

***MEMORANDUM OF
AGREEMENT***

**FOR PLACEMENT OF
HIGH PRESSURE NATURAL GAS PIPELINE INSTALLATIONS
CROSSING MUNICIPAL ROAD RIGHTS-OF-WAY**

BETWEEN

***THE MUNICIPAL DISTRICT
OF WILLOW CREEK NO. 26***

AND

THIS AGREEMENT made the _____ day of _____, 20 ____.

BETWEEN:

THE MUNICIPAL DISTRICT OF WILLOW CREEK NO. 26
(hereinafter called "**The Municipality**")

OF THE FIRST PART

- and -

(hereinafter called "**The Operator**")

OF THE SECOND PART

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

AND WHEREAS **The Operator** requires **The Municipality's** consent to construct a Pipeline on, across, over, or under a highway, as defined in the *Public Highway Development Act* (Rights-of-Way), and **The Operator** desires to place high pressure natural gas pipelines parallel to and across the Rights-of-Way along the routing as shown and in accordance with plans submitted to **The Municipality** from time to time.

AND WHEREAS **The Operator** is a corporation that operates or proposes to operate high pressure natural gas pipelines within **The Municipality's** boundaries.

AND WHEREAS **The Operator** 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 others and providers of services to the public (hereinafter collectively called "Service Providers") when occupying and using the Rights-of-Way as described above;

AND WHEREAS **The Municipality** is willing to grant its consent to the occupancy and use of the Rights-of-Way consisting of the construction, operation, maintenance, modification, and removal of the Pipeline and Equipment in, on, over, under, along, or across the Rights-of-Way having due regard to the safety, use, and enjoyment of the Rights-of-Way by others, as described above;

AND WHEREAS **The Municipality** and **The Operator** 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 Operator** in the form of a non-exclusive right;

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

1. **The Municipality** hereby consents and grants a non-exclusive right to **The Operator** to occupy and use locations specified by **The Municipality**, in Written Authorization Documents, within the Rights-of-Way (“Crossings”) during the Term as defined in Section 50 hereof for the purpose of constructing, operating, maintaining, and removing the high pressure natural gas pipeline (hereinafter called “Pipeline”) across and parallel to the road Rights-of-Way, subject to conditions and provisions of this Agreement.
2. For the purpose of this Agreement, “Written Authorization Document” means written correspondence containing **The Municipality’s** consent or refusal for the Crossing(s) pursuant to this Agreement and specifying any waivers and additional terms and conditions, in relation to this Agreement for an individual project.
3. **The Operator** may access the Rights-of-Way in accordance with the terms of this Agreement for the purpose of exercising its rights under Section 1 of this Agreement.
4. **The Operator** 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, modifying, or removing any of its Equipment and facilities in, on, over, under, along, or across any Rights-of-Way (each of these activities hereinafter collectively called “Work”) without first:
 - a) providing detailed plans, drawings, specifications, and crossing profile(s) to the most senior municipal official responsible for overseeing such Work or his designate (Designated Officer), setting out a proposal for a Crossing, and including the entire Pipeline routing, for **The Operator’s** Equipment and such other information required by the Designated Officer in a form acceptable to the Designated Officer.
 - b) obtaining the written authorization of the Designated Officer to a Crossing. **The Municipality’s** consent will not be required in the case of maintenance of marker signs.
- 4.1 in the event that the detailed plan(s) referred to in 4 (a) are not acceptable, **The Municipality** shall list the reasons such plan(s) are unacceptable and suggest an alternate plan(s) for the Crossing. **The Municipality** shall determine if the proposed Work will conflict with any imminent or future road reconstruction Work, relocation or upgrading, or other Work which may necessitate the relocation or lowering of the Pipelines in the Crossing area and shall notify **The Operator** accordingly when approving or rejecting **The Operator’s** application for the Crossing. If, for any reason, the parties cannot agree upon the plan 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 Operator** may use the Rights-of-Way, including the detailed plans.
5. **The Operator** shall have the right to enter upon the Crossing area to carry out repairs to, maintenance of, or removal of the Pipeline.
 - 5.1 In the case of repairs or maintenance causing a ground disturbance or removal, **The Operator** shall give forty-eight (48) hours notice in advance (weekend and statutory holidays excluded) of such Work to **The Municipality**.

