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Policy Title PIPELINE ROAD CROSSINGS		

Council Resolution No. C/764/04	Date: November 10, 2004	Cross Reference Pipeline Act MGA	Effective November 10,2004
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POLICY

Lacombe County recognizes that oil companies and other parties may need to construct pipelines on, across, over or under a road allowance and will endeavor to accommodate such crossings to the extent that the crossing will not unduly impact future municipal works. The County Commissioner is hereby authorized to approve requests for pipeline road crossings and to enter into agreements with parties wishing to construct a pipeline road crossing in accordance with this policy.

REGULATION:

Approval for the non exclusive right to install a pipeline or other related works across or within a right of way will be considered subject to the following conditions:

1. The party requesting permission to cross a road allowance must enter into a "Pipeline Crossing License Agreement" attached hereto and identified as Schedule "A".
2. The party requesting permission to cross a road allowance must agree to relocate or do such other things as may be required to accommodate municipal works at no cost to Lacombe County.
3. The party requesting permission to cross a road allowance must agree to provide Lacombe County with the necessary approvals and consents to complete municipal works adjacent to or in the vicinity of a pipeline pursuant to the Pipeline Act and Regulations.

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SCHEDULE "A"

AN AGREEMENT made on the _____ day of _____, 2004

BETWEEN:

of

(hereinafter called the "Company")

OF THE FIRST PART

- and -

LACOMBE COUNTY

of

RR 3

Lacombe, AB T4L 2N3

(hereinafter called the "Municipality")

OF THE SECOND PART

WHEREAS, the Municipality will endeavour to accommodate the various pipeline systems requiring road crossings. Pipeline installations will be approved under the terms and conditions of no costs to the Municipality for any pipeline disturbance required as a result of future Municipality works;

AND WHEREAS the Municipality is the public authority having jurisdiction over the Rights-of-Way;

AND WHEREAS the Company must obtain the Municipality's consent to the occupancy and use of the Rights-of-Way consisting of constructing, maintaining, operating and removing its Equipment in, on, over, under, along or across the Rights-of-Way;

AND WHEREAS, the Company must not unduly interfere with the public use, enjoyment and safety of the Rights-of-Way and must share the use of the Rights-of-Way with other providers of services to the public (the Company and all such providers hereinafter collectively called "Service Providers") when occupying and using the Rights-of-Way;

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AND WHEREAS the Municipality and the Company have agreed that it would be mutually beneficial to outline the terms and conditions pursuant to which said consent shall be provided by the Municipality to the Company in the form of a non-exclusive right;

NOW THEREFORE in consideration of the promises and the mutual covenants herein contained, the Municipality and the Company each agree with the other as follows:

DEFINITIONS

1. In this License
 - a) "Alignment" means a location specified or approved by the Municipality for the location of Equipment in Rights-of-Way;
 - b) "Emergency Work" means the installation, maintenance, repair or replacement of Equipment in Rights-of-Way where health, safety or the provision of essential services is endangered;
 - c) "Equipment" means any poles, cables, pipes, conduits, pedestals, antennas, vaults, valves, support structures or other similar facilities or structures;
 - d) "in", with reference to the placement of Equipment in Rights-of-Way only, means "in, on, over, under, along or across";
 - e) "County Commissioner" means the Chief Administrative Officer of the Municipality or his/her delegate;
 - f) "Municipality" means Lacombe County;
 - g) "person" includes one or more individuals, partnerships, bodies corporate, unincorporated organizations, governments, government agencies, trustees, executors, administrators or other legal representatives, other than the Municipality or its legal representatives;
 - h) "Rights-of-Way" means the highways, roads, road allowances, streets, lanes, road diversions, bridges, public utility lots, public space, public water or other public places within the jurisdiction of the Municipality, excluding
 - i. reserve property;
 - ii. tax recovery property;
 - iii. easements, leases and licenses;
 - iv. fee simple titled property;
 - i) "Work" means the installation, maintenance, repair, replacement, extension or operation of any Equipment in Rights-of-Way, excluding Emergency Work.

