

THIS REGIONAL TRANSIT SERVICE AGREEMENT

DATED \_\_\_\_\_, 2015 IS BETWEEN:

THE CITY OF EDMONTON  
A municipal corporation  
(**"Edmonton"**)

- and -

THE CITY OF SPRUCE GROVE  
A municipal corporation  
(**"Spruce Grove"**)

– and -

PARKLAND COUNTY  
A municipal corporation  
(**"Parkland"**)

- A. Edmonton maintains a public transit system that includes designated areas for the pick-up and drop-off of passengers within the City of Edmonton.
- B. Spruce Grove and Parkland have requested and Edmonton is agreeable to providing a public transit service between Edmonton, Spruce Grove and the Acheson Industrial Area in Parkland County (**"Acheson"**).
- C. Edmonton, Spruce Grove and Parkland wish to outline the rights and obligations of the parties regarding the operation by Edmonton of a public transit service between the municipalities of Edmonton and Spruce Grove and Acheson (the **"Transit Service"**).
- D. The Capital Region Board has been established and Edmonton, Spruce Grove and Parkland are participating municipalities in the Capital Region Board.

In consideration of the mutual promises contained herein, the parties agree as follows:

## 1 TERM AND TERMINATION

- 1.1 The term of this Agreement shall commence on January 1, 2016 and shall continue until August 31, 2016 unless terminated earlier in accordance with the terms of this Agreement (the “**Term**”).
- 1.2 Spruce Grove and Parkland jointly, may terminate this Agreement, without cause, by providing written notice to Edmonton at least 120 days in advance of the date of termination. In this case, Spruce Grove and Parkland shall be jointly responsible for the costs incurred by Edmonton to provide notice regarding the discontinuance of the Transit Service to the general public as required pursuant to the Operating Authority Certificate issued to Edmonton for the Transit Service (the “**Operating Authority**”).
- 1.3 Spruce Grove may terminate this Agreement, without cause, by providing written notice to Parkland and to Edmonton at least 120 days in advance of the date of termination. If this Agreement is terminated by Spruce Grove, then Spruce Grove shall be responsible for the costs incurred by Edmonton or Parkland to provide notice regarding the discontinuance of the Transit Service to the general public as required pursuant to the Operating Authority. In the event that Spruce Grove terminates this Agreement Parkland shall have the right to negotiate with Edmonton for the continuation of the Transit Service to Acheson from the date of termination to the end of the Term, with new terms and conditions and with a new fee schedule.
- 1.4 Parkland may terminate this Agreement, without cause, by providing written notice to Spruce Grove and to Edmonton at least 120 days in advance of the date of termination. If this Agreement is terminated by Parkland, then Parkland shall be responsible for the costs incurred by Edmonton or Spruce Grove to provide notice regarding the discontinuance of the Transit Service to the general public as required pursuant to the Operating Authority. In the event that Parkland terminates this Agreement, Spruce Grove shall have the right to negotiate with Edmonton for the continuation of the Transit Service to Spruce Grove from the date of termination to the end of the Term, with new terms and conditions and with a new fee schedule.
- 1.5 Edmonton may terminate this Agreement, without cause, by providing written notice to Spruce Grove and Parkland at least 120 days in advance of the date of termination. If this Agreement is terminated by Edmonton, then Edmonton shall be responsible for the costs incurred by Edmonton, Spruce Grove, or Parkland to provide notice regarding the discontinuance of the Transit Service to the general public as required pursuant to the Operating Authority.