- 5.2 In the case of breakage of the Pipeline or other emergency, no prior notice shall be required for **The Operator** to undertake such Work, but **The Operator** shall notify **The Municipality** of such emergency and remedial Work as soon as is reasonably practical.
- 5.3 In the case of maintenance to marker signs or cathodic protection test points, no notice shall be required.
- 6. **The Operator** shall provide all required information and obtain all required municipal construction and/or other permits normally required by **The Municipality** in the circumstances prior to commencing any Work.
- 7. **The Operator** shall give to **The Municipality** no less than forty-eight (48) hours notice in advance (weekend and statutory holidays excluded) before commencing construction or maintenance Work involving a ground disturbance on Rights-of-Way and shall provide in such notice the name or names of the contractor and all subcontractors proposed to carry out the Work in the Crossing area.
 - 7.1 **The Municipality** shall also be advised prior to backfilling so that **The Municipality** may conduct an inspection.
 - 7.2 Construction or maintenance Work on Rights-of-Way shall take place during **The Municipality's** working hours, except if required otherwise in cases of emergency.

CONDITIONS.

- 8. All Work conducted by or on behalf of **The Operator** is subject to the following conditions:
 - a) the Work shall conform to all applicable federal, provincial, and municipal statutes, laws, and bylaws or other applicable rules and regulations, including, but not limited to, the terms of any written authorizations granted by the Designated Officer, permits issued by **The Municipality** and the provisions of this Agreement;
 - b) **The Operator** shall obtain any necessary approvals, permits, or licenses required by provincial or federal legislation;
 - c) all Work shall be carried out by a contractor who holds a current Municipal Business License to operate in **The Municipality**;
 - d) all Work inside the Rights-of-Way shall be carried out in such a manner so as not to endanger public safety;
 - e) if deemed necessary, **The Municipality** may inspect proposed crossing locations with representative(s) of **The Operator** and/or contractor concerned;
 - f) 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;

- g) the Pipeline shall be placed in such a fashion so as not to interfere with the operation, maintenance, and where practical, the future upgrading of the Rights-of-Way;
- h) all Pipelines paralleling Rights-of-Way, either improved or unimproved in the Municipal District, shall not, at any point, be nearer than 30 metres (100 feet) to the boundary of the Rights-of-Way nor the Rights-of-Way easement registered against any portion of the 30-metre setback, unless otherwise specified in the Written Authorization Document;
- i) natural gas valve sites shall not be constructed nearer than 30 metres (100 feet) to the boundary of the Rights-of-Way or for what greater distance is specified in the Written Authorization Document;
- j) Pipeline materials utilized for Rights-of-Way crossings shall comply in all aspects with standards as set down in the latest edition of related CSA codes and the Alberta Energy and Utilities Board and Alberta Safety Codes, taking into consideration the type of road and amount of heavy traffic using the Rights-of-Way. The same Pipeline shall be used throughout the entire width of the Rights-of-Way, and for an extended distance of five (5) metres (16.5 feet) on either side of the existing Rights-of-Way boundary or for what greater distance is specified in the Written Authorization Document;
- k) Crossings of all Rights-of-Way shall be by the bore method unless otherwise specified in the Written Authorization Document;
- l) a minimum depth of 1.8 metres (6 feet) below existing ditch bottom, or such greater depth as specified in the Written Authorization Document shall be maintained for the full width of the existing Rights-of-Way boundary and for an extended distance of 5 metres (16.5 feet) on either side of the existing Rights-of-Way boundary, or for what greater distance is specified in the Written Authorization Document;
- m) if, during construction or any other time, deviation from plans submitted or from any of the terms of this Agreement becomes necessary or desirable for whatever reason, permission for the deviation shall be obtained from **The Municipality** prior to proceeding;
- n) all Crossings shall be as near 90 degrees to the Rights-of-Way as possible;
- o) where a Pipeline crosses Rights-of-Way, no bends shall be permitted in that portion of the Pipeline within the boundary of the Rights-of-Way or within a minimum distance of 8 metres (25 feet) of the boundaries on either side of the Rights-of-Way, unless otherwise specified in the Written Authorization Document;
- p) the Pipeline shall be identified with a marker which shall be placed at all points of Crossings of the Pipeline;
- q) **The Operator** shall restore the Rights-of-Way, to the original or better condition, following any Work done by **The Operator**, his representatives, or contractors in the Rights-of-Way, to the satisfaction of the Designated Officer. If **The Operator** fails to repair and restore any Rights-of-Way to the satisfaction of the Designated Officer within twenty (20) days of being notified by **The Municipality**, **The Municipality** may effect such repairs and charge all costs related thereto to **The Operator**;