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SCOPE OF MUNICIPAL CONSENT

2. The Municipality consents to the Company's use of the Road to lay, construct, replace, repair, maintain, inspect, operate and remove the Pipeline under the Road (hereinafter called the "Crossing") upon the proper and timely fulfilment of all of the terms and conditions of this Agreement.

The Municipality further grants and transfers unto the Company the non-exclusive right, privilege and license for any existing crossings owned by the Company at the date of execution of this agreement and any such existing crossings are deemed to be approved by the Municipality.

3. The Company agrees that the terms and conditions contained in this agreement shall apply to any existing crossing(s) that are deemed to be approved under this agreement.
4. The said right, privilege and license is hereby granted by the Municipality to the Company for the purposes of laying down replacing, repairing, maintaining, inspecting, operating and removing of the Company's pipeline within the crossing.

AUTHORIZATION OF WORK

5. The Company shall not excavate, break up or otherwise breach the surface of any Rights-of-Way or engage in any other work therein for the purpose of constructing, operating, maintaining or removing any of its Equipment in, on, over, under, along or across any Rights-of-Way (each of these activities hereinafter collectively called "Work") without first:
 - a) Providing plans to the most senior municipal official responsible for overseeing such Work or his designate ("County Commissioner"), setting out a proposal for an Alignment for the Company's Equipment and such other information required by the County Commissioner in a form acceptable to the County Commissioner; and
 - b) Obtaining the written authorization of the County Commissioner to an Alignment.
6. The Company shall provide all required information and obtain all required municipal construction and/or permits normally required by the Municipality in the circumstances prior to commencing any Work.
7. In the event of an emergency involving the Company's Equipment, the Company may perform such Work as is strictly necessary to end the emergency without the prior consent of the Municipality, provided that the Company notifies the Municipality of the occurrence of the Work without delay.

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CONDITIONS

8. All Work conducted by or on behalf of the Company is subject to the following conditions:
- a) Design, construct, operate and maintain the Pipeline in accordance with all relevant provincial and federal standards;
 - b) The Work shall be conducted and completed to the satisfaction of The Municipality and permit the Municipality to have a representative present to inspect such work;
 - c) The Work shall be performed in a manner that safeguards and protects all other support structures, transmission lines, equipment, facilities and improvements of any kind ("Improvements") present in the Rights-of-Way;
 - d) As soon as is reasonably possible after the completion of any work, restore the Crossing Area as closely as is possible to the condition in which it existed immediately prior to the work. If within ninety (90) days subsequent to notifying the Company that the restoration of the Crossing Area is inadequate given reasonable cause for such inadequacy, the Municipality may take reasonable measures to complete the required restoration, the cost of such restoration to be borne by the Company;
 - e) All waste material shall be removed and all disturbed area shall be leveled, trimmed and seeded to grass;
 - f) The Company agrees to except in the case of an emergency, give to the Municipality no less than seven (7) days notice in advance (weekends and statutory holidays excluded) before commencing any construction or maintenance work involving a ground disturbance. In the case of an emergency, the Company shall attempt to give the Municipality verbal notice before commencing any construction or maintenance work involving a ground disturbance;
 - g) If the Municipality requires that any Work be stopped, the Company shall cease such Work upon delivery of a written notice to the Company to that effect by the County Commissioner;
 - h) The Company shall be responsible for all Work, including the cost of such Work;
 - i) The Company shall carry out such work in the Crossing Area only during daylight hours except if required otherwise in cases of emergency;
 - j) The Company shall be liable for and pay all taxes, rates and assessments of any kind and description whatsoever that may be lawfully imposed by any authority by reason of the presence of Pipeline within the Crossing Area or by reason of this Agreement and shall indemnify and save harmless the Municipality from and against all such taxes, rates and assessments.

