement shall be for the benefit of and be binding upon FortisBC and the Customer and their respective successors and permitted assigns.

18. Amendments

- 18.1. The Letter Agreement embodies the entire agreement between the parties and supersedes all communications, negotiations and agreements, either written or oral, relating to the Work that were made prior to the date of execution of the Letter Agreement. The Letter Agreement contains all the representations, warranties, covenants, agreements, conditions and

SCHEDULE A
Terms and Conditions of Order - Construction

understandings between the parties with respect to the subject matter of the Letter Agreement and there are no other representations, warranties, covenants, agreements, conditions or understandings with respect to the Letter Agreement that are not contained herein.

- 18.2. The Customer hereby represents and warrants that in entering into the Letter Agreement it has not and does not rely upon any previous representation of FortisBC, consultant, or any employee, director, officer, servant, consultant or agent of FortisBC, whether express or implied, or upon any inducement or agreement of any kind or nature.
- 18.3. The Letter Agreement may only be amended by written agreement, signed by both parties.

Purchase Order



**City of
Richmond**

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033559
FORTISBC ENERGY INC
16705 Fraser Highway
Surrey BC V4N 0E8
Canada

Tax Exempt? N **Tax Exempt ID:**

Dispatch via E-Mail

Purchase Order CITY-0000086683	Date 06/07/2017	Revision	Page 1
Payment Terms Net 30	Freight Terms Destination	Ship Via Common	
Buyer Richmond Purchasing	Phone 604/276-4000	Currency CAD	

Ship To:
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Attention: Dimitrov, Momchil
MDimitrov@richmond.ca

Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	Relocate Service on Park Rd for the Storm Sewer Replacement	1.00	EA	23,466.60	23,466.60	06/07/2017	G
GSTCDN (5.00%)					1,173.33		
Total PO Amount					24,639.93		

The Terms and Conditions of Contract take precedence over the standard Terms and Conditions of the Purchase Order. Unless specifically overridden, the Terms and Conditions on the City of Richmond web site, either for product, services and both apply to this PO. It is the responsibility of the vendor to review this information. To view the Standard Terms and conditions, please refer to <http://www.richmond.ca/busdev/tenders.htm> All shipments, shipping papers, invoices, and correspondence must be identified with our Purchase Order Number. Overshipments will not be accepted unless authorized by Buyer prior to shipment.



16705 Fraser Highway
Surrey, BC V4N 0E8
Tel: (604) 576-7000
FortisBC.com

June 6, 2017

City of Richmond
6911 No 3 Road
Richmond, BC
V6Y 2C1

Attention: Leo Huang
Subject: 42mm Gas Main Alteration
FortisBC Job Reference: - 30867794
Anticipated Start date: - To be determined
Validity of the Quote: - This quote is valid for 60 days

Scope of work: Existing 42 DP/ST main on Park Road & Back Lane(#6740) has to be altered to accommodate the proposed 750mm storm sewer by City of Richmond

Assumptions:

1. Construction activities will generally take place between 8.00AM and 4.00PM Monday to Friday
2. No Contaminated Soil Conditions.
3. Traffic Permit cost not included.
4. Final Paving of the road by Stuartolson to city standard.

Estimated Cost: \$ 23,466.60

City of Richmond agrees to the terms and conditions set out in this letter agreement and in FortisBC Energy Inc.'s ("FortisBC") standard terms and conditions set out in Schedule A attached, to carry out the alteration of existing 42mm DP/ST main on Park Road to accommodate the proposed storm sewer.

Scheduling of this work will take place as per the following:

- Receipt of signed letter agreement
- Receipt of Purchase Order

The Customer must provide FortisBC with a Purchase Order for not less than the full amount of the estimate along with its acceptance of the estimate and these terms and conditions by signing and returning this form via mail or fax. FortisBC will not complete the work until it has received the Purchase Order.



Important: This is a cost estimate only. You will be billed on the basis of the actual costs incurred.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronil Perera'.

Perera, Ronil
Planning & Design Technologist
FortisBC Energy Inc.
Tel: (604)-461-6950
Fax: (604)-244-9720
Email: ronil.perera@fortisbc.com

Enclosures

FortisBC Energy Inc.

THE ABOVE TERMS AND CONDITIONS ARE HEREBY AGREED TO:

City of Richmond
by its authorized signatory:



Signature

June 06/2017

Date

EIT

Title

Purchase Order # TBD

Amount of Purchase Order as per quote

SCHEDULE A
Terms and Conditions of Order - Construction

1. General

- 1.1. FortisBC Energy Inc. ("FortisBC") has provided the Customer with an estimate of the cost (the "Estimate") to do certain work (the "Work") at Park Road and Back Lane(#6740), Richmond (the "Site") for the Customer the details of which are attached to the Letter Agreement and in any addenda issued by FortisBC and these Terms and Conditions. The Customer acknowledges and agrees that the Estimate is an estimate only, and that the Customer shall be liable for payment for the Work in excess of the Estimate amount.
- 1.2. Letter Agreement, together with any addenda issued by FortisBC and these Terms and Conditions are collectively referred to as the "Letter Agreement".

2. Access

- 2.1. In the event the Customer is the owner of the Site and the land in the proximity of the Site (the "Lands"), the Customer shall provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.2. In the event the Customer is not the owner of the Site and/or the Lands or any portion thereof, the Customer shall obtain all necessary permissions and approvals from the owner(s) to provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.3. FortisBC shall remove its vehicles, equipment and materials from the Lands upon completion of the Work, and leave the Site and the Lands in a neat and tidy condition and good state of repair considering the nature of the Work completed hereunder.

3. Commencement of the Work

FortisBC shall commence the Work as soon as reasonably practicable having regard to the availability of FortisBC personnel, equipment and materials, provided however, that FortisBC will not commence the Work until (i) the Customer has delivered a certified cheque and/or bank draft in the amount of the Estimate to FortisBC as required pursuant to Clause 7; (ii) the Customer has provided confirmation that all permissions and approvals described in Clause 2 have been obtained; and (iii) FortisBC and the Customer have obtained all permits and approvals described in Clause 9. FortisBC does not covenant to prosecute the Work diligently or by any scheduled dates, whether or not such

SCHEDULE A
Terms and Conditions of Order - Construction

scheduled dates for commencement or completion of the Work have been specified by the Customer or by FortisBC.

4. Change Orders and Extra Work

FortisBC may at any time make written requests for changes to the Work, and these changes shall become part of the Letter Agreement upon being mutually agreed upon, and include a mutually acceptable increase or decrease in the Estimate.

The Customer may request that FortisBC perform additional work ("Extra Work") which is not within the Scope of Work as set out in the Letter Agreement. The details of the Extra Work shall be discussed, mutually agreed upon and paid at a mutually agreed upon rate prior to commencing the Extra Work.

5. Delay

If there is any delay in the Work caused or attributable to the Customer then FortisBC may, without cost, suspend part or all of the Work under this Letter Agreement until the Work can again be performed efficiently, effectively and without delay.

6. Force Majeure

6.1. "Force Majeure" means any one or more of the following events:

- (a) war or hostilities;
- (b) riot or civil commotion;
- (c) earthquake, major flood not foreseeable in the area of the Site, forest fire or suspensions of work ordered by the Ministry of Forests, or other natural physical disaster preventing the performance of the Work;
- (d) governmental regulations or controls;
- (e) inability to obtain any material or services;
- (f) strike or lock-out or other industrial action; and
- (g) government embargo,

provided, however, that any such event is a major disabling event or circumstance in relation to the normal operations of the party concerned as a whole which is beyond the reasonable control of the party directly affected and results in a material delay, interruption or failure by such party in carrying out its duties, covenants or obligations under the Letter Agreement. Lack of money, financing or credit to resolve such contingencies will not be deemed an event of Force Majeure.

SCHEDULE A
Terms and Conditions of Order - Construction

- 6.2. Lack of funds or other financial cause specific to the Customer shall not be construed as Force Majeure. If either party to the Letter Agreement is prevented from, or delayed in, performing any of its obligations under the Letter Agreement by Force Majeure, then it shall within two (2) days of the commencement of such circumstances notify the other party of the circumstances constituting the Force Majeure and of the obligation and performance of which is thereby delayed or prevented, and the party giving the notice shall thereupon be excused the performance or punctual performance, as the case may be, of such obligation for so long as the circumstances of prevention or delay continue. The provision of written notice by the Customer as aforesaid is a condition precedent to any claim for extra time or for delay in completion as a result of the Force Majeure.
- 6.3. Without limiting any other rights of FortisBC under any other provision of the Letter Agreement, if the suspension of Work exceeds a period of either fourteen (14) consecutive days or thirty (30) cumulative days as a result of Force Majeure, either party shall have the option to terminate the Letter Agreement on giving the other party written notice to that effect.
- 6.4. In the event of termination pursuant to Clause 10, the Customer shall be liable to pay FortisBC for that portion of the Work completed or goods delivered to the date of termination as well as any costs reasonably incurred by FortisBC in relation to the Work after termination.

7. Terms of Payment

- 7.1. If required by FortisBC, the Customer shall deliver a certified cheque and/or bank draft in the amount of the Estimate (the "Prepayment") as soon as possible towards payment for the Work.
- 7.2. While FortisBC has used care in arriving at the Estimate, FortisBC does not warrant that the Estimate is a reasonable estimate of the cost of completing the Work (the "Cost"). The Cost includes all costs directly or indirectly incurred by FortisBC in completing the Work, and includes, but is not limited to labour, equipment, materials, overhead, necessary licenses and permits and any and all costs relating to access to the Site. Notwithstanding the foregoing, if the Cost is less than the Prepayment, FortisBC shall refund the difference to the Customer without interest; and if Cost of completing the work exceeds the Prepayment, the Customer agrees to and shall pay such deficiency (the "Deficiency Amount").
- 7.3. FortisBC shall send an invoice (the "Invoice") to the Customer for the Deficiency Amount, and payment for the Deficiency Amount shall be made by the Customer to FortisBC within thirty (30) days from the date of the invoice. The Invoice is due thirty (30) days from the date of the invoice. Late payment charges will accrue interest at a rate of prime plus two (2) percent

SCHEDULE A
Terms and Conditions of Order - Construction

for the first thirty (30) days the payment remains unpaid, and prime plus five (5) percent thereafter until the invoice is paid in full.

