



**AGREEMENT FOR THE
CROSSING OF A COUNTY OF NEWELL ROAD ALLOWANCE**

This Agreement Between:

(hereinafter the "Applicant")

And:

COUNTY OF NEWELL
(hereinafter the "County")

Whereas the Applicant has made application to cross a County road allowance at the following location:

Legal Land Description Quarter: _____ Section: _____ Twp: _____ Range: _____ Meridian: _____

Lot: _____ Block: _____ Plan: _____

Physical Address: _____

The County hereby grants consent to the Applicant to cross a County Road allowance under the following conditions:

WHEREAS the title to all public highways and roads is vested in the Crown in right of Alberta subject to the County having the control and management of the public highways and roads, in accordance with the provisions of the Municipal Government Act, R.S.A. 1980, M-26 as amended (which public highways and roads, including road allowances, are hereinafter referred to as the "Roads");

AND WHEREAS the County is a municipal corporation that is responsible for the orderly development of a system of highways, roads and road allowances within its municipal boundaries in accordance with the provisions of the Municipal Government Act.

AND WHEREAS the Applicant operates or proposes to operate a Buried Facility within the municipal boundaries of the County (hereinafter referred to as "Buried Facility").

AND WHEREAS the Buried Facility, by necessity, cross the Roads at certain locations.

AND WHEREAS the Parties desire that an Agreement be entered into for the crossing of the Roads by the Buried Facility.

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





COUNTY OF NEWELL

- 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 in full 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 replace Buried Facility under the Roads (hereinafter referred to as "Crossings") by the applicant at those locations described within the title bar herein.
- 2) All Buried Facilities shall be constructed, inspected, maintained, repaired, replaced and removed in accordance with all applicable Federal, Provincial and Municipal legislation and regulations.
- 3) 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.
- 4) The Applicant shall not construct a Buried Facility Crossing without first obtaining approval of the Crossing Plans by the County.
- 5) If the Applicant obtains written approval of Crossing Plans by the County as described in Article 3, 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.
- 6) Where a Buried Facility is to be placed parallel to a Road, it shall not at any point be closer than thirty (30) meters to the boundary of such Road unless otherwise approved.
- 7) Where a Buried Facility is to be placed across a Road:
 - 7.1) No vertical or horizontal bends shall be permitted in that portion of the Buried Facility within the boundaries of the roadway or within ten (10) meters of the boundaries on either side of the road, unless otherwise approved.
 - 7.2) It should be located to be at or near right angles (90 degrees) to the Road.
 - 7.3) It shall be placed at a depth of not less than two (2) meters below the lowest portion of the Road allowance and such depth shall be maintained throughout the entire width of the Road allowance.
- 8) Where a Buried Facility for rural distribution is to be placed across an undeveloped Road allowance, it shall be placed at a depth of not less than two (2) meters below the lowest portion of the Road allowance. However, the owner of such Buried Facility shall assume full liability for lowering the Buried Facility, in accordance with applicable standards, in the event of and wherever future Road improvements require the lowering of such Buried Facility.
- 9) A developed Road shall be crossed using the boring method of crossing.
- 10) An undeveloped Road may be crossed using the open cut method of crossing.
- 11) A County representative may be present on site, when crossing takes place.





COUNTY OF NEWELL

- 12) When carrying out construction, inspection, maintenance, repair, replacement or removal of any Buried Facility at a Crossing, the Applicant shall take all precautions necessary to ensure the safety of all persons using the Road, which precautions may include, without limiting the generality of the foregoing, the use of warning signs, lights, flares, barricades and devices.
- 13) All Roads wherein construction, maintenance, repair, replacement, or removal of a Buried Facility has occurred must be restored to its original condition to the satisfaction of the County.
- 14) The Applicant shall maintain all Crossings to the continued satisfaction of the County.
- 15) This Agreement shall remain in force and effect until such time as the Buried Facility is physically removed from the crossing location.
- 16) The Applicant shall be responsible for properly marking the Crossing with warning signs. All such warning signs shall be placed and maintained on each side of the Road to identify the Crossing location.
- 17) 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.
- 18) The Applicant may enter upon and occupy the Crossing for the purposes provided in this Agreement, for the duration of this Agreement.
- 19) Nothing contained in this Agreement shall be deemed to limit or in any manner prohibit the County from fully using and enjoying any portions of the Roads where the Crossing has been installed in any lawful manner whatsoever and the rights, herein granted to the Applicant are strictly limited to the rights expressly granted herein.
- 20) 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.
- 21) The Applicant does hereby agree that it shall not make or bring any claim, action, suit, proceeding or demand against the County, its 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 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, its elected officials, officers, employees, servants, agents or contractors.
- 22) 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.





