

APPENDIX “H”

UTILITY ADJUSTMENT AGREEMENTS (SAMPLES)

APPENDIX H

This page has been left blank intentionally.

This appendix contains sample agreements that have been used by Alberta Transportation (AT) to arrange for adjustments to utilities which are generally required due to highway upgrading or new construction.

A letter format is normally used for agreements with TELUS, Alberta Power and TransAlta Utilities. Sample #1, 2 and 9 should be sent under the Consultant's Company letterhead and Sample #4, 5, 6, 7 and 8 should be sent under AT letterhead. For pipelines, one of two standard "pipeline crossing agreements" is used. The first type (sample 5) is used for upgrading of existing roadways or twinning. The second type (sample 6) is used on "new construction" projects.

Samples of each type of agreement follow:

- Sample 1** Letter of Notification
- Sample 2** Letter Requesting Cost Estimate
- Sample 3** Letter of Confirmation of Cost Estimate and Signing Agreements (Utility Company)
- Sample 4** Letter of Confirmation of Cost Estimate and Signing Agreements (Pipeline Company)
- Sample 5** Roadway Upgrading Pipeline Crossing Agreement
- Sample 6** New Roadway over Existing Pipeline Crossing Agreement
- Sample 7** Letter of Confirmation of Cost Estimate (New Railway Crossing)
- Sample 8** Letter of Confirmation of Cost Estimate (Existing Railway Crossing Upgrading)
- Sample 9** Letter of Confirmation of Commencement of Construction

Note: Agreements for payment of utility adjustment costs are sometimes documented separately from the new "Utility Adjustment Agreement"

The Operations Manager needs to be informed or provided a written notice when there are implications on the operating/maintenance costs.

APPENDIX H

This page has been left blank intentionally.

SAMPLE 1

Our File: Hwy. XX:XX

Phone: (403) XXX-XXXX

Fax: (403) XXX-XXXX

Month XX, 20XX

Attention: Mr. Name

Utility Company Ltd.

Address

City, Alberta

X2X 3X5

Dear:

**RE: Hwy. XX:XX, Jct. Hwy. XX to South of Town
Grade Widening, Selective Gradeline Revision, Granular
Base Course Asphalt Concrete Pavement & Other Work**

We are working as Engineering Consultants on behalf of Alberta Transportation for the above noted project. The project involves highway widening for 16.7 kilometres, commencing at the Junction of Hwy. XX to South of Town. The existing right-of-way width is presently xx metres and it is proposed to widen by an additional xx metres on each side. We have identified five (5) pipeline crossings by your company within the limits of this project, as highlighted on the enclosed plans. Your facilities may be impacted by the proposed construction.

Please confirm the location of all facilities owned by your company that are within the project limits and provide us with a copy of your as-built records.

We request that you forward the names of the contact persons from your company for utility exposures and design coordination at this time.

Alberta Transportation has tentatively scheduled a September 2001 tender for this project. Construction is anticipated to commence in the spring of 2002.

If you require any further information or have any questions or concerns, please contact this office directly.

Yours truly,

Name, Consultant's Title

Company Name

Encl.

cc: Alberta Transportation - Project Sponsor

This page left blank intentionally.

SAMPLE 2

Our File: X:XX

Phone: (403) XXX-XXXX

Fax: (403) XXX-XXXX

Month XX, 20XX

Canadian Western Natural Gas Company Ltd.
c/o Mr. John Jones
Supervisor Pipelines
909 - 11th Avenue N.E.
Calgary, Alberta
T5R 1L8

Dear:

**RE: HWY. X:XX; W. OF JCT. S.H. XXX - JCT. HWY. X
Pipeline Plans; 1:02-61 & 1:02-62**

The enclosed four prints each of the above noted plans showing the affect our construction will have on your Company's pipelines. The impacted locations and suggestions are listed below:

Station 306+554.969 **Plan No. 1:02-62** **No** **adjustments**
S.E. Ramp **proposed**

Station 201+113.867 **Plan No. 1:02-61** **Lower pipeline to**
provide 1.4 minimum earth cover at the
lowest design ditch elevation

Benchlands Connectors & **Install pipeline warning signs as**
required

Station 300+393.008
on Ramp

Your concurrence or alternate suggestion will be appreciated. Please submit a **detailed** estimate and breakdown of all costs (labour, materials, equipment, administration, etc.) for alternate suggestions, to the Consultant's office for approval.

Should you require any information please contact the Consultant's Representative, **Mr. John Smith of ABC Engineering Ltd.** at **(403) XXX-XXXX** in **Calgary**.

Please acknowledge receipt of the above information by signing both letters and also returning one for our file.

APPENDIX H

Sincerely,

**Name, Consultant's Title
Company Name**

Authorized Representative of CWNG

Date

cc: Signed Copy to: Alberta Transportation – Project Sponsor

SAMPLE 3

**Our File: Hwy. XX:XX
Utility Contract Agreements**

Phone: (403) XXX-XXXX

Fax: (403) XXX-XXXX

Month XX, 20XX

TransAlta Utilities Corporation
Deerfoot Atrium, Box 1900
Calgary, Alberta
T6B 2X3

**ATTENTION: Mr. John Jones
X & X Projects - Calgary Region**

Dear:

**RE: HWY. XX:XX, W. OF JCT. S.H. XXX - JCT. HWY X
UTILITY ADJUSTMENT COST ESTIMATE (\$11,111.00)**

Please be advised that Alberta Transportation (AT) acknowledges receipt of your cost estimate of \$11,111.00 for the above noted project. AT agrees to reimburse TransAlta Utilities Corporation (TAU) based on actual close-out costs. This letter constitutes AT approval for TAU to proceed with the proposed powerline adjustments. No other approvals from any other branch of AT are required for this work. However, if there is a variation of more than 5% from the original cost estimate, TAU must contact the Consultant and approval is required prior to proceeding with the work.

OCCUPATIONAL HEALTH AND SAFETY ACT

Alberta Transportation (the Department) assigns prime contractor responsibilities, as specified in the Occupational Health and Safety Act, to all parties with which it enters into contracts and agreements. On highway and bridge construction or maintenance projects this would typically include a Contractor, a Consultant (the Department employs an engineering consultant on construction projects only) and various Utility Companies.

During the course of the project, the work sites of the Contractor, Consultant and Utility Company may be separated by time and/or space or, may be in the same general vicinity or may be adjacent, depending on the circumstances on the project at any given point in time. It is a requirement of all Department contracts and agreements that the Contractor, Consultant and Utility Companies working within the project limits, coordinate their respective activities, as outlined herein, to ensure a safe project. However, it is not the Department's intent that any of these parties be responsible to ensure that the other parties, or the other parties' subcontractors, have adequate health and safety process for their respective activities.

