

BYLAW No. 01/20

501 UTILITY AUTHORITY INC

OPERATING AGREEMENT

THIS AGREEMENT MADE EFFECTIVE

This 2nd day of March, 2020

BETWEEN:

501 UTILITY AUTHORITY INC.

A Municipally Controlled Public Utility Board and body corporate established pursuant to s. 33 of *The Municipalities Act*, S.S. 2005 c.M-36.1, Saskatchewan. (hereinafter, the "Utility")

and the

RURAL MUNICIPALITY OF FRENCHMAN BUTTE No. 501

and the

TOWN OF ST. WALBURG

and the

VILLAGE OF PARADISE HILL,

Each of which are incorporated pursuant to the provisions of *The Municipalities Act* in the Province of Saskatchewan; (collectively, the "Municipalities")

BMH
MB
AK
AD
SB
BEH
AC

WHEREAS:

- a. The Municipalities, and each of them, have, by bylaw, entered into an agreement pursuant to s. 33 of *The Municipalities Act* (the "Act") for the establishment of the Utility and the delegation of municipal powers to the Utility with respect to the instruction and operation of a system of works for sewage disposal for the public benefit, convenience and use.
- b. Section 33(2) of the Act authorizes a municipality or a public utility board to provide public utilities services by agreement with any person.
- c. The Municipalities have managed the construction of the new sewage lagoon and all related infrastructure and also formed the 501 Utility Authority Inc. to manage the operations of this public utility, as shown on Schedule "A", (the map), attached hereto.
- d. The Utility wishes to have recourse to the powers granted to the Utility by virtue of this Agreement and any other agreements between the Utility and the parties regarding the Sewage Lagoon, and the powers granted public utilities by the provisions of the Act including but not limited to the ability to collect monies owing to the Utility.

NOW THEREFORE in consideration of the mutual covenants herein contained, the parties agree as follows:

1. Subject to the terms and conditions of this Agreement, the Utility shall operate and maintain a Sewage Lagoon located in the R.M. of Frenchman Butte No. 501, (as shown on Schedule "A").
2. The parties, and each of them, agree that all costs and expenses incurred in connection with the use, inspection, maintenance, repair or re-installation of the sewage Lagoon or all other Utility infrastructure incurred by the Utility shall be shared in the same proportion as the percentages as set out in Schedule "B". This includes any operating shortfalls. A review of the percentages as set out in Schedule "B" will occur annually.
3. The Utility acknowledges and agrees to be responsible for the maintenance, repair and upkeep of the Sewage Lagoon.
4. At all times the Utility shall ensure that it shall fully comply with all regulatory or statutory authorities having jurisdiction over the operation and maintenance of the Sewage Lagoon.
5. Any non-budget lagoon expense that causes a deficit to the operating budget shall be paid for by any operating reserves in the bank while still maintaining the three (3) month operating reserve, and:
6. If further funds are still required, such funds shall be collected from the Corporate Partners and the costs will be shared proportionately by the members' based on the percentage used to calculate the share of the operating costs paid by each partner, however,
7. If any partner chooses not to pay their share of the 'cash call deficiency' any payments made by the other partners will be refunded to those payers and the total amount of the deficiency will be transferred to the subsequent years operating expense budget.

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8. Surpluses (retained earnings) in the Operating/General account shall not be transferred to Tangible Capital Asset Reserves or refunded to the members but should be used to reduce the operating fees collected in the next fiscal (budget) year.
9. The Utility should maintain an Operating Reserve. This reserve should not exceed or fall below three (3) months of operating costs unless otherwise approved in writing. When possible, the operating reserve calculation should be determined by averaging monthly operating expenses over the last three years or more if possible.
10. Operating reserves may not be used for the purpose of loans to any member municipality, individual, corporate or other public entity.

Tangible Capital Asset Reserve Policy (TCAR) is not part of this Operating Agreement, but rather is referenced within the Financial Control Policy and/or other policies and guidelines as required and managed by the Board of Directors as they deem necessary.

TERMS AND DISSOLUTION

1. The term of this Agreement will be considered continuous from the date of execution unless terminated earlier in accordance with the terms set out hereunder. Notwithstanding the foregoing, this Agreement may be terminated on the earlier of;
 - a. any date as mutually agreed in writing among the parties hereto, or
 - b. on any date which is 90 days after the giving of notice in writing, by one of the Municipal Partners to the other parties hereto, of a breach of this Agreement if the offending party has not taken reasonable steps to correct the deficiency.
2. Notwithstanding the foregoing, in event that the 501 Utility Authority, Inc. is dissolved, any assets and surplus (retained earnings), are to be distributed proportionately to the member municipalities and any liabilities of the Board are to be adjusted and settled in the same manner based on the percentage of original capital contributions by each member municipality, which is specified in the Multi-Municipality Wastewater Management Agreement, Section 2.0, sub-section 2.1.1.