- 7.4. In the event that the Work has not commenced by any scheduled date promised by FortisBC, for such reasons including, but not limited to, delay in acquiring required permissions, permits and approvals, force majeure and failure of the Customer to make payment pursuant to this Clause 7, this Letter Agreement shall be deemed to have expired, unless FortisBC and the Customer have agreed in writing to extend the Letter Agreement beyond that date. If the Customer has provided FortisBC with the Prepayment, prior to expiration of the Letter Agreement pursuant to this Clause 6.3, FortisBC shall return the Prepayment amount without interest to the Customer minus any expenses incurred by FortisBC to date.

8. FortisBC to Retain Ownership

The Customer acknowledges and agrees that all vehicles, equipment, supplies and materials provided by FortisBC, contractor or subcontractor in the course of the Work; howsoever changed, incorporated or used in the Work, shall remain the property of FortisBC, and shall in no event become the property of the Customer.

9. Permits and Approvals

FortisBC shall be responsible for obtaining any permits, certificates and approvals required in connection with the construction, gasification and operation of natural gas pipes, pipelines and associated works. The Customer shall be responsible for obtaining all other permits required for the Work unless otherwise agreed in writing between FortisBC and the Customer.

10. Termination

- 10.1. FortisBC may, at any time without cause and at its sole discretion, terminate this Letter Agreement by giving notice in writing to the Customer.
- 10.2. If FortisBC terminates this Letter Agreement in accordance with this Clause 10, FortisBC shall reimburse the Customer the Prepayment amount without any interest, minus any reasonable costs incurred by FortisBC in performing the Work up to or after the date of termination. Such reasonable costs shall include but not be limited to costs to FortisBC for the work performed to date (including but not limited to materials purchased), expenses incurred as a result of early termination of any contractor or third party, and work required to reinstate the facilities to their prior state (or equivalent). If FortisBC satisfies its obligations hereunder, the Customer shall have no

SCHEDULE A
Terms and Conditions of Order - Construction

further cause to action or right against FortisBC in respect of the termination of this Letter Agreement or otherwise.

11. Confidentiality

- 11.1. All information or documentation received by the Customer pertaining to or arising from the Work or the business affairs or trade secrets of FortisBC, including but not limited to the Estimate and labour rates quoted in the Estimate, shall be deemed to be confidential and proprietary to FortisBC. Except as otherwise provided herein, the Customer shall not directly or indirectly disclose any such confidential information or documentation to any third party without the prior written consent of FortisBC. Such consent is not required where the third party is another contractor or consultant retained by FortisBC for the purposes of the Letter Agreement and to the extent that such disclosure is necessary for the proper performance of this Letter Agreement or to the extent that such disclosure is required by law.
- 11.2. Notwithstanding the foregoing, the Customer may use such confidential information or documentation pertaining to or arising from the Work in the preparation for and conduct of submissions to regulatory agencies.
- 11.3. The obligation of confidentiality set out above shall not apply to material, data or information which is known to the Customer prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same. The confidentiality covenants of the Customer herein shall survive the termination of this Letter Agreement.

12. Limitation of Liability and Indemnity

FortisBC, its employees, contractors, subcontractors or agents are not responsible or liable for any claim, expense, loss, cost, or other liability incurred by the Customer or any third party caused by or resulting directly or indirectly from the Work, unless the claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractors or agents. Notwithstanding the foregoing FortisBC, its employees, contractors, subcontractors and agents are in no event liable for any incidental, special, punitive, or consequential damages of any kind (including, but without limitation, loss of income, loss of profits, or other pecuniary loss), even if the loss is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

In no event shall FortisBC's aggregate liability to pay for any claim, expense, loss, cost, or other liability incurred by the Customer resulting from the Work exceed the total amount paid to FortisBC by the Customer for the Work.

SCHEDULE A
Terms and Conditions of Order - Construction

The Customer shall indemnify FortisBC and save it harmless from any claim, expense, loss, cost or other liability of any third parties arising out of Work, unless such claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

13. Disputes

- 13.1. Except for applications for injunctions required to protect confidential information, where any dispute arises out of or in connection with this Letter Agreement, including failure of the parties to reach agreement hereunder:
- (a) If the parties have been unable to settle the dispute within thirty (30) days after receipt of notice of such dispute from the other party, a senior officer of each party's management shall meet within fifteen (15) days after that period in an attempt to resolve such dispute.
 - (b) If the senior officers of the parties are not able pursuant to sub-Clause 13.1(a) to resolve the dispute within the fifteen (15) day period stipulated in sub-Clause 13.1(a), the parties agree to promptly try to resolve the dispute by participating in a structured mediation conference with a mediator under the National Arbitration Rules of the ADR Institute of Canada Inc.
- 13.2. If the parties fail to resolve the dispute through mediation within thirty (30) days after the end of the fifteen (15) day period stipulated in sub-Clause 13.1(a), subject to sub-Section 13.3 either party at its sole option may pursue litigation to resolve such dispute in any court of competent jurisdiction in the Province of British Columbia. The parties hereto agree that the Courts of the Province of British Columbia shall have exclusive jurisdiction to resolve any and all disputes between the parties.
- 13.3. By separate written agreement to arbitrate signed by all parties concerned, which agreement may be arbitrarily withheld, the particular unresolved disputes identified in the agreement to arbitrate shall be referred to and finally resolved or determined by arbitration under the National Arbitration Rules of the ADR Institute of Canada Inc. In the absence of such rules, the rules shall be as agreed by the parties or, failing agreement, the rules as prescribed in such case by, as applicable, the *Commercial Arbitration Act* or *International Arbitration Act* of the Province of British Columbia. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.

SCHEDULE A
Terms and Conditions of Order - Construction

- 13.4. 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 law in arbitration proceedings.
- 13.5. In addition to awarding monetary damages and interest on unpaid amounts, the arbitrator shall have the authority to provide injunctive relief, order specific performance and grant permanent relief.
- 13.6. Each party shall bear its own costs and expenses of the arbitration. 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 on substantially all issues. In such case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.
- 13.7. The parties will continue to fulfill their respective obligations pursuant to this Letter Agreement during the resolution of any dispute in accordance with this Clause 13.

14. Subcontracting

FortisBC may retain the services of a qualified third party to perform some or all of its obligations under this Letter Agreement.

15. Assignment

The Customer shall not assign its rights or obligations under this Letter Agreement without the prior written consent of FortisBC, which consent may be arbitrarily withheld.

16. Law

This Letter Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

17. Enurement

This Letter Agreement shall be for the benefit of and be binding upon FortisBC and the Customer and their respective successors and permitted assigns.

18. Amendments

- 18.1. The Letter Agreement embodies the entire agreement between the parties and supersedes all communications, negotiations and agreements, either written or oral, relating to the Work that were made prior to the date of execution of the Letter Agreement. The Letter Agreement contains all the representations, warranties, covenants, agreements, conditions and

SCHEDULE A
Terms and Conditions of Order - Construction

understandings between the parties with respect to the subject matter of the Letter Agreement and there are no other representations, warranties, covenants, agreements, conditions or understandings with respect to the Letter Agreement that are not contained herein.

- 18.2. The Customer hereby represents and warrants that in entering into the Letter Agreement it has not and does not rely upon any previous representation of FortisBC, consultant, or any employee, director, officer, servant, consultant or agent of FortisBC, whether express or implied, or upon any inducement or agreement of any kind or nature.
- 18.3. The Letter Agreement may only be amended by written agreement, signed by both parties.



City of Richmond

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033446
FORTISBC - NATURAL GAS
PO Box 6666 Station Terminal
Vancouver BC V6B 6M9
Canada

Tax Exempt? N **Tax Exempt ID:**

Purchase Order

CHANGE ORDER

Dispatch via E-Mail

Purchase Order CITY-0000098842	Date 11/16/2020	Revision 1 - 01/13/2021	Page 1
Payment Terms ASAP	Freight Terms Destination	Ship Via Common Carrier	
Buyer Richmond Purchasing	Phone 604/276-4000	Currency CAD	

Ship To:
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Attention: Dalla,Ridhi
RDalla1@richmond.ca

Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	Fortis BC Gas Service Alteration - Eckersley B PS	1.00	EA	17,300.00	17,300.00	11/16/2020	G
	GSTCDN (5.00%)				865.00		
	Total PO Amount				18,165.00		

Unless overridden by the City of Richmond ("the City"), the applicable General Terms and Conditions of Contract on the City's website apply to this Purchase Order. It is the sole responsibility of the Supplier to review this information. To view the General Terms and Conditions of Contract, please refer to <http://www.richmond.ca/busdev/tenders.htm>. All shipments, shipping, papers, invoices, and correspondence must be identified with the City's Purchase Order Number.



3700-2nd Ave
Burnaby, BC V5C 6S4
Tel: (778) 879-2035

FortisBC.com
November 4, 2020

City of Richmond
6911 No. 3 Rd
Richmond, B.C.
V6Y 2C1

Attention: Elena Paller

RE: 8600 Cook Rd, Richmond
Gas service alteration x 1

FortisBC Job Reference: 2800508576
Start date: T.B.A. after City of Rmd advise about their utilities installation schedule.
Validity of the Quote: This quote is valid for 90 days

Scope of work:

- The gas service alteration is required due to the proposed **sanitary station lay-out** that is in conflict with the gas service running path.