Designation of Prime Contractor

The Utility Company shall familiarize itself, its staff and its subcontractors with the terms of the Occupational Health and Safety Act and Regulations thereunder to ensure complete understanding respecting the responsibilities given and compliance required. The Utility Company acknowledges that it is and assumes all of the responsibilities and duties of the Prime Contractor, as defined by the Occupational Health and Safety Act, and that it shall as a condition of this Agreement, comply with the Occupational Health and Safety Act and the regulations thereunder.

Coordinating Activities

The Utility Company shall coordinate its activities on the project with those of the Consultant and the Contractor. When the Consultant and/or Contractor are conducting activities within the project limits the Utility Company shall liaise with Consultant and/or Contractor as the case may be, and jointly develop a health and safety system or process for the affected worksites. The health and safety system or process agreed to by the parties must be in writing. Any changes required to the health and safety system must be agreed to by all affected parties and must also be in writing. Documenting the written health and safety system or process, including any required changes shall be the responsibility of the Contractor.

(i) Coordinating activities on Highway and Bridge Construction Projects

For the purposes of coordinating activities on highway/bridge construction projects, the contact persons for the Contractor, Consultant and Utility Company shall be identified at the pre-construction meeting for the project. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

(ii) Coordinating activities not associated with a Highway or Bridge Construction Project

When the activities of the Utility Company are not being performed on a highway/bridge construction project, the Utility Company shall contact the local Alberta Transportation office prior to commencing work, to obtain the name of the contact person for the Department's highway maintenance contractor. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

Resolving Disputes Related to Coordination of Activities

If the parties cannot agree on a process or system that addresses the safety concerns of all parties, work at the affected worksites shall cease and this matter shall be referred to the Consultant. However, if the Consultant is one of the parties involved in the dispute, or the Department has not employed a Consultant for the project, the matter shall be referred to the Department. The Consultant or Department as applicable, after review,

will decide which party shall be responsible for resolving the disputed safety issue. Such decision shall be final and binding upon all parties.

Responsibility for Subcontractors/Owner operators

The Prime Contractor shall, to the extent required by the Occupational Health and Safety Act, establish and maintain a Health and Safety system or process to ensure compliance to the Act by his subcontractors/owner operators.

TAU (or their Contractor) shall comply with the following:

- Implement traffic accommodation procedures if their operations interfere with normal pedestrian or vehicular traffic.
- Procedures on traffic accommodation implemented must be in accordance with Alberta Transportation typical standards as outlined in the current Traffic Accommodation in Work Zones Manual.
- Advise the Consultant and/or the Contractors when they plan to disrupt traffic and submit a traffic control plan and a written Traffic Accommodation Strategy to address for the safe accommodation of traffic for Alberta Transportation's review and comment.

You should forward your final invoice to the Consultant's office with the necessary back-up documentation and detailed breakdown for reimbursement. Contact with John Smith of ABC Engineering Corp., Consultant's Representative, at telephone number (403) XXX-XXXX in Calgary is recommended in order to co-ordinate work within the project limits.

Please sign both letters and also return one for our file and forward the other copy to the Consultant.

Sincerely,

Name, Construction Manager
Region
Telephone Number

Authorized Representative of TAU

Witness

Date

Date

cc: Signed Copy to: Consultant
Company's Name
Company's Address

This page left blank intentionally.

SAMPLE 4

Our File: Hwy. XX:XX

Phone: (403) XXX-XXXX

Fax: (403) XXX-XXXX

Month XX, 20XX

XX Pipeline Ltd.
Address
Calgary, Alberta
T6B 2X3

ATTENTION: Mr. Bob Jones
X & X Projects – Calgary Region

Dear:

RE: HWY. XX:XX, W. OF JCT. S.H. XXX – JCT. HWY X
CONFIRMATION OF PIPELINE ADJUSTMENT COST ESTIMATE (\$300,000)
AND SIGNING PIPELINE CROSSING AGREEMENT

Please be advised that Alberta Transportation (AT) acknowledges receipt of your cost estimate of \$300,000 for the above noted project. AT agrees to reimburse XX Pipeline Ltd. based on actual close-out costs. This letter constitutes AT approval for XX Pipeline Ltd. to proceed with the proposed pipeline adjustments. No other approvals from any other branch of AT are required for this work. However, if there is a variation of more than 5% from the original cost estimate, XX Pipeline Ltd. must contact the Consultant and approval is required prior to proceeding with the work.

Three copies of our standard Pipeline Crossing Agreement are enclosed. Please indicate your acceptance by signing and returning one copy for our file and one to the Consultant's office.

You should forward your final invoice to the Consultant's office with the necessary back-up documentation and detailed breakdown for reimbursement. Contact with John Smith of ABC Engineering Corp., Consultant's Representative, at telephone number (403) XXX-XXXX in Calgary is recommended in order to co-ordinate work within the project limits.

Sincerely,

Name, Construction Manager
Region
Telephone Number

APPENDIX H

Encl. Three

cc: Signed Copy to:

Consultant
Company's Name
Company's Address

SAMPLE 5

Our File: Hwy. X:XX

ROADWAY UPGRADING PIPELINE CROSSING AGREEMENT

This agreement is made as of the **XXth** day of **Month**, A.D. 20**XX**

BETWEEN

Her Majesty the Queen in right of the Province of Alberta
as represented by the Minister of Transportation
(hereinafter called the "Minister")

- and -

a body corporate registered and existing under the laws of
the Province of Alberta
(hereinafter called the "Operator")

WHEREAS the Minister intends to make improvements to a roadway known as **Hwy. XXX:XX** which may result in a ground disturbance within the controlled area (**Alberta Pipeline Act**) or Safety Zone (**National Energy Board Act**) of the Operator's pipelines in the land legally described as:

as shown on the attached Plan No.: _____, and adjustment costs as negotiated in a letter dated _____ which form part of this agreement.

AND WHEREAS the Operator obtained a permit from the Minister for placement of a pipeline under **Hwy. _____**.

NOW THEREFORE, pursuant to the applicable section of the **Alberta Public Highways Development Act**, the **National Energy Board Act**, **Alberta Pipeline Act and Regulation** the **Water Gas and Electrical Companies Act**, and the **Gas Distribution Act** (hereinafter called the "**Acts**"), the Minister and the Operator agree as follows:

1) The Operator's representative shall be:

(Name): _____

(Telephone Number): _____

(Address): _____

- 2) The Minister's representative shall be:
- (Name): _____, Construction Manager
- (Telephone Number): () - _____
- (Address): Alberta Transportation, _____ District
- 3) The Minister (or his delegate) shall contact the Operator at least seventy-two (72) hours (excluding Saturdays, Sundays and Statutory Holidays) prior to undertaking any excavation or construction within the controlled area as defined in the Pipeline Act, or Safety Zone as defined in the National Energy Board Act, as the case may be. The Operator, upon receiving such notice, shall make arrangements to have a representative present during the period machinery is to be used within the controlled area or safety zone, as the case may be, and to witness the exposure of the Operator's pipeline(s). No excavation or construction of any sort shall be carried out within the controlled area or safety zone, as the case may be, until the Operator's representative is present at the site and has authorized same, unless the Operator has advised otherwise by written notice to the Minister.
- 4) The Operator shall locate and mark the horizontal position of the Operator's pipeline(s) as requested by the Minister at the Operator's sole cost.
- 5) The Operator's pipeline shall be exposed under the direction of the Operator by hand digging or other acceptable method such as excavation by water or air jets to determine the exact location and depth of cover before construction is undertaken over it. The cost of this exposure shall be borne by the Minister.
- 6) In the event pipeline work is required and the Operator is authorized by the Minister to carry out the work, the Operator shall carry out all necessary and permanent protection, adjustment or relocation of their pipeline(s) as required to accommodate the roadway construction.

