

Agreement # _____

McKenzie County Road & Bridge Department Haul Road Agreement

THIS AGREEMENT is entered into by and between McKenzie County, North Dakota, hereafter referred to as **County** and _____ hereinafter referred to as **Contractor** whose address is:

Said agreement is effective from _____ to _____.

It is agreed to by and between the parties that the **Contractor** can use, as and for a road to haul _____ to and from the areas more specifically described as follows:

- Road # _____ beginning at the intersection of _____ and _____ and ending at the intersections of _____ and _____; total miles _____.
 - Axle weight and maximum gross weight: _____ ton per axle _____ lbs. maximum.
- Road # _____ beginning at the intersection of _____ and _____ and ending at the intersections of _____ and _____; total miles _____.
 - Axle weight and maximum gross weight: _____ ton per axle _____ lbs. maximum.
- The speed limit for trucks using this haul road will be _____ mph.
- **Contractor must comply with Spring Frost Law weight restrictions when in place.**
- **Contractor must comply with Inclement Weather Restrictions of 20,000 lbs GVW on gravel roads when in place.**
- Any additional items to include: _____

Said hauling operation is expected to generate roadway usage clearly in excess of normal use and may result in damage to the roadway surface in the form of rutting, loss of gravel, damage to subgrade, damage to pavement, damage in right of way and/or damage to drainage structures, etc.

Restrictions on the use of this/these road(s) are as follows: The road must be restored to the original condition or better than was recorded during the pre-haul road inspection conducted on _____ by McKenzie County Road Superintendent and/or its Engineers. This includes but is not limited to, subgrade condition, thickness and gradation of gravel, roadway profile, shoulders, culverts, bridges, ditches, and other structures. Photographs will be taken during this pre-haul road inspection.

Contractor must take steps to ensure the following:

- Employ procedures to prevent excess dirt and debris from being deposited onto the road and/or right of ways. **Contractor** agrees to a timely removal of such items keeping the road passable and safe for vehicular traffic at all times. **All loads are to be tarped.**
- Keep roadway open for travel for public use at all times during the term of this agreement. Roadway must be in good condition and repair and shall remain passable in all weather conditions.
- **Contractor** must maintain said route to meet the reasonable and acceptable standards as prescribed by **County**. This will be performed at the **Contractor's** expense.
 - Maintenance of gravel roads shall include dust control, blading, and gravel replacement.
 - Maintenance of paved roads shall include repairing of road surface defects, deformities, and any other failures.
- **Contractor** must contact **County** immediately to report any damages caused during hauling operations in order to keep in safe driving condition.
- **Contractor** is responsible for snow removal on said route and shall meet the reasonable and acceptable standards as prescribed by **County**. This will be performed at the **Contractor's** expense.
- **Contractor** shall bear the costs of any additional signage needed during hauling operations. Signage must meet MUTCD requirements.
- **Contractor** is responsible for being in compliance with all Federal, North Dakota and Department of Transportation traffic laws.
- Send written notice to the County Road & Bridge Department prior to completion of the hauling operation in order for a joint post-inspection to be conducted and documented. Photographs will be taken during this post-inspection.
- All repairs shall be completed within 15 days after the written notification of completion.

It is further agreed, that while hauling is in progress, if an Engineer for the **County** or the McKenzie County Road Superintendent believes that there is substantial evidence of present damage to the road occurring, that the hauling shall immediately cease upon the order of the **County** in order for the **Contractor** to provide appropriate repairs to the road(s) and/or bridge(s).

At any time during the Agreement, if the **Contractor** fails to complete the repair(s) in accordance to the **County's** standards, the **County** may bill the **Contractor** for any/all repairs completed by **County** employees or a qualified contractor, as determined by **County**.

Contractor agrees and understands that this Agreement may be terminated by the **County** when any of the following occurs:

- Violation by the **Contractor** of any of the terms of this Agreement;
- Where continued use by the **Contractor** of the haul road(s) will endanger public health, safety or welfare.
- The **Contractor** notifies the **County** in writing that hauling operations have ceased at which time a post-inspection will be conducted.
- The **County** will not be liable to the **Contractor** for any claims, expenses, charges, fees, loss of profit or costs whatsoever directly or indirectly related to the termination of this Agreement by the **County**.

Upon termination of this Agreement, for any reason, the **Contractor** shall immediately discontinue hauling operations covered by this Agreement.

Contractor, its agents, successors, and anyone on anyone on behalf of owner hereby releases and forever discharges McKenzie County from all claims related to this Agreement and **Contractor's** use of **County** roads, bridges, or property. This includes all claims and actions for any injury, loss, claims, actions, damages, liability, costs, and expenses including reasonable attorney's fees resulting from loss of life, personal or bodily injury, damage to property, or any other incident arising out of this Agreement or **Contractor's** use of **County** roads, bridges, and property.

Contractor agrees to indemnify, defend, and hold McKenzie County harmless from any injury, loss, claims, actions, damages, liability, costs, and expenses including reasonable attorney's fees resulting from loss of life, personal or bodily injury, damage to property, or any other incident arising out of this Agreement or **Contractor's** use of **County** roads, bridges, or property. This indemnification and hold harmless shall also include any award of damages against McKenzie County for negligent, reckless, or intentional conduct of the County, its employees, or its agents.

Contractor shall procure and endeavor to maintain in effect throughout the duration of this Agreement, and for a period of two (2) years thereafter, insurance coverage not less than the types and amounts specified below. Certificates of Insurance shall be provided to the **County** and shall list the **County** as an additional insured.

- General Liability – not less than \$1,000,000
- Automobile Liability – not less than \$1,000,000
- Worker's Comp-Statutory

Contractor must maintain the required insurance coverage in force at all times; its failure to do so will not relieve it of any liability or contractual obligation or responsibility. In the event of **Contractor** failure to maintain the required insurance, the **County** may order the **Contractor** to immediately stop work and upon seven (7) days notice and an opportunity to cure, may pursue its remedy for breach of this Agreement as provided herein and by law.

The laws of McKenzie County, North Dakota shall govern this agreement, and any legal proceeding regarding this agreement shall be brought before the District Court of McKenzie County, North Dakota. Further, by performing these services in McKenzie County, North Dakota, the **Contractor** hereby submits to the jurisdiction of the District County of McKenzie County, North Dakota.

The hauling of materials on _____ shall cease as soon as materials to be hauled have been delivered. The hauling shall commence on or after _____; and that this Agreement shall be in effect until a projected date of _____, unless sooner revoked by the **County**.

Applicant (Representative, Company) _____

Application Address (Address, City, State, Zip) _____

Phone Number (s) of Applicant _____

Email of Applicant _____

Dated this _____ day of _____ 20_____

By: _____

McKenzie County Road Superintendent

Dated this _____ day of _____ 20_____

By: _____

Name of Contractor

Dated this _____ day of _____ 20_____

By: _____

Chairman of the Board of McKenzie County Commissioners