“Initial capital costs will be shared as follows; The RM of Frenchman Butte No. 501 33.333%, Town of St. Walburg 35.085%, Village of Paradise Hill 31.582%.”¹

3. In the event of any dispute between the parties as to the interpretation and performance of this Agreement, all parties agree that they will seek independent legal counsel at their own expense.
4. If none of the afore-mentioned options are acceptable, the partner or partners having issue with the interpretation or performance as guided by this Agreement may seek legal remedies and counsel at their own expense. If any litigation arises out of any disagreement, the party, (or parties), that does not prevail shall bear all legal and related court costs for both the plaintiff and the respondent.

¹ 2.0 Funding the Agreement, Multi-Municipality Wastewater Management Agreement, 2.1.1, November 30, 2018.

Handwritten signatures and initials:
 BMW
 MB
 at
 AB
 BE
 OK

NOTICES

All notices required or desired to be given to either of the parties in connection with this Agreement or arising therefrom shall be in writing and shall be given by facsimile transmission or hand delivery to the intended party or parties, at the following addresses:

501 Utility Authority Inc.
PO Box 285
Paradise Hill, SK S0M 2G0
Facsimile: (306) 344-4434

Rural Municipality of Frenchman Butte No. 501
PO Box 180
Paradise Hill SK S0M 2G0
Facsimile: (306) 344-4434

Town of St Walburg
PO Box 368
St. Walburg SK S0M 2T0
Facsimile: (306) 248-3484

Village of Paradise Hill
PO Box 270
Paradise Hill SK S0M 2G0
Facsimile: (306) 344-4941

or to such other address, facsimile number or individual as may be designated by written notice to the Utility. Any notice given by personal delivery shall be conclusively deemed to have been given on the day of actual delivery and if given by facsimile transmission, on the business day on which it was transmitted.

The parties hereto shall execute such documents or assurances as may be necessary for the purposes of giving effect to the intent of this Agreement.

This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns and supersedes any previous agreements. This agreement is furtherance of the 501 UTILITY AUTHORITY CONSTRUCTION OPERATING AGREEMENT signed by the Rural Municipality of Frenchman Butte No. 501, the Town of St Walburg and the Village of Paradise Hill.

Handwritten initials:
Bm
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IN WITNESS WHEREOF the parties hereto have hereunto executed this agreement.