OCCUPATIONAL HEALTH AND SAFETY ACT

Alberta Transportation (the Department) assigns prime contractor responsibilities, as specified in the Occupational Health and Safety Act, to all parties with which it enters into contracts and agreements. On highway and bridge construction or maintenance projects this would typically include a Contractor, a Consultant (the Department employs an engineering consultant on construction projects only), various Utility Companies and the Operator (Pipeline Company).

During the course of the project, the work sites of the Contractor, Consultant, Utility Companies and the Operator may be separated by time and/or space or, may be in the same general vicinity or may be adjacent, depending on the circumstances on the project at any given point in time. It is a requirement of all Department contracts and agreements that the Contractor, Consultant, Utility Companies and the Operator working within the project limits, coordinate their respective activities, as outlined herein, to ensure a safe project. However, it is not the Department's intent that any of these parties be responsible to ensure that the other parties, or the other parties' subcontractors, have adequate health and safety process for their respective activities.

Designation of Prime Contractor

The Operator shall familiarize itself, it's staff and it's subcontractors with the terms of the Occupational Health and Safety Act and Regulations thereunder to ensure complete understanding respecting the responsibilities given and compliance required. The Operator acknowledges that it is and assumes all of the responsibilities and duties of the Prime Contractor, as defined by the Occupational Health and Safety Act, and that it shall as a condition of this Agreement, comply with the Occupational Health and Safety Act and the regulations thereunder.

Coordinating Activities

The Operator shall coordinate it's activities on the project with those of the Consultant and the Contractor. When the Consultant and/or Contractor and/or Utility Companies are conducting activities within the project limits the Operator shall liaise with the Consultant and/or Contractor and/or Utility Companies as the case may be, and jointly develop a health and safety system or process for the affected worksites. The health and safety system or process agreed to by the parties must be in writing. Any changes required to the health and safety system must be agreed to by all affected parties and must also be in writing. Documenting the written health and safety system or process, including any required changes shall be the responsibility of the Contractor.

(i) Coordinating activities on Highway and Bridge Construction Projects

For the purposes of coordinating activities on highway/bridge construction projects, the contact persons for the Contractor, Consultant, Utility Companies and the Operator shall be identified at the pre-construction meeting for the project. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

(ii) Coordinating activities not associated with a Highway or Bridge Construction Project

When the activities of the Operator are not being performed on a highway/bridge construction project, the Operator shall contact the local Alberta Transportation office prior to commencing work, to obtain the name of the contact person for the Department's highway maintenance contractor. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

Resolving Disputes Related to Coordination of Activities

If the parties cannot agree on a process or system that addresses the safety concerns of all parties, work at the affected worksites shall cease and this matter

shall be referred to the Consultant. However, if the Consultant is one of the parties involved in the dispute, or the Department has not employed a Consultant for the project, the matter shall be referred to the Department. The Consultant or Department as applicable, after review, will decide which party shall be responsible for resolving the disputed safety issue. Such decision shall be final and binding upon all parties.

Responsibility for Subcontractors/Owner operators

The Prime Contractor shall, to the extent required by the Occupational Health and Safety Act, establish and maintain a Health and Safety system or process to ensure compliance to the Act by his subcontractors/owner operators.

- 7) If the pipeline work is of such a kind as to fall within the purview of the National Energy Board Act and National Energy Board Pipeline Crossing Regulations, the Operator agrees to carry out the work in accord with the Canada Labour Code R.S.C. (as amended) and the Oil and Gas Occupational Safety and Health Regulations SOR/94, s. 2(f) (as amended).
- 8) In the event that the Minister authorizes the pipeline work to be done by a person, either legal or natural, other than the Operator, the Minister agrees to require that person to fulfill the responsibilities and duties of the Prime Contractor as that term is used in the Occupational Health and Safety Act, R.S.A 1980, as amended, and any regulations made pursuant to that Act. However, if the pipeline work is of such a kind as to fall within the purview of the National Energy Board Act, and the National Energy Board Pipeline Crossing Regulations, the Minister agrees to require the person to carry out the work in accordance with the Canada Labour Code R.S.C. (as amended) and the Oil and Gas Occupational Safety and Health Regulations SOR/94 s.2(f) (as amended).
- 9) The Minister shall carry out all work within the controlled area or safety zone, as the case may be, in accordance with good engineering and construction practices, and in accordance with the relevant Acts.
- 10) The Minister shall ensure that no equipment, material or vehicles will be stored, parked or driven over or along the controlled area or safety zone, as the case may be, except as reasonably necessary in the actual construction of the roadway.
- 11) If any excavation or construction equipment is to be moved across the controlled area or safety zone, as the case may be, prior to excavation or construction, and as a temporary protective measure, the Operator may require direct protective measures in accordance with good engineering and construction practices, and in accordance with the relevant Acts, to be placed across the Operator's pipeline(s) at the point of crossing, the cost of which shall be borne by the Minister.
- 12) The Minister shall be liable for and shall indemnify and save harmless the Operator from all manner of actions, causes of action, proceedings, claims, demands, costs, damages and expenses whatsoever including damage to the Operator's pipeline(s), which the Operator may sustain, pay or incur as a result of

or in connection with any breach of the obligations assumed under this document by, or the negligence of, the Minister, his employees, servants or agents.

- 13) The Operator shall be liable for and shall indemnify and save harmless the Minister from all manner of actions, causes of action, proceedings, claims, demands, costs, damages and expenses whatsoever including damage to the Minister's facilities which the Minister may sustain, pay or incur as a result of or in connection with any breach of the obligations assumed under this document by, or the negligence of, the Operator or any person for whom the Operator is responsible at law or in equity.

- 14) In the event the Operator is performing any work on its pipeline, the Operator (or their Contractor) shall comply with the following:
 - Implement traffic accommodation procedures if their operations interfere with normal pedestrian or vehicular traffic.
 - Procedures on traffic accommodation implemented must be in accordance with Alberta Transportation typical standards as outlined in the current Traffic Accommodation In Work Zones Manual.
 - Advise the Consultant and/or the Contractors when they plan to disrupt traffic and submit a traffic control plan and a written Traffic Accommodation Strategy to address for the safe accommodation of traffic for Alberta Transportation's review and comment.