- r) if **The Municipality** requires that any Work be stopped, **The Operator** shall cease such Work upon delivery of a written notice to **The Operator** to that effect by the Designated Officer;
- s) **The Operator** shall indemnify and hold harmless **The Municipality**, its employees and agents from any and all claims, demands, actions, and costs whatsoever that may arise, directly or indirectly from the performance or purported performance of the Agreement by **The Operator**, except when and to the extent that the foregoing results from the gross negligence or willful or wanton misconduct of **The Municipality**, its contractors subcontractors, agents or employees;
- t) **The Operator** shall be responsible for all costs of any damages to the Rights-of-Way resulting from Pipeline placement, maintenance, and operation;
- u) the presence of the Pipeline within the Rights-of-Way shall, under no circumstances, increase **The Municipality's** costs for operation, construction, or maintenance of the Rights-of-Way, and if so, the added cost shall be borne by **The Operator**;
- v) upon receipt of thirty (30) days advance written notice from the Designated Officer, or such other time as is mutually agreed to by the parties, **The Operator** shall, at its own expense, relocate facilities and Equipment to which this Agreement relates, 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 in the circumstances and **The Operator** shall reimburse **The Municipality** for all related expenses thereby incurred.
- w) if **The Operator** fails to complete the relocation of the facilities and Equipment in accordance with Section 8(v), or fails to repair the Rights-of-Way or to perform any other Work required to be done by **The Operator** pursuant to this Agreement in a timely and expeditious manner to the satisfaction of the Designated Officer, **The Municipality** may, but is not obligated to, at its sole option, have such relocation or other Work completed. In such event, **The Operator** shall pay the cost of such relocation Work to **The Municipality**, together with an administration charge of fifteen percent (15%) of such cost;
- x) in the event road or road-related Work authorized by **The Municipality** involves a ground disturbance within five metres of the Pipeline location, except in an emergency, **The Municipality** or agent shall give a minimum forty-eight (48) hours notice (weekends and statutory holidays excluded) to **The Operator** and Alberta One Call. **The Operator** shall, within forty-eight (48) hours notice, mark or expose the Pipeline. The Pipeline shall then be hand exposed by **The Operator** before excavation machinery is used. The costs to locate, mark, and expose the Pipeline shall be borne by **The Operator**;
- y) **The Operator** shall be responsible for proper and adequate Pipeline marking, as well as maintenance of the Pipeline markers adjacent to the Rights-of-Way;

- z) **The Operator** shall provide “as-built” drawings to **The Municipality** in GIS format or in form and content acceptable to the Designated Officer within two (2) months of completing the construction of Equipment in, on, over, under, along, or across any Rights-of-Way.