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FURTHER RESTRICTIONS

9. The standard of pipe, minimum depth, and placement of pipe for a crossing shall be in accordance with Government Approved Standards and such other or additional requirements pursuant to this Agreement.
10. A crossing of a Municipality designated Main Road shall be constructed with the pipeline at a 90 degree angle to the road allowance. The crossing of other road allowances shall be at an angle of not less than 75 degrees to the road allowance.
11. A crossing of a road allowance shall be constructed with no bends in the pipeline within the road allowance including any designated future road widening and within 8 metres of each side thereof.
12. A developed road allowance shall be crossed using the boring method of crossing, commencing in the ditch area at a distance of not less than one (1) meter from the bottom of the grade of the ditch. Undeveloped road allowances may be crossed using the open cut method of crossing.
13. A pipeline paralleling a road allowance should be located a minimum of 30 metres from the boundary of the road allowance including any designated future road allowance widening. If the pipeline parallels the road allowance at a distance of less than 30 metres the Company shall be responsible for any and all relocation costs that may be required to accommodate municipal works.

UTILITY AND INSPECTION FEES

14. The Municipality will conduct a visual inspection of the crossing location prior to and following the completion of the work.
15. The Company agrees to pay an inspection fee as established by the Municipality to cover the cost of the inspections and related administration costs.

SIGNAGE

16. The Company shall ensure that all work carried out in the crossing area shall have sufficient and proper traffic control, safety devices and warning devices or flagman as and where necessary.
17. The Company shall install and maintain suitable markers indicating the location of the pipeline in the crossing area, if required by provincial or federal legislation.

RELOCATION

18. Upon receipt of sixty (60) days advance written notice from the County Commissioner, or such other time as is mutually agreed to by the parties, the Company shall, at its own expense, relocate Equipment within the Right-of-Way and within thirty (30) meters of the

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Right-of-Way including above ground installations, or perform any other Work in connection with the Rights-of-Way as may be required by the Municipality for municipal purposes. However, in cases of emergency, the Municipality may take any measures deemed necessary for public safety with respect to the Equipment that may be required in the circumstances as the Municipality shall determine and the Company shall reimburse the Municipality for all related expenses thereby incurred.

19. If the Company fails to complete the relocation of the Equipment, or fails to repair the Rights-of-Way or to perform any other Work required to be done by the Company pursuant to this Agreement in a timely and expeditious manner to the satisfaction of the County Commissioner, the Municipality may, but is not obligated to, at its sole option, complete such relocation or other Work. In such event, the Company shall pay the cost of such relocation Work to the Municipality, together with an administrative charge of fifteen percent (15%) of such cost.

UTILITY COORDINATION

20. The Company further agrees, at its own expense to locate, expose and to do such other things as it may be required by Government legislation to permit the Municipality to undertake works over or in proximity to a crossing and pipeline.
21. Nothing contained in this Agreement shall be deemed to limit or in any manner prohibit the Municipality from fully using and enjoying any portions of the said road allowance where crossings have been installed in any lawful manner whatsoever and the right, privilege and license herein granted to the Company is strictly limited to the rights expressly granted herein to the said Company.
22. The Company agrees to provide the Municipality with the necessary approvals and consents that may be required under the provincial or federal legislation to allow for the construction or maintenance of municipal works that may be located in close proximity to the pipeline or other works.

OCCUPATIONAL HEALTH AND SAFETY AND TRAFFIC

23. The Company shall conform and shall be responsible for the conformance by its officers, employees, agents, contractors and invitees to all health and safety laws including any regulations requiring installation of safety devices or appliances, and any applicable traffic laws or regulations (collectively "Safety Rules"). The Municipality may, on twenty-four (24) hours written notice to the Company, or sooner if in the opinion of the Municipality the likelihood of harm to persons is imminent, suspend Work performed by or on behalf of the Company on that portion of the Equipment located in, on, under, along or across Rights-of-Way where there appears to be a lack of compliance with the Safety Rules or because conditions of danger exist that would likely result in injury to any person. Such suspension shall continue until the lack of compliance or danger is eliminated.