- 15) Any written notice required or permitted hereunder shall be directed to the party to whom it will be given (hand delivered, sent by prepaid mail, or sent by telecommunication), addressed as follows:

(a) To the Minister:

Alberta Transportation
_____ **Region**

ATTENTION: Name
Construction Manager
Region

(b) To the Operator:

ATTENTION:

And in the event of mail service disruption, such notice shall be delivered by hand.

- 16) Where the terms and conditions in this document contradict any portion of the Acts, the latter shall prevail.
- 17) The terms and conditions of this agreement shall be effective from the date shown at the beginning of this agreement.

**Executed on behalf of the
Operator by:**

**Executed on behalf of the
Minister by:**

Name
Title

Name
Construction Manager
Region

New Roadway Over Existing Pipeline Crossing Agreement

THIS AGREEMENT is made and effective as of the ____ day of, 20____.

BETWEEN _____ ("**Grantor**")
(hereinafter and in Schedules A, B & C referred to as the Grantor)

and Her Majesty the Queen in right of the Province of Alberta as represented by the
Minister of Alberta Transportation ("**the Minister**")
(hereinafter and in Schedules A, B & C referred to as the Minister)

WHEREAS Grantor operates under the jurisdiction of the National Energy Board, Alberta Energy and Utilities Board, or Alberta Energy, and holds permits, approvals, or authorizations for a pipeline across the said lands and has constructed a pipeline therein, hereinafter referred to as "**Grantor's Facility**"; and

WHEREAS the Minister desires to construct the Minister's Facility across the "**Grantor's Facility**" and has acquired an interest in the said lands and proposes to install therein a roadway (Hwy. _____) hereinafter referred to as "**the Minister's Facility**"; and

WHEREAS the lands and/or Facilities of the respective parties intersect in the Crossing Area; and

WHEREAS the parties wish to define their respective rights and liabilities with respect to the Crossing Area under certain terms and conditions defined in Schedule "A".

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the premises, mutual covenants and agreements herein contained, the parties agree that their respective Work in the Crossing Area shall be governed by this Agreement together with the Schedules as herein described.

1. Terms and Conditions

This Agreement including the recitals and the following Schedules, which are attached hereto and made part hereof, shall be the terms and conditions as agreed to by Grantor and the Minister:

Schedule "A" - Mutually Agreed to Terms and Conditions.

Schedule "B" - Location Plan and Profile.

Schedule "C" - Specific Terms and Conditions.
(the "Schedules")

2. LOCATION AND NOTICES

(a) Location of Crossing Area (Legal Description):

(b) Notices:

	<u>Grantor's Corporate Office</u>	<u>Minister's Office</u>
Name:		
Address:	<hr/> <hr/>	<hr/> <hr/>
Dept.:	<hr/>	<hr/>
Phone:	<hr/>	<hr/>
fax:	<hr/>	<hr/>
email:	<hr/>	<hr/>

(c) Field Representative:

	<u>Grantor's</u>	<u>Minister's Representative</u>
Name:		
Position::	<hr/>	<hr/>
Address:	<hr/> <hr/>	<hr/> <hr/>
Phone:	<hr/>	<hr/>
Fax:	<hr/>	<hr/>
email:	<hr/>	<hr/>
Alternate:	<hr/>	<hr/>
Phone:	<hr/>	<hr/>
Fax:	<hr/>	<hr/>
email:	<hr/>	<hr/>

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed.

"Grantor"

Executed on behalf of the Minister

Per: _____

Name:

Per: _____

Title:

This page has been left blank intentionally.

Schedule "A"

Mutually Agreed to Terms and Conditions

This Schedule "A" to Form Part of the New Roadway Over Existing Pipeline Crossing Agreement.

Between _____ **(Grantor)**

and Her Majesty the Queen in right of the Province of Alberta as represented by the Minister of Alberta Transportation **(the Minister)**

and dated the _____ **day of** _____, **20**_____.

1. Interpretation

- 1.01 In this Agreement, including the recitals, the words and terms used shall have the following meanings:
- (a) "Crossing Area" means the area of intersection of Grantor's *rights of way* and the Minister's *interest in the said lands* and/or Facilities as outlined in Schedule "B";
 - (b) "*Minister*" means the Minister of Alberta Transportation or his delegate;
 - (c) "Minister's Facility" means the facility or facilities to be constructed by the Minister and to be located within, across, along, upon, over or under the Crossing Area;
 - (d) "Grantor's Facility" means the facility or facilities of Grantor located within, across, along, upon or under the Crossing Area;
 - (e) "Facility" means:
 - i) any structure that is constructed or placed on or in the right-of-way within the Crossing Area (*including but not limited to* concrete slab, concrete conduit, retaining wall, and special fences such as chain link); and
 - ii) any highway, public or private road, railway, irrigation ditch, drain, drainage system, sewer, dike, cable line, telecommunication line, telephone line or line for the transmission of hydrocarbons, power or any other substance that is or is to be carried across, along, upon, over or under the Crossing Area;
 - (f) "said lands" means the lands described in Schedule "B";
 - (g) "the Body of this Agreement" means the Agreement to which this Schedule is attached and which has been executed by the parties;
 - (h) "this Agreement" means the Body of this Agreement and the Schedules attached to it; and
 - (i) "Work" means, with respect to a Facility, the carrying, laying, installing, constructing, maintaining, operating, repairing, inspecting, replacing, altering,

removing, abandoning and such other operations as may be required from time to time.

- 1.02 Unless a term or provision contained in the Body of this Agreement, if acted upon, would result in violation of any code, statute, law, regulation, permit, license, or governmental order, the following shall apply:
- (a) if any term or provision conflicts with a term or provision contained in any Schedule, the term or provision in the Schedule shall prevail.
 - (b) If any terms or provisions of the Schedules conflict, the following shall apply: Schedule "C", if present, shall prevail over Schedules "A" and "B", Schedule "B" shall prevail over Schedule "A".

2. Consent

Grantor hereby agrees, insofar as it has the right to do so, that the Minister may perform the Work on the Minister's Facility in the Crossing Area in accordance with the terms and conditions of this Agreement.

3. Compliance with Statutes and Regulations

- (a) The Minister shall at all times comply with any and all applicable codes, statutes, laws, regulations, permits, licenses, orders and directions of any *Federal or Provincial* governmental authority from time to time in force. The minimum applicable technical standards therein shall apply to both parties unless more stringent standards are provided for in this Agreement. If compliance with any provision of this Agreement would result in violation of any applicable codes, statutes, laws, regulations, permits, licenses, orders and directions of any *Federal or Provincial* governmental authority, such code, statute, law, regulation, permit, license, order and direction of any *Federal or Provincial* governmental authority shall prevail and this Agreement shall be deemed to be amended accordingly.