REPRESENTATIVES AND WARRANTIES.

- 9. **The Operator** represents and warrants to, and covenants and agrees with **The Municipality** that:
 - a) **The Operator** shall abide by and comply with all the conditions contained in Clause 8 herein;
 - b) **The Operator shall ensure that prior to performing any Work, its agents, employees, officers, licensees, invitees, and contractors, who need to know, do know the applicable terms and conditions of this Agreement;**
 - c) **The Operator’s** occupancy and use of the Rights-of-Way shall not unduly interfere with the public use and enjoyment of the Rights-of-Way;
 - d) **The Municipality** has made no representations or warranties as to the state of repair of the Rights-of-Way or the suitability of the Rights-of-Way for any business, activity, or purpose whatsoever and **The Operator** hereby agrees to take the Rights-of-Way on an “as is” basis;
 - e) **The Operator** places its Pipeline on the Rights-of-Way at its own risk, and **The Municipality**, its Designated Officer or agent, shall not be responsible, directly or indirectly, or liable in any way to **The Operator**, its contractors, agents, or its customers for any damage or loss to the Pipeline or Equipment except when and to the extent that the such damage or loss results from the gross negligence or willful or wanton misconduct of **The Municipality**, its contractors subcontractors, agents or employees;
 - f) **The Operator** has no title to or other ownership or property interest in any Crossings or Rights-of-Way;
 - f.1 **The Operator** shall not suffer or permit any lien to be filed or registered against any Rights-of-Way;
 - g) **The Operator** agrees to participate in any centralized utility location notification procedures of **The Municipality** with **The Municipality** and other Service Providers, and to pay its proportionate share of the costs of the administration of such procedures;
 - h) **The Operator** further agrees to participate in any utility coordinating committees or forums as may be established by **The Municipality**, and to pay its proportionate share of the costs of the administration of such forums;
 - i) **The Operator** shall provide to **The Municipality** a list of twenty-four (24) hour emergency contact personnel and shall ensure that the aforementioned list is always current;

- j) **The Municipality** shall provide to **The Operator** a current list of twenty-four (24) hour emergency contact personnel and shall ensure that the aforementioned list is always current;
- k) **The Operator** shall not permit any other third party to use any Rights-of-Way occupied or used by **The Operator** under this Agreement, unless the third party first provides evidence to **The Operator** that it has entered into an agreement with **The Municipality** in respect of such use;
- l) in all cases where **The Operator** shares ownership or other rights with a third party in respect of any facilities and Equipment situated in, on, over, under, along, or across Rights-of-Way occupied or used by **The Operator** under this Agreement, **The Operator** shall remain responsible for performing all of its obligations under this Agreement, as if it were the sole owner of the facilities and Equipment;
- m) for the purpose of sections 9(k) and 9(l) of this Agreement:
 - m.1 a “use” of Rights-of-Way by a third party occurs whenever a third party situates any facilities and Equipment or connects any facilities and Equipment to the facilities and Equipment of **The Operator** in, on, over, under, along, or across the Rights-of-Way, or is in the position where it may cause any Work to be performed in, on, over, under, along, or across the Rights-of-Way;
- n) **The Operator** shall notify **The Municipality** of any damage caused by **The Operator** in connection with its Work, Equipment, or enjoyment of its right to occupy and use Rights-of-Way under this Agreement;
- o) **The Municipality** may cross **The Operator’s** Equipment with its own Improvements or otherwise, and may use the Rights-of-Way for any purpose, and may allow other parties to cross **The Operator’s** Equipment with their Improvements or otherwise and to use the Rights-of-Way, all at no charge to **The Municipality**;
- p) **The Operator** shall notify **The Municipality** promptly when it ceases to use Equipment situated in, on, over, under, along, or across the Rights-of-Way. Upon such notification, **The Municipality** may thereafter, at any time, require **The Operator** to remove the said Equipment within a specified period of time, being no less than ninety (90) days from the date of **The Operator’s** notification;
- q) **The Operator** may be required to post security with **The Municipality** from time-to-time in an amount and form acceptable to **The Municipality** to guarantee the performance by **The Operator** of its obligations in connection with Work performed under this Agreement. The vehicle by which such security is granted shall, in each case, specify with precision the Work that is guaranteed by the security, and the circumstances under which **The Municipality** may have recourse to the security. Security posted in respect of certain Work shall be released promptly by **The Municipality** if and to the extent that the Work is completed to the satisfaction of **The Municipality**;

