

Vulcan County File: [Type text]

Applicant File: [Type text]

## ROAD CROSSING AGREEMENT FOR SUB-SURFACE FACILITIES

THIS AGREEMENT made the [Type text] day of [Type text] 2009.

**BETWEEN:**

**VULCAN COUNTY**

a municipal corporation established and existing  
under the laws of the Province of Alberta  
(hereinafter called the "Grantor")

- and -

NAME  
ADDRESS  
CITY, POSTAL CODE

a body corporate registered and existing  
under the laws of the Province of Alberta and/or  
landowner of said properties  
(hereinafter called the "Grantee")

WHEREAS the title to all public highways and roads is vested in the Crown in right of Alberta subject to the Grantor having the control and management of the public highways and roads, in accordance with the provisions of Section 18(1) of the MUNICIPAL GOVERNMENT ACT (which public highways and roads are hereinafter called the "Roads");

AND WHEREAS the Grantor 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 (Alberta);

AND WHEREAS the Grantee is a corporation and/or an individual that operates or

proposes to operate a **TYPE OF LINE** sub-surface facility (oil; gas; water; waste water; mineral; electrical; fibre optics; other-specified)  
within the municipal boundaries of the Municipality;

AND WHEREAS the parties desire that a single Agreement be entered into for all

Crossings of the Roads by the Grantee's Facilities within the Grantor's boundaries;

AND WHEREAS this Facility, by necessity, crosses the road at a certain location:

TO WIT:                   LEGALLOCATION

NOW THEREFORE the Agreement witnesseth that in consideration of the sum of One (\$1.00) Dollar now paid by the Grantee to the Grantor, receipt of which is hereby acknowledged and subject to the terms and conditions hereinafter expressed, the parties agree as per the following:

- 1) attached Schedule "A", Sub-surface Facility Conditions of Agreement, revised March 1, 2005: and
- 2) attached Schedule "B", Sub-surface Facility Regulations, revised March 1, 2005

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.

**VULCAN COUNTY:**

\_\_\_\_\_  
**Reeve**

\_\_\_\_\_  
**County Administrator**

**GRANTEE: COMPANY NAME**

**Per:** \_\_\_\_\_

**Per:** \_\_\_\_\_

**SCHEDULE " A "**

Rev: Mar. 7, 2006

**SUB-SURFACE FACILITY CONDITIONS OF AGREEMENT**

1. In this Agreement the following definition shall apply:
  - a) "FACILITIES" means and shall include any piping system used for the transmission and/or gathering and/or distribution of gas, oil, water, waste water, mineral or other commodity; and shall include communication lines, electrical lines, fibre optics, and any other specified installation.
2. The Grantor consents to the Grantee's use of the Roads to lay, construct, replace, repair, maintain, inspect, operate and remove the Facility under the Roads (hereinafter called the "Crossing") upon the proper and timely fulfilment of all of the terms and conditions of this Agreement.
3. The Grantee shall only be permitted to cross the Roads at those locations (hereinafter called the "Crossing Area") approved by the Grantor, such approval not to be arbitrarily nor unreasonably withheld. In the event the parties fail to agree upon a location for the Crossing Area, the Grantee may apply to the appropriate regulatory authority for a determination of the location for the proposed Crossing Area.
4. The Grantee shall select a location for the Crossing Area, which gives due consideration to any features of the Roads, as well as any known plans by the Grantor to upgrade or relocate the Roads so as to avoid any Crossing Areas which may have detrimental effect on the future operation or upgrading of the Roads or the Facility in the Crossing Area, and the Grantee shall, before commencing any work in the Crossing Area, submit to the Grantor for approval, a detailed plan of the proposed location of the Facility in the Crossing Area.
5. The Grantee shall not commence any construction work in the Crossing Area, without first obtaining the Grantor's written approval of the detailed plan referred to in Clause 3 herein. Upon the Grantee providing the Grantor with the proposed detailed plan, the Grantor shall forthwith review and advise within twenty one (21) calendar days if such detailed plan is acceptable. In the event that the detailed plan is not acceptable, the Grantor shall list the reasons why such plan is unacceptable and suggest an alternate plan for the Crossing. The Grantor shall determine if the proposed work will conflict with any imminent or future road construction work, relocation or upgrading, or other work which may necessitate the relocation or lowering of the Facility in the Crossing Area and shall notify the Grantee accordingly when approving or rejecting the Grantee's application for the Crossing. If for any reason the parties cannot agree upon the plans and the details with respect to the Crossing, either party may apply to the appropriate

regulatory authority for a determination of terms and conditions on which the Grantee may use the Roads including inter-alia (among other things) detailed plans.