The Minister agrees to require any agent or contractor who performs work, as defined by this agreement, on behalf of the Minister to comply with the applicable provincial or federal legislation and regulations governing occupational health and safety.

- (b) During the course of the project, the work sites of the Contractor, Consultant (the Department employs an engineering consultant on construction projects only), Utility Companies and the Grantor may be separated by time and/or space or, may be in the same general vicinity or may be adjacent, depending on the circumstances on the project at any given point in time. It is a requirement of all Department contracts and agreements that the Contractor, Consultant and Utility Companies working within the project limits, coordinate their respective activities, as outlined herein, to ensure a safe project. However, it is not the Department's intent that any of these parties be responsible to ensure that the other parties, or the other parties' subcontractors, have adequate health and safety process for their respective activities.

Designation of Prime Contractor

The Grantor shall familiarize itself, its staff and its subcontractors with the terms of the Occupational Health and Safety Act and Regulations thereunder to ensure complete understanding respecting the responsibilities given and compliance required. The Grantor acknowledges that it is and assumes all of the responsibilities and duties of the Prime Contractor, as defined by the Occupational Health and Safety Act, and that it shall as a condition of this Agreement, comply with the Occupational Health and Safety Act and the regulations thereunder.

Coordinating Activities

The Grantor shall coordinate its activities on the project with those of the Consultant and the Contractor. When the Consultant and/or Contractor and/or Utility Companies are conducting activities within the project limits the Grantor shall liaise with the Consultant and/or Contractor and/or Utility Companies as the case may be, and jointly develop a health and safety system or process for the affected worksites. The health and safety system or process agreed to by the parties must be in writing. Any changes required to the health and safety system must be agreed to by all affected parties and must also be in writing. Documenting the written health and safety system or process, including any required changes shall be the responsibility of the Contractor.

For the purposes of coordinating activities on highway/bridge construction projects, the contact persons for the Contractor, Consultant, Utilities Companies and the Grantor shall be identified at the pre-construction meeting for the project. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

Resolving Disputes Related to Coordination of Activities

If the parties cannot agree on a process or system that addresses the safety concerns of all parties, work at the affected worksites shall cease and this matter shall be resolved by all parties at the site.

Responsibility for Subcontractors/Owner operators

The Prime Contractor shall, to the extent required by the Occupational Health and Safety Act, establish and maintain a Health and Safety system or process to ensure compliance to the Act by his subcontractors/owner operators.

4. Position of Facility

Unless otherwise indicated in any of the Schedules, or ordered by a *Federal or Provincial* governmental authority or regulations *the Grantor's Facility shall have the lower physical position in the Crossing Area;*

5. Conditions

When the Minister performs work on the Minister's Facility in the Crossing Area, the following terms and conditions shall apply:

- (a) The Minister's Field Representative shall contact Grantor's Field Representative directly, either in person or by telephone, a minimum of 72 hours (excluding Saturdays, Sundays and Statutory Holidays) before commencement of the Minister's Work within 30 meters of the Crossing Area and, if unable to contact that person, the Minister shall serve a minimum of 72 hours written notice pursuant to Clause 8 hereof before commencement of the Minister's Work.
- (b) Grantor has the right to have a representative present to inspect the Work of the Minister in the Crossing Area.
- (c) During installation pursuant to this Agreement, the Minister's Representative shall have available at the Crossing Area a copy of this Agreement.
- (d)
 - (i) *Before proceeding to excavate within 5 metres of the Crossing Area, the Minister shall require the Grantor to expose its Facility by hand digging or other acceptable method such as excavation by water or air jets. The Minister shall not use or permit the use of an excavating machine within 1.5 metres of either side of any existing Grantor's Facility, or 3.0 metres of either side of any existing Grantor's Facility as required under the National Energy Board Act and Regulation, as the case may be, unless otherwise agreed to in Schedule "C".*
 - (ii) *The cost of the exposure referred to in (d)(i) above shall be borne by the Minister.*
- (e) *Notwithstanding clause 5(d) above, the Grantor shall carry out any necessary and permanent protection, adjustment, or relocation of the Grantor's facility that is made necessary by the construction of the Minister's Facility.*
- (f) The Minister shall, where applicable, install and maintain during performance of the Work suitable markers indicating the location of Grantor's Facility in the Crossing Area.
- (g) The Minister shall lay down and construct its Facility in accordance with the Schedules to this Agreement.
- (h) The Minister shall carry out all Work in the Crossing Area in a proper and diligent manner and in accordance with good engineering and construction practices.
- (i) The *Minister* shall ensure no damage occurs to existing Facilities while the Work is being performed in the Crossing Area including damage which may result from the use of heavy work equipment outside the Crossing Area while performing the Work in the Crossing Area.
- (j) In the event that Grantor's Facility suffers contact damage or other damage as a result of the Minister's Work, Grantor shall be notified forthwith and its repair shall be carried out as directed by Grantor at the Minister's cost.

-
- (k) Where cathodic protection is required *to be modified* by Grantor as a result of the Minister's installation, the *Grantor at its cost shall, at the time of the construction of the Minister's Facility, modify and thereafter maintain a cathodic protection system for Grantor's Facility at the crossing. The Grantor shall provide a cost estimate of the installation of the cathodic protection system prior to construction of the Minister's Facility, and upon approval of all or a part of the costs of the installation of the cathodic protection system by the Minister, the Minister shall reimburse the Grantor in accordance with the attached Schedule "C"*.
- (l) At least 24 hours (excluding Saturdays, Sundays and Statutory Holidays) prior to covering Grantor's exposed Facility, the Minister's Field Representative shall contact Grantor's Field Representative directly, either in person or by telephone for inspection.
- (m) (i) *Where backfilling the excavation in the Crossing Area is required as a result of the Minister's installation, the Grantor may elect to backfill in accordance with Standard Specifications for Highway Construction (Alberta Transportation, current edition). Upon such election, the Grantor at its cost shall, at the time of the construction of the Minister's Facility, backfill the Crossing Area. The Grantor shall provide a cost estimate to backfill the Crossing Area, and upon approval of all or a part of the costs to backfill the Crossing Area by the Minister, the Minister shall reimburse the Grantor in accordance with the attached Schedule "C"*.
- (ii) *In the event the Grantor elects not to backfill the Crossing Area, and unless otherwise directed by the Grantor, the Minister shall cover Grantor's Facility with at least 30 centimetres of select backfill material as specified in Schedule "C" prior to commencing backfilling operations. The Minister shall, in backfilling the excavation in the Crossing Area, compact the fill material in 15 centimetre layers, or such greater depth specified by Grantor's Field Representative.*
- (n) The Minister shall, as soon as it is reasonably practical after the completion of the Minister's Work in the Crossing Area, restore the surface of the Crossing Area as closely as is practical to the condition in which it existed immediately prior to the Work being commenced.
- (o) The Minister shall maintain the Crossing Area in good order and condition and carry out expeditiously all Work hereunder.
- (p) The cost associated with the location, identification or supervision of the Grantor's facility shall not be charged to or borne by the Minister unless specified in Schedule "C".

