

IN THE PROVINCIAL COURT OF ALBERTA CRIMINAL DIVISION



HER MAJESTY THE QUEEN

and

SUNCOR ENERGY PRODUCTS PARTNERSHIP PRODUITS SUNCOR  
ENERGIE, S.E.N.C.

BEFORE THE HONOURABLE )  
JUDGE C.D. GARDNER )  
AT SHERWOOD PARK, )  
ALBERTA )

On Friday, the 16<sup>th</sup> day  
of April, 2021.

**ORDER PURSUANT TO SECTION 234(1) THE  
ENVIRONMENTAL PROTECTION AND ENHANCEMENT ACT**

**WHEREAS** Suncor Energy Products Partnership Produits Suncor Energie, S.E.N.C. stands convicted of the following offence contrary to the *Environmental Protection and Enhancement Act*, to wit:

Count 1: On or about the 18th day of July 2018, at or near Sherwood Park, in the Province of Alberta, did contravene a term or condition of an approval: To wit, Approval No. 10184-03-00, Section 4.1.1 which states: "The Approval Holder shall not release any air effluent streams to the atmosphere except as authorized by this approval". And did thereby commit an offence contrary to section 227(e) of the Environmental Protection and Enhancement Act.

**AND WHEREAS** in addition to a fine of \$1,000.00 as against Suncor Energy Products Partnership Produits Suncor Energie, S.E.N.C., imposed under the *Environmental Protection and Enhancement Act*, inclusive of victim fine surcharge, and having regard to the nature of the offence and circumstances surrounding its commission;

**IT IS HEREBY ORDERED THAT**, pursuant to the provisions of section 234(1) of the *Environmental Protection and Enhancement Act*, Suncor Energy Products Partnership Produits Suncor Energie, S.E.N.C. will comply with the following conditions:


1. That Suncor Energy Products Partnership Produits Suncor Energie, S.E.N.C. shall pay \$99,000.00 to the Strathcona Community Hospital Foundation on or before May 31, 2021 for the sole purpose of funding the Strathcona Community Hospital Foundation project as detailed and described in Schedule "X" hereto. The specific address to which the funds shall be forwarded is: Strathcona Community Hospital Foundation, Attention: Ken Lesniak, Chair of the Board, 9000 Emerald Drive, Sherwood Park, Alberta, T8H 0K9.
2. That Suncor Energy Products Partnership Produits Suncor Energie, S.E.N.C. shall only forward the funds as ordered in paragraph 1 to the Strathcona Community Hospital Foundation upon receiving confirmation from counsel for the Crown that the Strathcona Community Hospital Foundation and Her Majesty the Queen, in Right of the Province of Alberta, as Represented by the Minister of Environment and Parks, have fully executed Schedule "X". Should Schedule "X" not be fully executed by May 5, 2021, the funds referred to in paragraph 1 will be forthwith sent to the Clerk of the Court along with a copy of this Order. The Clerk of the Court will then deal with those funds as

though they were payment of an additional fine ordered by the Court with respect to Count 1, inclusive of any applicable surcharge.

3. All of the reports produced in accordance with the project described in paragraph 1 shall be available to the public and may be posted on the website of Alberta Environment and Parks or elsewhere.
4. If any conditions or requirements of this Order cannot be met, counsel for the Alberta Crown Prosecution Service, Alberta Environment and Parks, Suncor Energy Products Partnership Produits Suncor Energie, S.E.N.C., and the Strathcona Community Hospital Foundation may resolve any resulting issues by agreement, failing which the parties hereto shall appear before this Honourable court for further direction.
5. The term of this Order shall be one year from the date hereof to allow sufficient time for either completion of the project described herein or the making of further agreements regarding the same as provided for in paragraph 4.

6. This Order may be consented to in counterpart, by facsimile or otherwise.

DATED this 16 day of April, 2021, in Sherwood Park, in the Province of Alberta.



\_\_\_\_\_  
Judge of the Provincial Court of Alberta

APPROVED AS TO FORM AND CONTENT BY:



\_\_\_\_\_  
Craig A. Kallal  
Solicitor for the Alberta Crown Prosecution Service,  
Specialized Prosecutions Branch



\_\_\_\_\_  
Ronald M. Kruhlak, Q.C.  
Solicitor and Agent for the Suncor Energy Products  
Partnership Produits Suncor Energie, S.E.N.C.