6. The Grantor shall not commence or carry out any work that involves a ground disturbance in the Crossing Area without having obtained the written approval of the Grantee and without a representative of the Grantee being present at all times. Other than in the case of an emergency, the Grantor shall give forty eight (48) hours notice in advance (weekends and statutory holidays excluded) to the Grantee of a proposed ground disturbance. The Grantee may waive its right to have a representative present at the time of the work being performed and in the event a representative is not present, it shall be deemed to have waived its right.
7. The Grantee shall, with respect to any work, as referred to in Clause 4, carried out in or on the Crossing Area,
  - a) provide all suitable pipe, materials, equipment and labour;
  - b) give to the Grantor no less than forty eight (48) hours notice in advance (weekends and statutory holidays excluded) before commencing construction or maintenance work involving a ground disturbance;
  - c) provide in such notice the name or names of the contractor and sub-contractor proposed to carry out the work in the Crossing Area;
  - d) ensure that all work carried out in the Crossing Area shall have sufficient and proper traffic control, safety devices and warning devices or flagmen as and where necessary;
  - e) carry out such work in the Crossing Area only during daylight hours except if required otherwise in cases of emergency;
  - f) permit the Grantor to have a representative present to inspect such work;
  - g) design, construct, operate and maintain the Facilities, as applicable, in accordance with:
    - i) the latest edition of the CSA Standard Z662-03 issued and adopted by the Canadian Standards Association in June, 2003, and
    - ii) any supplementary standards issued by the Department of Infrastructure of the Province of Alberta, Occupational Health and Safety and any other applicable regulations or standards, including applicable standards established by the Energy Resources Conservation Board; and
    - iii) the detailed plan consisting of the standard and typical profile attached hereto as Schedule "A", or specific profile for the Crossing

as may be required from time to time at locations where the details of the standard and typical profile are insufficient.

- h) install and maintain suitable markers indicating the location of the Facilities in the Crossing Area;
- i) construct and lay the Facilities as close to a ninety (90) degree angle as possible to the Roads, unless otherwise approved by the Grantor;
- j) construct and lay the Facilities without any mechanical joints including couplings, flanges and transition fittings, horizontal or vertical bends from property line to property line within the existing road allowance;
- k) install the Facilities at the Crossing in a developed road allowance using the boring method unless otherwise approved by the Municipality. Install the Facilities at the Crossing in an undeveloped road allowance using the open cut or plough-in method providing prior approval has been given by the Grantor;
- l) provide verbal notice to the Grantor's representative prior to backfilling of any excavation within the Crossing Area to enable the Grantor to make a final inspection;
- m) as soon as is reasonably practicable after completion of the work, restore the Crossing Area as closely as is practical to the condition in which it existed immediately prior to the work. If within ninety (90) days subsequent to notifying the Grantee that the restoration of the Crossing Area is inadequate given reasonable cause for such inadequacy, the Grantor may take reasonable measures to complete the required restoration, the cost of such restoration to be borne by the Grantee;
- n) maintain the Facilities in good order and condition and carry out all necessary repairs, renewals or emergency work expeditiously;
- o) surface locate and mark the Facilities within the road crossing rights of way, at the sole cost and expense of the Grantee, given forty eight (48) hours advance notice (weekends and statutory holidays excluded) when reasonably requested to do so by the Grantor;
- p) expose the Facilities at the lowest ground location within the Crossing Area (usually the toe of the borrow ditch) on each side of the travelled surface when requested by the Grantor on the basis of reasonable cause for the purpose of determining accurate pipe depth locations for maintaining, upgrading or repairing that portion of the Roads in the Crossing Area. Such exposure well be provided by the Grantee if requested by the Grantor providing that forty eight (48) hours advance notice (weekends and statutory holidays excluded) shall be given to the Grantee and that the costs for such exposures are borne by the Grantee. The Grantee agrees upon

the request of the Grantor to leave the Crossing exposed and properly flagged for future reference provided that the Grantor allows the Grantee the opportunity to inspect the backfilling of the exposure performed by the Grantor.

Notification for timing of backfilling can be made at the time of exposure, otherwise forty eight (48) hours notice in advance (weekends and statutory holidays excluded) shall be given to the Grantee.