6. Remedy on Default

In the case of default by the Minister in carrying out any of the provisions of this Agreement, Grantor may give notice thereof to the Minister. If the Minister fails to commence to remedy such default within 15 days after receipt of such notice and diligently complete such remedy thereafter, Grantor may take such steps as are appropriate to remedy such default and the Minister shall be liable for and shall pay all reasonable costs and expenses incurred by Grantor in remedying the default.

7. Further Work

- (a) If, subsequent to the initial Work undertaken by the Minister for its Facility, *the Minister* desires to undertake any Work in the Crossing Area in respect of its Facility, this Agreement shall be deemed to grant consent to *the Minister*, and the provisions of this Agreement shall apply as *the context requires* to all subsequent Work undertaken by *the Minister* under this Clause 7.
- (b) Notwithstanding the foregoing, installation of any Facility by the Minister other than those shown on attached Schedule "B" shall require a separate New Roadway Over Existing Pipeline Crossing Agreement.
- (c) Notwithstanding the foregoing, if emergency Work in the Crossing Area is required with respect to a party's Facility, that party shall commence the necessary Work and shall forthwith give the other party's Field Representative verbal notice of the emergency and necessary Work, and shall forthwith give notice pursuant to Clause 8 hereof.

8. Notices

Notices shall be in writing and shall be sent to the parties at the addresses for notice shown in the Body of this Agreement. The following shall govern notices:

- (a) Either party may from time to time change its address for service by giving notice to the other party.
- (b) All notices required to be given hereunder may be delivered by hand, mailed by registered or prepaid mail, or sent by telecommunication. If mailed, the notice shall be deemed to have been received seven days (Saturdays Sundays and Statutory Holidays excluded) after the mailing thereof. If delivered by hand, the notice shall be deemed to have been received on the day on which it was delivered, or if delivered after regular business hours, it shall be deemed to have been received on the following business day. If sent by telecommunication, the notice shall be deemed to have been received on the first business day following the day it was dispatched.
- (c) No notice shall be effective if mailed during any period in which Canadian postal workers are on strike or if a strike of postal workers is imminent and may be anticipated to affect normal delivery thereof.
- (d) Notwithstanding the foregoing, to the extent described in this Agreement, Grantor's and the Minister's Field Representatives or designated alternates shall have the right and authority to make, give, receive any notice, information, direction or decision required in conducting Work hereunder.

9. Liability and Indemnity

(a) Liability:

- (i) The Minister shall be liable to Grantor for all loss, damages and expenses which Grantor may suffer, sustain, pay or incur by reason of any matter or thing arising out of or attributable to any act or omission of the Minister, his servants, agents or

employees in respect of the Minister's use of the Crossing Area or by reason of this Agreement.

- (ii) Grantor shall be liable to the Minister for all loss, damages, and expenses which the Minister may suffer, sustain, pay or incur by reason of any matter or thing arising out of or attributable to any act or omission by Grantor, its servants, agents or employees in respect of Grantor's use of the Crossing Area or by reason of this Agreement.

(b) Indemnity:

- (i) The Minister shall indemnify and save harmless the Grantor against all actions, proceedings, claims, demands, and costs which may be brought against or suffered by Grantor or which it may sustain, pay or incur, by reason of any matter or thing arising out of or attributable to any act or omission of the Minister, its servants, agents or employees in respect of the Minister's use of the Crossing Area or by reason of this Agreement.
- (ii) Grantor shall indemnify and save harmless the Minister against all actions, proceedings, claims, demands, and costs which may be brought against or suffered by the Minister or which it may sustain, pay or incur, by reason of any matter or thing arising out of or attributable to any act or omission of Grantor, its servants, agents or employees in respect of Grantor's use of the Crossing Area or by reason of this Agreement.

10. Insurance

- (a) Without in any way limiting the liability of either party under this Agreement, each party shall obtain and keep in force during the term of this Agreement comprehensive general liability insurance covering liability for bodily injury and property damage arising from Work contemplated by this Agreement. The limit of this insurance shall not be less than five million dollars, inclusive, for any one occurrence unless otherwise agreed by the parties in writing. This policy shall provide coverage for liability assumed under this Agreement.
- (b) A party, upon request of the other party, shall furnish written documentation, satisfactory to the requesting party, evidencing the required coverage.
- (c) As an alternative to the five million dollar policy of comprehensive general liability insurance referred to in Subclause 10 (a), if acceptable to the other party, a party may self-insure against the risks normally covered by such a policy.

11. Changes to Agreement

No change, modification or alteration of this Agreement shall be valid unless it be in writing and signed by the parties hereto, and no course of dealing between the parties shall be construed to alter the terms hereof.

12. Assignment

- (a) Neither party to this Agreement shall assign or transfer this Agreement or the rights and privileges hereby granted without the written consent of the other party,

and such consent shall not be unreasonably withheld. The party intending to assign or transfer this Agreement shall give to the non-assigning party to this Agreement notice of its intent by registered mail.

- (b) The non-assigning party to this Agreement may require the assignor and assignee to execute a novation agreement in a form acceptable to the non-assigning party.

This Agreement shall endure to the benefit of and be binding upon the parties, their successors and assigns.

13. Governing Law

This Agreement and the rights and obligations of the parties herein shall be governed and construed according to the laws of the province of *Alberta*.

14. Term

The rights and obligations of the parties under this Agreement shall terminate:

- (a) two years from the date hereof if construction of the Minister's Facility has not commenced, or
- (b) upon proper abandonment or removal of all of Grantor's or the Minister's Facilities from the Crossing Area and the completion of any reclamation Work required by applicable laws, except for those rights acquired and obligations incurred prior to such events.

15. Miscellaneous

- (a) In this Agreement, words importing the singular include the plural and vice versa; words importing the masculine gender include the feminine and vice versa; and words importing persons include firms or corporations and vice versa.
- (b) Words such as "hereto", "thereto", "hereof", and "herein", when used in this Agreement, shall be construed to refer to provisions of this Agreement.
- (c) The headings of all clauses of this Agreement, and the Schedules, are inserted for convenience of reference only and shall not affect the meaning or construction thereof.
- (d) Time is of the essence of this Agreement.
- (e) No waiver of any breach of a covenant or provision of this Agreement shall take effect or be binding upon a party unless it is expressed in writing. A waiver by a party of any breach shall not limit or affect that party's rights with respect to any other or future breach.

16. Entire Agreement

This Agreement, including the recitals and schedules, sets forth the entire agreement between the parties hereto and shall be deemed to have superseded any and all previous agreements and understandings, whether written or oral, between the parties dealing

with the Facilities and the Crossing Area, and all rights and obligations as herein described.