## SCHEDULE "X"

**RECIPIENT AGREEMENT**

**THIS AGREEMENT** is effective commencing on the Effective Date,

**BETWEEN:**

**HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA**  
as Represented by the Minister of  
Environment and Parks

(the "Province")

**AND:**

**STRATHCONA COMMUNITY HOSPITAL FOUNDATION**

(the "Recipient")

**WHEREAS:**

- A. Pursuant to a court order issued by the Provincial Court of Alberta made on the Effective Date, Suncor Energy Products Partnership Produits Suncor Energie, S.E.N.C. was ordered to pay the Sentencing Fund under the creative sentencing provisions of the *Environmental Protection and Enhancement Act*
- B. The Province is the administrator of the Sentencing Fund and is responsible for ensuring its proper management and use; and
- C. The Province and the Recipient desire to have the Recipient use the Sentencing Fund to undertake and manage the Project,

**THEREFORE the parties agree as follows:**

**1. Definitions and Interpretations**

1.1. In this Agreement:

- (a) "**Effective Date**" means the date April 16, 2021;
- (b) "**Eligible Expenses**" means an expense incurred for the Project as set out in the Funding Proposal;
- (c) "**Funding Proposal**" means the Recipient's Funding Proposal dated February 17, 2021 and attached as Schedule A;
- (d) "**Minister**" means the Minister of Environment and Parks and any duly authorized representative of the Minister;
- (e) "**Project**" means the purchase of the Respiratory Equipment for the Strathcona Community Hospital, as further detailed in the Funding Proposal;

## SCHEDULE "X"

- (f) **"Respiratory Equipment"** means the respiratory support equipment specified in the Funding Proposal, as may be adjusted in accordance with the Funding Proposal;
- (g) **"Sentencing Fund"** means the initial amount of \$99,000.00 and any additions and subtractions to this amount made in accordance with this Agreement; and
- (h) **"Term"** has the meaning as set out in Section 6.1.

1.2. The following Schedules are incorporated into and form a part of this Agreement:

Schedule A – The Funding Proposal.

1.3. In interpreting this Agreement

- (a) time is of the essence;
- (b) a reference to any Act
  - (i) unless otherwise stated, is to the Act of the Province of Alberta; and
  - (ii) includes all regulations made pursuant to such Act, as such Act and associated regulations may be amended or replaced from time to time;
- (c) words importing gender include all genders;
- (d) words in the singular include the plural and vice versa;
- (e) the word "include" and its inflected forms are not to be interpreted as limiting;
- (f) headings are for convenience only;
- (g) a waiver of any term or condition by one party is only effective if in writing, and any such waiver relates only to the specific breach and instance set out in the waiver;
- (h) any discretion to be exercised by the Province under this Agreement, including where the Province "may" do something, is at the Province's absolute discretion; and
- (i) where a time or date for doing something occurs on a Saturday or a day that is a holiday (as defined in the *Interpretation Act*), the time is deemed to be extended to the first following day that is not a Saturday or holiday.

## 2. The Grant and Maintenance of the Sentencing Fund

2.1. The Province will arrange to have the initial Sentencing Fund paid to the Recipient within a reasonable time after the Effective Date.

## SCHEDULE "X"

- 2.2. As consideration for the Province arranging for the payment of the Sentencing Fund to the Recipient, the Recipient will undertake and manage the Project in accordance with the Schedule A and the terms and conditions of this Agreement.
- 2.3. On receipt of the initial Sentencing Fund, the Recipient will promptly deposit the amount into an appropriate account, acceptable to the Province, and hold the Sentencing Fund in such an account throughout the Term.
- 2.4. In managing and monitoring the Sentencing Fund during the Term, the Recipient will
  - (a) use an accounting system that separately identifies the Sentencing Fund apart from any other amounts held by the Recipient; and
  - (b) allocate any interest earned from the Sentencing Fund to the Sentencing Fund, which becomes a part of the Sentencing Fund and subject to this Agreement.
- 2.5. When managing the Sentencing Fund and incurring Eligible Expense, the Recipient will adhere to investment and business practices that are at least consistent with those followed by a reasonably prudent person who is acting to
  - (a) avoid undue risk of loss;
  - (b) obtain a reasonable return; and
  - (c) receive reasonable value for services, supplies and assets purchased.

**3. Eligible Expenses**

- 3.1. The Recipient will only use the Sentencing Fund for Eligible Expenses.
- 3.2. The Recipient will monitor the expenditure of all amounts from the Sentencing Fund and will promptly notify the Province of any of the following:
  - (a) the improper use of any portion of the Sentencing Fund; or
  - (b) a breach of any environmental law or noncompliance with any permit, licence or approval that is related to any aspect of the Project or an expense incurred using the Sentencing Fund.
- 3.3. If the Province believes a payment from the Sentencing Fund may not have been for an Eligible Expense, the Province will promptly notify the Recipient of its concern.
- 3.4. If the Recipient receives a notice from the Province under Section 3.3, or if the Recipient on its own discovers that an amount paid from the Sentencing Fund may not have been used for an Eligible Expense, then within 30 days the Recipient will
  - (a) subject to Section 6.5, reimburse the Sentencing Fund by the amount of the questioned payment, with evidence to the Province, or

## SCHEDULE "X"

- (b) deliver to the Province any materials supporting with an explanation for why the questioned expense should be an Eligible Expense.

3.5. If the Recipient provide materials to the Province under Section 3.4(b)

- (a) the Province will, acting reasonably and consistent with the intent of the Project, make a final determination of whether the questioned payment was an Eligible Expense, and
- (b) if the Province determines the question amount paid from the Sentencing Fund was not for an Eligible Expense, the Recipient agrees to be bound by the decision of the Province and, subject to Section 6.5, will promptly reimburse the Sentencing Fund by the amount of the questioned expense and provide evidence to the Province within 30 days.

**4. Reporting Obligations**

- 4.1. On the earlier of April 15, 2022 or 30 days after receiving the last shipment of Respiratory Equipment to be procured for the Project, the Recipient will provide to the Province a full report detailing
  - (a) all Eligible Expenses incurred,
  - (b) the amount, if any, of the Sentencing Fund remaining;
  - (c) the results achieved by the Project, including its successes and limitations, and
  - (d) such other information the Province may reasonably request.
- 4.2. If the Project is not completed before October 15, 2021, the Recipient will provide to the Province by November 1, 2021 an interim report regarding the progress of the Project containing the following information:
  - (a) all Eligible Expenses incurred to date;
  - (b) the amount of the Sentencing Fund remaining;
  - (c) an estimated timeline for completing the Project; and
  - (d) such other information the Province may reasonably request.
- 4.3. The Recipient will prepare the reports required by Sections 4.1 and 4.2 using such format or template as the Province may reasonable direct.
- 4.4. The Recipient acknowledges that the *Freedom of Information and Protection of Privacy Act* applies to all information and records provided by the Recipient to the Province and to any information and records provided to the Province in connection with the subject matter of this Agreement, and which are in the custody or under the control of the Province.



## SCHEDULE "X"

4.5. The Recipient will not make any public announcement or issue any press release regarding the entering into of this Agreement or receiving the Sentencing Fund, except in consultation with and the approval of the Province as to the contents of the announcement or press release.

**5. Conflict Of Interest And Ethical Conduct**

5.1. In carrying out this Agreement and conducting the Project, the Recipient will comply with all applicable:

- (a) laws of the Province of Alberta and the federal laws of Canada applicable in the province;
- (b) bylaws or resolutions of any municipal government; and
- (c) permits, licenses and approvals.

5.2. The Recipient will ensure there are no conflicts of interest or apparent conflicts of interest on the part of the Recipient and its employees in relation to

- (a) making any expenditure using the Sentencing Fund, and
- (b) the performance of any work done in relation to the Project, including the selection of any third party contractors or consultants.

5.3. Without limiting Section 5.2:

- (a) the Recipient will not influence, or seek to influence, or otherwise take part in a decision of the Province, knowing that the decision might further the Recipient's private interests;
- (b) where any work under this Agreement or for the Project involves providing advice or making recommendations to the Province, or exercising discretionary authority that would provide a benefit to any other person, the Recipient will provide it advice or recommendation, or exercise its discretion impartially and without bias;
- (c) except for payments as set out in this Agreement, the Recipient will not accept any collateral gift, payment, commission or other direct benefit arising from this Agreement or performing the Project;
- (d) the Recipient will not incur any Eligible Expense where the payment would be made to a third party that would result in, or appear to cause, a conflict of interest;
- (e) on request by the Province, the Recipient will deliver copies of all written ethical standards, conflict of interest policies and codes of conduct established or observed by the Recipient in its business practices or in relation to its employees or subcontractors; and

## SCHEDULE "X"

- (f) the Recipient will, and will ensure its employees and subcontractors, comply with the *Lobbyists Act*.
- 5.4. If the Recipient becomes aware of any matter that causes or is likely to cause a conflict of interest, the Recipient will immediately provide notice to the Province and the Recipient will immediately cease the performance of any work relating to this Agreement or the Project unless the Province notifies the Recipient that such work may continue, as the Province may determine.
- 6. Term and Termination**
- 6.1. The term of this Agreement (the "**Term**") commences on the Effective Date and expires 30 days after the Province accepts the Recipient's report under Section 4.1.
- 6.2. The Recipient will pay to the Province any portion of the Sentencing Fund remaining at the end of the Term or the earlier termination of this Agreement within 15 days without further demand by the Province.
- 6.3. Notwithstanding any other provision of this Agreement, the Province may immediately and without notice terminate this Agreement, and the Recipient will immediately pay to the Province without further demand all undisbursed amounts remaining in the Sentencing Fund, if any of the following events occurs or if the Province reasonably believes any of the following event may imminently occur:
- (a) the Recipient ceases to be a registered charity, as determined by the Canada Revenue Agency;
  - (b) the Recipient is petitioned into bankruptcy or makes an assignment for the benefit of creditors;
  - (c) the Recipient is adjudicated bankrupt or insolvent;
  - (d) the Recipient files a petition or institute any proceedings under any bankruptcy or insolvency legislation;
  - (e) the Recipient has its chattels, equipment or supplies seized under process of law for non-payment of debts; or
  - (f) the Recipient is the subject of an appointment of a receiver or trustee in bankruptcy.
- 6.4. The Recipient will immediately advise the Province if it has reason to believe any of the events in Section 6.3 may occur, in which case the Province is deemed to have a reasonable belief that such event may imminently occur.
- 6.5. If Sections 3.4(a) or 3.5(b) apply after the expiry of the Term or the termination of this Agreement, then instead of reimbursing the Sentencing Fund, the Recipient will pay the amount of the improper expenses to the Province without further demand.

## SCHEDULE "X"

6.6. Any amount that the Recipient is required to pay to the Province under this Agreement is a debt due to the Crown and may be recovered from the Recipient by an action in debt.

**7. General**

7.1. Sections 3.3, 3.4, 3.5, 4.4, 5.4, 6.2, 6.6, 7.2 and 7.3 survive the expiry of the Term or the earlier termination of this Agreement.

7.2. The Province is not responsible for establishing, operating or supervising the Project, and the Recipient agrees to indemnify and hold harmless the Province from any and all third party claims, demands or actions for which the Recipient is legally responsible, including those arising out of negligence or wilful acts by the Recipient and its respective employees, contractors or agents in performing the Project or using Sentencing Funds.

7.3. Any notices or communication to be given by one party to the other under this Agreement are to be given in writing and may be delivered to the other party at the following addresses, email addresses or facsimile numbers, or to such other person and contact information as a party may provide by notice:

**To the Province:**

Environment and Parks  
15th Floor, Oxbridge Place  
9820 106 Street  
Edmonton, AB T5K 2J6

Attn: Hanneke Brooymans,  
Compliance Assurance Specialist  
Tele: 780-644-8355  
Email: Hanneke.brooymans@gov.ab.ca

**To the Recipient:**

Strathcona Community Hospital Foundation  
9000 Emerald Drive  
Sherwood Park, AB T8H 0K9

Attn: Ken Lesniak  
Chair of the Board  
Tele: 780-893-4322  
Email: kencarol@telusplanet.net

7.4. This Agreement

- (a) constitutes the entire Agreement between the parties,
- (b) enures to the benefit of and is binding on the parties and their respective representatives, successors and permitted assigns,
- (c) is not to be interpreted or construed as creating a relationship of principal and agent, employer and employee, partnership or joint venture between the parties,
- (d) is to be construed and interpreted in accordance with the laws applicable in the Province of Alberta and the federal laws of Canada applicable therein,
- (e) may only be amended in writing, and

- (f) may not be assigned by the Recipient without the prior written consent of the Province.

IN WITNESS WHEREOF the Parties have executed this Agreement effective the date first written above.

**HER MAJESTY THE QUEEN, in Right of  
the Province of Alberta, as Represented by  
the Minister of Environment and Parks**

\_\_\_\_\_  
Hanneke Brooymans,  
Compliance Assurance Specialist

**STRATHCONA COMMUNITY HOSPITAL FOUNDATION**

Per: \_\_\_\_\_  
Ken Lesniak  
Chair of the Board

DRAFT



# STRATHCONA

## Community Hospital Foundation

February 17, 2021

Hanneke Brooymans  
Compliance Assurance Specialist  
Alberta Environment and Parks  
Oxbridge Place  
15<sup>th</sup> Floor, 9820 106 Str. NW  
Edmonton, AB T5K 2J6

Dear Ms. Brooymans:

**RE: Air Quality Project for Strathcona Community Hospital**

Thank you for the opportunity to present our proposal for the creative sentencing measure.