COUNTY OF NEWELL

- 23) The Applicant hereby agrees that it shall indemnify and save harmless the County, its elected officials, officers, employees, servants, agents and contractors with respect to any claim, action, suit, proceeding or demand made or brought against the County, its 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, its elected officials, officers, employees, servants, agents of contractors.
- 24) Upon request of the County, the Applicant agrees to provide to the County, prior to the commencement of construction of a Crossing, security in the amount and of such type as the County shall request.
- 25) **Subject to Article 26 herein, the Applicant shall provide the County forty eight (48) hours' notice during normal business hours (8:00 am to 4:30 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 403-362-3266.**
- 26) 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 address the emergency and as soon as possible thereafter advise the County of such emergency.
- 27) In the event of an emergency involving the roadway under which the buried facility is situated, the County may enter upon the Road Crossing and take whatever steps are necessary to safeguard users of the roadway and to satisfy their obligations under the Municipal Government Act.
- 28) This Agreement shall not be assigned by the Applicant without written consent of the County, which consent shall not be unreasonably withheld.
- 29) In the case of default by either of the Parties hereto in conducting 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.
- 30) Any condition, 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.





COUNTY OF NEWELL

- 31) Every notice required by this Agreement to be in writing shall be delivered personally or sent by prepaid registered mail. In the case of personal delivery, such notice shall be deemed to be received on the date of delivery and, in the case of service by mail, shall be deemed to have been given seven (7) days following the date upon which it was mailed.
- 32) 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.
- 33) This agreement shall ensure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.
- 34) Subject to Article 33 herein, this Agreement shall remain in force and effect until such time as the Buried Facility is physically removed from the Road Crossing.
- 35) 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 29, then the other Party may terminate this Agreement by giving six (6) months written notice to the defaulting Party.
- 36) 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.
- 37) The Applicant has twelve (12) months to complete the installation of the buried facility across the County of Newell Right of Way. If the installation procedures have not commenced prior to the twelve (12) month period, a new crossing agreement will be required.
- 38) All disturbed areas, except the driving surface of the approach, must be seeded with a grass seed mixture. Using current County of Newell Agriculture Services approved seed mixture.
- 39) 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.
- 40) Notice
 - 40.1) Any notice or other communication or instrument permitted pursuant to this Agreement shall be in writing and shall be delivered personally or may be mailed by prepaid registered mail addressed as follows:





COUNTY OF NEWELL

In case of notice or communication to the County, to:

County of Newell
183037 Rge Rd 145
Box 130
Brooks, AB T1R 1B2

In case of notice or communication to the Applicant, to:
(mailing address of Applicant)

Name

Mailing Address

Phone Number

Email Address

40.2) Either party may change its mailing or delivery address by giving to the other party written notice to that effect.

41) Collection of Personal Information

41.1) The personal information collected on this form will be used by the County of Newell to administer road allowances. This collection is authorized under section 4(c) of the Protection of Privacy Act (POPA) and Division 2 Roads of the Municipal Government Act. The personal information collected will be protected by section 10 of the Protection of Privacy Act. Please direct any questions about this collection to the Privacy Officer for the County of Newell at 403-362-3266 or administration@newellmail.ca.

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.





COUNTY OF NEWELL

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

Applicant

County of Newell

Name

Name

Signature

Signature

Date

Date