This page has been left blank intentionally.

Schedule "B"

Location Plan and Profile

This Schedule "B" to Form Part of the New Roadway Over Existing Pipeline Crossing Agreement.

Between _____ (Grantor)

and _____ (the Minister)

and dated the ____ day of _____, 20____.

This page has been left blank intentionally.

Schedule "C"

Specific Terms and Conditions

This Schedule "C" to Form Part of the New Roadway Over Existing Pipeline Crossing Agreement.

Between _____ (Grantor)

and _____ (the Minister)

and dated the _____ day of _____, 20_____.

NOTE: All invoices for the items listed below (if applicable) shall be directed to the Minister's Representative.

NOTE: Attach a copy of any existing permit, approval or authorization held by the Grantor as part of Schedule "C" here ((as per clause 1.02(b)).

NOTE: Permission to use an excavating machine within 1.5 metres of either side of any existing Grantor's Facility as required under the Pipeline Act and Regulation, or 3.0 metres of either side of any existing Grantor's Facility as required under the National Energy Board Act and Regulation, as the case may (if applicable) here ((as per clause 5(d)(i)).

NOTE: Attach a copy of the Grantor's cost estimate of the installation of the cathodic protection system (if any) here ((as per clause 5(k)).

NOTE: Attach a copy of the Grantor's cost estimate for backfilling the excavation in the Crossing Area (if any) here ((as per clause 5(m)(i))).

NOTE: Attach a copy of the Grantor's specification for backfill (if any) here ((as per clause 5(m)(ii)).

NOTE: Attach a copy of the cost associated with the location, identification or supervision of the Grantor's facility to be borne by the Minister (if applicable) here ((as per clause 5(p)).

This page has been left blank intentionally.

SAMPLE 7

**Our File: Hwy. XX:XX
Railway Crossing Contract Agreements**

Phone: (403)XXX-XXXX

Fax: (403)XXX-XXXX

Month XX , 20XX

Central Western Railway
1407 Scotland Street SW
Calgary, Alberta
T3C 3W3

ATTENTION: Technical Support Engineer

Dear:

**RE: INTERSECTION HWY XX:XX
NEW RAILWAY CROSSING AGREEMENT**

Please be advised that Alberta Transportation (AT) acknowledges receipt of your cost estimate of \$163,400.00 for the above noted project. AT agrees to reimburse Central Western Railway based on actual close-out costs. This letter constitutes AT approval for Central Western Railway to proceed with the construction of the proposed new railway crossing. No other approvals from any other branch of AT are required for this work. If there is a variation of more than 5% from the original cost estimate, Central Western Railway must contact the Consultant and approval is required prior to proceeding with the work.

OCCUPATIONAL HEALTH AND SAFETY ACT

Alberta Transportation (the Department) assigns prime contractor responsibilities, as specified in the Occupational Health and Safety Act, to all parties with which it enters into contracts and agreements. On highway and bridge construction or maintenance projects this would typically include a Contractor, a Consultant (the Department employs an engineering consultant on construction projects only), various Utility Companies and the Railway Company.

During the course of the project, the work sites of the Contractor, Consultant, the Utility Companies and Railway Company may be separated by time and/or space or, may be in the same general vicinity or may be adjacent, depending on the circumstances on the project at any given point in time. It is a requirement of all Department contracts and agreements that the Contractor, Consultant, Utility Companies and Railway Company working within the project limits, coordinate their respective activities, as outlined herein, to ensure a safe project. However, it is not the Department's intent that any of these parties be responsible to ensure that the other parties, or the other parties' subcontractors, have adequate health and safety process for their respective activities.

Designation of Prime Contractor

The Railway Company shall familiarize itself, its staff and its subcontractors with the terms of the Occupational Health and Safety Act and Regulations thereunder to ensure complete understanding respecting the responsibilities given and compliance required. The Railway Company acknowledges that it is and assumes all of the responsibilities and duties of the Prime Contractor, as defined by the Occupational Health and Safety Act, and that it shall as a condition of this Agreement, comply with the Occupational Health and Safety Act and the regulations thereunder.

Coordinating Activities

The Railway Company shall coordinate its activities on the project with those of the Consultant, the Contractor and the Utility Companies. When the Consultant and/or Contractor and/or Utility Companies are conducting activities within the project limits the Railway Company shall liaise with the Consultant and/or Contractor as the case may be, and jointly develop a health and safety system or process for the affected worksites. The health and safety system or process agreed to by the parties must be in writing. Any changes required to the health and safety system must be agreed to by all affected parties and must also be in writing. Documenting the written health and safety system or process, including any required changes shall be the responsibility of the Contractor.

(i) Coordinating activities on Highway and Bridge Construction Projects

For the purposes of coordinating activities on highway/bridge construction projects, the contact persons for the Contractor, Consultant, the Utility Companies and the Railway Company shall be identified at the pre-construction meeting for the project. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

(ii) Coordinating activities not associated with a Highway or Bridge Construction Project

When the activities of the Railway Company are not being performed on a highway/bridge construction project, the Railway Company shall contact the local Alberta Transportation office prior to commencing work, to obtain the name of the contact person for the Department's highway maintenance contractor. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

Resolving Disputes Related to Coordination of Activities

If the parties cannot agree on a process or system that addresses the safety concerns of all parties, work at the affected worksites shall cease and this matter shall be referred to the Consultant. However, if the Consultant is one of the parties involved in the dispute, or the Department has not employed a Consultant for the project, the matter shall be referred to the Department. The Consultant or Department as applicable, after review,

will decide which party shall be responsible for resolving the disputed safety issue. Such decision shall be final and binding upon all parties.

Responsibility for Subcontractors/Owner operators

The Prime Contractor shall, to the extent required by the Occupational Health and Safety Act, establish and maintain a Health and Safety system or process to ensure compliance to the Act by his subcontractors/owner operators.

A transfer of ownership of land from the existing road allowance will be made from the Crown to the Central Western Railway in exchange for a transfer of ownership of land required for the new crossing (as shown on the attached plan). All survey and associated land registration costs would be to the account of Alberta Transportation.

The cost of maintenance and operation of the signal protection shall be paid according to the current agreement which states that fifty percent of the above mentioned cost is paid by Alberta Transportation and fifty percent by the Central Western Railway Company.

Other maintenance costs shall be apportioned based on seniority. According to current guidelines the road authority being the junior party at the new location shall be wholly responsible for the maintenance or the rubber planking.

You should forward your final invoice to the Consultant's office with the necessary back-up documentation and detailed breakdown for reimbursement. Contact with John Doe of ABC Consulting Group Ltd., the Consultant's Representative, at telephone number (403)XXX-XXXX in Edmonton is recommended in order to coordinate work within the project limits.

Please sign both letters and return one for our file, and forward the other to ABC Consulting Group.