- q) conform to and comply with all terms and conditions of this Agreement, and all statutes, laws, regulations, governmental orders and directions for the time being and from time to time in force affecting the Facilities, the Crossing Area and the work carried out hereunder;
8. The Grantee shall have the right to enter upon the Crossing Area to carry out repairs to, or maintenance of, or removal of the Facilities. In the case of repairs or maintenance causing a ground disturbance or removal, the Grantee shall give forty eight (48) hours notice in advance (weekends and statutory holidays excluded) of such work to the Grantor. In the case of breakage of the Facilities or other emergency, no prior notice shall be required for the Grantee to undertake such work, but the Grantee shall notify the Grantor of such emergency and remedial work as soon as is reasonably practical. In the case of maintenance to marker signs or cathodic protection test points, no notice shall be required.
  9. The cost of laying, maintaining, repairing, renewing, altering or removing the Facilities within the Crossing Area, and of restoring the Crossing Area, shall be borne solely by the Grantee, subject to the provisions in Clause 11.
  10. The Grantee 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, other than the Grantor, by reason of the presence of Facilities within the Crossing or by reason of this Agreement and shall indemnify and save harmless the Grantor from and against all such taxes, rates and assessments.
  11.
    - a) The Grantee shall be liable for and shall indemnify and save harmless the Grantor of and from any and all losses, costs, charges, liabilities, damages and expenses (including without limiting the generality of the foregoing any and all liabilities to third parties, whether in contract, tort or otherwise) which the Grantor at any time or times hereafter shall or may bear, suffer, sustain or incur for or by reason of the Grantee's use of the Crossing Area or by reason of the negligence of the Grantee, its servants, agents, employees or contractors.
    - b) The Grantor shall be liable for and shall indemnify and save harmless the Grantee of and from any and all losses, costs, charges, liabilities, damages and expenses (including without limiting the generality of the foregoing any and all liabilities to third parties, whether in contract, tort or otherwise) which

the Grantee at any time or times hereafter shall or may bear, suffer, sustain or incur for or by reason of the Grantor's use of the Crossing Area or by reason of the negligence of the Grantor, its servants, agents, employees or contractors.

- c) It is expressly understood that nothing contained herein shall be construed as imposing upon the other party, any obligation to indemnify and save harmless the other party from or against any losses, costs, charges, liabilities, damages or expenses occasioned by or arising directly or indirectly from or out of any negligence of the other party, its servants, agents, employees or contractors.
12. The Grantor may, when reasonably required, serve a notice upon the Grantee requesting that the Grantee relocate or lower any of the Facilities within the Crossing Area. The Grantee shall have a period of seventy (70) days from the initial notification from the Grantor, within which to relocate or lower the Facilities within the Crossing Area. The cost of such relocation or lowering shall be borne by the Grantee. If the Grantee can propose an alternative to such relocation or lowering, provided such alternative is in accordance with good engineering standards and practices with respect to the roadway surfaces and grades, the Grantor does hereby agree to implement such alternative, provided that the costs of such alternative are shown to the Grantor to be less than the costs of the relocation or lowering of the Facilities, and provided that the sole costs of such alternative are borne by the Grantee. It being agreed, however, that if any relocation or lowering is requested of the Grantee by the Grantor within a period of fifteen (15) years of any relocation or lowering of the same Crossing at the expense of the Grantee, then, the total expense of this second relocation or lowering shall be borne by the Grantor. Upon the lapse of fifteen (15) years from the first relocation or lowering, a subsequent relocation or lowering of the same Crossing shall again be at the sole expense of the Grantee. If for any reason a dispute arises as to the reasonableness of the Grantor's requirement for the Grantee to relocate or lower any facilities in the Crossing Area, either party may refer the matter to the appropriate regulatory authority for determination.
13. 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 or at the end of the fifteen (15) day period, the other party may take such reasonable 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 remedy of such default.
14. Any condonement, 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, provision, 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 nor as to defeat or affect in any way the rights of any party hereunder in respect of any subsequent default, breach or non-observance by the other party. No covenant, term or condition of this Agreement or any breach thereof shall be deemed to have been waived by either party unless such waiver is completed in writing and signed by the party waiving as the case may be.