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ENVIRONMENTAL RESPONSIBILITY

24. The Company agrees to assume all environmental liability relating to its occupancy and use of the Rights-of-Way, including but not limited to any liability for clean-up of any hazardous substance in, on, under, along, across and around Rights-of-Way which result from:
- a) The operations of the Company in, on, under, along, across or around the Rights-of-Way; or
 - b) Any products or goods brought in, on, under, along, across or around the Rights-of-Way by the Company, or by any other person with the express or implied consent of the Company.

LIABILITY AND INDEMNIFICATION

25. The Municipality shall not, in connection with this Agreement, be liable for any damage to the Equipment or other property of the Company, or for the injury or death of any officer, employee, agent, contractor, licensee or invitee of the Company except where caused by the willful misconduct or gross negligence of the Municipality or its employees.
26. The Company hereby indemnifies the Municipality from and against all losses, liabilities, costs, damages, and expenses (including reasonable legal fees and disbursements) incurred by the Municipality in connection with this Agreement as a result of any claim, action, suit or proceeding based on a claim of injury to the person or property of any third party caused by the willful misconduct or negligence of the Company, its officers, employees, agents, contractors, licensees or invitees.
27. The Municipality hereby indemnifies the Company from and against all losses, liabilities, costs, damages, and expenses (including reasonable legal fees and disbursements) incurred by the Company in connection with this Agreement as a result of any claim, action, suit or proceeding based on a claim of injury to the person or property of any third party caused by the willful misconduct or gross negligence of the Municipality, its officers, employees, agents, contractors, licensees or invitees.
28. Notwithstanding anything contained in this Agreement, the Municipality shall not be liable in any way for indirect or consequential losses or damages, or damages for pure economic loss, howsoever caused or contributed to, in connection with this Agreement or with any Equipment, other property or Rights-of-Way governed hereby.
29. In the case of breakage of the Company's pipeline or other emergency, no prior written notice shall be required to be given to the Municipality for the Company to enter a road allowance to attend to the emergency, but the Municipality shall in all instances be advised forthwith of such emergency.

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SUCCESSORS AND ASSIGNS

30. This Agreement shall enure to the benefit of and be binding upon the parties, their respective heirs, executors, and administrators.
31. In the event of any assignment of the Agreement by the Company, the Company shall remain jointly and severally liable under this Agreement in all respects with the assignee, and the Municipality may require the assignee to enter into its own agreement with the Municipality before the assignment becomes effective.
32. The Company shall not assign or transfer this Agreement or the rights or privileges herein contained without first obtaining the written consent of the Municipality which consent shall not be arbitrarily withheld. Nothing in this clause shall preclude the Company from including this Agreement and its interests herein in any mortgage, charge or hypothecation for the purposes of financing.

NOTICE

33. 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 remedying of such default.
34. 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.
35. 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. The addresses of the parties for the purposes of notice are respectively:

LACOMBE COUNTY
RR 3
LACOMBE, AB T4L 2N3

and

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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.

INSURANCE

36. The Company shall maintain insurance in sufficient amount and description as will protect the Municipality from claims for damages, personal injury including death and for claims from property damage which may arise under this Agreement, including but not limited to the construction, maintenance or operation of the Equipment in, on, under, over, along and across the Rights-of-Way or any act or omission of the Company's employees, agents, contractors or licensees.
- a) In addition to the foregoing, the Company covenants and agrees that with respect to the insurance coverage described in section 30:
 - b) The limits of liability for personal injury, bodily injury and property damage combined shall be for not less than five million dollars (5,000,000.00) for each occurrence, or such other amount as the Municipality may require by written notice delivered to the Company, from time-to-time;
 - c) The comprehensive general liability insurance shall extend to cover the contractual obligations of the Company as stated within this Agreement, shall list the Municipality as an additional named insured and shall contain a cross-liability clause and no subrogation clause as against the Municipality; and
 - d) All policies shall provide that they cannot be cancelled, lapsed or materially changed without at least thirty (30) days notice to the Municipality by registered mail.