Assumptions:

1. All proposed future utilities design is based on the 16-013A Eckersley B Phase 1 - IFT Drawings.pdf.
2. There is no contaminated soil at the construction location.
3. FortisBC will only hot patch the road top pavement after construction.
3. FortisBC to sawcut and open our own bellholes for the alteration construction .
4. FortisBC to relight all affected customer appliances the service alteration.

Estimated Cost: \$17,300 (Including taxes)

The Customer agrees to the terms and conditions set out in this letter agreement (“Letter Agreement”) and in FortisBC Energy Inc.’s (“FortisBC”) standard terms and conditions set out in Schedule A attached, which terms and conditions form part of this Letter Agreement, to carry out above job reference # **2800508576**.

The Customer must sign and return this Letter Agreement to FortisBC via mail or email. The Customer must provide purchase order # as prepayment prior to the start of work. FortisBC will not schedule the work until it has received the signed Letter Agreement and purchase order # for the prepayment. Scheduling of work will remain the responsibility of FortisBC taking into consideration the Development Project schedule.

Important: This is a cost estimate. You will be billed on the basis of actual costs incurred. Please indicate your acceptance of these costs by signing and returning this letter agreement via mail or email.

Planning and Design Technologist: Bobby Ho
Phone: 778-879-2035
Email: bobby.ho@fortisbc.com

Yours Sincerely,

FortisBC Energy Inc.

THE ABOVE TERMS AND CONDITIONS ARE HEREBY AGREED TO:

FULL Legal name of Customer
by its authorized signatory:

Signature

Date

Title

SCHEDULE A
Terms and Conditions of Order - Construction

1. General

- 1.1. FortisBC Energy Inc. ("FortisBC") has provided the Customer with an estimate of the cost (the "Estimate") to do certain work (the "Work") at 8600 Cook Rd, Richmond (the "Site") for the Customer the details of which are attached to the Letter Agreement and in any addenda issued by FortisBC and these Terms and Conditions. The Customer acknowledges and agrees that the Estimate is an estimate only, and that the Customer shall be liable for payment for the Work in excess of the Estimate amount.
- 1.2. Letter Agreement, together with any addenda issued by FortisBC and these Terms and Conditions are collectively referred to as the "Letter Agreement".

2. Access

- 2.1. In the event the Customer is the owner of the Site and the land in the proximity of the Site (the "Lands"), the Customer shall provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.2. In the event the Customer is not the owner of the Site and/or the Lands or any portion thereof, the Customer shall obtain all necessary permissions and approvals from the owner(s) to provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.3. FortisBC shall remove its vehicles, equipment and materials from the Lands upon completion of the Work, and leave the Site and the Lands in a neat and tidy condition and good state of repair considering the nature of the Work completed hereunder.

3. Commencement of the Work

FortisBC shall commence the Work as soon as reasonably practicable having regard to the availability of FortisBC personnel, equipment and materials, provided however, that FortisBC will not commence the Work until (i) the Customer has delivered a certified cheque and/or bank draft in the amount of the Estimate to FortisBC as required pursuant to Clause 7; (ii) the Customer has provided confirmation that all permissions and approvals described in Clause 2 have been obtained; and (iii) FortisBC and the Customer have obtained all permits and approvals described in Clause 9. FortisBC does not covenant to prosecute the Work diligently or by any scheduled dates, whether or not such scheduled dates for commencement or completion of the Work have been specified by the Customer or by FortisBC.

SCHEDULE A
Terms and Conditions of Order - Construction

4. Change Orders and Extra Work

FortisBC may at any time make written requests for changes to the Work, and these changes shall become part of the Letter Agreement upon being mutually agreed upon, and include a mutually acceptable increase or decrease in the Estimate.

The Customer may request that FortisBC perform additional work (“Extra Work”) which is not within the Scope of Work as set out in the Letter Agreement. The details of the Extra Work shall be discussed, mutually agreed upon and paid at a mutually agreed upon rate prior to commencing the Extra Work.

5. Delay

If there is any delay in the Work caused or attributable to the Customer then FortisBC may, without cost, suspend part or all of the Work under this Letter Agreement until the Work can again be performed efficiently, effectively and without delay.

6. Force Majeure

6.1. “Force Majeure” means any one or more of the following events:

- (a) war or hostilities;
- (b) riot or civil commotion;
- (c) earthquake, major flood not foreseeable in the area of the Site, forest fire or suspensions of work ordered by the Ministry of Forests, or other natural physical disaster preventing the performance of the Work;
- (d) governmental regulations or controls;
- (e) inability to obtain any material or services;
- (f) strike or lock-out or other industrial action; and
- (g) government embargo,

provided, however, that any such event is a major disabling event or circumstance in relation to the normal operations of the party concerned as a whole which is beyond the reasonable control of the party directly affected and results in a material delay, interruption or failure by such party in carrying out its duties, covenants or obligations under the Letter Agreement. Lack of money, financing or credit to resolve such contingencies will not be deemed an event of Force Majeure.

6.2. Lack of funds or other financial cause specific to the Customer shall not be construed as Force Majeure. If either party to the Letter Agreement is

SCHEDULE A
Terms and Conditions of Order - Construction

prevented from, or delayed in, performing any of its obligations under the Letter Agreement by Force Majeure, then it shall within two (2) days of the commencement of such circumstances notify the other party of the circumstances constituting the Force Majeure and of the obligation and performance of which is thereby delayed or prevented, and the party giving the notice shall thereupon be excused the performance or punctual performance, as the case may be, of such obligation for so long as the circumstances of prevention or delay continue. The provision of written notice by the Customer as aforesaid is a condition precedent to any claim for extra time or for delay in completion as a result of the Force Majeure.

- 6.3. Without limiting any other rights of FortisBC under any other provision of the Letter Agreement, if the suspension of Work exceeds a period of either fourteen (14) consecutive days or thirty (30) cumulative days as a result of Force Majeure, either party shall have the option to terminate the Letter Agreement on giving the other party written notice to that effect.
- 6.4. In the event of termination pursuant to Clause 10, the Customer shall be liable to pay FortisBC for that portion of the Work completed or goods delivered to the date of termination as well as any costs reasonably incurred by FortisBC in relation to the Work after termination.

7. Terms of Payment

- 7.1. If required by FortisBC, the Customer shall deliver a certified cheque and/or bank draft in the amount of the Estimate (the "Prepayment") on or **before 27th November, 2020** towards payment for the Work.
- 7.2. While FortisBC has used care in arriving at the Estimate, FortisBC does not warrant that the Estimate is a reasonable estimate of the cost of completing the Work (the "Cost"). The Cost includes all costs directly or indirectly incurred by FortisBC in completing the Work, and includes, but is not limited to labour, equipment, materials, overhead, necessary licenses and permits and any and all costs relating to access to the Site. Notwithstanding the foregoing, if the Cost is less than the Prepayment, FortisBC shall refund the difference to the Customer without interest; and if Cost of completing the work exceeds the Prepayment, the Customer agrees to and shall pay such deficiency (the "Deficiency Amount").
- 7.3. FortisBC shall send an invoice (the "Invoice") to the Customer for the Deficiency Amount, and payment for the Deficiency Amount shall be made by the Customer to FortisBC within thirty (30) days from the date of the invoice. The Invoice is due thirty (30) days from the date of the invoice. Late payment charges will accrue interest at a rate of prime plus two (2) percent for the first thirty (30) days the payment remains unpaid, and prime plus five (5) percent thereafter until the invoice is paid in full.

SCHEDULE A
Terms and Conditions of Order - Construction

7.4. In the event that the Work has not commenced by any scheduled date promised by FortisBC, for such reasons including, but not limited to, delay in acquiring required permissions, permits and approvals, force majeure and failure of the Customer to make payment pursuant to this Clause 7, this Letter Agreement shall be deemed to have expired, unless FortisBC and the Customer have agreed in writing to extend the Letter Agreement beyond that date. If the Customer has provided FortisBC with the Prepayment, prior to expiration of the Letter Agreement pursuant to this Clause 6.3, FortisBC shall return the Prepayment amount without interest to the Customer minus any expenses incurred by FortisBC to date.

8. FortisBC to Retain Ownership

The Customer acknowledges and agrees that all vehicles, equipment, supplies and materials provided by FortisBC, contractor or subcontractor in the course of the Work; howsoever changed, incorporated or used in the Work, shall remain the property of FortisBC, and shall in no event become the property of the Customer.

9. Permits and Approvals

FortisBC shall be responsible for obtaining any permits, certificates and approvals required in connection with the construction, gasification and operation of natural gas pipes, pipelines and associated works. The Customer shall be responsible for obtaining all other permits required for the Work unless otherwise agreed in writing between FortisBC and the Customer.

10. Termination

10.1. FortisBC may, at any time without cause and at its sole discretion, terminate this Letter Agreement by giving notice in writing to the Customer.

10.2. If FortisBC terminates this Letter Agreement in accordance with this Clause 10, FortisBC shall reimburse the Customer the Prepayment amount without any interest, minus any reasonable costs incurred by FortisBC in performing the Work up to or after the date of termination. Such reasonable costs shall include but not be limited to costs to FortisBC for the work performed to date (including but not limited to materials purchased), expenses incurred as a result of early termination of any contractor or third party, and work required to reinstate the facilities to their prior state (or equivalent). If FortisBC satisfies its obligations hereunder, the Customer shall have no further cause to action or right against FortisBC in respect of the termination of this Letter Agreement or otherwise.

SCHEDULE A
Terms and Conditions of Order - Construction

11. Confidentiality

- 11.1. All information or documentation received by the Customer pertaining to or arising from the Work or the business affairs or trade secrets of FortisBC, including but not limited to the Estimate and labour rates quoted in the Estimate, shall be deemed to be confidential and proprietary to FortisBC. Except as otherwise provided herein, the Customer shall not directly or indirectly disclose any such confidential information or documentation to any third party without the prior written consent of FortisBC. Such consent is not required where the third party is another contractor or consultant retained by FortisBC for the purposes of the Letter Agreement and to the extent that such disclosure is necessary for the proper performance of this Letter Agreement or to the extent that such disclosure is required by law.
- 11.2. Notwithstanding the foregoing, the Customer may use such confidential information or documentation pertaining to or arising from the Work in the preparation for and conduct of submissions to regulatory agencies.
- 11.3. The obligation of confidentiality set out above shall not apply to material, data or information which is known to the Customer prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same. The confidentiality covenants of the Customer herein shall survive the termination of this Letter Agreement.