- 1.6 The Agreement shall terminate within 120 days of notice by Edmonton, Spruce Grove, or Parkland that the Agreement does not conform to the Capital Region Growth Plan prepared by the Capital Region Board. If the Agreement is terminated pursuant to this Article, then the parties shall equally share the costs incurred by Edmonton, Spruce Grove and Parkland to provide notice regarding the discontinuance of the Transit Service to the general public as required pursuant to the Operating Authority.
- 1.7 This Agreement is conditional on Edmonton receiving the Operating Authority and all other permits required to operate the Transit Service. Edmonton may suspend the provision of Transit Service pursuant to this Agreement at any time by providing written notice 48 hours in advance of the suspension if:
- (a) Applicable provincial or federal regulations or permits prohibit the use of Edmonton's bus fleet, which Edmonton intends to use to provide the Transit Service;
  - (b) Edmonton is unable to develop adequate operating practices to adhere to new or amended provincial or federal regulations;
  - (c) Compliance with the new or amended provincial or federal regulations poses a financial or operational burden on Edmonton;  
or
  - (d) As a result of force majeure (including labour disputes), Edmonton believes that it will be unable to provide the Transit Service.
- 1.8 If Edmonton suspends the provision of Transit Service pursuant to Article 1.7 above, Edmonton will provide Spruce Grove and Parkland with written notice of any additional costs or changes to the Transit Service that will be required in order to resume the Transit Service. If Edmonton, Spruce Grove, and Parkland are not able to agree on amendments to the Transit Service or revised fees to address additional costs, then this Agreement will terminate, at the option of Edmonton, 90 days following written notice provided by Edmonton.
- 1.9 For greater certainty, if either Spruce Grove or Parkland, or both jointly, terminate this Agreement without proper notice as outlined in this Agreement, Spruce Grove or Parkland, or both jointly, whichever so terminates, shall be responsible for any additional costs or expenses incurred by Edmonton as a result of the short notice, including but not limited to, costs relating to the planning and scheduling of the Transit Service and any costs relating to Edmonton's obligations with respect to the Operating Authority.

## **2. ROUTES, SCHEDULES, AND BUS STOP CHANGES**

- 2.1 Commencing on September 1, 2015 and continuing until April 23, 2016, Edmonton has and will continue to operate the Transit Service in accordance with this Agreement between the municipalities of Edmonton and Spruce Grove and within the corporate limits of Spruce Grove in accordance with the route and schedule outlined in Schedule "A1". Edmonton provides no warranty or representation that the Transit Service will conform exactly to the schedule noted in Schedule "A1". In particular, the Transit Service may be affected or interrupted by traffic delays, accidents and equipment failures or other unscheduled events
- 2.2 Commencing on April 24, 2016 and thereafter during the Term Edmonton agrees to operate the Transit Service in accordance with this Agreement between the municipalities of Edmonton, Spruce Grove and Parkland and within the corporate limits of Spruce Grove and Parkland in accordance with the route and schedule outlined in Schedule "A2". Edmonton provides no warranty or representation that the Transit Service will conform exactly to the schedule noted in Schedule "A2". In particular, the Transit Service may be affected or interrupted by traffic delays, accidents and equipment failures or other unscheduled events.
- 2.3 Spruce Grove and Parkland may request a change, addition or deletion to any route, scheduled time, frequency of service, use of a bus stop or use of a bay in a terminal within Spruce Grove, Parkland or Edmonton by providing written notice of the request to Edmonton six months in advance of the proposed implementation date. No changes will be implemented to the Transit Service until Edmonton has approved the requested change and implementation date in writing. Any such modification constitutes an amendment to Schedule "A1" or Schedule "A2" on the date of written approval, and is incorporated as part of this Agreement. Edmonton will endeavor to accommodate these changes at the earliest and most appropriate time within the six month notification period.
- 2.4 Edmonton's approval of any changes requested by Spruce Grove or Parkland under Article 2.3 above shall not be unreasonably withheld.
- 2.5 Notwithstanding the foregoing, if a bus stop in the municipal boundaries of Edmonton being used for the Transit Service becomes temporarily or permanently unusable for whatever reason, Edmonton may change the location of the bus stop for the Transit Service immediately by providing written notice to Spruce Grove and Parkland.

### **3. INFORMATION**

- 3.1 Edmonton will respond, through its information centre, to all transit scheduling information requests relating to the Transit Service and connecting public transit service provided by Edmonton . Scheduling inquiries received by Spruce Grove and Parkland will be referred to Edmonton's information centre.
- 3.2 Spruce Grove and Parkland will respond to all non-scheduling transit inquiries and complaints. Inquiries of this nature received by Edmonton's information centre will be referred to Spruce Grove and Parkland.
- 3.3 Edmonton will provide route brochures for the Transit Service and include the Transit Service in its public information relating to transit service generally. Edmonton will consult with Spruce Grove and Parkland in the development of route brochures and information about the Transit Service. Edmonton makes no representation as to the availability or adequacy of the route brochure or any public information relating to the Transit Service.