- r) **The Operator** shall, in addition to other amounts specifically payable by it under this Agreement, be responsible for the payment of all taxes attributable to **The Operator**, including, without limitation, those taxes attributable to **The Operator's** use and occupancy of the Rights-of-Way, and for the payment of the cost of all services and utilities consumed in respect of **The Operator's** operations;
 - s) for the purpose of Section 9(r) "taxes" includes, without limitation, all taxes, duties, levies, assessments, rates, fees, or charges of any kind whatsoever, imposed, levied, assessed, or charged now or in the future by any government authority of any kind, and any payments that are levied in substitution, or in lieu, or in addition to any of the foregoing.
 - t) all of the covenants, representations, warranties, indemnities, and outstanding obligations (including outstanding payment obligations) of **The Operator** under this Agreement shall survive the termination of the Agreement, however caused;
10. **The Municipality** and **The Operator** hereby acknowledge and agree that all high pressure natural gas Pipelines installed prior to the date of this Agreement shall be administered under the terms and conditions as set out in Clauses 8(u), 8(v), 8(w), and 8(x);
11. **The Municipality** represents and warrants to and covenants and agrees with **The Operator** that it has jurisdiction over any Rights-of-Way for which **The Municipality** grants consent to **The Operator** and has the authority to grant such consent.
12. EXPIRY OF CONSENT. Consent to the occupancy and use of the Rights-of-Way expires one year from the date on which the consent is issued if no Work has been commenced. However, **The Operator** may apply to **The Municipality** for an extension of the Term of consent. After receiving an application for extension, **The Municipality** may grant an extension of the Term of the original consent for a period of not exceeding one year by notice in writing to **The Operator**.
13. ALBERTA ONE CALL. **The Municipality** strongly encourages **The Operator** to maintain membership in Alberta One Call.
14. WORKER'S COMPENSATION. **The Operator** agrees it shall, at its own expense, procure and carry, or cause to be procured and carried and paid for, full Workers' compensation coverage for itself and all Workers, employees, and others engaged in or upon any Work.
15. OCCUPATIONAL HEALTH AND SAFETY AND TRAFFIC. **The Operator** shall conform and shall be responsible for the conformance by its officers, employees, agents, contractors, and invitees to all health and safety laws including, but not limited to, Occupational Health and Safety Regulations, 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 Operator**, 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 Operator** 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.

LIABILITY AND INDEMNIFICATION.

16. **The Municipality** is not responsible, either directly or indirectly, for any damage to property or injury to a person, including death, arising from the escape, discharge, or release of any hazardous substance from its Rights-of-Way, except when and to the extent that such injury or death results from the gross negligence or willful or wanton misconduct of **The Municipality**, its contractors subcontractors, agents or employees.
17. **The Operator** 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 Operator** 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 Operator**, or by any other person with the express or implied approval of **The Operator**.
18. For the purpose of Sections 16 and 17, "Hazardous Substance" means any hazardous substance and includes, but is not limited to, radiation, petroleum products and byproducts, industrial wastes, contaminants, pollutants, dangerous substances, and toxic substances, as defined in or pursuant to any law, ordinance, rule, regulation, bylaw, or code, whether federal, provincial, or municipal.
19. **The Municipality** shall not, in connection with this Agreement, be liable for any damage to the facilities and Equipment of **The Operator**, or for the injury or death of any officer, employee, agent, contractor, licensee, or invitee of **The Operator** except where caused by the willful misconduct or gross negligence of **The Municipality** or its employees.
20. **The Operator** 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 Operator**, its officers, employees, agents, contractors, licensees, or invitees.
21. Subject to the provisions of Sections 19 and 22, **The Municipality** hereby indemnifies **The Operator** from and against all losses, liabilities, costs, damages, and expenses (including reasonable attorneys' fees and disbursements) incurred by **The Operator** 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.
22. 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 or Rights-of-Way governed hereby.

