

Policy Manual	Authority: Approved by Council	Type: Transportation
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	Policy No. 400-19 Borrow Pit/Landscape Borrow and/or Clay Purchase Agreement Policy	

R.M. of Browning No. 34

Policy No. 400-19

Borrow Pit/Landscape Borrow and/or Clay Purchase Agreement Policy

October 14, 2021

Borrow Pit/Landscape Borrow and/or Clay Purchase Agreement Policy

A Policy of the R.M. of Browning No. 34 to authorize the issuance of Borrow Pit, Landscape Borrow and Clay Purchase Agreements.

THIS AGREEMENT MADE IN DUPLICATE THIS _____ DAY OF _____, 20____.

BETWEEN:

_____,
of _____, in the Province of Saskatchewan, _____;
[hereinafter referred to as the “Landowner(s)”]

- and -

RURAL MUNICIPALITY OF BROWNING NO. 34,
of Box 40, Lampman, in the Province of Saskatchewan, SOC 1N0;

(hereinafter referred to as the “R.M.”)

AGREEMENT FOR BORROW PIT/ LANDSCAPE BORROW AND/OR CLAY PURCHASE

WHEREAS the Landowner(s) are the registered owner(s) of the following lands and premises (hereinafter called “the said land”):

_____ W2M

AND WHEREAS the R.M. would like to remove materials from the said lands in the form of a borrow pit, OR landscape borrow; and whereas the R.M. is desirous of purchasing clay from the said land for the purpose of road construction, road repairs or any other municipal use.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

1. The Landowner(s) hereby give the R.M. the right to enter upon the said land for the purpose of extracting clay and/or removal of materials in the form of a borrow pit or landscape borrow;
2. Adjacent Landowner(s) will be contacted first in the case of road construction or repairs requiring a large quantity of clay, and if there is no clay available from any adjacent Landowners, clay will be obtained from the next closest source.
3. All top soil removed for any reason remains the property of the Landowner; and that if the Owner directs the R.M. to stockpile the top soil, the owner accepts all responsibility and liability for the said stockpile along with any future maintenance of the stockpile upon completion of project.
4. The R.M. agrees to strip back the topsoil for the clay removal and after removal of the clay required, replace topsoil as required, level the land and reseed to native grass [at the request of the Landowner(s)]. Upon completion of the R.M.’s operations, the parties shall meet to ensure that the Landowner(s) are satisfied with the condition of the property.
5. (i) The R.M. agrees to pay to the Landowner(s) fifteen hundred dollars (\$1500.00) per acre for the area used to obtain any clay taken from outside of the Right-of-way in the form of a land scape borrow for any engineered or non-engineered road. If any clay is utilized from backslopes on the right-of-way, the clay will not be paid for.

(ii) The R.M. shall make restitution to the Landowner(s) or renter of said lands for crop damage on the landscape borrow outside of the right-of-way for any crop loss on a three (3) year plan as set out in R.M. Browning No. 34 Policy No. 400-5.

(iii) The R.M. agrees to pay to the Landowner(s) a flat rate fee of one thousand (\$1,000.00) dollars for the borrow pit area; and also, fifteen hundred (\$1,500.00) dollars per acre for the area used in the construction of a borrow pit to obtain clay. The clay used is to be placed on the road as constructed or stockpiled for future use.

(iv) If the borrow pit is constructed larger than the minimum standards the rate prescribed in clause 5(iii) shall be increased by at the aforementioned rate per acre all as stated in clause 20 of this agreement.

(v) If the borrow pit warrants, or the land owner requests the borrow bit will be fenced as mutually agreed.

(vi) The R.M. agrees to pay the Landowner(s) two (\$2.00) dollars per yard for any clay removed from any existing pile or dugout bank.

6. The Landowner(s) shall allow the R.M. access and egress of the said lands for purpose of removal of clay. Access to and within the said lands to access the clay shall be the responsibility of the R.M. on agreement with the Landowner(s). In the event an access road is required, before construction of any such road to or within the said lands, the R.M. shall obtain the consent of the said Landowner(s) and any such access road shall be built to municipal standards at the cost of the R.M. This shall form part of the area referred to in clause 5 (ii)

7. The R.M. shall make restitution to the Landowner(s) or renter of said lands on a three (3) year payment plan at a rate set out in the Policy of the R.M. for any crop loss for any area in the construction of the temporary access road in the aforementioned year.

8. The R.M. shall make restitution to the Landowner(s) or renter of said lands for the loss of crop on a one (1) year payment plan as per R.M. Policy for any borrow pit area.

9. The R.M. reserves the right to stockpile materials within reasonably close proximity to the borrow pit as mutually agreed to between the parties hereto. If the clay is not removed in twenty-four (24) months, the Landowner(s) shall be paid in accordance with the stockpile rental rate as set in the annual Rates and Appointments.

