COUNTY OF NEWELL

OFFICE USE ONLY
AGREEMENT #
_____

AGREEMENT FOR THE
INSTALLATION and USE OF A TEXAS GATE

This Agreement Between:

_____
(hereinafter the “Applicant”)

And:

COUNTY OF NEWELL
(hereinafter the “County”)

WHEREAS the Applicant has made application to install a Texas Gate at the following location:

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

Lot: _____ Block: _____ Plan: _____

Physical Address: _____

WHEREAS the Applicant wishes to place a Texas Gate across a municipal road located within the municipal boundaries of the County; and

WHEREAS the County agrees to allow the Applicant to place a Texas Gate across a municipal road located within the municipal boundaries of the County under certain terms and conditions.

NOW THEREFORE in consideration of the premises and of the covenants by and between the parties hereto, the parties do agree each with the other as follows:

1) <u>Interpretation</u>

1.1) This Agreement, including the recitals, the Schedules and this clause, the following terms (unless the context specifically requires otherwise) shall have the following meanings:

1.1.1) “Agreement" shall mean this Agreement.

1.1.2) “Applicant” shall mean the person or persons applying for the Agreement.

1.1.3) "Texas Gate" shall mean any structure or device in which all or part of the structure or device is placed across an excavated portion of a roadbed to allow the normal passage of persons and vehicles along the road while preventing the passage of livestock.

1.1.4) “The County” shall mean any County of Newell Councillors, the CAO, staff and\or agents of the County of Newell

1.1.5) "Vehicle" shall mean a device in, on or by which a person or thing may be transported or drawn on a highway, which, without limiting the generality of the foregoing shall include motor vehicles.

1.2) The division of this Agreement into articles and paragraphs, and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.3) All references to any person in this Agreement shall be read with such changes in number and gender as the context requires.

1.4) All statements of, or references to, dollar amounts in this Agreement shall mean lawful money of Canada.

1.5) This Agreement shall be governed by the laws of the Province of Alberta, and the Parties agree to submit to the authority of the Courts of the Province of Alberta.

2) Construction of Texas Gate

2.1) The County agrees to allow the Applicant to construct, maintain and operate, at the Applicant's own cost and expense, a Texas Gate across a municipal road located within the municipal boundaries of the County of the County, which road may be legally described as follows: (legal land description)

2.2) The Applicant agrees that the Texas Gate shall be of such design and construction to ensure the safe use of the Road by all persons and Vehicles entitled to use the Road. The Texas Gate shall be minimum nine (9) meters wide on all roads and shall be of like design as that shown in Schedule 'A', which is attached to and forms part of this Agreement.

2.3) The Applicant agrees all required warning signs, on both sides of the Texas Gate, will be installed by the County and invoiced back to applicant.

2.4) The Applicant agrees that all signage and other safety measures, including cattle protection fencing (“TEC fence”), will be maintained by the County. Any repair or maintenance costs incurred by the County shall be invoiced to the Applicant.

2.5) The Applicant agrees that, during construction or repair of the Texas Gate, precautions be taken to ensure the safety of any and all persons and vehicles using the road, which, without limiting the generality of the foregoing, may include the use of flagmen and the placement of signs warning of the construction or repair. Contractor performing the work must be on the County’s Maintenance Services list and remain in good standing with the County.

2.6) The Applicant agrees to pay the fee of Three Hundred Dollars ($300.00) per Texas Gate application. Fees must be paid at the time of application.

2.7) The Applicant agrees that, if the condition of the Texas Gate or the warning signs described in Article 2.3, herein, is such that it creates a hazard to the safety of any and all persons and Vehicles using the Road, the Applicant shall immediately effect repairs or removal of the Texas Gate or the warning signs.

2.8) The Applicant agrees to restore any disturbed area to its original condition, including the re-grassing of the disturbed area to the satisfaction of the County.

3) Liability Waiver and Indemnity

3.1) The Applicant hereby agrees that it shall not make or bring any claim, action, suit, proceeding or demand against the County, its elected officials, officers, employees, servants, agents or contractors with respect to any occurrence, incident, accident or happening relating in any manner 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.

3.2) 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 goods or product.

3.3) 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, accident 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.

4) Assignment

4.1) This Agreement may not be assigned or transferred by the Applicant in whole or in part without the prior written consent of the County.

5) Termination

5.1) This Agreement may be terminated by the County as follows:

5.1.1) The County must give to the Applicant thirty (30) days written notice of its intention to terminate; and

5.1.2) Within thirty (30) days of receiving notice of intention to terminate this Agreement in accordance with Article 5.11, herein, the Applicant shall, at its own cost and expense, remove the Texas Gate and restore the portion of the municipal road wherein the Texas Gate was located to the same condition as the remainder of that municipal road.

5.2) This Agreement may be terminated by the Applicant as follows:

5.2.1) The Applicant must give to the County thirty (30) days written notice of its intention to terminate.

