

**ALBERTA GOVERNMENT SERVICES
LAND TITLES OFFICE**

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ADVISORY


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ACCESS EASEMENT AGREEMENT

THIS AGREEMENT made this 9th day of July, 1998.

BETWEEN:


SPARTECH 1991 LIMITED
(in this Agreement referred to as the "Grantor")

- and -

THE CITY OF CALGARY
(in this Agreement referred to as the "City")

BACKGROUND:

- Ease*
(Phn doc)
- A. The City is the owner of the Dominant Lands.
 - B. The Grantor is the owner of the Servient Lands.
 - C. Pursuant to Development Permit No. DP95/0204 the City of Calgary approved a development affecting the Servient Lands conditional, *inter alia*, that an access agreement benefiting the Dominant Lands over the Servient Lands be entered into and registered prior to release of the development permit.
 - D. The parties have agreed that an easement be granted by agreement (the "Agreement") over portions of the Servient Lands to provide for pedestrian and cyclist access to and egress from and between the Dominant Lands and Servient Lands.
 - E. Section 70 of the *Land Titles Act* provides that an owner may grant an easement for the benefit of land owned by another against land which it owns and the easement may be registered under the *Land Titles Act* against title to both the dominant (or benefiting) and servient (or burdened) parcels.

THIS AGREEMENT IS EVIDENCE CONFIRMING THAT in consideration of the premises and in consideration of the sum of TEN (\$10.00) Dollars and other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the parties to this Agreement agree as follows:

Definitions

1.0 In this Agreement unless there is something in the subject matter or context that is inconsistent:

- (a) "Access Easement" means that portion of the Servient Lands described as the

southerly three (3.0) metres in perpendicular width.

- (b) "Agreement" means this agreement.
- (c) "Dominant Lands" means those lands owned by the City and legally described and identified as the Dominant Lands in Schedule "A" to this Agreement.
- (d) "Servient Lands" means those lands owned by the Grantor and legally described and identified as the Servient Lands in Schedule "B" to this Agreement.

"Background" and Schedules

1.1 The parties confirm and ratify the matters contained and referred to in the "Background" portion and schedules to this Easement and agree that the same are expressly incorporated into and form part of this Easement.

Grant of Easement for Access

2.0 The Grantor in this Agreement grants to the City for the benefit of and to be appurtenant to the Dominant Lands, for the use and enjoyment of the City and the public, the non-exclusive right of way and easement in common with the Grantor and the public, in through and over the Access Easement, at all times from the effective date of this Agreement at their will and pleasure to enter upon and pass over with or without vehicles for the purpose of obtaining ingress and egress to and from the Dominant Lands and to and from the Access Easement, and grants to the City the right to construct, maintain, repair, operate and replace the Improvements on the Access Easement to have and hold for so long as the access is required by the City as an easement appurtenant to and benefitting the Dominant Lands.

Grantor's Covenants

3.0 The Grantor covenants:

- (a) to permit the construction of any improvements within the Access Easement, to a "City standard", as identified by the City, including through any related development permit and associated drawings, including such things as:
 - an asphalt pedestrian/cyclist walkway
 - associated curbs and gutters
 - any necessary sodding or seeding to rehabilitate the Access Easement(the "Improvements")
- (b) not to intentionally do any act or thing which would damage the Access Easement or interfere with the City's rights under this Agreement; and
- (c) that it will not build, erect or maintain nor suffer or permit to be built, erected or maintained on the Access Easement any structure or vegetation which could prevent

or hinder any of the rights granted in this Agreement.

City's Covenants

3.1 The City covenants:

- (a) that it will pay for and construct any or all of the Improvements;
- (b) that it will maintain, repair, operate and replace the Improvements in a manner similar to that which the City maintains, repairs, operates or replaces similar Improvements elsewhere;
- (c) that in carrying out any of its rights under this Agreement will do so in a good and workmanlike manner and will cause or do as little damage and inconvenience to the Grantor as is possible, and any excavations or work made or done in connection with the Servient Lands other than the area required for the Improvements shall, as far as is reasonably practical, be restored to its former condition;
- (d) that it will indemnify and save harmless the Grantor from and against all claims, damages, debts, dues, suits, actions and causes of action, costs or sums of money that the Grantor may suffer or be put to by reason of the Access Easement; and
- (e) that it will not obstruct or interfere with the ability of the Grantor, its servants, agents, tenants, invitees and licensees to pass and re-pass along, over and upon the Access Easement.

Taxes

4.0 This Agreement does not relieve the Grantor from its responsibility to pay all taxes arising from its ownership of the Servient Lands.

Covenant Running With the Land

5.0 The access easement granted in this Agreement is and shall be a covenant running with the land. The benefit of this Agreement shall run with the Dominant Lands for the benefit of the City and its successors and assigns in title, and the burdens of this easement shall run with the Servient Lands and shall be binding upon the Grantor and its successors and assigns in title.

Notice

6.0 Any notice, communication or request to be given to any party shall be written and delivered by registered mail, postage prepaid, or by personal delivery or by telex, FAX or telegram addressed to such party at the following address:

As to the Grantor: Spartech 1991 Limited
305 - 27 St. SE

Calgary, AB T2E 7V2
FAX: (403) 207-0870

As to the City:

The City of Calgary
Director of Transportation (#8124)
c/o 7th Floor, Calgary Municipal Building
800 Macleod Trail South
Calgary, AB T2G 2M3
FAX: (403) 268-1633

or at such other address as any party may from time to time notify the other. Any such notice, communication or request whenever mailed shall be deemed to have been received on the fourth (4th) business day next following the date it was mailed or, if by telex, FAX or telegram, the business day next following the date of transmission; provided that if normal mail, telex, FAX or telegram services are interrupted by strikes, slowdown or other cause, then any of the said services which have not been so interrupted shall be utilized or the notice, communication or request shall be personally delivered to ensure prompt receipt.

Execution

7.0 This Agreement shall be deemed valid and binding if signed in counterpart by the parties to the Agreement.

IN WITNESS WHEREOF the Grantor and City have affixed their corporate seals to this Agreement by the hands of their proper officers duly authorized in that behalf all on the day and year first above written.

SPARTECH 1991 LIMITED

per:

per:

THE CITY OF CALGARY

Manager of Acquisitions / Sales & Leasing

Deputy

City Clerk

JUL 09 1998

CONTENT APPROVAL:	
Engineering	<input checked="" type="checkbox"/>
Transportation	<input checked="" type="checkbox"/>
Corp. Prop. Group	<input checked="" type="checkbox"/>
FORM APPROVAL:	
LAW	<input checked="" type="checkbox"/>

SCHEDULE "A"

Dominant Lands (Owned by the City)

PLAN 8510947
BLOCK 1
LOT 1

EXCEPTING THEREOUT ALL MINES AND MINERALS

SCHEDULE "B"

Servient Lands (Owned by the Grantor)

PLAN 8911094
BLOCK 2

EXCEPTING THEREOUT ALL MINES AND MINERALS

Dated: April 199

BETWEEN:

SPARTECH 1991 LIMIT
(the "Grantor")

- and -

THE CITY OF CALGAR
(the "City")

981310855 REGISTERED 1998 10 06
EASR - EASEMENT
DOC 1 OF 1 DRP: 7882034 ADR/SELLIOTT
LINC/G: 0014516075 0011024478

ACCESS EASEMENT AGREE

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P. O. Box 2100, Station "M"
Calgary, Alberta
T2P 2M5

FAX: (403) 268-4634

Solicitor: **CHRISTOPHER S. DAVIS**
File No.: **P2080**