***About Strathcona Community Hospital Foundation***

Strathcona Community Hospital Foundation (STCHF) was established in 2008. The role of the STCHF is to support the hospital in providing and accelerating optimal health care and services for our community by raising funds and awareness in the community about healthcare needs. The foundation's mandate is to assist the Strathcona Community Hospital and its programs, services, patients and staff by providing enhancements that are not typically part of healthcare funding.

The goal of our Foundation is to make a significant impact on health delivery in a variety of ways - funding vital needs, programs, research and education. The work of our Foundation and our donors enhances patient care and translates into positive health experiences for our community.

Every dollar raised by STCHF through, capital campaigns, signature events, community donations, grants and various other fundraising initiatives has been strategically invested into leading edge technology and patient care enhancement. The Foundation is made up of active and dedicated members from local business and area committed to supporting the community's healthcare needs.

***About the Strathcona Community Hospital***

The Strathcona Community Hospital opened in May 2014. The Strathcona Community Hospital is an innovative facility that delivers primary health care, combined with community-based services with a 24/7 full service emergency department complete with 27 emergency beds, diagnostic imaging (CT and Ultrasound) and laboratory services, Children, Youth and Families Addiction and Mental Health, Community Rehabilitation services, Chronic Disease Management, patient education and outpatient clinics and an IV therapy clinic.

Since opening in May 2014, the Strathcona Community Hospital in Sherwood Park has exceeded patient visit projections, requiring additional physician shifts in the emergency department.



# STRATHCONA

## Community Hospital Foundation

### ***Funding Proposal***

Strathcona Community Hospital has seen a rise in acuity of patients accessing the facility and many patients require respiratory support.

The following equipment will assist tremendously in assessing and treating those patients coming into our care:

1. **Ventilator: \$49,000.00**
    - Used for critically ill patients to support ventilation when they cannot breathe independently
    - Variety of settings to support unique individual needs
    - Provides consistent and safe ventilation while waiting transport to higher level of care, no need to manually ventilate the patient when they are placed on the vent
    - Assists with infection control as the ventilator has a closed circuit
  2. **BiPap: \$28,575.00**
    - Non-invasive mechanical ventilation
    - Used for COPD patients to support resistant lungs during an exacerbation
    - Can be used to treat severe CHF (fluid back up into the heart)
    - Can prevent intubation and invasive ventilation- preferred treatment for COPD exacerbation if possible
  3. **Opti-flow/Analyzer: \$1000.00**
    - High flow oxygen treatment effective for many pulmonary presentations
    - Does not require ICU admission
    - Can be used for patients comfort to assist breathing when the patient does not want intubation or ICU admission (such as palliative patients)
  4. **CMAC: \$20,000.00**
    - Direct video laryngoscopy- can easily visualize the patient's anatomy when intubating
    - Prevents complications such as intubating the esophagus
    - Allow for teaching as the learner can easily view the screen
    - Ensures more successful intubation, preventing multiple attempts- this is important for infection control and patient safety
- Total: \$98,575.00\***

These additional items will be purchased should the above equipment costs be lower at the time of purchase:

VS monitor: \$2600.00

- All patients require VS on arrival and throughout their stay
- With increased infection control requirements during the pandemic it is imperative we have enough equipment available to patients when needed

Portable sat monitor with printer: \$2000.00

- Used to assess patient's oxygen levels
- Can assess pre and post respiratory treatments to assess effectiveness
- Used to test patient oxygen saturations during activity and at rest to ensure patients levels remain stable



# STRATHCONA

## Community Hospital Foundation

**Note\***

We are seeking funds in the amount of \$98,575.00 to cover the costs of the above equipment. Please note the costs may vary slightly based on equipment availability and current pricing. We are able to adjust equipment selection and we remain committed to only purchase materials required for airway health emergencies.

**Timeline**

The equipment will be purchased at which time Strathcona Community Hospital Foundation is notified of the funds being directed for the proposed equipment. All equipment will be purchased and installed within three to six months of receipt of funds.

All funds will go directly to the purchase of the equipment.

Thank you very much for your consideration. We look forward to hearing from you shortly to advise the next steps in the process.

Sincerely,

*Colleen Ens*

Executive Assistant



**STRATHCONA**  
Community Hospital Foundation

780.717.0009