



# McKenzie County

## Road Maintenance Agreement

THIS ROAD AGREEMENT (this "Agreement") is made and entered into, effective as of \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ (the "Effective Date"), by and between MCKENZIE COUNTY, NORTH DAKOTA, a political subdivision established under the laws of the State of North Dakota, whose address is 201 5th Street, Suite 543, Watford City, North Dakota 58854 ("McKenzie County"), and \_\_\_\_\_, a private landowner in McKenzie County (Owner), whose address is \_\_\_\_\_, and legal description of the private driveway is \_\_\_\_\_ (Property).

### RECITALS

WHEREAS, Owner is the owner of the Property described above and the private driveway leading up to the Property, which is depicted on Exhibit A attached hereto and incorporated herein;

WHEREAS, Owner requests McKenzie County to maintain the private driveway as McKenzie County's resources allows for;

WHEREAS, McKenzie County agrees to maintain Owner's private driveway as the McKenzie County's resources allows for;

WHEREAS, Owner recognizes and agrees this Agreement in no way creates any legal obligation for McKenzie County to maintain Owner's private driveway;

NOW, THEREFORE, for and in consideration of the mutual benefits of the Owner and McKenzie County contained herein, and for other good and valuable consideration Owner and McKenzie County agree as follows:

### TERMS

1. **Access:** Owner hereby grants McKenzie County's Road Department access to said property and private driveway for the purposes of road maintenance.
2. **Road Maintenance:** For the purposes of this agreement road maintenance shall consist of blading the private driveway biannually and after major snow events as the McKenzie County Road Department's time and resources allow.

3. **Private Driveway:** For the purposes of this agreement road maintenance will only be performed on residential private driveways. This may include main access points and primary roadways leading into subdivisions, provided there is sufficient turnaround space for the equipment being used. Private driveways will not consist of oil field lease roads or roads used primarily for oil field services.
4. **Right to Refuse Private Driveway Maintenance:** McKenzie County reserves the right to refuse maintenance on any road if the McKenzie County Road Department's time and resources do not allow, there is not sufficient turnaround space for equipment, the maintenance of the road is dangerous or has the potential to damage property, or for any other reasonable reason.
5. **No Obligation:** Owner recognizes and agrees this Agreement in no way creates any legal obligation for McKenzie County to maintain Owner's private driveway. Road maintenance will be done as the McKenzie County Road Department's time and resources allow. If weather events or other priorities do not allow for the biannual blading and snow removal of said private driveway this agreement does not create a legal obligation for McKenzie County to do so. Nor does it give Owner any legal cause of action for McKenzie County's failure to maintain Owner's private driveway.
6. **Term:** The term of this Agreement shall commence upon the final required signature and shall expire on December 31<sup>st</sup> of the calendar year when it was executed.
7. **Termination:** McKenzie County reserves the right to terminate this Agreement without cause by giving 30 days written notice to the Owner.
8. **Release of Liability:** Owner, its agents, successors, and anyone on behalf of owner hereby releases and forever discharges McKenzie County from all claims related to this Agreement. 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 McKenzie County's maintenance or use of the road.
9. **Indemnification:** Owner 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 McKenzie County's maintenance or use of the road. 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.
10. **No Relationship or Agency:** Nothing in this Agreement creates or is intended to create an association, trust, partnership, joint venture or any other entity or similar legal relationship among the McKenzie County and Owner, or impose a trust, partnership or fiduciary duty, or similar obligation or liability on or with respect to

any each Party. Furthermore, no Party is or shall act as or be the agent or representative of any other Party.

- 11. **Assignment:** Neither Party may convey its rights under this Agreement to another party without the prior written consent of the other Party, which consent shall not be unreasonably withheld. Subject to the preceding sentence, the terms and conditions of this Agreement shall inure to the benefit of, and be binding upon, the respective successors and assigns of the Parties.
  
- 12. **Entire Agreement; Amendment:** This Agreement contains the entire agreement and understanding of the Parties as to the road maintenance and related activities as described herein, and supersedes, cancels, and terminates any prior understanding, either oral or written, express or implied, as may exist between the Parties concerning the road maintenance and related activities as described herein. This Agreement may be amended only by an instrument in writing executed by both Parties.

---

**OFFICE USE ONLY**

	Yes	No
• <b><u>Is this request for a road leading into or located in a subdivision</u></b>	<input type="checkbox"/>	<input type="checkbox"/>
• <b><u>McKenzie County Road &amp; Bridge Approved</u></b>	<input type="checkbox"/>	<input type="checkbox"/>

**Comments:** \_\_\_\_\_  
\_\_\_\_\_

**Date Received:** \_\_\_\_\_

**Received by:** \_\_\_\_\_

**APPROVAL**

This Road Maintenance Agreement is approved by the **COUNTY OF MCKENZIE** by motion made on the \_\_\_ day of \_\_\_\_\_, 2023 by \_\_\_\_\_, seconded by \_\_\_\_\_, and approved on a vote of \_\_\_\_\_ ayes and \_\_\_\_\_ nays.

\_\_\_\_\_  
Howdy Lawlar  
Chairman, Board of County Commissioners

\_\_\_\_\_  
Erica Johnsrud  
County Auditor

**STATE OF NORTH DAKOTA**

**COUNTY OF MCKENZIE**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, personally appeared \_\_\_\_\_ and the people that are described in, and who executed the within instrument and acknowledged to me that they executed e same.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Owner

**STATE OF NORTH DAKOTA**

**COUNTY OF MCKENZIE**

On this \_\_\_\_\_ day of \_\_\_\_\_, 2023, before me, personally appeared \_\_\_\_\_ and the people that are described in, and who executed the within instrument and acknowledged to me that they executed the same.

\_\_\_\_\_  
Notary Public