12. Limitation of Liability and Indemnity

FortisBC, its employees, contractors, subcontractors or agents are not responsible or liable for any claim, expense, loss, cost, or other liability incurred by the Customer or any third party caused by or resulting directly or indirectly from the Work, unless the claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractors or agents. Notwithstanding the foregoing FortisBC, its employees, contractors, subcontractors and agents are in no event liable for any incidental, special, punitive, or consequential damages of any kind (including, but without limitation, loss of income, loss of profits, or other pecuniary loss), even if the loss is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

In no event shall FortisBC's aggregate liability to pay for any claim, expense, loss, cost, or other liability incurred by the Customer resulting from the Work exceed the total amount paid to FortisBC by the Customer for the Work.

The Customer shall indemnify FortisBC and save it harmless from any claim, expense, loss, cost or other liability of any third parties arising out of Work, unless such claim, expense, loss, cost or other liability is directly attributable to

SCHEDULE A
Terms and Conditions of Order - Construction

the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

13. Disputes

- 13.1. Except for applications for injunctions required to protect confidential information, where any dispute arises out of or in connection with this Letter Agreement, including failure of the parties to reach agreement hereunder:
- (a) If the parties have been unable to settle the dispute within thirty (30) days after receipt of notice of such dispute from the other party, a senior officer of each party's management shall meet within fifteen (15) days after that period in an attempt to resolve such dispute.
 - (b) If the senior officers of the parties are not able pursuant to sub-Clause 13.1(a) to resolve the dispute within the fifteen (15) day period stipulated in sub-Clause 13.1(a), the parties agree to promptly try to resolve the dispute by participating in a structured mediation conference with a mediator under the National Arbitration Rules of the ADR Institute of Canada Inc.
- 13.2. If the parties fail to resolve the dispute through mediation within thirty (30) days after the end of the fifteen (15) day period stipulated in sub-Clause 13.1(a), subject to sub-Section 13.3 either party at its sole option may pursue litigation to resolve such dispute in any court of competent jurisdiction in the Province of British Columbia. The parties hereto agree that the Courts of the Province of British Columbia shall have exclusive jurisdiction to resolve any and all disputes between the parties.
- 13.3. By separate written agreement to arbitrate signed by all parties concerned, which agreement may be arbitrarily withheld, the particular unresolved disputes identified in the agreement to arbitrate shall be referred to and finally resolved or determined by arbitration under the National Arbitration Rules of the ADR Institute of Canada Inc. In the absence of such rules, the rules shall be as agreed by the parties or, failing agreement, the rules as prescribed in such case by, as applicable, the *Commercial Arbitration Act* or *International Arbitration Act* of the Province of British Columbia. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.
- 13.4. 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 law in arbitration proceedings.

SCHEDULE A
Terms and Conditions of Order - Construction

- 13.5. In addition to awarding monetary damages and interest on unpaid amounts, the arbitrator shall have the authority to provide injunctive relief, order specific performance and grant permanent relief.
- 13.6. Each party shall bear its own costs and expenses of the arbitration. 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 on substantially all issues. In such case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.
- 13.7. The parties will continue to fulfill their respective obligations pursuant to this Letter Agreement during the resolution of any dispute in accordance with this Clause 13.

14. Subcontracting

FortisBC may retain the services of a qualified third party to perform some or all of its obligations under this Letter Agreement.

15. Assignment

The Customer shall not assign its rights or obligations under this Letter Agreement without the prior written consent of FortisBC, which consent may be arbitrarily withheld.

16. Law

This Letter Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

17. Enurement

This Letter Agreement shall be for the benefit of and be binding upon FortisBC and the Customer and their respective successors and permitted assigns.

18. Amendments

- 18.1. The Letter Agreement embodies the entire agreement between the parties and supersedes all communications, negotiations and agreements, either written or oral, relating to the Work that were made prior to the date of execution of the Letter Agreement. The Letter Agreement contains all the representations, warranties, covenants, agreements, conditions and understandings between the parties with respect to the subject matter of the Letter Agreement and there are no other representations, warranties,

SCHEDULE A
Terms and Conditions of Order - Construction

covenants, agreements, conditions or understandings with respect to the Letter Agreement that are not contained herein.

- 18.2. The Customer hereby represents and warrants that in entering into the Letter Agreement it has not and does not rely upon any previous representation of FortisBC, consultant, or any employee, director, officer, servant, consultant or agent of FortisBC, whether express or implied, or upon any inducement or agreement of any kind or nature.
- 18.3. The Letter Agreement may only be amended by written agreement, signed by both parties.



City of Richmond

6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Supplier: 0000033446
FORTISBC - NATURAL GAS
PO Box 6666 Station Terminal
Vancouver BC V6B 6M9
Canada

Tax Exempt? N **Tax Exempt ID:**

Purchase Order

CHANGE ORDER

Dispatch via E-Mail

Purchase Order CITY-0000095917	Date 01/06/2020	Revision 1 - 06/04/2020	Page 1
Payment Terms ASAP	Freight Terms Destination	Ship Via Common Carrier	
Buyer Cooper, Simone	Phone Adelaide 604/204-8554	Currency CAD	

Ship To:
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Remit invoices to:
ACCOUNTS PAYABLE
6911 No. 3 Road
Richmond BC V6Y 2C1
Canada

Attention: Huang, Leo
LHuang1@richmond.ca

Or:
payables@richmond.ca
VAT Reg. ID: CA 121454003

Line-Sch	Item/Description	Quantity	UOM	PO Price	Extended Amt	Due Date	Tax
1 - 1	Headwall Replacement and Ditch Infill	1.00	EA	25,850.00	25,850.00	01/06/2020	PG
	PST (7.00%)				1,809.50		
	GSTCDN (5.00%)				1,292.50		
	Total PO Amount				28,952.00		

Unless overridden by the City of Richmond ("the City"), the applicable General Terms and Conditions of Contract on the City's website apply to this Purchase Order. It is the sole responsibility of the Supplier to review this information. To view the General Terms and Conditions of Contract, please refer to <http://www.richmond.ca/busdev/tenders.htm>. All shipments, shipping, papers, invoices, and correspondence must be identified with the City's Purchase Order Number.



3700-2nd Ave
Burnaby, BC V5C 6S4
Tel: (778) 879-2035

FortisBC.com
December 23, 2019

City of Richmond
6911 No. 3 Rd
Richmond, B.C.
V6Y 2C1

Attention: Leo Huang

RE: Broadway St & 3rd Ave, Richmond
Gas main alteration.

FortisBC Job Reference: 2800481716
Start date: 7 weeks (after received P.O. #)
Validity of the Quote: This quote is valid for 90 days

Scope of work:

Alteration of existing 60mm ST gas main on Broadway St to accommodate the new storm drain pipe installation running across Broadway St, Richmond

Assumptions:

1. All proposed future utilities design is based on the drawing **20191128IFCdigital - Broadway and 3rd Fortis Conflict (002).pdf**.
2. There is no contaminated soil at the construction location.
3. FortisBC will only do temporary hot patching road surface repair only.
4. FortisBC to open our own bellholes for the alteration construction.
6. FortisBC to relight all affected customer appliances the main alteration might affected.

Estimated Cost: \$25,850 (excluding taxes)

The Customer agrees to the terms and conditions set out in this letter agreement to carry out above job (reference job # shown next to the 8 address from above).

The Customer must sign and return this Letter Agreement to FortisBC via mail or email. The Customer must provide purchase order # as prepayment prior to the start of work. FortisBC will not schedule the work until it has received the signed Letter Agreement and purchase order # for the prepayment. Scheduling of work will remain the responsibility of FortisBC taking into consideration the Development Project schedule.

Important: This is a cost estimate. You will be billed on the basis of actual costs incurred. Please indicate your acceptance of these costs by signing and returning this letter agreement via mail or email.

Planning and Design Technologist: Bobby Ho
Phone: 778-879-2035
Email: bobby.ho@fortisbc.com

Yours Sincerely,

FortisBC Energy Inc.

THE ABOVE TERMS AND CONDITIONS ARE HEREBY AGREED TO:

FULL Legal name of Customer
by its authorized signatory:

Signature

Date

Title

SCHEDULE A
Terms and Conditions of Order - Construction

1. General

- 1.1. FortisBC Energy Inc. ("FortisBC") has provided the Customer with an estimate of the cost (the "Estimate") to do certain work (the "Work") at Broadway St / 3rd Ave (the "Site") for the Customer the details of which are attached to the Letter Agreement and in any addenda issued by FortisBC and these Terms and Conditions. The Customer acknowledges and agrees that the Estimate is an estimate only, and that the Customer shall be liable for payment for the Work in excess of the Estimate amount.
- 1.2. Letter Agreement, together with any addenda issued by FortisBC and these Terms and Conditions are collectively referred to as the "Letter Agreement".

2. Access

- 2.1. In the event the Customer is the owner of the Site and the land in the proximity of the Site (the "Lands"), the Customer shall provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.2. In the event the Customer is not the owner of the Site and/or the Lands or any portion thereof, the Customer shall obtain all necessary permissions and approvals from the owner(s) to provide FortisBC with full and unrestricted access to the Site and the Lands to complete the Work pursuant to this Letter Agreement.
- 2.3. FortisBC shall remove its vehicles, equipment and materials from the Lands upon completion of the Work, and leave the Site and the Lands in a neat and tidy condition and good state of repair considering the nature of the Work completed hereunder.