23. REPRESENTATIVES. Either party may, by notice in writing, appoint a representative to act on its behalf in matters pertaining to this Agreement.

SUCCESSORS AND ASSIGNS.

24. This Agreement shall be binding upon and shall inure to the benefit of **The Operator** and **The Municipality** and their respective successors and assignees. For the purposes of this Agreement, “successors” of a party shall include any person, firm, corporation, or other entity which at any time, whether by merger, acquisition, purchase, or otherwise, shall acquire all or substantially all of the assets of that party. **The Operator** may assign this Agreement during the Term to a successor or an “affiliate”, as that term is defined in the *Canada Business Corporations Act* (Canada), upon advance written notice to **The Municipality**. **The Operator** may not otherwise assign this Agreement without the advance written consent of **The Municipality**, which consent may not be unreasonably withheld, conditioned, or delayed.
25. In the event of any assignment of the Agreement by **The Operator**, **The Operator** shall remain jointly and severally liable under this Agreement in all respects with the assignee.
26. Despite Section 24, **The Operator** may pledge the rights granted by this Agreement as security without the approval of **The Municipality** to any person directly or indirectly providing financing to **The Operator** but such pledge shall not release **The Operator** from its obligations and liabilities under this Agreement.
27. NON-PARTIES TO AGREEMENT. Nothing in this Agreement shall be construed as affecting any rights or otherwise of others not a party to this Agreement.

INSURANCE.

28. **The Operator** 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 and facilities in, on, under, over, along, and across the Rights-of-Way or any act or omission of **The Operator’s** employees, agents, contractors, or licensees.
29. In addition to the foregoing, **The Operator** covenants and agrees that with respect to the insurance coverage described in Section 28:
- a) 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 Operator**, from time-to-time;
 - b) the commercial general liability insurance shall extend to cover the contractual obligations of **The Operator** as stated within this Agreement;

- c) all policies shall provide that they cannot be cancelled, lapsed, or materially changed without at least thirty (30) days notice to **The Municipality** by Domestic Registered Mail; and
- d) documentation of the insurance policy as described herein shall be filed with **The Municipality's** Office.

30. INDEPENDENT CONTRACTORS. The relationship of **The Operator** and **The Municipality** established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed:

- a) to give either party the power to direct or control the day-to-day activities of the other;
- b) to constitute the parties as partners, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking; or
- c) to allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.

31. INTERPRETATION AND APPLICATION. The parties agree to give this Agreement a fair and reasonable interpretation and application, and when required, to negotiate with fairness and candor for any modifications or alterations thereof for the purpose of carrying out the intent of this Agreement and rectifying any omission in any of these provisions.

NOTICE.

32. Any formal notice hereunder shall be in writing and shall be deemed effective on the date on which it is delivered by hand, or, if transmitted by facsimile or electronic transmission, on the date it was transmitted provided such notice is also given in any of the other manners set forth herein. Any notice may also be given by prepaid registered mail mailed within the Province of Alberta and such notice shall be effective on the fifth day following the date of mailing, except in the event that there shall be a disruption in postal services at the date of mailing, in which case notice shall be effected by personal delivery or a facsimile transmission as stated above.

33. Notice described in Section 32 shall be given to the parties at the address listed below (or at such other address for a party as shall be specified by like notice).

