

PUBLIC WORKS AND ENGINEERING DEPARTMENT
MANURE PIPELINE PROCEDURE

PURPOSE:

To provide a procedure whereby landowners are instructed on Middlesex Centre's requirements for installation of a permanent manure pipeline crossing under Municipal roads.

SCOPE:

To be followed by all landowners within Middlesex Centre seeking such acceptance.

PROCEDURE:

Permanent crossings must adhere to the following requirements:

- (i) all applicants shall submit a Road Occupancy Permit;
- (ii) no crossings within 100 metres of a watercourse;
- (iii) existing road culverts not to be used;
- (iv) the crossing pipe shall extend to a minimum of 15 metres beyond the road property line;
- (v) the crossing pipe shall cross the roadway at right angles;
- (vi) the road crossing is to be designed by a professional engineer licensed to practice in Ontario;
- (vii) the pipeline crossing shall be designed to accommodate 1.5 times the peak pumping pressure;
- (viii) the system is to be designed to prevent water hammer;
- (ix) a 400 mm. high berm is to be constructed along the property adjacent to the road property line for 50 metres each side of the road crossing except where the adjacent land slopes away from the road;
- (x) the permanent line is to be drained while frost is in the ground;
- (xi) the pumping system shall be operated in such a manner that it will be shut down within 1 minute of equipment failure;
- (xii) all road crossings are to be installed by boring and jacking;
- (xiii) the installation and operation of the manure pipeline shall conform to all provincial standards; and
- (xiv) prior to initial use of the pipeline crossing the Municipal road, and bi-annually thereafter, hydrostatic testing shall be conducted under the supervision of a Professional Engineer licensed to practice in Ontario. Hydrostatic testing shall conform to OPSS 701.07.19.
- (xiiiv) aerial spraying of manure is not permitted.

Road Crossing Agreement for Manure Pipeline

THIS ROAD CROSSING AGREEMENT is made this day of , 20 .

Between:

MUNICIPALITY OF MIDDLESEX CENTRE

(the “**Municipality**”)

- and -

[owner]

(the “**Owner**”)

WHEREAS:

- (a) The Owner represents that the Owner is the registered and beneficial owner of certain lands (the “**Owner’s Property**”) in the Municipality of Middlesex Centre in the County of Middlesex which abuts on both sides of the [street name] road allowance (the “**Municipal Road Allowance**”) and Owner’s Property which may be more particularly described as:

[insert here a legal description of the Owner’s Property
located on both sides of the Municipal Road Allowance]

- (b) A manure conveyance pipeline and appurtenances (the “**Road Crossing**”) is proposed to connect Owner’s Property on either side of the Municipal Road Allowance which Road Crossing will cross the Municipal Road Allowance in the location as shown on the attached sketch;
- (c) The Owner has applied to the Municipality for permission to install, maintain and use the Road Crossing for the current calendar year and for each year thereafter that this Agreement is renewed;

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the terms and conditions herein and the sum of Two (\$2.00) Dollars now paid by the Owner to the Municipality, the receipt and sufficiency of which is hereby acknowledged, the Owner and the Municipality covenant and agree as follows:

1. The Municipality and the Owner acknowledge and agree that the Road Crossing shall be permitted on the Municipal Road Allowance subject to the terms and conditions of this Agreement.
2. The Owner acknowledges that no representation has been made by the Municipality of any authority to grant the privilege to use and maintain the Road Crossing and such use and maintenance by the Owner shall at all times be at the Owner's risk.
3. The Owner covenants and agrees with the Municipality as follows:
 - (a) The Owner shall apply to the Municipality and obtain from the Municipality a "Road Occupancy Permit" for the Road Crossing prior to commencing any work on the Municipal Road Allowance, shall install the Road Crossing, including pipe and appurtenances, at the location and elevations specified in the Road Occupancy permit and shall comply with the conditions in the Road Occupancy Permit.
 - (b) The Owner shall make no alteration to the Municipal Road Allowance, including without limitation removal of trees or changing grades, and shall not install any facilities, not specifically included in the Road Occupancy Permit, on the Municipal Road Allowance without the Municipality's written permission.
 - (c) The Owner shall obtain any other permits and approvals required by any other government of competent jurisdiction, from time to time.
 - (d) The Owner shall extend the Road Crossing 15 metres beyond the Municipal Road Allowance property line or such greater distance as may be required by the Director, Public Works and Engineering or by any other governmental authority, from time to time.
 - (e) The Owner is to provide evidence satisfactory to the Municipality that the Road Crossing has been designed by a professional engineer licensed to practice in Ontario and that the Road Crossing has sufficient capacity to accommodate 1.5 times the peak operating pressure to be used and otherwise conforms with all requirements of government authorities of competent jurisdiction, from time to time.
 - (f) The Owner agrees to construct a 400 millimetre high berm along the Municipal Road Allowance property lines for 50 metres each side of the location of the Road Crossing. The Municipality may waive this condition where the Municipality is of the opinion, in its sole and absolute discretion, that the slope of the land beyond the Road Allowance property line is sufficient to prevent manure from flowing onto any portion of the Municipal Road Allowance property.

- (g) The Owner agrees to operate the Road Crossing in accordance with the requirements of all other government authorities of competent jurisdiction, all as amended from time to time and in accordance with the following Standards for Manure Pipelines on Municipal Road Allowances:
 - (i) the Road Crossing shall be installed, operated and used such that it does not constitute a danger and will not adversely affect: (i) the safety of persons; (ii) traffic flow on the Municipal Road Allowance; (iii) the rights of others to use the Municipal Road Allowance; (iv) future road improvements or (v) the environment;
 - (ii) The Road Crossing must adhere to the following standards:
 - (A) only permanent crossings will be permitted
 - (B) no crossing is permitted within 100 metres of a watercourse;
 - (C) existing road culverts not to be used;
 - (iii) the Road Crossing shall cross the Municipal Road Allowance at right angles;
 - (iv) the Road Crossing will be installed by boring and jacking;
 - (v) the Road Crossing shall be drained while frost is in the ground;
 - (vi) the pumping system used to convey manure through the Road Crossing shall be operated in such a manner that it will be shut down within 1 minute of equipment failure;
 - (vii) such pumping system shall be designed to prevent water hammer as confirmed to the Municipality by a Professional Engineer licensed to practice in Ontario;
 - (viii) prior to initial use of the Road Crossing, and bi-annually thereafter, hydrostatic testing conforming to OPSS 701.07.19 shall be conducted under the supervision of a Professional Engineer licensed to practice in Ontario who shall report to the Municipality confirming, or otherwise, satisfactory testing results; and
 - (ix) aerial spraying of manure is not permitted on the Owner's Property.
4. The Owner shall indemnify and save harmless the Municipality and its agents and employees, from and against all actions, causes of actions, suits, claims, demands, damages, costs, loss, liability, and expenses, including reasonable legal fees and disbursements, whatsoever which may arise, either directly or indirectly, by reason of or on account of the existence of the Road Crossing or the entering into of this Agreement or by reason of the Owner's installation,

maintenance and use the Road Crossing or any other matter or thing relating to the Road Crossing; and the issuance of an insurance policy as provided in paragraph 6 shall not be construed as relieving the Owner of responsibility for indemnity of the Municipality for liability not covered by such insurance or in excess of the policy limits of such insurance.

5. Without limiting the generality of the Owner's indemnity commitment as set out in paragraph 4 above, the Owner understands and agrees that the Owner is responsible for any and all consequences, including the costs of clean-up and remediation, to the Municipality and to any third party of a discharge, release or spill of any contaminant, as defined by the *Environmental Protection Act*, from the Road Crossing whether or not resulting from the negligence of the Owner or those for whom the Owner is responsible.
6. The Owner shall obtain and maintain insurance in accordance with the following:
 - (a) Comprehensive general liability insurance, in a form satisfactory to the Director, Public Works and Engineering, in an amount not less than Two Million Dollars (\$2,000,000.00) inclusive per occurrence for bodily injury, death and damage to property, including loss of use thereof.
 - (b) Such insurance shall be in the joint names of the Owner and the Municipality of Middlesex Centre.
 - (c) Such insurance shall not include any sort of pollution exclusion under which such insurance would not respond to the specific indemnity obligations of the Owner as set out in paragraphs 4 and 5 above.
 - (d) Such insurance shall provide that coverage shall not be cancelled, amended or permitted to lapse without thirty (30) days prior notice to the Owner and the Municipality.
 - (e) A Certificate of Insurance evidencing the above insurance coverage shall be provided to the Municipality prior to the Municipality signing this Agreement and thereafter promptly on the insurance renewal date; such certificate of insurance shall specifically confirm coverage with respect to Owner's obligations under paragraphs 4 and 5 above.
7. Subject to paragraph 8 below, if the Road Crossing is rebuilt, altered or removed in any way for any reason, the Owner shall restore the Municipal Road Allowance to the requirements of the Municipality.
8. The Owner shall at all times maintain and keep the Road Crossing and adjacent surface in proper repair at the Owner's expense, in a proper and safe condition for the traffic thereon, and to the standards of the Municipality and generally in accordance with the requirements of paragraph 3 above. In the event of default, upon written notice from the Municipality, the Owner shall rectify the default and, if the notice is not complied with within ten (10) days from the date that the notice

is sent, the Municipality may do what is reasonable in order to cure the default at the expense of the Owner, and to add the cost thereof to the tax roll for the Owner's Property and collect same in like manner as municipal taxes.

