

## **Memorandum of Agreement**

The Agreement is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014

Between:

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

-and-

County of St. Paul No. 19  
(hereinafter, the "Municipality")

### **Background**

The Province has developed the Transportation Routing and Vehicle Information System Multi Jurisdiction (TRAVIS-MJ) to address industry's need for a simplified, electronic oversize commercial vehicle permitting system. TRAVIS-MJ has the ability to accept a single electronic permit application and apply the rules and requirements of the Province and all affected municipalities to create a single permit document.

TRAVIS-MJ was designed to provide municipalities with a modern permit database tool which gives them the ability to easily approve/deny permits issued by the Province for travel on roads under their authority and to facilitate the sharing of permit revenue between the Province and the municipalities.

TRAVIS-MJ has the ability to charge permit applicants a fee set by the municipality for services provided by the municipality. This fee will be collected by the Province on behalf of each municipality and distributed to municipalities to ensure that the municipalities do not incur any cost in adopting TRAVIS-MJ. Participation in the TRAVIS-MJ initiative requires the maintenance of municipal data on the system as well as day-to-day operation to review and approve permit applications.

Therefore, in consideration of the following terms and conditions, Province and the Municipality agree as follows:

### **1.0 DEFINITIONS AND INTERPRETATION**

**1.1 Definitions** - In this Agreement, the following expressions have the following meanings:

"Agreement" means this Memorandum of Agreement;

“Fixed Municipal Fee” means the fee that the Municipality is authorized to charge permit applicants in accordance with the *Municipal Government Act* for overweight permit approvals where the Municipality has enacted a bylaw restricting overweight loads and includes the costs of services attributable to approvals for overdimension permits where required to do so pursuant to the applicable permit;

“Parties” or “Party” means the Province and the Municipality or either of the Province or the Municipality;

“Regulation” means the *Commercial Vehicle Dimension and Weight Regulation*

“Total Fee” means the total of the Fixed Administration Fee and the Variable Fee, which is payable by the Province to the Municipality in accordance with this Agreement;

“TRAVIS-MJ” means the Transportation Routing and Vehicle Information System Multi Jurisdiction; and

“Variable Fee” means a prorated fee based on the percentage of actual distance travelled by a permitted commercial vehicle on roads located within the Municipality where the Municipality has direction, control and management of that road.

**1.2 Section Numbers** - References in this Agreement to section numbers are to the corresponding numbered provisions of this Agreement.

**1.3 Entire Agreement** - This Agreement is the entire agreement between the Province and the Municipality and supersedes all previous agreements, correspondence, negotiations and understandings. There are no agreements, representations, warranties, terms, conditions or commitments except as expressed in this Agreement.

## **2.0 TERM**

**2.1 Initial Term** – This Agreement will be in effect for a term of five (5) years, commencing on April 1, 2014 and expiring on March 31, 2019 (the “Term”), unless sooner terminated in accordance with this Agreement.

**2.2 Renewal** – Provided that the Municipality is not in default under this Agreement, the Municipality shall have the option exercisable on no less than six months and no more than 12 months’ written notice to the Province prior to the expiry of the Term to extend this Agreement for one additional term of five (5) years on the same terms and conditions as this Agreement except there will be no further right to extend the Term.

### **3.0 THE MUNICIPALITY'S RESPONSIBILITIES**

**3.1 Permit Applications** – The Municipality shall utilize TRAVIS-MJ for the purpose of accepting permit applications submitted by permit applicants through TRAVIS-MJ.

**3.2 Permit Approvals** – The Municipality shall use TRAVIS-MJ for the purpose of single trip overweight permit approvals where the Municipality has enacted a bylaw restricting overweight loads and approvals for overdimension permits where required to do so pursuant to the applicable permit.

**3.3 Data** – The Municipality is responsible for maintaining the business rules, road restrictions and other municipal data on TRAVIS-MJ. The Municipality shall provide timely road network data updates to the Province.

**3.4 Restriction on other Fees** – The Municipality shall not, either directly or through a contractor, charge permit applicants any fee, other than the Fixed Municipal Fee, for the review or approval of single trip overweight permits or overdimension permits.

**3.5 Road Damage Charges** – The Parties acknowledge and agree this Agreement does not prevent the Municipality from charging permit applicants for visible road or other infrastructure damage attributable to the permitted commercial vehicle.

**3.6 Road Use Agreements** – The Parties acknowledge and agree this Agreement does not prevent the Municipality from entering into road use agreements or from requiring bonds from permit applicants.

**3.7 Use of Contractor** – The Municipality may, at its discretion and sole cost, employ a contractor to perform data maintenance, permit approvals, or any other service related to TRAVIS-MJ provided that the use of a contractor by the Municipality does not relieve the Municipality of any of its responsibilities under this Agreement.

**3.8 Changes to Fees** – The Municipality may change the Fixed Municipal Fee provided that the Municipality notifies the Province in writing no less than six months' prior to such change taking effect.

### **4.0 PROVINCE'S RESPONSIBILITIES**

**4.1 Operation and Maintenance** – The Province will maintain and operate TRAVIS-MJ at its sole cost and expense.

**4.2 Access** – The Province will provide access to TRAVIS-MJ to the Municipality for the purpose of permit acceptance and approval and to update business rules, road restrictions and other municipal data on TRAVIS-MJ, provided that such access will be at no cost to the Municipality.

**4.3 Training and Support** – The Province shall provide the Municipality with TRAVIS-MJ training and ongoing support at no cost to the Municipality.

**4.4 Fee Schedule** – The Province will maintain the fee schedule for the Fixed Municipal Fee as generated by the Municipality in TRAVIS-MJ and will update that fee schedule as required at no cost to the Municipality.

## **5.0 COLLECTION AND PAYMENT OF FEES**

**5.1 Fixed Municipal Fee** – The Municipality may specify a Fixed Municipal Fee by notice in writing to the Province. The Province shall collect the Fixed Municipal Fee from permit applicants on behalf of the Municipality, using TRAVIS-MJ. The Municipality hereby designates the Province as its agent for this purpose.

**5.2 Variable Fee** – The Province will compute the Variable Fee using TRAVIS-MJ or, in the event TRAVIS-MJ is temporarily unavailable, such alternate comparable mechanisms that may be required. The Province shall collect the Variable Fee from permit applicants using the TRAVIS-MJ system.

**5.3 Payment of Fees to Municipality** – The Province shall remit the Total Fee collected to the Municipality within 30 days following the end of every quarter of each year during the Term, with the first quarter being from April to June. The Province shall provide a report detailing the Total Fee calculations and the permits to which the fees were applied within 60 days following March 31 of each year during the Term.

**5.4 Applicant Cooperation** - The Municipality agrees to cooperate with the Province in the completion of any audit, evaluation or inspection of the Total Fee.

**5.5 GST** - The Municipality acknowledges that Goods and Services Tax (“GST”) must be remitted to the Receiver General of Canada on account of the Fixed Municipal Fee. The Province, acting as agent pursuant to Section 5.1, shall collect GST from permit applicants as agent for the Municipality and pay the same to the Municipality for purposes of remitting to the Receiver General of Canada. The Municipality shall indemnify and hold harmless the Province for any GST, interest, penalties or any related losses, costs or damages in respect of the Province acting as agent for the Municipality in the collection of the Fixed Municipal Fee from permit applicants.

## **6.0 FEES DISPUTE**

**6.1 Dispute Notification** – The Municipality will have 180 days following receipt of the report provided by the Province under Section 5.3 to notify the Province of any disputes concerning the Total Fee provided to the Municipality. Any such dispute concerning the Total Fee will be addressed through the dispute resolution process described in Article 11.

## **7.0 COMMUNICATION**

**7.1 Announcements** – The Municipality shall not make any public announcement or issue any press release regarding the entering into of this Agreement or the payment of the Total Fee except in consultation with Province and with the approval of the Province as to the content of the announcement or press release, which approval shall not be unreasonably withheld.

**7.2 Disclosure** – The Municipality acknowledges and agrees that the Province may disclose this Agreement and its contents by any means chosen by the Province including without limitation tabling it before the Legislature.

**7.3 Freedom of Information and Protection of Privacy Act** – The Municipality acknowledges that information and records maintained by the Province relating to this Agreement may be subject to the *Freedom of Information and Protection of Privacy Act* (Alberta).

**7.4 Use of Information** – The Municipality shall use all information provided pursuant to this Agreement solely for Municipal permit purposes and only with respect to municipal roads located within the Municipality where the Municipality has direction, control and management of that road. The Municipality acknowledges that any use of the information for any purpose other than that set out in this Agreement is prohibited.

**7.5 Information Security** – The Municipality shall ensure that such reasonable security measures are in place as are necessary or advisable to ensure the information is kept secure and confidential and is not accessible to any person other than designated staff.

**7.6 Third Party Requests** – The Municipality shall promptly notify the Province when it receives any third party subpoena, order or other request for the Information.

**7.7 Notification** – The Municipality shall immediately notify the Province of any actual or potential loss, unauthorized disclosure, access or use of the Information, or any other breach or potential breach of any term or condition contained in this Agreement.

## **8.0 TERMINATION**

**8.1 Termination** – This Agreement may be terminated as follows:

(a) by either Party on not less than six (6) months' prior written notice to the other Party; or

(b) forth with by the Province if the Municipality fails to cure a default under this Agreement within the time period set out in the notice from the Province of the Municipality's default, which time period shall account for the Municipality's ability to cure the default taking commercially reasonable action.

**8.2 Effect of Termination** – In the event this Agreement is terminated under Section 8.1, the Province will pay the outstanding amount of the Total Fee owing to the Municipality as of the effective date of the termination. The Province shall provide a final report detailing the Total Fee calculations and the permits to which the fees were applied within 60 days following final payment of the outstanding Total Fee. The obligations set out in this Section 8.2 shall survive this Agreement.

## **9.0 NOTICE**

**9.1 Notices** - Any notice, consent or other communication under this Agreement must be in writing and is effective when delivered by any means, including fax transmission, to the following respective addresses:

(a) if to the Province:

Kim Durdle  
Director, Transport Engineering  
Transportation  
4th fl Provincial Building  
4920 - 51 Street  
Red Deer, AB  
T4N 6K8

Fax: 403 340-5092

(b) if to the Municipality:

Sheila Kitz, CAO  
County of St. Paul No. 19  
5015-49 Ave  
St. Paul, AB  
T0A 3A4

Fax: 780-645-3104

Either Party may change its contact information by giving notice to the other Party in the above manner.

## **10.0 INDEMNITY AND LIABILITY**

**10.1 Municipal Indemnity** – The Municipality shall indemnify and hold harmless the Province, its employees and agents from any and all third party claims, demands, actions or costs (including legal costs on a solicitor-client basis) for which the Municipality is legally responsible, including those arising out of negligence or wilful acts by the Municipality, or the Municipality's employees or agents.

**10.2 Provincial Indemnity** – The Province shall indemnify and hold harmless the Municipality, its employees and agents from any and all third party claims, demands, actions or costs (including legal costs on a solicitor-client basis) for which the Province is legally responsible, including those arising out of negligence or wilful acts by the Province, or the Province's employees or agents.

**10.3 Survival** – The indemnities provided by the Parties in Section 10.1 and Section 10.2 shall survive this Agreement.

**10.4 Errors and Omission** – The Municipality acknowledges and agrees that the Province is not liable for any errors or omissions in the TRAVIS data.

**10.5 Damage** – The Municipality acknowledges and agrees that the Province is not liable for damage to any municipal infrastructure or any other damage caused by commercial vehicles permitted in TRAVIS.

## **11.0 DISPUTE RESOLUTION**

**11.1 Consultation** - The Parties shall consult each other should there be any disputes arising from the interpretation or implementation of this Agreement, and shall, in good faith, make all reasonable efforts to resolve the matter.

**11.2 Reference to Senior Officials** – If negotiations fail to resolve the dispute within a reasonable timeframe, the dispute will be referred for a decision to senior officials designated by each Party whose decision will be considered to be final.

## **12.0 GENERAL**

**12.1 Amendment and Waiver** - No amendment of this Agreement is effective unless made in writing and signed by a duly authorized representative of each of the Province and the Municipality. No waiver of any provision of this Agreement is effective unless made in writing, and any such waiver has effect only in respect of the particular provision or circumstance stated in the waiver. No representation by either of the parties with respect to the performance of any obligation under this Agreement is capable of giving rise to an estoppel unless the representation is made in writing.

**12.2 Additional Assurances** - The Parties agree to from time to time do all such acts and provide such further assurances and instruments as may reasonably be required in order to carry out the provisions of this Agreement according to their spirit and intent; but this section shall not in any event be construed as obligating the Province to amend or enact any statute or regulation.

**12.3 Assignment** - The Municipality may not assign this Agreement or any right or benefit under it.

**12.4 Alberta Law applies** - This Agreement shall be construed, interpreted and applied in accordance with the laws and in the courts of the Province of Alberta.

The Parties have therefore executed this Agreement, each by its duly authorized representative, on the respective dates shown below.

Her Majesty the Queen in right of Alberta  
as represented by the Minister of Transportation

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

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Date