If to **The Municipality**:

The Municipal District of Willow Creek No. 26
ATTENTION: MUNICIPAL ADMINISTRATOR/CAO
Box 550
Claresholm, AB
T0L 0T0

If to **The Operator**:

34. MODIFICATIONS. No waiver of or changes to any provision of this Agreement shall be effective unless reduced to writing by **The Municipality** in the Written Authorization Document, or is included in a paper signed by representatives of both parties.
35. WAIVER. The failure of either party to insist upon strict adherence to any term or condition of this Agreement on any occasion shall not be considered a waiver of any right thereafter to insist upon strict adherence to that term or condition or any other term or condition of this Agreement.
36. ADDITIONAL CONDITIONS. **The Municipality** may specify in the Written Authorization Document any additional conditions or terms of consent that may be specifically applicable to an individual project.
37. DEFAULT. 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, including reasonable legal fees and disbursements.
38. SEVERABILITY. If any provision of this Agreement is held to be invalid or unenforceable by a court or regulator of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect, and the parties shall endeavor to give effect to the Agreement as originally contemplated before the provision was held to be invalid or unenforceable to the maximum extent permitted by law.
39. GENDER, NUMBER, AND PERSON. Words importing the neuter gender shall include the masculine and feminine genders. In this Agreement, "person" means any individual, corporation, partnership, association, joint venture, or organization of any kind and the lawful trustee, successor, assignee, transferee, or personal representative of any of the foregoing. Words importing the singular shall include the plural and vice versa.
40. HEADINGS. The section headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. The terms "subsection" and "section" refer to subsection and section of this Agreement, respectively, unless explicitly otherwise stated.

41. TIME. Time is of the essence in this Agreement.
42. GOVERNING LAW. This Agreement shall be governed by and interpreted in accordance with the laws of the Province of Alberta and the laws of Canada applicable therein, excluding the conflict of laws provisions thereof.
43. EQUITABLE RELIEF. Either party may, in addition to any other remedies it may have at law or equity, seek equitable relief, including, without limitation, injunctive relief, and specific performance to enforce its rights or the other party's obligations under this Agreement.
44. TREATMENT OF PERSONNEL. Each party shall bear sole responsibility for payment of compensation (including applicable benefits) to its personnel assigned to perform that party's obligations under this Agreement, and shall also bear sole responsibility for any applicable source deductions required by law in respect of such personnel. Under no circumstances shall the other party be considered the employer of any such personnel.
45. CUMULATIVE REMEDIES. Except as otherwise expressly stated in this Agreement, all remedies available to either party for breach of this Agreement are cumulative and may be exercised concurrently or separately and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
46. NO RULES OF CONSTRUCTION. This Agreement shall not be interpreted in favor or against a party on the basis of the existence or absence of legal representation in the case of either party.
47. INCONSISTENCY WITH MUNICIPAL BYLAWS. In the event of an inconsistency between this Agreement and any applicable bylaw, rule, or regulation of **The Municipality**, the bylaw, rule, or regulation shall take precedence to the extent of the inconsistency.
48. COUNTERPARTS; ORIGINAL SIGNATURE COPIES. This Agreement may be duplicated, each of which shall be deemed an original, but all of which together shall be deemed to be one Agreement. Facsimile reproductions of signatures shall be deemed to be original.
49. ENTIRE AGREEMENT. This Agreement set forth the entire agreement and understanding of the parties relating to the subject matter herein.
50. TERM OF AGREEMENT. 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.
51. ACKNOWLEDGEMENT. Each party acknowledges that it has read this Agreement, and each party understands and agrees to be bound by its terms and conditions.

***Memorandum of Agreement
High Pressure Natural Gas Pipeline Installations
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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives and affixed their corporate seals hereto.

Per:
The Municipality

Reeve

Municipal Administrator/CAO

The Operator

Name:
Title:

Name:
Title: