



**COUNTY OF
NEWELL**

AGREEMENT FOR THE CROSSING OF A COUNTY BURIED FACILITY

This Agreement Between:

NAME:	MAILING ADDRESS:
PHONE NUMBER:	EMAIL:

(the "Applicant")

And:

COUNTY OF NEWELL
Box 130, Brooks, AB T1R 1B2
(the "County")

Whereas the Applicant has made application to cross a County buried facility at the following location:

LEGAL:	PLAN:	BLOCK:	LOT:
PHYSICAL ADDRESS:			

The County hereby gives consent to the Applicant to cross a County buried facility under the following conditions:

NOW THEREFORE this Agreement witnessed that, in consideration of the premises, covenants and agreements herein contained, the Parties agree as follows;

1. The County does hereby, in consideration of the sum of Three Hundred Dollars (\$300.00) paid to the County by the Applicant, the receipt of which sum is hereby acknowledged, and in consideration of the covenants and conditions hereinafter set forth, grant transfer unto the Applicant the right, privilege and licence to lay, construct, operate, maintain, inspect, repair, remove and/or replace a Buried Facility (hereinafter referred to as "Crossings") by the applicant at those locations described in crossing agreement.
2. All Crossings shall be constructed, inspected, maintained, repaired, replaced and/or removed in accordance with all applicable Federal, Provincial and Municipal legislation and regulations.
3. The Applicant shall have the crossing agreement available at the work site.
4. The Applicant shall ensure no damage occurs to the existing Counties' facilities, while work is being performed in the crossing area, this includes heavy equipment work crossing the Counties' facilities on the way to the crossing location.
5. In the event that the Counties' facility suffers damage as a result of the Applicants work, the County shall be notified forthwith and its repair shall be carried out as directed by the Counties' representative at the Applicants cost.





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6. The Applicant shall furnish to the County detailed maps, plans and drawings of each Crossing (hereinafter referred to as the “Crossing Plans”) at time of application. Permits will not be issued otherwise.
7. The Applicant shall not construct a Crossing without first obtaining approval of the Crossing Plans by the County.
8. If the Applicant obtains approval of Crossing Plans by the County as described in Article 6, herein, construction of a Crossing shall conform exactly to the Crossing Plans for which approval of the County was obtained. Deviation from the plan must receive approval before commencement.
9. Where a crossing is to be placed across an existing County facility:
 - a) **No vertical or horizontal bends shall be permitted in that portion of the crossing within the boundaries of the Counties’ Right of Way**
 - b) **The crossing should be located so as to be at or near right angles (90 degrees) to the existing County facility.**
 - c) **It shall be placed below the existing County facility, with a minimum physical separation of sixty (60) cm or [two (2) feet]. Unless otherwise agreed to by the Public Work Manager.**
10. The Applicant shall maintain all Crossings to the continued satisfaction of the County.
11. A County representative must be present on site, when crossing takes place.
12. A County representative must be present on site prior to backfill operations, to inspect and witness the condition of the Counties’ buried facilities.
13. Unless otherwise noted, the Applicant shall cover the Counties’ facility with at least 0.30 m (1 ft.), of approved back fill material.
14. The Applicant does hereby agree that, upon receiving a minimum of six (6) months written notice by the County, the Applicant shall lower or extend or otherwise alter the Crossing at its own expense as and when required by the County to do so.
15. The Applicant may enter upon and occupy the crossing for the purposes provided in this Agreement, for the duration of this Agreement.
16. The Applicant shall be liable for and pay all taxes, rates and assessments of any kind and description whatsoever that may be imposed by any lawful authority by reason of the presence of Buried Facility within the Crossing area or by reason of this Agreement, and the Applicant shall indemnify and save harmless the County from and against all such taxes, rates and assessments.
17. The Applicant does hereby agree that it shall not make or bring any claim, action, suit, proceeding or demand against the County, it’s elected officials, officers, employees, servants, agents and contractors with respect to any occurrence, incident, accident or happening relating in any matter whatsoever to this Agreement and the rights and obligations arising therefrom, which, without limiting the generality of the

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2021-04-22

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foregoing shall include any claim, action, suit, proceeding or demand arising in tort or contract, providing such claim, action, suit, proceeding or demand is not the result of any wilful act or negligence of the County, it's elected officials, officers, employees, servants, agents or contractors.