5.2.2) Upon expiration of the thirty (30) days' notice as set out in Article 5.21, herein, the Applicant shall, at its own cost and expense, remove the Texas Gate and restore the portion of the municipal road wherein the Texas Gate was located to the same condition as the remainder of that municipal road.

6) Notice

6.1) 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:

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

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

7) Collection of Personal Information

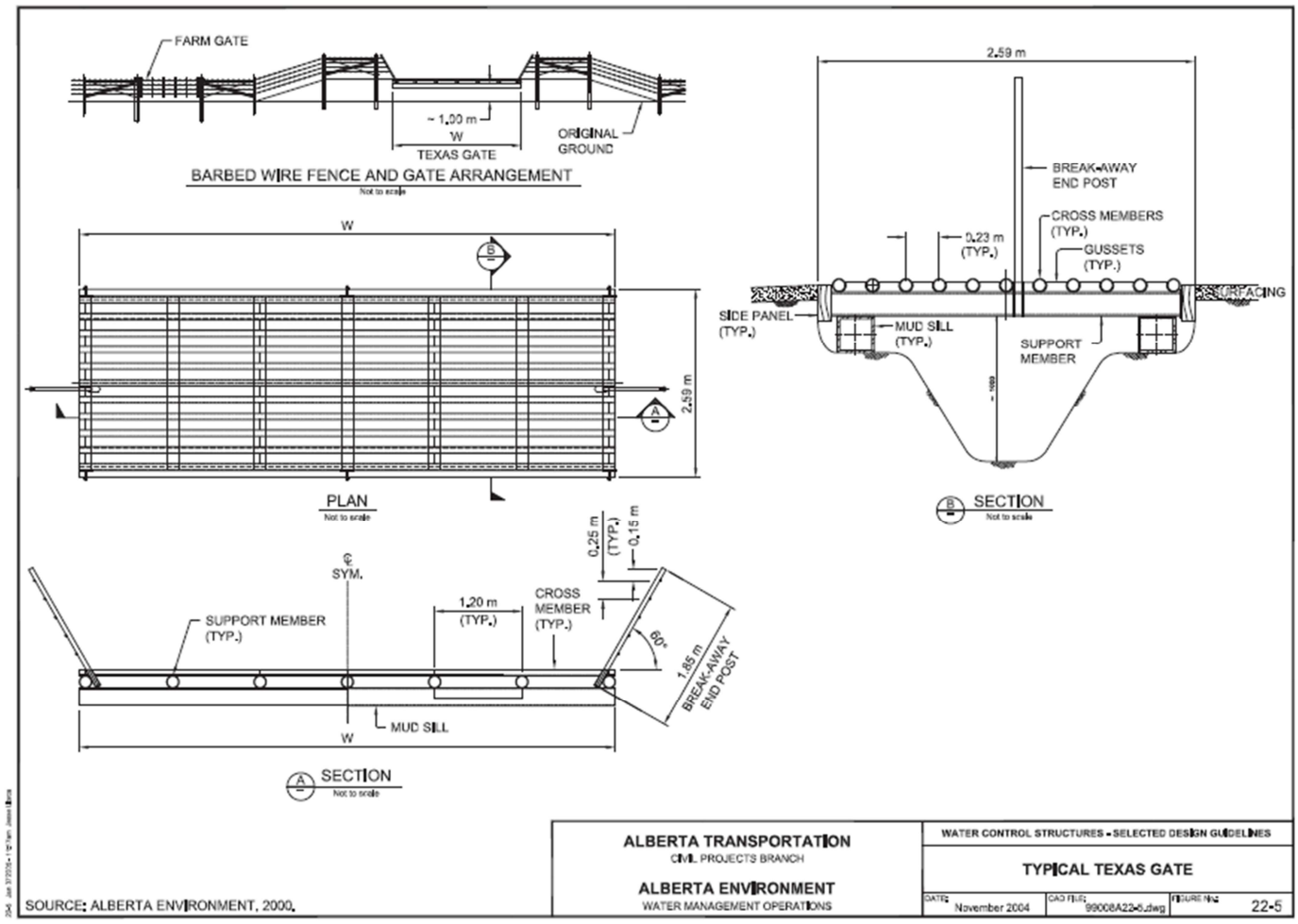
7.1) The personal information collected on this form will be used by the County of Newell to administer road allowances. This collection is authorized under section 4(c) of the Protection of Privacy Act (POPA) and Division 2 Roads of the Municipal Government Act. The personal information collected will 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.