501 UTILITY AUTHORITY INC.

Per: Bruce Midgley



Date June 12, 2020

Per: Muh Buttik

R.M. OF FRENCHMAN BUTTE No. 501

Per: Alan Dwyer



Date June 15, 2020

Per: Wesley Rosellen

TOWN OF ST. WALBURG

Per: Darryl Schmidt

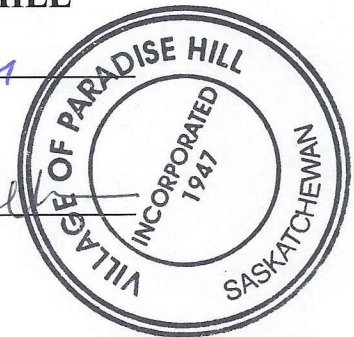


Date June 16, 2020

Per: Keith Bronken

VILLAGE OF PARADISE HILL

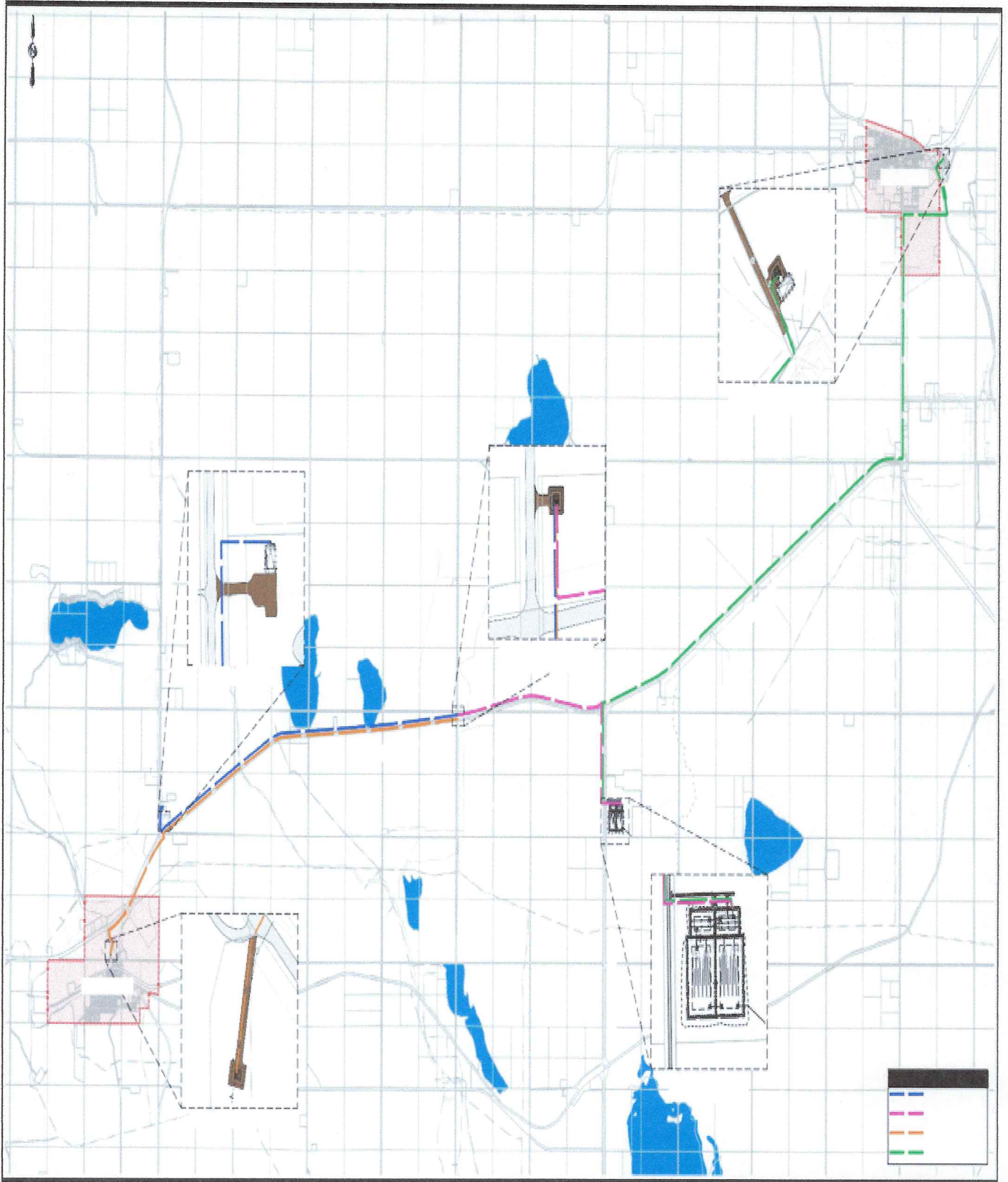
Per: Bernard Ecker



Date June 15, 2020

Per: Amelia Hill

SCHEDULE "A"



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at [signature] AB
BE R [signature]

SCHEDULE "B"

ANY AND ALL COSTS THAT MUST BE DIVIDED AMONGST THE CORPORATE MUNICIPALITIES FOR THE PURPOSE OF FUNDING OPERATIONS WILL NOW BE DIVIDED IN THE FOLLOWING MANNER*:

| | | |
|---|-------------------------|----------------------|
| R. M. OF FRENCHMAN BUTTE NO. 501 | - cubic meters - | 4.90% |
| TOWN OF ST. WALBURG | - cubic meters - | 63.90% |
| VILLAGE OF PARADISE HILL | - cubic meters - | <u>31.20%</u> |
| TOTAL = | | 100.00% |

2.1.2 "The share of operating, maintenance and equipment replacement costs for lagoon operated by the Authority will be based on sewage volume for each municipality as determined below:

2.1.2.1 Town of St Walburg and Village of Paradise Hill will be based on the total annual volume of water measured by the water distribution meter leaving their respective water plants.

2.1.2.2 The RM of Frenchman Butte No 501 will be based on the readings from the card access system with volumes to be determined by the number card accesses times the truck tank volume."²

2.1.3 "In addition, the Village of Paradise Hill will invoice the RM of Frenchman Butte No. 501 for its' share of the operating, maintenance and equipment replacement costs, namely the booster station and portion of the transmission line ...based on prorated volumes". *Multi-Municipality WasteWater Management Agreement, p. 3.*

2.1.4 ""In addition, the Town of St. Walburg will invoice the RM of Frenchman Butte No. 501 for its' share of the operating, maintenance and equipment replacement costs namely the pump station and force main, based on prorated volumes". *Multi-Municipality WasteWater Management Agreement, p. 3.*

2.1.5 "In addition, the 501 Utility Authority Inc. and the Town of St Walburg and the Village of Paradise Hill requires monthly water consumption reports and liquid domestic waste reports from the RM".

****A review of the percentages as set out in this document, Schedule "B", is determined by annual water consumption in each municipality and will occur at least annually but not later than September 30 of each year.***

² 2.0 Funding the Authority, Multi-Municipality Wastewater Management Agreement, 2.1.2.1 and 2.1.2.2, November 7, 2018

Frenchman
MB
an
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JL