### **4. ROAD OPERATION**

- 4.1 If Edmonton identifies a situation in which the schedules, routes, frequency of use of bus stops or bays in terminals by the Transit Service buses negatively impacts the operation of Edmonton Transit or the traffic operation on the street, or should a Transit Service route or zone become unusable within the corporate boundaries of Edmonton for reason of road disrepair, road maintenance requirements, or rights of access, Edmonton shall:
  - (a) Provide notice in writing to Spruce Grove and Parkland of the issue;
  - (b) Suggest changes to alleviate the issue that will aim to minimize the inconvenience to patrons of the Transit Service;
  - (c) Meet with designates of Spruce Grove and Parkland for the purpose of discussing the details of the proposed changes and the timing of the implementation of the changes;
  - (d) In the event that the parties agree, the decision shall be documented in writing and Schedule "A1" or "A2" shall be deemed to be modified accordingly;
  - (e) In the event that the parties cannot agree, Edmonton may in its sole discretion implement the change to resolve the issue and amend

Schedule "A1" or "A2" accordingly, subject to the right of Spruce Grove and Parkland to proceed to arbitration under this Agreement.

- 4.2 Spruce Grove and Parkland shall keep the pavement on that portion of the route within Spruce Grove's and the Parkland's control in good and substantial repair.
- 4.3 Spruce Grove and Parkland shall provide written notice to Edmonton at least five business days in advance of any construction or repairs which will affect the route. Emergency repairs shall be made immediately with notice given to Edmonton as soon as possible.
- 4.4 Spruce Grove and Parkland shall keep that portion of the route and bus stop waiting areas within Spruce Grove's and Parkland's control reasonably free of snow, ice, dirt, and debris, and apply sand or alternative material as seasonal requirements dictate.
- 4.5 Spruce Grove and Parkland shall take necessary measures to enforce "no stopping" of vehicles in the designated bus stops within Spruce Grove and Parkland.
- 4.6 Edmonton will identify any issues related to safe operations within Spruce Grove and Parkland and will report them to Spruce Grove and Parkland for resolution. If these issues are not remedied by Spruce Grove and Parkland, then at the discretion of Edmonton, the Transit Service will be temporarily ceased until Edmonton is satisfied that safe operation can be attained.
- 4.7 Edmonton shall not be responsible for damage or repair, maintenance or replacement of the pavement on that portion of the route within Spruce Grove's and Parkland's control or any portion thereof arising out of the proper and reasonable operation of the Transit Service.

## **5. FEES**

- 5.1 Spruce Grove will pay to Edmonton fees for the service as outlined in Schedule "C". If the route is modified in accordance with Article 2.3., the fees payable may be adjusted accordingly.
- 5.2 If requested by Spruce Grove or Parkland, Edmonton may provide bus stop signage for the Transit Service. Spruce Grove or Parkland will pay all costs incurred by Edmonton when service requested by Spruce Grove or Parkland results in the installation of transit poles and signage or changing of tabbing for the new transit zones as may be required to conduct the Transit Service.

- 5.3 Spruce Grove and Parkland will enter into a separate agreement defining the cost and revenue sharing of the Transit Service. Any such agreement or the failure of Spruce Grove and Parkland to enter into any such agreement will not affect the rights of Edmonton pursuant to this Agreement.
- 5.4 Service days are as provided in accordance with Schedule "A1" and "A2". Edmonton will invoice Spruce Grove for the service fees on a monthly basis. Payment of the invoice is due within 30 days of the date on the invoice.
- 5.5 Edmonton does not make any warranty or representation with respect to the adequacy of the Transit Service for the patrons of the Transit Service. In particular, without limitation, the Transit Service may not be able to accommodate all patrons and, depending on the demand for the Transit Service which may be imposed by the Operating Authority or other applicable provincial or federal regulations, Edmonton may be required to deny Transit Service to certain patrons.
- 5.6 If construction or repairs undertaken by Spruce Grove or Parkland affect the route and result in an increase in the hours of service or the requirement for an additional transit bus, then Spruce Grove will pay Edmonton, in addition to the service fees outlined above, the additional hourly service and daily bus rates noted in Schedule "C". Edmonton will notify Spruce Grove and Parkland in writing, whenever these charges are to be added before an invoice for payment is issued by Edmonton.
- 5.7 Edmonton will reimburse Spruce Grove for the cash fares collected by Edmonton for the Transit Service on a monthly basis. Edmonton will supply Spruce Grove with any available survey results and other information related to revenue calculations on a monthly basis. Revenue reimbursed to Spruce Grove will not exceed the total fee charged to Spruce Grove for provision of services in articles 5.2 and Schedule "C".

## **6. FARES AND FARE MEDIA**

- 6.1 Edmonton will collect fares or fare media from each patron as outlined in Schedule "B" unless the patron provides a pass issued by Spruce Grove and Parkland.

## **7. INDEMNITY AND LIMITATION OF LIABILITY**

- 7.1 Spruce Grove and Parkland shall be jointly liable to Edmonton for and indemnify and save harmless Edmonton, its servants, agents and employees from and against any and all losses, liabilities, claims, suits, actions, demand, expenses, damages and costs (and without limiting the generality of the foregoing, including solicitor and client costs) which may be brought or made against Edmonton or which Edmonton may pay or incur and which arises out of or in connection with:
- (a) any of the rights, licenses or privileges granted to Spruce Grove and Parkland pursuant to this Agreement;
  - (b) any breach, violation or non-performance by Spruce Grove and Parkland of its covenants or obligations pursuant to this Agreement;

excepting where such liability arises out of the sole negligence of Edmonton, its servants, agents or employees.

- 7.2 Edmonton shall be liable to Spruce Grove and Parkland for and indemnify and save harmless Spruce Grove, Parkland, their servants, agents and employees from and against any and all losses, liabilities, claims, suits, actions, demand, expenses, damages and costs (and without limiting the generality of the foregoing, including solicitor and client costs) which may be brought or made against Spruce Grove or Parkland which Spruce Grove or Parkland may pay or incur and which arises out of or in connection with:
- (a) any of the rights, licenses or privileges granted to Edmonton pursuant to this Agreement;
  - (b) any breach, violation or non-performance by Edmonton of its covenants or obligations pursuant to this Agreement;

excepting where such liability arises out of the sole negligence of Spruce Grove or Parkland, or their servants, agents or employees.

## **8. ARBITRATION**

- 8.1 In the event of a dispute arising between the parties hereto as to the interpretation, application, operation or alleged violation of this Agreement or any of the provisions thereof, such dispute may be determined by arbitration in accordance with the *Arbitration Act*, R.S.A. 2000, c. A-43.



- 8.2 During any arbitration proceedings, Edmonton shall continue to operate the Transit Service in accordance with the terms of this Agreement.

## 9. GENERAL

- 9.1 **Notices.** Any notices under this Agreement given to the parties hereunder shall be conclusively given if personally delivered, sent by prepaid registered mail or faxed addressed as follows:

- (a) In the case of Edmonton, addressed to:

Attention: Manager Edmonton Transit  
5<sup>th</sup> Floor, Scotia Place  
Tower 1, 10060 Jasper Avenue  
Edmonton, Alberta, T5J 3R8

Fax: (780) 496-4244

- (b) In the case of Spruce Grove, addressed to:

Attention: General Manager of Planning & Infrastructure  
The City of Spruce Grove  
315 Jespersen Avenue  
Spruce Grove, Alberta, T7X 3E8

Fax: (780) 962 – 1062

- (c) In the case of Parkland County, addressed to:

Attention: General Manager Infrastructure Services  
Parkland County  
53109A HWY 779  
Parkland County, Alberta, T7Z 1R1

Fax: (780) 968-8413

## 10. MISCELLANEOUS

- 10.1 **FOIP.** The parties acknowledges that they are all subject to the provisions of the *Freedom of Information and Protection of Privacy Act*, R.S.A. 2000, c.F-25 and that as such, any party may be requested to disclose any records relating to this Agreement and under their custody or control, including, without limitation, the contents of this Agreement. Any such disclosure will be made in accordance with the provisions of the *Freedom of Information and Protection of Privacy Act*.
- 10.2 **No Partnership.** No term or condition in this Agreement shall be construed as in any way constituting a partnership or a joint venture by Spruce Grove, Parkland and Edmonton.
- 10.3 **Municipal Government Act.** Nothing in this Agreement shall constitute the granting by Edmonton, Spruce Grove or Parkland of any approval or permit as may be required pursuant to the *Municipal Government Act*, R.S.A. 2000, c. M-26, and any amendments thereto, and any other legislation in force in the Province of Alberta. Edmonton, Spruce Grove and Parkland, as far as they can legally do so, shall only be bound to comply with and carry out the terms and conditions of this Agreement, and nothing in this Agreement restricts Edmonton, Spruce Grove and Parkland, or their respective municipal councils, officers, servants or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as a municipal government, as a municipal council and as the officers, servants and agents of a municipal government.
- 10.4 **Entire Agreement.** This Agreement, including Schedule “A1” “A2”, “B”, and “C” is the entire agreement between Spruce Grove, Parkland and Edmonton with regard to the matters dealt with in it, and there are no understandings or agreements, representations, warranties, conditions or collateral terms, verbal or otherwise, existing between Spruce Grove, Parkland and Edmonton except as expressly stated in this Agreement. The consideration stated in this Agreement is the sole consideration and inducement for the execution of this Agreement.
- 10.5 **Severability** Should any provision of this Agreement be illegal or unenforceable for any reason whatsoever, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall remain in force and be binding as though such provision had not been included.

- 10.6 **Governing Laws.** This Agreement shall be construed and governed by the laws of the Province of Alberta.
- 10.7 **Gender.** All references shall be read with such changes in number and gender as may be appropriate according to whether the reference is to a male or female person, or a corporation or partnership.
- 10.8 **Headings.** The insertion of headings is for convenience of reference only and shall not be construed so as to affect the interpretation or construction of this Agreement.
- 10.9 **Legislative References.** The reference to any legislation in this Agreement shall be deemed to include all amendments thereto and all regulations thereunder and all statutes, including all amendments thereto and regulations thereunder, that may be substituted for that legislation.
- 10.10 **Non-Waiver.** The waiver by Spruce Grove, Parkland or Edmonton of the strict performance of any term or condition in this Agreement shall not constitute a waiver of any other term or condition nor shall it be deemed a waiver of any subsequent breach of the same or of any other term or condition in this Agreement.
- 10.11 **Amendment or Modification.** This Agreement shall not be modified, varied or amended except by the written agreement of Spruce Grove, Parkland and Edmonton.
- 10.12 **Replacement.** This Agreement replaces the Transit Service Agreement dated October 20, 2015 between Edmonton and Spruce Grove (the "Previous Agreement"). The Previous Agreement is terminated upon the commencement of the Term.

10.13 **Successors and Assigns.** This Agreement shall be binding upon Spruce Grove, Parkland and Edmonton and their respective heirs, executors, administrators, successors, including successors in title, and assigns.

The parties hereto execute this Agreement through the signatures of their duly authorized officers as follows:

Signed for **Spruce Grove**

**CITY OF SPRUCE GROVE**

Per: \_\_\_\_\_  
Mayor (affix seal over signature)

Date: \_\_\_\_\_

Signed for **Parkland**

**PARKLAND COUNTY**

Per: \_\_\_\_\_  
Chief Administrative Officer  
(affix seal over Signature)

Date: \_\_\_\_\_

Approval for the City of Edmonton  
Legally Reviewed and Approved

As to form: \_\_\_\_\_  
Law Branch

As to content: \_\_\_\_\_  
Service Development

Signed for **Edmonton**  
**CITY OF EDMONTON**

Per: \_\_\_\_\_  
As represented by  
Manager Edmonton Transit  
Transportation Services

Date: \_\_\_\_\_