Notwithstanding the foregoing, in no event shall the County ever be liable to the Applicant for any consequential, indirect or special damages. Special damages shall include, but not be limited to, the value associated with any loss of product from the Buried Facility.

18. The Applicant hereby agrees that it shall indemnify and save harmless the County, it's elected officials, officers, employees, servants, agents and contractors with respect to any claim, action, suit, proceeding or demand made or brought against the County, it's elected officials, officers, employees, servants, agents and contractors by any third party with respect to any occurrence, incident, or happening relating in any manner whatsoever to this Agreement and the rights and obligations arising therefrom, and which indemnity shall, without restricting the generality of the foregoing, include all legal costs incurred by the County in defending such a claim, action, suit, proceeding or demand providing such claim, action, suit, proceeding or demand is not the result of any wilful act or negligence of the County, it's elected officials, officers, employees, servants, agents of contractors.
19. **Subject to Article 20 herein, the Applicant shall provide the County forty eight (48) hours' notice during normal business hours (8 am to 5 pm) Monday to Friday or at approvals@newellmail.ca of its intention to perform any ground disturbance on the buried facility within County of Newell Rights of Way. The County representative can be contacted at 403-633-1585.**
20. In the event of any emergency involving the buried facility, no prior written notice shall be required to be given to the County, for the Applicant to attend the emergency. However, the Applicant shall, in all instances, immediately attend to the emergency and as soon as possible thereafter advise the County of such emergency.
21. This Agreement shall not be assigned by the Applicant without written consent of the County, which consent shall not be unreasonably withheld.
22. In the case of default by either of the Parties hereto in carrying out any of the terms, covenants and provisions of this Agreement, either Party may give fifteen (15) days written notice of such default to the other. In the event that the Party claimed to be in default does not commence to remedy such default within the fifteen (15) day period, the other Party may take such steps that are appropriate and necessary to remedy such default, and the Party in default shall be liable for and pay all reasonable costs and expenses incurred with respect to the remedying of such default.
23. All disturbed areas, except the driving surfaces, must be seeded using current County of Newell Agriculture Services approved seed mixture.
24. There will be a zero tolerance in the mixture for weed seeds that are classed as restricted or noxious under the Weed Control Act or that have been elevated to a restricted or noxious weed status through a County of Newell Bylaw. This will be verified by the Applicant providing the Agricultural Service Board Field man with a Certificate of Analysis. A list of restricted and noxious can be found at www.invasiveplants.ab.ca.





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- 25. Any condiment, excusing or overlooking by either Party of any default, breach, or non-observance by the other Party at any time or times in respect of any covenant, provisions, or condition herein contained shall not operate as a waiver of the Party’s rights hereunder in respect of any subsequent default, breach or non-observance by the other Party. No covenant, term or condition of the Agreement or any breach thereof shall be deemed to have been waived by either Party unless such waiver is in writing and signed by the Party waiving.
- 26. This Agreement shall be governed by the laws of the Province of Alberta and the rights and obligations of the Parties hereto are subject to all present and future laws, rules, regulations and orders of any legislative body or duly constituted authority now or hereafter having jurisdiction over the Parties or the subject matter of this Agreement.
- 27. This agreement shall ensure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- 28. This Agreement shall remain in force and effect until such time as the Buried Facility is physically removed from the crossing location.
- 29. If the defaulting Party has not remedied or commenced to remedy the default after the expiration of the fifteen (15) day period set out in Article 27, then the other Party may terminate this Agreement by giving six (6) months written notice to the defaulting Party.
- 30. This Agreement contains the entire Agreement between the Parties hereto and no understandings or agreements, verbal or otherwise, exist between the Parties except as herein expressly set out.
- 31. The Applicant has twelve (12) months to complete the installation of the buried facility across the County Right of Way. If the installation procedures have not commenced prior to the twelve month period, a new crossing agreement will be required.

IN WITNESS WHEREOF the Parties hereto have affixed their corporate seals under the hands of their proper signing officers in that behalf to give effect to this Agreement the day and year first above written notwithstanding the actual date or dates of execution.

The above terms accepted by Applicant (please complete the following information):

- Print Name _____
- Signature _____
- Todays’ Date _____

Approved By: County Of Newell Approvals Officer or Designate:

