

## LEASE AGREEMENT

EFFECTIVE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2019.

BETWEEN:

**COUNTY OF ST. PAUL NO. 19 & TOWN OF ELK POINT**  
(hereinafter referred to as "the Municipality")

OF THE FIRST PART

- and -

**EVERGREEN REGIONAL WASTE MANAGEMENT  
SERVICES COMMISSION**  
(hereinafter referred to as "the Commission")

OF THE SECOND PART

WHEREAS the Municipality is the registered owner of those certain land and premises legally described as follows:

SW 36-56-7-W4th

(the "Lands");

AND WHEREAS the Municipality is a member of the Evergreen Regional Waste Management Services Commission, a regional services commission pursuant to Part 16.1 of the *Municipal Government Act* (Alberta) and the Evergreen Regional Waste Management Services Commission Regulation;

AND WHEREAS the Municipality wishes to enter into this Agreement and lease the Lands to the Commission and the Commission wishes to lease the Lands from the Municipality for the purpose of operation and maintenance of the waste management facilities (the "Facilities") located on the Lands ;

WITNESS THEREFORE that in consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Municipality and on the part of the Commission respectively, to be paid, observed, and performed, the sufficiency of which is hereby acknowledged, the parties hereto mutually covenant and agree each with the other as follows:

**ARTICLE 1**  
**GRANT OF LEASE**

- 1.01 The Municipality hereby leases the Lands to the Commission be held by the Commission as tenant for a term of TEN (10) YEARS commencing on the effective date of this Agreement and subject to prior termination in the events hereinafter set forth, at the rental and subject to the covenants, terms and conditions hereinafter set forth and which the Municipality and the Commission agree to observe and perform as the same may be applicable to each of them respectively.
- 1.02 The Commission shall be at liberty to terminate this Agreement, without cause, upon ONE (1) YEAR written notice. Upon exercising the right of termination, the Commission shall have no liability for any nature whatsoever to the Municipality for any losses or damages suffered or sustained, either directly or indirectly, by the Municipality including without limitation, loss of profit, as a result of the termination of this Agreement
- 1.03 The Municipality shall be at liberty to terminate this Agreement, without cause, upon written notice to the Commission provided however that such termination shall not become effective until:
- a. the Facilities has been decommissioned and the Lands remediated, restored, and if applicable reclaimed in accordance with all applicable legislative and regulatory requirements in effect at the time of the effective date of the termination, or;
  - b. the Municipality assumes all existing and future regulatory responsibilities and liability with respect to the Facilities which shall include the amendment or transfer of any notification submitted under the *Environmental Protection and Enhancement Act* (Alberta), or equivalent legislation, to identify and the Municipality or its designate as the person responsible for the Facilities
- and the Municipality has indemnified the Commission, in a form and on terms and conditions satisfactory to the Commission, with respect to any claims arising as a result of the existence or operation of the Facilities on the Lands.
- 1.04 The Commission covenants and agrees to pay to the Municipality in lawful money of Canada a basic annual lease payment in the sum of ONE (\$1.00) DOLLAR per year payable in advance on the first day of each year of the term of the Lease.

**ARTICLE 2**  
**COVENANTS OF THE COMMISSION**

THE COMMISSION COVENANTS AND AGREES WITH THE MUNICIPALITY AS FOLLOWS:

- 2.01 To use the Lands only and solely for the purpose of the operation and maintenance of the Facilities located on the Lands. For the purpose of this Lease, "Facilities" shall have the meaning set out in the Facilities Operating Agreement between the Municipality and the Commission dated \_\_\_\_\_, 2019
- 2.02 To pay and discharge any and all taxes, charges, rates, duties, license fees or assessments levied in respect of the operations of the Commission on the Lands, or in respect of the occupancy of the Lands by the Commission. Notwithstanding the foregoing, the parties agree that all and every cost, expense, rate, tax or charge in any way related to the Lands will be borne by the Municipality.
- 2.03 To permit the Municipality or its agents, with or without workmen or others, at all reasonable times during the term hereof and upon no less than FORTY EIGHT (48) hours' notice to the Commission, to enter the Lands for the purpose of viewing and inspecting the condition thereof.
- 2.04 Except as specifically provided for in this Article, the Commission will not assign, sublet or license this lease or the Lands or any part thereof (other than to a subsidiary or other affiliate of the Commission) without first obtaining the consent of the Municipality.
- 2.05 The Commission may take all steps necessary to maintain the Facilities upon the Lands and the Commission may make such modifications or alterations to the Facilities or Lands as is required for the operation of the Facilities. No other developments may be constructed by the Commission without the Municipality's prior written consent, which said consent the Municipality covenants not to unreasonably withhold.
- 2.06 The Commission shall not cause, permit or suffer any caveat, builder's lien, or other encumbrance to be maintained against the Municipality's title to the Lands without the prior written consent of the Municipality, except this Lease or a caveat or other registration based thereon.
- 2.07 The Commission shall indemnify the Municipality against all claims by any person, firm or corporation arising as a result of the negligence or deliberate wrongdoing of the Commission or its employees, servants or agents and against all expenses and liabilities incurred in any claim or action brought thereon.

## 2.08 Commission's Insurance Coverage

Without in any way limiting the liability of the Commission under this Agreement, the Commission shall obtain and maintain in force during the Term the following insurance, all satisfactory to the Municipality, acting reasonably;

- a. a comprehensive general liability insurance policy providing coverage of at least Five Million (\$5,000,000.00) Dollars inclusive and in respect of any one claim for injury to or death of any one or more persons or damage to or destruction of property. Coverage to include:
  - i. non-owned automobiles;
  - ii. contractual liability including this Agreement;
  - iii. broad form property damage endorsement; and
  - iv. sudden and accidental environmental liability.

## **ARTICLE 3** **COVENANTS OF THE MUNICIPALITY**

THE MUNICIPALITY COVENANTS AND AGREES WITH THE COMMISSION AS FOLLOWS:

- 3.01 That for so long as this Lease is in effect the Municipality warrants that the Commission shall have and shall continue to be entitled to continuous and uninterrupted peaceful, exclusive and quiet possession of and access to the Lands for the term hereby granted and any renewals thereof.
- 3.02 The Municipality further agrees that the Commission may make such modification or alterations to the Lands as are required for the maintenance and operation of the Facilities. No other developments may be constructed by the Commission without the Municipality's prior written consent, which said consent the Municipality covenants not to unreasonably withhold.
- 3.03 The Municipality shall indemnify the Commission against all claims by any person, firm or corporation arising as a result of the negligence or deliberate wrongdoing of the Municipality or its employees, servants or agents and against all expenses and liabilities incurred in any claim or action brought thereon.
- 3.04 Municipality's Insurance Coverage

Without in any way limiting the liability of the Municipality under this Agreement, the Municipality shall obtain and maintain in force during the Term the following insurance, all satisfactory to the Commission, acting reasonably;

- b. a comprehensive general liability insurance policy providing coverage of at least Five Million (\$5,000,000.00) Dollars inclusive and in respect of any one claim for injury to or death of any one or more persons or damage to or destruction of property. Coverage to include:
  - i. non-owned automobiles;
  - ii. contractual liability including this Agreement;
  - iii. broad form property damage endorsement; and
  - iv. sudden and accidental environmental liability.

#### **ARTICLE 4**

#### **OTHER COVENANTS**

- 4.01 The Municipality shall insure the Lands and Facilities against fire and all other extended coverage perils (including lightning, explosion and vandalism) for the full replacement value thereof and shall maintain such insurance throughout the term of this Lease and any renewal hereof.
- 4.02 If and whenever the Municipality shall default in performing or observing any of its covenants or obligations under this Lease, and the Commission shall have given the Municipality notice of such default, and at the expiration of THIRTY (30) DAYS after the giving of such notice, the default shall continue to exist (or, in the case of a default which cannot with due diligence be cured within the period of THIRTY (30) DAYS, the Municipality shall have failed to proceed promptly after the giving of such notice to begin to cure the same or shall hereafter have failed to carry out the curing of the default with diligence) then the Commission may, at its exclusive option, and without notice, forthwith terminate this Lease, anything contained herein or any statute or law to the contrary notwithstanding, or alternatively, withhold any reasonable portion of rentals until such time as the default has been cured.
- 4.03 On the expiration or earlier termination of this Lease, the Commission may remove all building and structures placed by or constructed by the Commission upon the Lands at the Commission's expense during the term of this Lease. The Commission shall repair any damage to the Lands caused by such removal. Any such buildings and structures not removed by the Commission within THREE (3) months of the expiry or termination of the Lease become the sole property of the Municipality and the Commission's right to remove the same is then at an end. Notwithstanding the foregoing, the parties acknowledge and agree that any buildings and structures placed by or constructed upon the Lands prior to the commencement of this Lease, as set out in Schedule "A" of this Agreement, are the sole property of the Municipality, and the Municipality shall be entitled to retain such buildings and structures following the expiry or termination of this Lease.

#### **ARTICLE 5**

## **ACKNOWLEDGMENTS OF TENANT**

- 5.01 The Commission acknowledges that the Municipality and the Municipality's agents have not made, does not make, and shall not be required to provide any warranty or representation with respect either to the condition of the Lands (environmental or otherwise) or the contents of any environmental assessment, or as to the thoroughness or accuracy of the site investigations and other analyses conducted in the preparation of any environmental assessment.

## **ARTICLE 6** **NOTICES**

- 6.01 Notices shall be in writing and shall either be delivered personally, sent by prepaid registered mail or sent by fax or e-mail to the addresses set out in Section 6.02. Any notice given by fax or e-mail delivery shall be deemed to be given at the commencement of the next business day. Any notice sent by mail shall be deemed to have been received by the fifth business day following the date of mailing. In the event of a disruption in postal service, notice must be personally delivered or sent by fax. Either party may change its address for notice and shall immediately advise the other in writing of the new address.

6.02 Addresses for Notice

- a. The address for service of notice to the Municipality is:

County of St. Paul No. 19  
5015 – 49 Avenue  
St. Paul, AB T0A 3A4  
Chief Administrative Officer  
(780) 645-3301  
(780) 645-3104  
[countysp@county.stpaul.ab.ca](mailto:countysp@county.stpaul.ab.ca)

- b. The address for service of notice to the Municipality is:

Town of Elk Point  
Box 448  
Elk Point, AB T0A 1A0  
(780) 724-3810  
(780) 724-2762  
[cao@elkpoint.ca](mailto:cao@elkpoint.ca)

- c. The address for service of notice to the Commission is:

Evergreen Regional Waste Management Services Commission  
Box 3  
Lafond, AB T0A 2J0  
Manager  
(780) 646-6125  
evergreenwaste@mcsnet.ca

## **ARTICLE 7**

### **GENERAL**

- 7.01 No waiver by one party of a breach of any of the obligations, agreements or covenants by the other party shall be a waiver of any subsequent breach of any other obligation, agreement or covenant, nor shall any forbearance by the one party to seek a remedy for any breach by the other party be a waiver by the first party of its rights and remedies with respect to such or any subsequent breach.
- 7.02 The terms of this Agreement may be amended only by the written consent of both parties to this Agreement.
- 7.03 If at the expiration of the original term or any renewal term (if exercised or taken hereunder) of this Lease, the Commission shall hold over for any reason, the tenancy of the Commission thereafter shall be from month-to-month only, and shall be subject to all terms and conditions of this Lease, except as to duration, in the absence of a written agreement to the contrary.
- 7.04 The word "Municipality" wherever it occurs herein shall mean and extend to and include the Municipality, its successors and permitted assigns; and the word "Commission" shall mean and extend to and include the Commission, its successors and permitted assigns.
- 7.05 The captions and headings in the Lease are for convenience of reference only, and shall not affect the interpretation of any provision or its scope or intent
- 7.06 This Agreement is governed by the laws of Alberta and each party attorns to the jurisdiction of the courts of the Province of Alberta.

## **ARTICLE 8**

### **ACCEPTANCE OF LEASE**

- 8.01 The Commission hereby accepts this lease of the above described premises, to be held by it as tenant, and subject to the conditions, restrictions and covenants above set forth.

**ARTICLE 9**  
**RIGHT OF RENEWAL**

- 9.01 Provided that the Commission has abided by the terms and conditions of the Lease, including timely payment of lease costs asset out herein, the Municipality does hereby grant to the Commission an irrevocable right to renew this Lease for a term of TEN (10) YEARS, after the expiry of the initial agreement, on the same terms and conditions as are contained in this Lease including the rate of lease payment and the option to renew for a further term of TEN (10) years. If that second option to renew is exercised, it shall be on the same terms and conditions in this Lease except the option to renew.
- 9.02 This option to renew this Lease shall be exercised by written notice to the Municipality and given not later than THREE (3) MONTHS before the expiration of the term then in effect.

IN WITNESS WHEREOF the parties have executed this Agreement under seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**COUNTY OF ST. PAUL NO. 19**

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

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

**EVERGREEN REGIONAL  
WASTEMANAGEMENT SERVICES  
COMMISSION**

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

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

**TOWN OF ELK POINT**

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

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



**SCHEDULE “A”**  
**EXISTING IMPROVEMENTS**

Salt Trap Shed 100% owned by the County of St. Paul No. 19. Built in 2016 PW-400

Storage Building 100% owned by the County of St. Paul No. 19. Built in 2016 PW-108