15. This Agreement may be used for all Crossings except for Crossings and installations in hamlets and unincorporated urban communities.
16. Either party may by notice in writing appoint a representative to act on its behalf in matters pertaining to this Agreement. Each such authorized representative shall have the right and authority to make, give or receive any notice, information, direction or decision required or provided for in this Agreement.
17. 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. In the event that notice is served by mail at a time when there is an interruption of mail service affecting the delivery of such mail, the notice shall not be deemed to have been served until seven (7) days after the date that mail service is restored. Either party may change its address for service by serving a notice on the other party in the manner herein provided.
18. The Grantee shall not assign or transfer this Agreement or the rights or privileges herein contained without first obtaining the written consent of the Grantor, which consent shall not be arbitrarily withheld. Nothing in this clause shall preclude the Grantee from including this Agreement and its interest herein in any mortgage, charge or hypothecation for the purposes of financing.
19. 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.
20. This Agreement shall ensure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
21. Agreement becomes invalid if construction has not been initiated within one year of the date of this Agreement.
22. This Agreement shall be valid for a period of ten (10) years from the date of this Agreement and then shall continue in force from year to year unless terminated by either party on ninety (90) days written notice to the other party and in the event of such termination, this Agreement shall thereafter have no further force and effect



other than with respect to the rights and obligations of each of the parties hereto as they relate to Pipelines already constructed under and pursuant to the terms of this Agreement.

23. 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.

## **SCHEDULE “ B “**

Rev: August 3, 2011

These regulations shall govern standards and procedures used in the construction, maintenance and operation of any and all sub-surface facilities and/or integral parts thereof, or extensions thereto within the County. Provincial regulations will also be followed at all times.

1. The erecting or excavating with respect to any structure over, under or along any highway, road, street, lane, alley, bridge, river, stream, watercourse, lake or other body of water within the County including the air space above and the ground below for any purpose whatsoever is prohibited without permission from the authorized County personnel.
2. A Facility shall be deemed to be any piping system used in the transmission and/or gathering and/or distribution of gas, oil, water, waste water, mineral or other commodity; and shall include communication lines, electrical lines, fibre optics, and any other specified installation.
3. A facility which is to be installed within the boundaries of a road allowance may be installed by plough-in method, at a minimum depth of 0.9 metres (36 inches) below ditch bottom and nearest possible to the ditch back slope. The open-cut method may be utilized, but requires site inspection by County personnel and approval in writing.

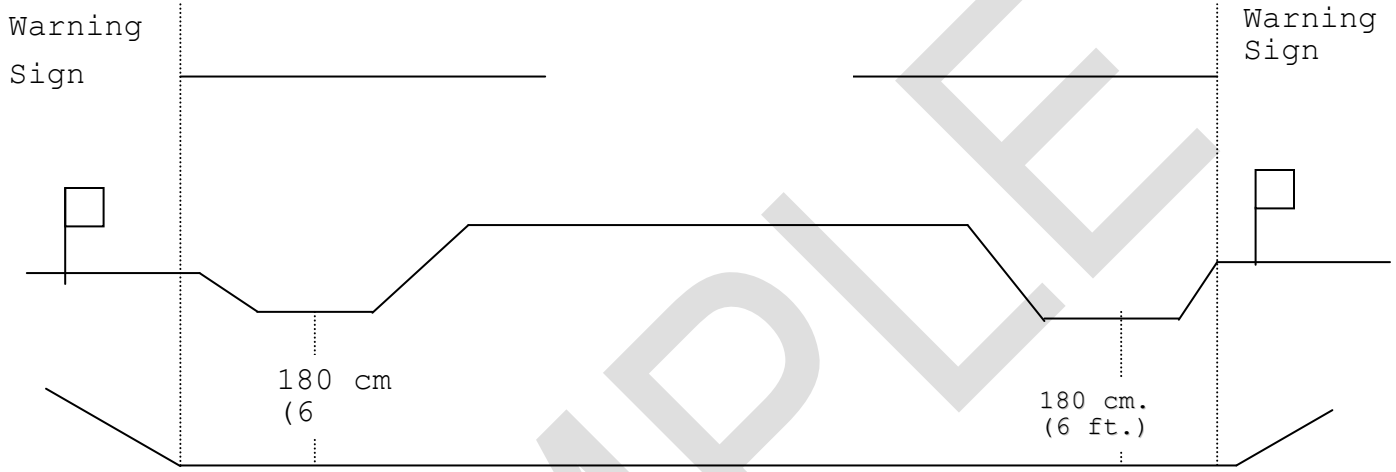
4. All facilities paralleling any road allowance shall not be nearer than 30 meters at any point to the nearest boundary of the road allowance, unless otherwise approved by the authorized County personnel, in writing.
5. Where a facility must cross a road, no bends shall be permitted in that portion of the facility within the boundaries of the road allowance or within 30 meters of the boundaries on either side of the road allowance unless otherwise approved by the authorized County personnel, in writing.
6. Any facility that must cross a road must cross at a 90 degree angle to the road allowance unless otherwise approved by the authorized County personnel.
7. The County shall be supplied with a detailed map, plans and drawings for all proposed facilities and/or extensions or revisions thereto, prior to any construction.
8. The County shall not be liable for any damage, injury or other costs or inconvenience arising from the construction, maintenance or operation of any facility within the County.
9. All facility right of ways shall be restored to their original condition or the satisfaction of the authorized County personnel.
10. If deemed necessary, authorized County personnel may inspect facility construction and/or installation at any time with representatives of the pipeline owner or contractor.
11. All facility crossings on all developed paved or oiled roads must be punched or bored within the boundaries of the road allowance. For a facility greater than 600mm. (24") crossing a paved or oiled road , a request to do an open cut may be submitted in writing to Vulcan County Council, if approved the crossing must be designed and supervised by a qualified licensed Engineering firm.
12. A security, cash or letter of credit of an amount specified in Schedule "A" of Bylaw 2011-011 must be posted for ALL open cut facility crossings on all developed roadways. This will be held for 1 (one) year after completion of the crossing.
13. All facility crossings 600mm (24") or less on developed gravel roads must be punched or bored within the boundaries of the road allowance. Facility crossings of greater than 600mm (24") may be done by open cut upon permission being granted from County Council. Each facility crossing will be assessed by County Council on an individual bases.
14. All crossings approved for open cut trenching shall be back filled in 200mm. (8") lifts and compacted to a 95% proctor density. When back-filled and the gravel must be restored to the satisfaction of the authorized County personnel.