Sincerely,

Name, Construction Manager
Region
Telephone Number

APPENDIX H

**Authorized Representative of
Central Western Railway
Title**

Witness

Date

Date

c.c. Signed Copy to: Consultant
 Company's Name
 Company's Address

SAMPLE 8

**Our File: Hwy. XX:XX
Railway Crossing Agreements**

Phone: (403) XXX-XXXX

Fax: (403) XXX-XXXX

Month XX, 20XX

Canadian National, Great Plains District
Floor 26, CN Building
10004 - 104 Avenue
Edmonton, Alberta
T5J 0K2

**ATTENTION: Technical Support Engineer
Great Plains District**

Dear:

**RE: HWY. XX:XX, CN RAILWAY CROSSING (NORTH OF XXXXX)
FULL DEPTH RUBBER MATERIAL
COST ESTIMATE (\$17,490.00)**

Please be advised that Alberta Transportation (AT) acknowledges receipt of your cost estimate of \$17,490.00 for the above noted project. AT agrees to reimburse Canadian National (CN) based on actual close-out costs. This letter constitutes AT approval for CN to proceed with the proposed Highway XX:XX Railway Crossing adjustments. No other approvals from any other branch of AT are required for this work. If there is a variation of more than 5% from the original cost estimate, CN must contact the Consultant and approval is required prior to proceeding with the work.

OCCUPATIONAL HEALTH AND SAFETY ACT

Alberta Transportation (the Department) assigns prime contractor responsibilities, as specified in the Occupational Health and Safety Act, to all parties with which it enters into contracts and agreements. On highway and bridge construction or maintenance projects this would typically include a Contractor, a Consultant (the Department employs an engineering consultant on construction projects only), various Utility Companies and the Railway Company.

During the course of the project, the work sites of the Contractor, Consultant, the Utility Companies and Railway Company may be separated by time and/or space or, may be in the same general vicinity or may be adjacent, depending on the circumstances on the project at any given point in time. It is a requirement of all Department contracts and agreements that the Contractor, Consultant, Utility Companies and Railway Company working within the project limits, coordinate their respective activities, as outlined herein, to ensure a safe project. However, it is not the Department's intent that any of these parties be responsible to ensure that the other parties, or the other parties' subcontractors, have adequate health and safety process for their respective activities.

Designation of Prime Contractor

The Railway Company shall familiarize itself, its staff and its subcontractors with the terms of the Occupational Health and Safety Act and Regulations thereunder to ensure complete understanding respecting the responsibilities given and compliance required. The Railway Company acknowledges that it is and assumes all of the responsibilities and duties of the Prime Contractor, as defined by the Occupational Health and Safety Act, and that it shall as a condition of this Agreement, comply with the Occupational Health and Safety Act and the regulations thereunder.

Coordinating Activities

The Railway Company shall coordinate its activities on the project with those of the Consultant, the Contractor and the Utility Companies. When the Consultant and/or Contractor and/or Utility Companies are conducting activities within the project limits the Railway Company shall liaise with the Consultant and/or Contractor as the case may be, and jointly develop a health and safety system or process for the affected worksites. The health and safety system or process agreed to by the parties must be in writing. Any changes required to the health and safety system must be agreed to by all affected parties and must also be in writing. Documenting the written health and safety system or process, including any required changes shall be the responsibility of the Contractor.

(i) Coordinating activities on Highway and Bridge Construction Projects

For the purposes of coordinating activities on highway/bridge construction projects, the contact persons for the Contractor, Consultant, the Utility Companies and the Railway Company shall be identified at the pre-construction meeting for the project. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

(ii) Coordinating activities not associated with a Highway or Bridge Construction Project

When the activities of the Railway Company are not being performed on a highway/bridge construction project, the Railway Company shall contact the local Alberta Transportation office prior to commencing work, to obtain the name of the contact person for the Department's highway maintenance contractor. The responsibility to initiate "contact" for coordinating activities shall reside with the party entering a project or site on which work has commenced. This responsibility to initiate contact shall apply regardless of whether or not the worksites are separated by time and/or space, are in the same general vicinity or are adjacent.

Resolving Disputes Related to Coordination of Activities

If the parties cannot agree on a process or system that addresses the safety concerns of all parties, work at the affected worksites shall cease and this matter shall be referred to the Consultant. However, if the Consultant is one of the parties involved in the dispute, or the Department has not employed a Consultant for the project, the matter shall be referred to the Department. The Consultant or Department as applicable, after review,

will decide which party shall be responsible for resolving the disputed safety issue. Such decision shall be final and binding upon all parties.

Responsibility for Subcontractors/Owner operators

The Prime Contractor shall, to the extent required by the Occupational Health and Safety Act, establish and maintain a Health and Safety system or process to ensure compliance to the Act by his subcontractors/owner operators.

CN Railway (or their Contractor) shall comply with the following:

- Implement traffic accommodation procedures if their operations interfere with normal pedestrian or vehicular traffic.
- Procedures on traffic accommodation implemented must be in accordance with Alberta Transportation typical standards as outlined in the current Traffic Accommodation in Work Zones Manual.
- Advise the Consultant and/or the Contractors when they plan to disrupt traffic and submit a traffic control plan and a written Traffic Accommodation Strategy to address for the safe accommodation of traffic for Alberta Transportation's review and comment.

You should forward your final invoice to the Consultant's office with the necessary back-up documentation and detailed breakdown for reimbursement. Contact with John Smith of ABC Engineering Corp., the Consultant's Representative, at telephone number (403) XXX-XXXX in Calgary is recommended in order to co-ordinate work within the project limits.

Please sign both letters and return one for our file and forward the other copy to the Consultant.

Sincerely,

Name, Construction Manager
Region
Telephone Number

**Authorized Representative of Canadian
National Great Plain District**

Witness

Date

Date

APPENDIX H

cc: Signed Copy to: Consultant
Company's Name
Company's Address

SAMPLE 9

Our File: Hwy. XX:XX

Phone: (780) XXX-XXXX

Fax: (780) XXX-XXXX

Month XX, 20XX

Attention: Mr. Name

Utility Company Ltd.

Address

City, Alberta

X2X 3X5

Dear:

RE: Hwy. XX:XX, Jct. Hwy. X to South of Town

Date for Commencement of Construction

By way of this letter and on behalf of Alberta Transportation, **Consultant's Name** is informing you that the tentative date for commencement of construction for the above noted project is April 01, 2002.

The Prime Contractor is:

Name:

Address:

ATTN: Name:

Phone:

Fax:

The grading sub-contractor is:

Name:

Address:

ATTN: Name:

Phone:

Fax:

According to the contract specifications between Alberta Transportation and the Prime Contractor, the Prime Contractor is required to coordinate and schedule their field operations with the applicable utilities companies.

If you have any questions please contact the undersigned at **phone no.**

Yours truly,

Name, Consultant's Title

Company Name

APPENDIX H

cc: Signed Copy to: Prime Contractor
Alberta Transportation – Project Sponsor