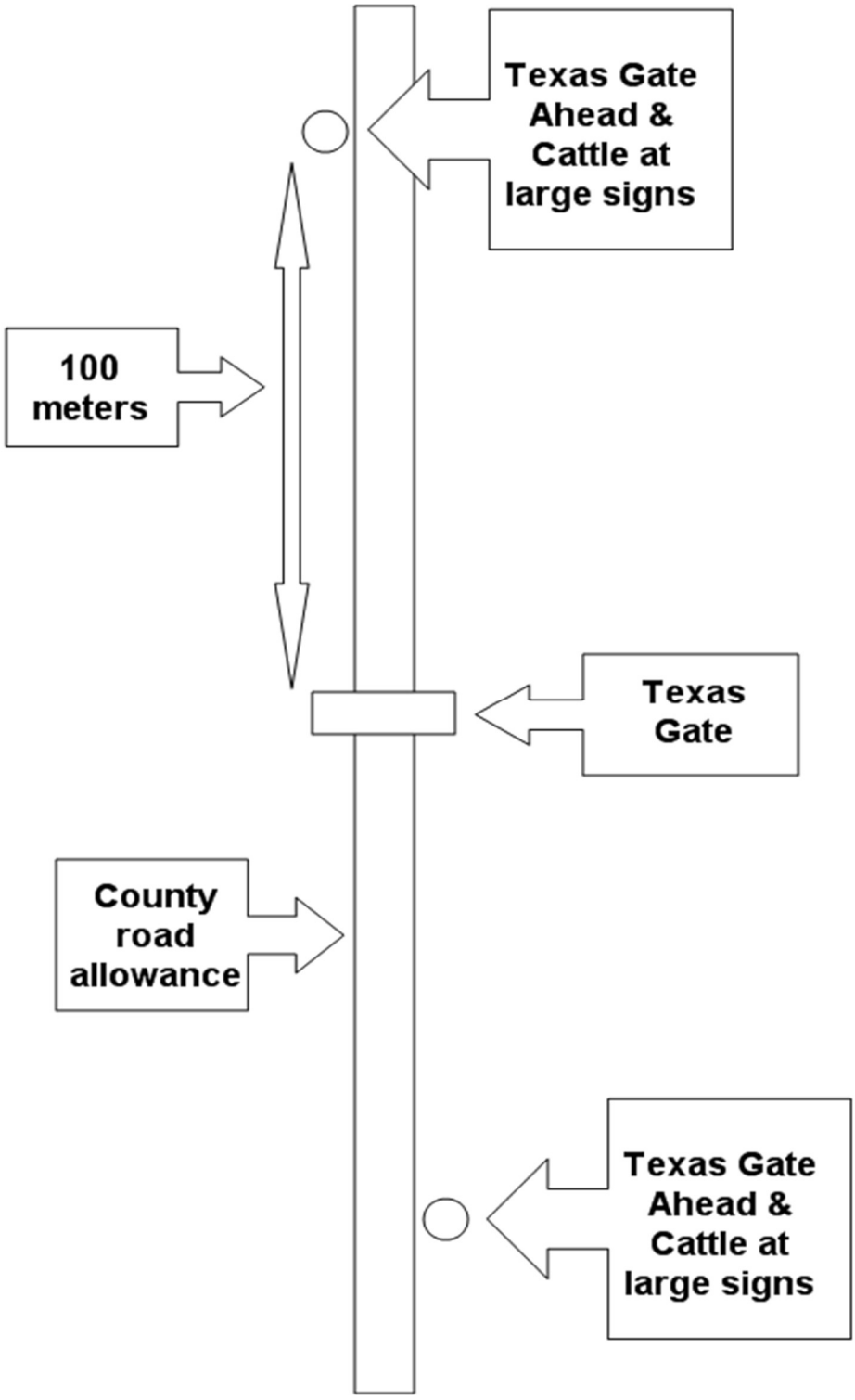
IN WITNESS WHEREOF this Agreement has been executed by the parties effective the day and year first above written notwithstanding the actual date or dates of execution.

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

Applicant	**County of Newell**
_____	_____
Name	Name
_____	_____
Signature	Signature
_____	_____
Date	Date

SCHEDULE ‘A’


FARM GATE
~ 1.00 m
W
TEXAS GATE
ORIGINAL GROUND
BARBED WIRE FENCE AND GATE ARRANGEMENT
Not to scale
W
2.59 m
PLAN
Not to scale
2.59 m
BREAK-AWAY END POST
CROSS MEMBERS (TYP.)
0.23 m (TYP.)
GUSSETS (TYP.)
BRACING
SIDE PANEL (TYP.)
MUD SILL (TYP.)
SUPPORT MEMBER
SECTION
Not to scale
℄ SYM.
SUPPORT MEMBER (TYP.)
1.20 m (TYP.)
CROSS MEMBER (TYP.)
0.25 m (TYP.)
0.15 m
80°
1.85 m
BREAK-AWAY END POST
MUD SILL
W
SECTION
Not to scale
SOURCE: ALBERTA ENVIRONMENT, 2000.
ALBERTA TRANSPORTATION
CIVIL PROJECTS BRANCH
ALBERTA ENVIRONMENT
WATER MANAGEMENT OPERATIONS
WATER CONTROL STRUCTURES - SELECTED DESIGN GUIDELINES
TYPICAL TEXAS GATE
DATE November 2004
CAD FILE 99008A22-5.dwg
FIGURE NO 22-5



183037 Rge Rd 145 (Box 130), Brooks, AB T1R 1B2
Phone: 403-362-3266
Email: administration@newellmail.ca
Web: www.countyofnewell.ab.ca