9. The Municipality may at any time renew, repair or maintain the surface of the highway in the location of the Road Crossing without notice or liability to the Owner. If at any time the Municipality decides to renew, repair or maintain the surface of the highway in the location of the Road Crossing, at the Municipality's option, the Municipality may by written notice to the Owner require the Owner to renew, repair or maintain the surface of the highway adjacent to the Road Crossing at the Owner's expense and to the Municipality's specifications. If the notice is not complied with within ten (10) days from the date that the notice is sent, the Municipality may renew or repair the highway at the expense of the Owner, add the cost to the tax roll for the Owner's Property and collect same in like manner as municipal taxes.
10. Upon removal of the Road Crossing from the Municipal Lands, the Owner shall maintain and restore the Municipal Road Allowance to the then current standards for the Municipal Road Allowance at the Owner's sole expense. In the event such restoration is not made, the Municipality may complete such restoration work at the expense of the Owner and recover the expense by any legal means available including the addition of the cost to the tax roll. The Municipality shall have the right to collect such expenses in like manner as municipal taxes.
11. In addition to the Application Fee, the Owner shall remit to the Municipality an annual road user fee as determined by Municipal Council from time to time. Failure to remit the Road Crossing Fee referred to in this Agreement shall constitute default under this Agreement. Upon termination of this Agreement, no portion of the said Road Crossing Fee shall be refunded to the Owner regardless of the date of termination.
12. If the Owner defaults in performing any of the Owner's obligations under this Agreement, the Municipality shall give written notice to the Owner of such default giving the Owner ten (10) days to remedy the default, failing which the Municipality may terminate this Agreement. Any waiver by the Municipality of any breach by the Owner or any provisions of this Agreement shall be without prejudice to the exercise by the Municipality of all or any of its rights or remedies in respect of any continuance or repetition of such breach.
13. The Municipality or Owner may terminate this Agreement on thirty (30) days written notice for any reason.
14. This Road Crossing Agreement is personal to the Owner so long as the Owner is the owner of the Owner's Property and shall not be assigned by the Owner to any third party without the prior written consent of the Municipality, which consent may be unreasonably withheld. For clarity, in the event that the Owner, or any person deriving title to the Owner's Property by mortgage, charge or otherwise,

sells all or any part of the Owner's Property, the purchaser of the Owner's Property is to submit a new Road Crossing Application to the Municipality for the Municipality's review and approval.

15. In the event that the Road Crossing represents a danger or detrimentally impacts: (i) the safety of persons using the Municipal Lands; (ii) traffic flow; (iii) safety of the public (iii) encroaches on the rights of others to use the road allowance; (iv) the environment or (v) interferes with future road improvements, the Owner acknowledges that the Municipality shall have a right to terminate this Agreement. Such termination of this Agreement shall be by written notice to the Owner, except in the case of an emergency. In the case of an emergency, the Road Crossing Agreement may be terminated forthwith by the Municipality.
16. In the event that this Agreement is terminated, the Owner shall remove the Road Crossing on the date of termination. If the Owner fails to remove the Road Crossing on the date of termination, the Municipality shall provide the Owner with a notice requiring the Owner to remove the Road Crossing within ten (10) days. If the Owner fails to remove the Road Crossing within the ten (10) day period, the Municipality shall have the right to remove the Road Crossing at the expense of the Owner and add the cost of removal to the tax roll for the Owner's Property and shall also have the right to collect such costs in like manner as municipal taxes. In the case of an emergency, the Municipality shall have the right to remove the Road Crossing forthwith on the date of termination of the Agreement at the expense of the Owner and such costs shall be added to the tax roll for the Owner's Property and collected in like manner as municipal taxes.
17. Any notice required to be given to the Municipality or the Owner under this Agreement shall be sufficiently given if delivered or mailed postage prepaid to the addresses below. Such notice shall be deemed to have been received on the date of its delivery or in the case of mailing, three (3) business days after it was delivered to the post office.

<u>Municipality's Address</u>	<u>Owner's Address</u>
c/o Director, Public Works & Engineering	[name]
10227 Ilderton Road	[address 1]
Ilderton, Ontario N0M 2A0	[address 2]

18. This Agreement shall ensure to the benefit of, and be binding upon the parties and their respective heirs, administrators, estate trustees, successors and (where permitted) assigns.