3. Commencement of the Work

FortisBC shall commence the Work as soon as reasonably practicable having regard to the availability of FortisBC personnel, equipment and materials, provided however, that FortisBC will not commence the Work until (i) the Customer has delivered a certified cheque and/or bank draft in the amount of the Estimate to FortisBC as required pursuant to Clause 7; (ii) the Customer has provided confirmation that all permissions and approvals described in Clause 2 have been obtained; and (iii) FortisBC and the Customer have obtained all permits and approvals described in Clause 9. FortisBC does not covenant to prosecute the Work diligently or by any scheduled dates, whether or not such scheduled dates for commencement or completion of the Work have been specified by the Customer or by FortisBC.

SCHEDULE A
Terms and Conditions of Order - Construction

4. Change Orders and Extra Work

FortisBC may at any time make written requests for changes to the Work, and these changes shall become part of the Letter Agreement upon being mutually agreed upon, and include a mutually acceptable increase or decrease in the Estimate.

The Customer may request that FortisBC perform additional work ("Extra Work") which is not within the Scope of Work as set out in the Letter Agreement. The details of the Extra Work shall be discussed, mutually agreed upon and paid at a mutually agreed upon rate prior to commencing the Extra Work.

5. Delay

If there is any delay in the Work caused or attributable to the Customer then FortisBC may, without cost, suspend part or all of the Work under this Letter Agreement until the Work can again be performed efficiently, effectively and without delay.

6. Force Majeure

6.1. "Force Majeure" means any one or more of the following events:

- (a) war or hostilities;
- (b) riot or civil commotion;
- (c) earthquake, major flood not foreseeable in the area of the Site, forest fire or suspensions of work ordered by the Ministry of Forests, or other natural physical disaster preventing the performance of the Work;
- (d) governmental regulations or controls;
- (e) inability to obtain any material or services;
- (f) strike or lock-out or other industrial action; and
- (g) government embargo,

provided, however, that any such event is a major disabling event or circumstance in relation to the normal operations of the party concerned as a whole which is beyond the reasonable control of the party directly affected and results in a material delay, interruption or failure by such party in carrying out its duties, covenants or obligations under the Letter Agreement. Lack of money, financing or credit to resolve such contingencies will not be deemed an event of Force Majeure.

6.2. Lack of funds or other financial cause specific to the Customer shall not be construed as Force Majeure. If either party to the Letter Agreement is

SCHEDULE A

Terms and Conditions of Order - Construction

prevented from, or delayed in, performing any of its obligations under the Letter Agreement by Force Majeure, then it shall within two (2) days of the commencement of such circumstances notify the other party of the circumstances constituting the Force Majeure and of the obligation and performance of which is thereby delayed or prevented, and the party giving the notice shall thereupon be excused the performance or punctual performance, as the case may be, of such obligation for so long as the circumstances of prevention or delay continue. The provision of written notice by the Customer as aforesaid is a condition precedent to any claim for extra time or for delay in completion as a result of the Force Majeure.

- 6.3. Without limiting any other rights of FortisBC under any other provision of the Letter Agreement, if the suspension of Work exceeds a period of either fourteen (14) consecutive days or thirty (30) cumulative days as a result of Force Majeure, either party shall have the option to terminate the Letter Agreement on giving the other party written notice to that effect.
- 6.4. In the event of termination pursuant to Clause 10, the Customer shall be liable to pay FortisBC for that portion of the Work completed or goods delivered to the date of termination as well as any costs reasonably incurred by FortisBC in relation to the Work after termination.

7. Terms of Payment

- 7.1. If required by FortisBC, the Customer shall deliver a certified cheque and/or bank draft in the amount of the Estimate (the "Prepayment") on or **before 13th January, 2020** towards payment for the Work.
- 7.2. While FortisBC has used care in arriving at the Estimate, FortisBC does not warrant that the Estimate is a reasonable estimate of the cost of completing the Work (the "Cost"). The Cost includes all costs directly or indirectly incurred by FortisBC in completing the Work, and includes, but is not limited to labour, equipment, materials, overhead, necessary licenses and permits and any and all costs relating to access to the Site. Notwithstanding the foregoing, if the Cost is less than the Prepayment, FortisBC shall refund the difference to the Customer without interest; and if Cost of completing the work exceeds the Prepayment, the Customer agrees to and shall pay such deficiency (the "Deficiency Amount").
- 7.3. FortisBC shall send an invoice (the "Invoice") to the Customer for the Deficiency Amount, and payment for the Deficiency Amount shall be made by the Customer to FortisBC within thirty (30) days from the date of the invoice. The Invoice is due thirty (30) days from the date of the invoice. Late payment charges will accrue interest at a rate of prime plus two (2) percent for the first thirty (30) days the payment remains unpaid, and prime plus five (5) percent thereafter until the invoice is paid in full.

SCHEDULE A
Terms and Conditions of Order - Construction

7.4. In the event that the Work has not commenced by any scheduled date promised by FortisBC, for such reasons including, but not limited to, delay in acquiring required permissions, permits and approvals, force majeure and failure of the Customer to make payment pursuant to this Clause 7, this Letter Agreement shall be deemed to have expired, unless FortisBC and the Customer have agreed in writing to extend the Letter Agreement beyond that date. If the Customer has provided FortisBC with the Prepayment, prior to expiration of the Letter Agreement pursuant to this Clause 6.3, FortisBC shall return the Prepayment amount without interest to the Customer minus any expenses incurred by FortisBC to date.

8. FortisBC to Retain Ownership

The Customer acknowledges and agrees that all vehicles, equipment, supplies and materials provided by FortisBC, contractor or subcontractor in the course of the Work; howsoever changed, incorporated or used in the Work, shall remain the property of FortisBC, and shall in no event become the property of the Customer.

9. Permits and Approvals

FortisBC shall be responsible for obtaining any permits, certificates and approvals required in connection with the construction, gasification and operation of natural gas pipes, pipelines and associated works. The Customer shall be responsible for obtaining all other permits required for the Work unless otherwise agreed in writing between FortisBC and the Customer.

10. Termination

10.1. FortisBC may, at any time without cause and at its sole discretion, terminate this Letter Agreement by giving notice in writing to the Customer.

10.2. If FortisBC terminates this Letter Agreement in accordance with this Clause 10, FortisBC shall reimburse the Customer the Prepayment amount without any interest, minus any reasonable costs incurred by FortisBC in performing the Work up to or after the date of termination. Such reasonable costs shall include but not be limited to costs to FortisBC for the work performed to date (including but not limited to materials purchased), expenses incurred as a result of early termination of any contractor or third party, and work required to reinstate the facilities to their prior state (or equivalent). If FortisBC satisfies its obligations hereunder, the Customer shall have no further cause to action or right against FortisBC in respect of the termination of this Letter Agreement or otherwise.

SCHEDULE A
Terms and Conditions of Order - Construction

11. Confidentiality

- 11.1. All information or documentation received by the Customer pertaining to or arising from the Work or the business affairs or trade secrets of FortisBC, including but not limited to the Estimate and labour rates quoted in the Estimate, shall be deemed to be confidential and proprietary to FortisBC. Except as otherwise provided herein, the Customer shall not directly or indirectly disclose any such confidential information or documentation to any third party without the prior written consent of FortisBC. Such consent is not required where the third party is another contractor or consultant retained by FortisBC for the purposes of the Letter Agreement and to the extent that such disclosure is necessary for the proper performance of this Letter Agreement or to the extent that such disclosure is required by law.
- 11.2. Notwithstanding the foregoing, the Customer may use such confidential information or documentation pertaining to or arising from the Work in the preparation for and conduct of submissions to regulatory agencies.
- 11.3. The obligation of confidentiality set out above shall not apply to material, data or information which is known to the Customer prior to their receipt thereof, which is generally available to the public or which has been obtained from a third party which has the right to disclose the same. The confidentiality covenants of the Customer herein shall survive the termination of this Letter Agreement.

12. Limitation of Liability and Indemnity

FortisBC, its employees, contractors, subcontractors or agents are not responsible or liable for any claim, expense, loss, cost, or other liability incurred by the Customer or any third party caused by or resulting directly or indirectly from the Work, unless the claim, expense, loss, cost or other liability is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractors or agents. Notwithstanding the foregoing FortisBC, its employees, contractors, subcontractors and agents are in no event liable for any incidental, special, punitive, or consequential damages of any kind (including, but without limitation, loss of income, loss of profits, or other pecuniary loss), even if the loss is directly attributable to the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

In no event shall FortisBC's aggregate liability to pay for any claim, expense, loss, cost, or other liability incurred by the Customer resulting from the Work exceed the total amount paid to FortisBC by the Customer for the Work.

The Customer shall indemnify FortisBC and save it harmless from any claim, expense, loss, cost or other liability of any third parties arising out of Work, unless such claim, expense, loss, cost or other liability is directly attributable to

SCHEDULE A
Terms and Conditions of Order - Construction

the gross negligence or wilful misconduct of FortisBC, its employees, contractors, subcontractor or agents.

13. Disputes

- 13.1. Except for applications for injunctions required to protect confidential information, where any dispute arises out of or in connection with this Letter Agreement, including failure of the parties to reach agreement hereunder:
- (a) If the parties have been unable to settle the dispute within thirty (30) days after receipt of notice of such dispute from the other party, a senior officer of each party's management shall meet within fifteen (15) days after that period in an attempt to resolve such dispute.
 - (b) If the senior officers of the parties are not able pursuant to sub-Clause 13.1(a) to resolve the dispute within the fifteen (15) day period stipulated in sub-Clause 13.1(a), the parties agree to promptly try to resolve the dispute by participating in a structured mediation conference with a mediator under the National Arbitration Rules of the ADR Institute of Canada Inc.
- 13.2. If the parties fail to resolve the dispute through mediation within thirty (30) days after the end of the fifteen (15) day period stipulated in sub-Clause 13.1(a), subject to sub-Section 13.3 either party at its sole option may pursue litigation to resolve such dispute in any court of competent jurisdiction in the Province of British Columbia. The parties hereto agree that the Courts of the Province of British Columbia shall have exclusive jurisdiction to resolve any and all disputes between the parties.
- 13.3. By separate written agreement to arbitrate signed by all parties concerned, which agreement may be arbitrarily withheld, the particular unresolved disputes identified in the agreement to arbitrate shall be referred to and finally resolved or determined by arbitration under the National Arbitration Rules of the ADR Institute of Canada Inc. In the absence of such rules, the rules shall be as agreed by the parties or, failing agreement, the rules as prescribed in such case by, as applicable, the *Commercial Arbitration Act* or *International Arbitration Act* of the Province of British Columbia. Unless the parties agree otherwise the arbitration will be conducted by a single arbitrator.
- 13.4. 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 law in arbitration proceedings.

SCHEDULE A
Terms and Conditions of Order - Construction

- 13.5. In addition to awarding monetary damages and interest on unpaid amounts, the arbitrator shall have the authority to provide injunctive relief, order specific performance and grant permanent relief.
- 13.6. Each party shall bear its own costs and expenses of the arbitration. 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 on substantially all issues. In such case, the non-prevailing party shall pay all costs and expenses of the arbitration, but not those of the prevailing party.
- 13.7. The parties will continue to fulfill their respective obligations pursuant to this Letter Agreement during the resolution of any dispute in accordance with this Clause 13.

14. Subcontracting

FortisBC may retain the services of a qualified third party to perform some or all of its obligations under this Letter Agreement.

15. Assignment

The Customer shall not assign its rights or obligations under this Letter Agreement without the prior written consent of FortisBC, which consent may be arbitrarily withheld.

16. Law

This Letter Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia.

17. Enurement

This Letter Agreement shall be for the benefit of and be binding upon FortisBC and the Customer and their respective successors and permitted assigns.

18. Amendments

- 18.1. The Letter Agreement embodies the entire agreement between the parties and supersedes all communications, negotiations and agreements, either written or oral, relating to the Work that were made prior to the date of execution of the Letter Agreement. The Letter Agreement contains all the representations, warranties, covenants, agreements, conditions and understandings between the parties with respect to the subject matter of the Letter Agreement and there are no other representations, warranties,

SCHEDULE A
Terms and Conditions of Order - Construction

covenants, agreements, conditions or understandings with respect to the Letter Agreement that are not contained herein.

- 18.2. The Customer hereby represents and warrants that in entering into the Letter Agreement it has not and does not rely upon any previous representation of FortisBC, consultant, or any employee, director, officer, servant, consultant or agent of FortisBC, whether express or implied, or upon any inducement or agreement of any kind or nature.
- 18.3. The Letter Agreement may only be amended by written agreement, signed by both parties.

Appendix “C”

February 4, 2011

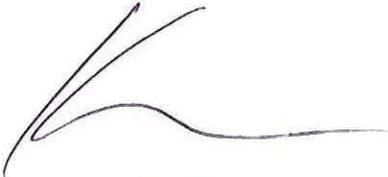
Anthony Capuccinello,
Assistant City Solicitor, The City of Surrey
14245-56 Avenue
Surrey, B.C. V3X 3A2

Dear Mr. Capuccinello and Ms. Leroi

Re: Reasons for Decision and General Order 2011-02

Enclosed please find a copy of the subject order related to highway and bridge construction work at and near the intersection of 48th Avenue and 168th Street in the City of Surrey, British Columbia. The Reasons for Decision are also attached.

Should you have any questions on this matter, please contact Mr. Ken Paulson, Chief Engineer and Deputy Commissioner (250)-419-4404.



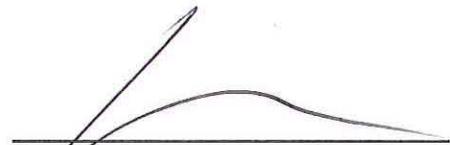
Ken Paulson P. Eng.
Chief Engineer/ Deputy Commissioner
BC Oil and Gas Commission

Cc: Alex Ferguson, Commissioner, CEO
Paul Jeakins, Deputy Commissioner

IN THE MATTER of an application for issuance of an Order to the City of Surrey pursuant to section 76(1)(d) of the *Oil and Gas Activities Act* for highway and bridge construction work at and near the intersection of 48th Avenue and 168th Street in the City of Surrey, British Columbia

GENERAL ORDER 2011-02

- 1 Under Section 76(1)(d) of the *Oil and Gas Activities Act*, I hereby order that:
 - a) The highway and bridge construction work as applied for by the City of Surrey in its application dated November 05, 2010 is approved;
 - b) The City of Surrey may proceed with the work or any portion of the work approved under paragraph 1(a) subject to confirmation from Terasen Gas that the pipeline has been appropriately modified or altered to accommodate the work or any portion of the work; and
 - c) The City of Surrey shall develop plans and schedules for the work, in consultation with Terasen Gas, which provide reasonable and mutually agreed upon time frames for all work to be performed by Terasen Gas.
- 2 This order takes effect at the time and date of issuance.



Ken Paulson, P.Eng.
Chief Engineer and Deputy Commissioner
Oil and Gas Commission

DATED AT the City of Victoria, in the Province of British Columbia, this 4th day of February 2011.

Reasons for Decision

February 4, 2011

Re: City of Surrey Application for Orders under Section 76(1)(d) and 76(5) of the *Oil and Gas Activities Act* Respecting Bridge and Highway Construction and Maintenance Work At and Near 168th Street and 48th Avenue in the City of Surrey, British Columbia

Application

The City of Surrey (Surrey) applied to the Oil and Gas Commission (Commission) on November 05, 2010 seeking

- (a) Approval of the Commission, pursuant to section 76(1)(d) of the *Oil and Gas Activities Act*, to construct and carry out the Highway Construction and Activity at, on or through the Pipeline Crossing Location, or at, on or through such other location that Surrey may determine and the Commission shall approve;
- (b) An order, that Terasen or the owner of the Pipeline, shall carry out and perform on or before February 01, 2011, or, in the alternative, on or before a date set by the Commission, all Pipeline Work required as a result of the Highway Construction and Activity along, over or under the Pipeline at, on and through the Pipeline Crossing Location which might disturb the Pipeline or which necessitates realigning, raising or lowering the Pipeline or excavating material from over or around it, or adding casings or other appurtenances to it, as deemed necessary by Terasen or the owner of the Pipeline, for the protection of the Pipeline;
- (c) Costs of this proceeding; and
- (d) For such further and other Orders, declaration or directions as the Commission seems just.

Relevant Legislation

Oil and Gas Activities Act Section 76

Oil and Gas Activities Act General Regulation Sections 11 and 12

Pipeline and Liquefied Natural Gas Regulation Sections 3 and 6

Details of these sections appear in the attachment.

Section 76(1) of *Oil and Gas Activities Act*

In order for Surrey to be able to carry out the planned bridge and road work (the work) at or near 168th Street and 48th Avenue in the City of Surrey, Terasen must agree in writing to the work or they must receive an order providing approval for the work from the Commission.



Section 76(1) of the *Oil and Gas Activities Act* (OGAA) establishes that a person must not construct a highway, road or railway or carry out a prescribed activity along, over or under a pipeline or within a prescribed distance of a pipeline unless

- the pipeline permit holder agrees in writing to the construction or the carrying out of a prescribed activity, or
- the Commission, by order, approves the construction or the carrying out of the prescribed activity.

Is the planned work caught by section 76(1)(a)?

Section 76(1)(a) of the OGAA applies to the construction of a highway or road along, over or under a pipeline. In addition, the section applies to prescribed activities.

Section 11 of the *Oil and Gas Activities Act General Regulation* (OGAAGR) defines a ground activity as a disturbance of the earth and further states that a ground activity is a “prescribed activity” for the purposes of section 76(1)(b).

The work proposed by Surrey involves both the construction of highway and ground activities and as such is subject to the requirements set out under section 76 of the OGAA.

Is there agreement under 76(1)(c)?

In a letter from Terasen dated 15 December 2010, Terasen argues that Terasen has agreed in writing that work may proceed subject to an agreement dated June 15, 1957 (the Operating Agreement). Terasen further argues that since an agreement does exist, there is no authority for the Commission to issue an Order to Surrey approving the work. The Commission notes that the Operating Agreement, a copy of which was provided by Terasen, is dated 26 March 1956 and not 15 June, 1957.

In letters dated 17 December 2010 and 20 December 2010, Surrey argues that the Operating Agreement should not be considered by the Commission as its validity, legality, scope, assignability, interpretation, etc. is currently before the Courts.

In a letter from Terasen dated 04 January 2011, Terasen argues that the Commission should consider the Operating Agreement in making a decision on Surrey’s application. Terasen further notes in that letter that “Terasen Gas remains committed to carrying out any relocations of the IP line with reasonable speed. To date we have received only preliminary plans from the City. We require, and have requested, more engineering details and finalized plans in order to carry out further design work.”

The Commission notes that the Operating Agreement provided by Terasen pertains to facilities under the *Gas Utilities Act* and that as such it may not apply to pipelines subject to the OGAA. The Commission further notes that the work proposed by Surrey was not planned or envisioned in 1956 and as such the Operating Agreement is not an agreement for this specific work.

As such, the Commission finds that no written agreement has been provided by Terasen for the planned work. In making this determination, the Commission is not ruling on the validity of the Operating Agreement. Rather, the Commission simply finds that the Operating Agreement is not a written agreement for the work in this instance as required under section 76(1)(c).

Information requested by the Commission

On 07 January 2011, the Commission requested additional information from both Terasen and Surrey. The requested information was received from Surrey on 12 January and Terasen on 18 January. The information sought was to understand the nature of the planned work by both Surrey and Terasen, to determine if engineering work was proceeding by both Surrey and Terasen and to determine whether or not there was still the possibility of Terasen agreeing to the work to be undertaken by Surrey.

The information provided and further correspondence from Surrey dated 20 January and 25 January 2011 demonstrates that discussions and planning are ongoing with regard to the planned replacement of the Terasen pipeline crossing the Nicomekl River. The Commission understands from the correspondence that Terasen is actively planning to replace the existing river crossing with a new directionally drilled crossing for the 219.1 mm intermediate pressure pipeline and that Surrey is providing Terasen with the necessary information for the design of that pipeline.

The Commission notes that Surrey and Terasen have been cooperating in the development of reasonable design options which will allow Surrey to undertake their planned work. As such, it appears that the lack of a written agreement and the application for an order under section 76(1)(d) by Surrey are not related to the technical feasibility of the work by either party. Instead, the correspondence points to the inability of the parties to agree on cost allocations as being the primary reason as to why Terasen has not provided an agreement for this work.

The Commission is mandated under OGAA to ensure the continued safe operation of the pipeline. The allocation of costs for relocations or similar work governed by section 76 of OGAA is determined by the Act and regulations and is not a decision of the Commission

In determining whether or not to issue an Order under section 76(1)(d) the Commission has considered the following:

1. Terasen has not provided a written agreement between the two parties that would cover Surrey's proposed work as set out under 76(1)(c).
2. Engineering work respecting the planned work by Surrey and the necessary relocation work to be undertaken by Terasen has been proceeding and continues to proceed.
3. The pipeline relocation work is required for the continued safe operation of the pipeline as the planned work by Surrey takes place.

Decision under OGAA 76(1)(d)

In consideration of the aforementioned, the Commission has determined that an Order approving Surrey's proposed work should be issued pursuant to section 76(1)(d) of the OGAA. A copy of the Order is attached to these Reasons for Decision.



Ancillary Decisions

Section 76(5) of OGAA

Section 76(5) of the OGAA provides the Commission with the ability to issue an Order to Terasen requiring them to relocate the pipeline and take other necessary actions to facilitate the work planned by Surrey. Such an Order requires the approval of the Lieutenant Governor in Council (LGIC).

As previously noted, the Commission's concerns in this matter pertain to safety. It is evident from correspondence that the primary barrier to an agreement between Surrey and Terasen is not the physical work required for safety of the pipeline, but the allocation of costs. In a letter from Terasen dated 18 January 2011, Terasen notes that "as is our usual practice when dealing with the City of Surrey under the Operating Agreement, we will require the City of Surrey to accept (in writing) their portion of the actual costs, based on the approved design and the final pipeline cost estimate before the IP line construction proceeds." A letter from Surrey dated 20 January 2011 notes that "the determination of what measures must be taken to protect its pipeline and the implementation of those measures are matters for Terasen alone to undertake" and that "it is not open to Terasen to refuse to undertake the necessary pipeline works unless the City agrees to its terms."

The Commission notes that Terasen is obligated through regulation to ensure that their pipeline is designed, constructed, operated and maintained in a manner which assures its continued safe and environmentally responsible operation. Such requirements are found within sections 3 and 6 of the *Pipeline and Liquefied Natural Gas Facility Regulations* (PLNGFR). Section 3 of the PLNGFR requires Terasen to adhere to *CSA Z662 Oil and Gas Pipeline Systems* (CSA Z662) in the design, construction, operation and maintenance of their pipeline. Clause 10.7.2 of CSA Z662 requires that Terasen undertake necessary upgrades to accommodate the work proposed by Surrey or to perform a detailed engineering assessment to determine what (if any) upgrades are required for the protection of the pipeline in light of the work proposed by Surrey.

The Commission further notes that section 6 of the PLNGFR requires Terasen to take all reasonable steps so as not to endanger public safety or the environment when a pipeline is being constructed across, along, over or under a highway or public place.

Finally, the Commission notes that engineering work pertaining to the planned work by Surrey is proceeding by both Surrey and Terasen in the absence of a written agreement.

Given that engineering work is proceeding and that existing regulatory requirements establish the duty and obligation of Terasen to undertake any and all work necessary for the protection of their pipeline in light of any approval issued under 76(1)(d), the Commission finds that an Order under section 76(5) of the OGAA is not required.

As such, the Commission has decided not to issue an Order to Terasen under section 76(5) at this time. In making this decision, the Commission notes that Terasen is required to take the necessary steps for the protection of their pipeline to accommodate the approved work.

Costs of This Proceeding



The Commission has no authority to apportion the costs incurred by either Surrey or Terasen in making the decisions set out herein.

Further and Other Orders

The Commission does not contemplate any further or other orders at this time.

Summary

The Commission has issued General Order 2011-02 to Surrey approving the construction and other prescribed activities necessary for the reconstruction and maintenance of Surrey's highways and roadways in the vicinity of 168th street and 48th avenue in Surrey.

Surrey may proceed with the approved work and Terasen must take the actions necessary for the protection of their pipeline to accommodate the work as set out within the Pipeline and Natural Gas Facilities Regulation. Such work by Terasen and Surrey must be coordinated by both parties to ensure that the integrity of the pipeline is not jeopardized by the actions of either party.

Attachment
Relevant Legislation

Oil and Gas Activities Act [SBC 2008] CHAPTER 36

- 76 (1) *Subject to subsection (3), a person must not*
- (a) *construct*
 - (i) *a highway, road or railway,*
 - (ii) *an underground communication or power line, or*
 - (iii) *any other prescribed work, or*
 - (b) *carry out a prescribed activity*
along, over or under a pipeline or within a prescribed distance of a pipeline unless
 - (c) *the pipeline permit holder agrees in writing to the construction or the carrying out of an activity prescribed for the purposes of paragraph (b), or*
 - (d) *the commission, by order, approves the construction or the carrying out of the prescribed activity.*
- (2) *The commission, in an order issued under subsection (1) (d), may impose any conditions on the approval that the commission considers necessary to protect the pipeline.*
- (3) *The commission must approve*
 - (a) *the construction referred to in subsection (1), and*
 - (b) *the carrying out of a prescribed activity**by the government, but may impose conditions referred to in subsection (2) in the approval issued under subsection (1).*
- (4) *The commission, for the purposes of deciding whether to issue an order under subsection (1) or impose conditions under subsection (2), may require a pipeline permit holder to submit information regarding the pipeline permit holder's pipeline.*
- (5) *The commission may order a pipeline permit holder whose pipeline is the subject of an order issued under subsection (1)*
 - (a) *with the approval of the Lieutenant Governor in Council, to relocate the pipeline to facilitate the construction or prescribed activity approved by the order issued under subsection (1), and*
 - (b) *to take the actions specified in the order that the commission considers necessary to protect the pipeline.*
- (6) *In relation to an order of the commission referred to in subsection (5), the Lieutenant Governor in Council*
 - (a) *may order that a person other than the pipeline permit holder must pay the costs, or a portion of the costs, incurred in carrying out the commission's order, or*
 - (b) *may approve the payment of any of those costs from the consolidated revenue fund.*
- (7) *If there is an inconsistency between an order or an approval made under subsection (6) and a regulation made under section 99 (m), the order or approval prevails to the extent of the inconsistency.*

Oil and Gas Activities Act General Regulation (274/2010)

- 11 (1) *In this section, "ground activity" means any work, operation or activity that results in a disturbance of the earth, including a mining activity as defined in section 1 of the Mines Act, but not including*
- (a) cultivation to a depth of less than 45 cm below the surface of the ground, and*
 - (b) a disturbance, other than cultivation referred to in paragraph (a), of the earth to a depth of less than 30 cm.*
- (2) *A ground activity is a prescribed activity for the purposes of section 76 (1) (b) of the Act.*
- (3) *The following distances are prescribed for the purposes of section 76 (1) of the Act:*
- (a) 40 m, for any activity other than the prescribed activity referred to in subsection (2);*
 - (b) 40 m, for the prescribed activity referred to in subsection (2).*
- 12 (1) *In this section:*
- "approval holder" means a person to whom an approval under section 76 (1) (d) of the Act has been given;*
- "approved action" means the construction or activity approved by an order issued under section 76 (1) (d) of the Act;*
- "specified approval holder" means an approval holder that is the government, a municipality, or the British Columbia Railway Company.*
- (2) *Subject to subsections (4) to (6), an approval holder is responsible for all costs incurred by the approval holder in carrying out an approved action.*
- (3) *Subject to subsections (4) to (6), an approval holder is responsible for any costs incurred by a pipeline permit holder as a result of the approval holder's carrying out of an approved action, including, without limitation, costs*
- (a) to realign, raise or lower the pipeline;*
 - (b) to excavate material from around the pipeline, and*
 - (c) to add casing or other appurtenances that an official considers necessary for the protection of the pipeline.*
- (4) *Subject to an order issued under section 76 (6) of the Act and to subsection (5) of this section, a specified approval holder is not responsible for any costs incurred by a pipeline permit holder as a result of the carrying out of an approved action.*
- (5) *The costs referred to in subsection (4) must be shared equally between the specified approval holder and the pipeline permit holder if*
- (a) the specified approval holder is a municipality, and*
 - (b) the approved action is the construction of a new highway within the boundaries of that municipality on either an existing right of way or on a newly dedicated right of way.*
- (6) *The costs incurred by a pipeline permit holder as the result of the carrying out of an approved action must be shared equally between the approval holder and the pipeline permit holder if the approved action is the construction of a new road for a subdivision within a municipality.*

Pipeline and Liquefied Natural Gas Facility Regulation (281/2010)

- 3 (1) *Subject to subsection (2), a pipeline permit holder must not design, construct, operate or maintain any of the following except in accordance with CSA Z662:*
- (a) the pipeline that is the subject of the permit;*
 - (b) a pumping station or compressor station associated with the pipeline;*
 - (c) an oil storage tank associated with the pipeline.*
- (2) *A pipeline permit holder who constructs a pipeline under agricultural land must ensure the pipeline has a minimum cover of 0.8 metres.*
- (3) *A LNG facility permit holder must not design, construct, operate or maintain a liquefied natural gas facility except in accordance with CSA Z276, unless otherwise specified in this regulation.*
- 6 (1) *If a pipeline is being or has been constructed across, along, over or under a public place or the right of way of a highway, road, railway, underground communication or power line or other pipeline, the pipeline permit holder must*
- (a) take all reasonable steps so as not to endanger public safety or the environment, and*
 - (b) restore, to the extent reasonable in the circumstances, any infrastructure damaged or removed during the construction of the pipeline.*
- (2) *A pipeline permit holder must give notice in accordance with subsection (3) before beginning any work of construction, maintenance or repair of a pipeline along, over or under a public place or the right of way of a highway, road, railway, underground communication or power line or other pipeline.*
- (3) *A notice under subsection (2) must*
- (a) be given to the owner of or authority responsible for the public place, highway, road, railway, underground communication line, power line or pipeline, and*
 - (b) subject to subsection (4), be given at least 5 days before beginning the work, unless the pipeline permit holder and the owner or authority have agreed that the notice is to be provided by another time, in which case the notice must be provided by that other time.*
- (4) *In the case of emergency, work referred to in subsection (1) may be begun immediately after giving notice under subsection (2).*



File OF-Surv-CA-T260 -01 01
2 March 2017

Mr. Dennis Martini
President
Martini Construction Ltd.
Unit A – 5740 Production Way
Langley, BC V3A 4N4
Facsimile 604-534-6215

Mr. Nathan Zaseybida
Assistant General Counsel
Kinder Morgan Canada Inc.
Suite 2700, 300 5th Avenue SW
Calgary, AB T2P 5J2
Facsimile 403-514-6622

Dear Mr. Martini and Mr. Zaseybida:

**Application pursuant to Section 112(1) of the *National Energy Board Act* (Act) by
Martini Construction for the installation of a sidewalk across Trans Mountain
Pipeline ULC at 19151 95A Avenue, Surrey, BC**

On 24 May 2016, the National Energy Board (Board) received an application submitted by Martini Construction Ltd. (Martini) pursuant to Section 112(1) of the Act, for excavation and installation of a sidewalk at the above-noted address. The Board subsequently received a reply submission from Kinder Morgan Canada Inc. (KMC) and a further response from Martini on 5 July 2016 and 20 July 2016, respectively.

Shortly after receiving Martini's application, the *Damage Prevention Regulations (Authorizations)* (DPR(A)) and *Damage Prevention Regulations (Obligations of Pipeline Companies)* (DPR(O)) came into effect on 19 June 2016. They replaced the *Pipeline Crossing Regulations, Parts I and II* (PCR) which were in place at the time the application was received. As none of the Transitional Provisions contained in the DPR(A) apply, the Board has assessed this application pursuant to section 112(1) of the Act and the DPR(A).

The Board notes the efforts of both Martini and KMC to reach a crossing agreement. The Board further notes KMC's submission that in its view it is the City of Surrey which should have applied for the requested leave, rather than Martini. However, the Board has determined that Martini meets the definition of a person who may file such an application for the purposes of section 14(1)(a) of the DPR(A).

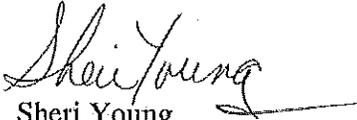
.../2

On review of the documentation submitted by both Martini and KMC, the Board has decided to grant the leave requested by Martini for the excavation and installation of the sidewalk as described in the Martini application, and in the drawing attached as "Schedule A" to its Application and similarly appended as "Schedule A" to Order MO-012-2017 which is attached to this letter.

The Board reminds both parties of the obligations of the owner of a facility that is constructed across a pipeline, including those set out in section 8 of the DPR(A), and directs Martini to provide a copy of this letter and Order to the City of Surrey.

Should you have any further questions in regard to this matter please contact Kent Rowden, Operations Inspector, at 403-554-0395 or via email at kent.rowden@neb-one.gc.ca.

Yours truly,


Sheri Young
Secretary of the Board

Attachments



ORDER MO-012-2017

IN THE MATTER OF the *National Energy Board Act* (Act) and the regulations made thereunder; and

IN THE MATTER OF an application made by Martini Construction Ltd. (Martini) pursuant to subsection 112(1) of the Act, filed with the National Energy Board (the Board) under File OF-Surv-CA-T260-01.

BEFORE THE Board on 2 March 2017.

WHEREAS Martini is the developer of a property at 19151 95A Avenue, Surrey, BC (the Lands);

AND WHEREAS Kinder Morgan Canada Inc. (KMC) operates the Trans-Mountain Pipeline (Pipeline) within the right-of-way through the Lands at 19151 95A Avenue, Surrey, B.C.;

AND WHEREAS Martini filed an application dated 24 May 2016, pursuant to subsection 112(1) of the Act, requesting that the Board grant leave to install a sidewalk, consisting of the removal of 8 inches of material, approximately 5 feet wide, then installation of 4 inches of roadbase, and 4 inches of concrete over the Pipeline and within the 30 metre prescribed area on the Lands, (the Work) as illustrated in the diagram identified as "Schedule A" to Martini's application and appended to this Order as "Schedule A";

AND WHEREAS on 19 June 2016, the *National Energy Board Damage Prevention Regulations Authorizations* and *Damage Prevention Regulations – Obligations of Pipeline Companies* ("DPR") came into force and the *National Energy Board Pipeline Crossing Regulations, Parts I and II* ("PCR") were repealed;

AND WHEREAS the Board received written submissions from KMC on 5 July 2016 and from Martini on 20 July 2016 regarding this application;

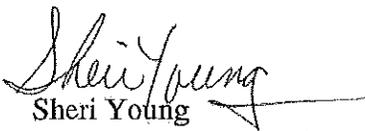
AND WHEREAS the Board has examined the application and considered the submissions of Martini and KMC received in this matter and determined it to be in the public interest to grant the leave requested;

.../2

IT IS ORDERED THAT, pursuant to subsection 112(5) of the Act, leave is granted to Martini to undertake the Work to excavate 8 inches of material, 5 feet in width and install 4 inches of roadbase and 4 inches of concrete for a sidewalk as contained in its application and as illustrated in "Schedule A" subject to the following conditions:

- (a) The term of this Order and the leave granted herein shall commence on 2 March 2017. This Order remains in effect until the earlier of the completion of the Work, or 2 March 2019 at which point this Order will expire unless the Board directs otherwise;
- (b) The Work must be conducted in accordance with all applicable provisions of the Act and all regulations made thereunder;
- (c) Martini must restore the original depth of cover over the pipeline after construction;
- (d) All precautions must be taken to maintain proper drainage over the right of way and to ensure no erosion occurs adversely affecting the depth of cover over the pipeline;
- (e) Prior to the commencement of the Work, Martini is to have the Pipeline located, marked and staked by a KMC representative, and the Work is to be conducted under the supervision of a KMC representative;
- (f) No vehicles or equipment may be parked or stored over the Pipeline; and
- (g) The Work must be completed in accordance with the drawings provided by Martini in support of the Application, attached as "Schedule A" to, and forming part of this Order.

NATIONAL ENERGY BOARD


Sheri Young
Secretary of the Board

MO-012-2017

Schedule A to MO-012-2017

SCHEDULE A

NUMBER WORKER SAFETY DATA

GRADE: 3.74 MPA

ACCELERATION: 0.001g

SOIL THICKNESS: 6.55 MPA

THIS PIPELINE UNDER CATHODIC PROTECTION

THE PIPELINE INSTALLED DEPICTED ON THIS DRAWING ILLUSTRATE THE GENERAL LOCATION OF THE PIPELINE. THIS MAP SHOULD BE REVERSED UPON TO DETERMINE THE PRECISE LOCATION OF THE PIPELINE. THE ONLY RELIABLE METHOD TO DETERMINE THE PRECISE LOCATION OF THE UNDERGROUND PIPELINE IS BY MEANS OF A PHYSICAL LOCATE AND MARKS VERIFICATION BY A NWC PIPELINE INSPECTOR UNDER TO ANY WORKS WITHIN 30 METERS OF THE PIPELINE IS INDICATED.

GENERAL NOTES TO BE OBSERVED:

- The drawing is submitted for the construction and installation of any work items shown in the schedule. It is the contractor's responsibility to ensure that all work is done in accordance with the relevant codes and standards. All work shall be done in accordance with the relevant codes and standards. All work shall be done in accordance with the relevant codes and standards.
- Any work shown on this drawing shall be done in accordance with the relevant codes and standards. All work shall be done in accordance with the relevant codes and standards.
- Any work shown on this drawing shall be done in accordance with the relevant codes and standards. All work shall be done in accordance with the relevant codes and standards.
- Any work shown on this drawing shall be done in accordance with the relevant codes and standards. All work shall be done in accordance with the relevant codes and standards.
- Any work shown on this drawing shall be done in accordance with the relevant codes and standards. All work shall be done in accordance with the relevant codes and standards.

DWG NO: 10-15-174

SHEET: 1 OF 1

REVISION: 0

DATE: 10-SEP-2015

SCALE: AS NOTED

UNDERGROUND CANADA

ADDRESS: 620-625, 76A

STREASAK

PERMIT NO.	DATE
100-10-174	10/15/15

RODNEY KUMBER, NORTHERN CANADA
PIPELINE PROTECTION DEPARTMENT
3 WORKING DAYS BEFORE ANY
OF THE WORKS COMMENCE AT
1-877-947-2729

ALL INFORMATION
CONTAINED HEREIN IS
THE PROPERTY OF
UNDERGROUND CANADA
INSPECTOR

UNDERGROUND CANADA
APPROVED
JUL 14, 2015
14-15-174