15. The facility crossing area of any road will be the responsibility of the facility owner.
16. All expense relating to the crossing shall be the responsibility of the facility owner.
17. The depth of the road crossing shall be 180 cm (6 feet) below the existing road ditches within the confines of the road allowance, unless improvements to the road are proposed or expected in the near future, in which case the depth will be, as determined by the authorized County personnel.
18. All facilities crossing a road shall be installed according to the following:
  - a) shall meet the latest standards as outlined in CSA Z662-99 adopted in July, 1999; or
  - b) if a lesser standard is proposed it shall be installed inside a larger diameter carrier pipe or casing. This is to facilitate ease of removal or repair should the facilities' integrity come into question, and reduces possible damage due to heavy traffic and ground shifting.
19. On unimproved road allowances, a carrier pipe or casing will not be required and the depth of the crossing shall be the same as in the adjoining lands. Unimproved road crossings will be allowed using the open-cut or plough-in method. Should the unimproved road allowance be subject to upgrading by the County, the owner of the facility shall be responsible for the alterations necessary to meet the standards as specified for crossing a developed road.
20. All facilities crossing a road allowance must be marked by signs, and such markings shall be maintained by the facility owner at his expense until such time that the facility is taken permanently out of service and abandoned. Signs shall consist of a metal post and placard, a minimum of three (3) feet into the ground and four (4) feet above ground. Each placard will contain the facility owner's name, emergency contact phone number, and the type of facility that is buried beneath.
21. All road crossings shall be installed in such a manner as to incur the least amount of inconvenience to the travelling public as possible. Should a detour be necessary, the provision of such, along with signage and maintenance shall be the responsibility and expense of the facility owner.
22. The owner of the facility, at his expense, shall upon the request of the authorized County personnel, assist in establishing the location and depth of the facility.
23. The owner of the facility shall upon the request of the authorized County personnel and at his own expense, lower or relocate the facility when deemed necessary.
24. Road crossings on the crest of a hill shall be avoided at all times.
25. All debris associated with the construction or installation shall be removed from the sight in a timely manner.

26. When a pressure compensating regulator is required on the pipeline, and the installation of the regulator adversely affect farming operations, the regulator shall upon request, be permitted to be installed immediately adjacent to the road allowance, but on private property. All expenses involved in the construction and those involved following a request of the authorized County personnel to relocate the facility are the responsibility of the pipeline owner.
27. When regulators are installed within 30 meters of a road allowance, they must be protected on the three sides accessible to traffic by a barricade consisting of continuous guardrails similar to those commonly used on bridges, and the installation must be legibly signed indicating ownership of the installation.
28. Upon receiving approval from authorized County personnel for an installation, the facility owner agrees to save harmless Vulcan County along with its officers and employees from and against all claims, damages, suits, actions and causes of actions or cost that the County may suffer or be put to by reasons of the County granting permission for the said facility crossing.
29. Should authorized County personnel determine there are required repairs or maintenance needed at the crossing area, necessitated by the crossing, the facility owner will be responsible for the costs of all such corrective action taken.



**Facility Road Crossing**



**Facility Road Crossing**