10. The Landowner(s) covenant with the R.M. that the Landowner(s) have a good and valid title to the said land and the right to enter into this Agreement.

11. This Agreement shall ensure to the benefit of and be binding upon the parties hereto, their heirs, executors, administrators and assigns.

12. The R.M. shall maintain the said lands in a safe, neat and orderly condition and shall take all prudent measures to prevent degradation or destruction of the said lands or surrounding area.

13. The R.M.'s activities shall be conducted so as to minimize disturbance of existing natural drainage systems, changing course or character of water bodies, seeps or marshes, if any, and to minimize disturbance or damage to the said lands resulting from R.M.'s activities.

14. In the event that the R.M. determines that the materials excavated from the borrow pit do not meet the road building standards, the R.M. reserves the right to leave any and all excavated materials on site in a mutually agreed manner and location; and they become the property of the Landowner. The borrow pit will be constructed to minimum standards. If circumstances do not allow for the completion of the borrow pit to minimum standards

due to material not being able to excavated, water or any other factor, the borrow pit will be abandoned as referred to in clause 20.

15. The R.M. shall have twenty-four (24) months from the date of this Agreement to remove any and all excavated materials on site except as otherwise stated in clause 9 hereof.

16. The R.M. agrees to obtain all Sask1st Call and underground locates of the said lands for all underground utilities prior to any excavation to ensure safe excavation.

17. The R.M. shall be responsible to locate and protect all existing utilities affected by the removal of the clay and take whatever precautions necessary to protect them. The R.M., its employees, servants, agents, contractors, or subcontractors, shall indemnify and save harmless the Landowner(s), their heirs, executors and assigns, from and against any and all costs, expenses, damages and liabilities sustained or incurred by any of them arising out of, directly or indirectly, as a result of this project, including:

- (i) any failure by the R.M., its employees, servants, agents, contractors, or subcontractors to perform or comply with any of the covenants, obligations, terms or conditions contained herein; or
- (ii) any negligent act or omission of the R.M., its employees, servants, agents, contractors or subcontractors as a result of this project and construction.

18. After removal of the excavated materials and completion of the project, the R.M. shall remove the temporary access road unless otherwise agreed.

19. Throughout the term of this Agreement and thereafter until all payment obligations are finally satisfied, the R.M. shall keep and maintain detailed records of its operations on the said lands and detailed records relating to the amount of clay extracted from the said lands.

20. The R.M. agrees to excavate the borrow pit with the following dimensions, and the Landowner(s) hereby agrees to the following specifications:

1:1 side slope

4:1 end slope

20 feet deep x 50 feet wide x 100 feet long - **Minimum Standards for a productive borrow pit - OR, alternatively, 15-foot depth in the case of an unproductive borrow pit:**

_____ feet deep x _____ feet wide x _____ feet long

21. All notices referred to in this Agreement shall be sent to the respective parties at the addresses stated below, or at such other addresses as notified in writing by the other party. The parties agree that all notices and decisions referred to in this Agreement shall be deemed served on the other party immediately upon hand delivery or seven (7) days after deposit at Canada Post, whichever first occurs:

In the case of the Landowner(s):

In the case of renter(s):

In the case of the R.M.:

R.M. of Browning No. 34
215 Main Street
Box 40
Lampman, Saskatchewan
S0C 1N0

22. The terms “Landowner(s)” and “R.M.” and references thereto herein shall include the executors, administrator (successors in the case of a corporation) and assigns of the Landlord and R.M., respectively, and the said terms and references thereto in the singular number and masculine gender shall also include the plural number and feminine (and neuter in the case of a corporation) gender where the context so requires.

23. This Agreement shall include the successors and assigns of the parties hereto.

24. This Agreement shall commence upon being fully signed and executed and shall be ongoing, unless sooner terminated with thirty (30) days’ notice by either party as herein provided.

25. Other Conditions:

IN WITNESS WHEREOF the Landowner(s) have hereunto set his/her hand this ____ day of _____, 20__.

Signed in the Presence of:

Witness

Witness

Landowner

Landowner

IN WITNESS WHEREOF the R.M. has hereunto by the hands of its proper officers, signed its name and affixed its seal this ____ day of _____, 20__.

RURAL MUNICIPALITY OF BROWNING NO. 34

Per: _____
Reeve

(SEAL)

Per: _____

Administrator

Document Revision History:

Document Title	Revision Date	Approved By
Policy No 400-19 Borrow Pit and Clay Purchase	February 13, 2020	Council
Policy No 400-19 Borrow Pit and Clay Purchase	November 5, 2020	Council
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