

ROAD PROTECTION MAINTENANCE AGREEMENT

Agreement No. **RPMA-A-*****

This Agreement made this _____ day of _____, _____.

BETWEEN:

COUNTY OF VERMILION RIVER

A Municipal Corporation in the Province of Alberta
(hereinafter referred to as "the County")

of the First Part

-and-

(hereinafter referred to as the "Industry Operator")

of the Second Part

WHEREAS the County has the direction, control and management of all roads within its boundaries pursuant to the *Municipal Government Act*, R.S.A. 2000, c. M-26, as amended and repealed and replaced from time to time;

AND WHEREAS the Industry Operator desires to transport goods and materials within the jurisdiction of the County and has submitted an application for a permit pursuant to Traffic Bylaw #14-04 to permit the use of certain County roads by overweight vehicles pursuant to Section 9 of the Bylaw;

AND WHEREAS the Industry Operator is required as a condition of such permit to enter into this Road Protection Maintenance Agreement and to use the County roads pursuant to the terms as set out specifically in this Agreement and in the appendices attached hereto, and which forms part of this Agreement;

AND WHEREAS the County has agreed to grant the Industry Operator with a non-exclusive permit to use County roads subject to the Bylaw and on the terms and conditions as set out below and in the appendices and which form part of this Agreement;

NOW THEREFORE this Agreement witnesseth that in consideration of the terms and conditions hereinafter specified, the parties agree to as follows:

USE OF ROAD

1. Subject to the terms and conditions set out in this Agreement, the Industry Operator may transport the goods and materials during the Term of the Agreement. All activity associated with this Agreement shall include the transport of goods, associated manpower and materials to and from the operations site along the Route as set out in the Appendix "A" to this Agreement (hereinafter referred to as the "Route"), and shall include start-up operations, on-going operations and wrap-up operations.

TERM

2. The Term of this Agreement is for one year commencing on January 01, 2023 and expiring on December 31, 2023, subject to renewal or unless terminated earlier by either party in accordance with the terms of this Agreement (hereinafter referred to as the "Term").
3. Provided that the Industry Operator has duly complied with the provisions of the Bylaw and this Agreement, the County may renew this Agreement by notice in writing to the Industry Operator for subsequent further terms of one (1) year each (the "Renewal Term"), upon the following conditions:
 - a. Any renewal of this Agreement shall at all times be subject to the County's discretion;
 - b. Any renewal shall be subject to the payment or delivery of any costs to repair previous damage caused by the Industry Operator to the County's road or any additional Security amounts, as determined by the County, and as set forth in the notice for renewal; and
 - c. In all other aspects, the provisions of the Bylaw and the terms and conditions of this Agreement shall apply during any Renewal Term.

PRE AND POST HAUL INSPECTIONS

4. The County shall conduct a pre- and post-haul inspection of the Route to assess the condition of the Route and to determine the deterioration of the Route attributing to the Industry Operator. Both the pre- and post-haul inspections shall be initiated by the Industry Operator. The County shall notify the Industry Operator of the date and time of the pre- and post-haul inspections and such inspections may be conducted in the presence of a representative of the Industry Operator upon the Industry Operator's request.

COVENANTS AND OBLIGATIONS OF THE INDUSTRY OPERATOR

5. In consideration of the permission hereby granted by the County, the Industry Operator covenants and agrees to the following:
 - a. To pay for any and all damages which may result to roads, ditchways, culverts, bridges or other property on or adjacent to the Route, as determined by the County, acting reasonably;
 - b. To pay any and all expenses or out-of-pocket disbursements which may be incurred by the County in connection with the terms and conditions of this Agreement whether they be for administrating road use permits, inspection, escort, videotaping, supervision, monitoring or whatsoever;
 - c. To pay for dust abatement measures along the Route as determined by and administered by the County. Any segment(s) of road along the Route previously treated by the County with dust abatement materials must be maintained by the Industry Operator as a dust abated segment during the Term or Renewal Term of this Agreement. The dust abatement measures will be performed by County and invoiced to the Industry Operator, in accordance with the standards prescribed by the County and by Alberta Environment for use and application of dust abatement materials;

- d. To be in good standing with the County, including but not limited to, having all accounts paid in full in relation to any property or business taxes, utility charges, fines or fees, payments for road repair or dust abatement charges, and community peace officer project funding;
- e. To provide daily clean-up of tracking material or other deleterious materials deposited along the Route;
- f. To confirm that no restrictions have been placed on the Route by the County prior to commencing any hauling for that day and if restrictions have been placed on any part of the Route, the Industry Operator must abide by such restrictions unless the Industry Operator has obtained an expressed written exemption from the County. This will include, but is not limited to, any axle loading restrictions or road bans that the County may, acting reasonably, place on the Route from time to time;
- g. To cease hauling operations if road damage is evident, during adverse weather conditions, including but not limited to rain, or at any time at the County's request, acting reasonably, and not to commence any further activities until the adverse weather conditions have passed or the Industry Operator has received notification from the County that they may recommence operations;
- h. All Industry Operator trucks must carry a copy of the heavy vehicle permit, Appendix "A" and a map of approved roads during the effective dates of this Agreement and produce same when required by a County Official, Peace Officer, Royal Canadian Mounted Police, or other duly authorized personnel;
- i. To ensure that no tire chains or metal-tracked apparatus are used on any of their equipment on paved or oiled roadways along the Route;
- j. To provide any special signing and traffic control persons as required by law and the County to ensure the safety of others using the roads that comprise the Route;
- k. To obtain and maintain all the necessary permits, licenses, approvals and authorizations and to comply with any restrictions or regulations as required by law, bylaw, County regulation or policy; and
- l. To abide by any additional terms and conditions as set out in the Heavy Vehicle Permit to this Agreement.

INDEMNIFICATION BY THE INDUSTRY OPERATOR

6. The Industry Operator shall at all times and without limitation, indemnify and save harmless the County, its Councillors, directors, officers, employees, contractors, agents and representatives from and against all liabilities, losses, costs, damages, legal fees (on a solicitor and his own client full indemnity basis), disbursements, fines, penalties, expenses, all manner of actions, causes of action, claims, demands and proceedings, all of whatever nature and kind which any of the County, its Councillors, directors, officers, employees, contractors, agents and representatives may sustain, pay or incur or which may be brought or made against all or any of them, whether or not incurred in connection with any action or other proceedings, claims or demands made by third parties, with respect to any occurrence, event, incident or matter caused by, and/or arising as a direct or indirect result of:

- a. Any act or omission of the Industry Operator and/or any of those persons for whom the Industry Operator is responsible at law (including, without limitation, any of its employees or subcontractors), whether occasioned by negligence or otherwise;
- b. The costs of repairs, clean-up or restoration paid by the County and any fines levied against the County or the Industry Operator; or
- c. Any breach, violation or non-performance of any representation, warranty, obligation, covenant, or condition in this Agreement set forth and contained on the part of the Industry Operator to be fulfilled, kept, observed or performed, as the case may be:

The provisions of this Section are in addition to and shall not prejudice any other rights of the County has at law or in equity. This Section shall survive the termination or expiry of this Agreement.

INSURANCE

7. Without in any way limiting the liability of the Industry Operator under this Agreement, the Industry Operator shall obtain and maintain in force during the Term of this Agreement the following insurance, all satisfactory to the County, acting reasonably;
 - a. standard automobile, bodily injury and property damage insurance providing coverage of at least TWO MILLION (\$2,000,000.00) DOLLARS per occurrence, inclusive and in respect of any claim for the injury to or death of one of more persons or damage to or destruction of property;
 - b. a comprehensive general liability insurance policy providing coverage of at least FIVE MILLION (\$5,000,000.00) DOLLARS per occurrence, inclusive and in respect of any claim for injury to or death of any one or more persons or damage to or destruction of property. Coverage to include:
 - i. non-owned automobiles;
 - ii. independent subcontractors;
 - iii. contractual liability including this Agreement;
 - iv. broad form property damage endorsement; and
 - v. environmental liability.
 - c. Workers' Compensation coverage for all employees, if any, engaged by the Industry Operator in accordance with the laws of the Province of Alberta;
 - d. employers' liability insurance respecting employees, if any, of the Industry Operator with limits of liability not less than TWO MILLION (\$2,000,000.00) DOLLARS per employee for each accident, accidental injury or death of an employee or any subcontractor engaged by the Industry Operator; and
 - e. such other insurance as the County may from time to time reasonably require.

8. The Industry Operator shall ensure that all insurance coverage maintained by the Industry Operator in accordance with this Agreement shall name the County and any other party designated by the County as an additional named insured, contain a severability of interests or cross liability clause, and shall provide that no such insurance policy may be cancelled without the insurer providing no less than THIRTY (30) days' written notice of such cancellation to the County.
9. All liability insurance shall be maintained continuously until TWELVE (12) months after the conclusion date of this Agreement.
10. The Industry Operator shall, upon request of the County, furnish written documentation, satisfactory to the County, evidencing the required insurance coverage. The cost of all the insurance required to be held by the Industry Operator as set forth herein shall be borne by the Industry Operator.

MAINTENANCE AND RESTORATION OF ROUTE

11. The Industry Operator accepts responsibility for all road damage caused as a result of its use. The Industry Operator further agrees to contribute to the maintenance of the County's roads in a safe and reasonable state of repair during the Term of the Agreement, including but not limited to the cost of repairing oil or asphalt deterioration, gravel loss, rutting, damage to road shoulders and ditches, culverts, signs or bridges, and damage to native grass or erosion on undeveloped road allowances.
12. The Industry Operator further agrees to restore the roadways and road allowances by resurfacing or regravelling, as the case may be, that comprise the Route as required or deemed necessary by the County, in the sole discretion of the County's Director of Public Works or his/her designate. The Industry Operator agrees to undertake any dust suppression on the Route when and if required as determined by the County, in the sole discretion of the County's Director of Public Works or his/her designate.
13. As determined by any inspection of the Route contemplated pursuant to Section 4 above, the County, at its sole discretion and acting reasonably, shall determine what maintenance or restoration work, if any, is required of the Route to be completed by the Industry Operator, at the Industry Operator's sole expense. The restoration shall include maintenance of the road surface in a safe condition by adding surface material as well as restoration of the surface to an "as-found" condition prior to the expiry of this Agreement.
14. Such maintenance and restoration work to be undertaken at the Industry Operator's sole expense must be completed within FIVE (5) DAYS of the County providing notice of such repair and restoration and may be undertaken by the County at the Industry Operator's request or by a contractor, approved by the County, acting reasonably.
15. If a grader and/or dust abatement equipment, which is to be supplied at the expense of the Industry Operator and is required to maintain or restore the Route in good condition and/or to provide dust control, compromises traffic safety including sight conditions, health conditions, etc., appropriate safety measures must be immediately and continually undertaken by the Industry Operator, at its sole expense, and must meet the standards so prescribed by the County.
16. The County may, but is not obligated to, perform any road maintenance and restoration it deems appropriate throughout the Term or Renewal Term of this Agreement to the Route based upon an inspection performed in accordance with Section 4 of this Agreement. Further

to this Section and Section 11 of this Agreement, the County may provide to the Industry Operator an invoice and the Industry Operator agrees to pay the said invoice within SIXTY (60) days of receipt of any invoice for the work completed by the County that is attributable to the activities of the Industry Operator.

SECURITY

17. The Industry Operator will provide Security to the County in the amount as set out in Appendix "B" to this Agreement (when applicable).
18. The security shall be in the form of an irrevocable letter of credit issued by a Chartered Bank or Treasury Branch with a term of at least ONE (1) year and shall contain provisions for either:
 - a. A covenant by the issuer that if the issuer has not received a release from the County SIXTY (60) days prior to the expiry of the security, then the security shall automatically be renewed, upon the same terms and conditions, for a further period of ONE (1) year; or
 - b. A right on the part of the County to draw upon the full amount of the Irrevocable Letter of Credit, or any portion thereof, in the event that the County has not received a replacement letter, or confirmation of an extension or renewal of the existing letter, at least SIXTY (60) days prior to the expiry of the security.
19. The County may invoke the provisions of Section 17 regarding Security, and cash or make demands as payee and beneficiary under the Security in the event that the County is of the opinion that:
 - a. The Industry Operator by any act or omission is in default or breach of any term, condition or covenant of this Agreement;
 - b. The Industry Operator has been required to repair or restore any damage to the Route in accordance with the provisions of this Agreement and the Industry Operator has failed to undertake such repair or restoration within FIVE (5) days of the County providing notice of such repair and restoration, or pay the costs and expenses of such repair and restoration within SIXTY (60) days after receipt from the County of an invoice; or
 - c. The security to be provided by the Industry Operator to the County pursuant to this Agreement is due to expire within SIXTY (60) days and the Industry Operator has not deposited with the County a renewal or replacement of such Security in terms and form acceptable to the County.
20. In the event that the County has negotiated or called upon the Security referred to in Section 17, the County may, at its option and discretion, use any funds thereby obtained in any manner the County deems fits to discharge the obligations of the Industry Operator pursuant to this Agreement.

TERMINATION, DEFAULT AND SUSPENSION

21. The failure by the Industry Operator to abide by any of the terms described in this Agreement may result in the immediate suspension or termination of the Agreement by the County, as determined by its sole discretion and acting reasonably.

22. Notwithstanding Section 21, this Agreement may be terminated without cause at any time by the County by giving SEVEN (7) days written notice to the Industry Operator.
23. The Industry Operator acknowledges and agrees that no refund or compensation shall be payable by the County to the Industry Operator or any other party if this Agreement is terminated pursuant to Sections 21 or 22.

GENERAL TERMS

24. The provisions of this Agreement shall survive the termination or expiration of this Agreement, as the context may require, and shall not be merged therein or herewith.
25. The Industry Operator MUST have a copy of the heavy vehicle permit, Appendix "A" and map of approved roads in the transporting vehicles. This information may be requested by County Officials, Bylaw Officers, the Royal Canadian Mounted Police, or other duly authorized personnel. Failure to produce this information upon request may result in a ticket being issued and/or a suspension of this Agreement in accordance with Section 21.
26. Any notice, demand or other document required or permitted to be given under the terms of this Agreement shall be sufficiently given to the party to whom it is addressed if in writing and is faxed, mailed or delivered to the intended party at the address specified below for such recipient or, as to either party, at such other address as either party may furnish to the other from time to time. Except as otherwise provided in the Agreement, all communications shall be deemed to have been duly given when transmitted by facsimile or personally delivered or, in the case of registered mail, upon receipt, in each case given or addressed as aforesaid:

COUNTY OF VERMILION RIVER

Box 69
Kitscoty, AB T0B 2P0

Attention: Darrell Denis, Operations Manager

Attention: xxx

27. No waiver of any breach of any representation, warranty, obligation, covenant, or condition in this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give the same and unless otherwise provided, shall be limited to the specific breach which is waived.
28. This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta.
29. The headings in this Agreement have been inserted for reference and as a matter of convenience only and in no way define, limit or enlarge the scope or meaning of this Agreement or any provision hereof.
30. All of the provisions of this Agreement will be treated as separate and distinct and if any provision hereof is declared invalid, the other provisions will nevertheless remain in full force



4912-50 Avenue, Box 69
Kitscoty, Alberta T0B 2P0
Ph. 780.846.2244 /
780.853.5492
Fax. 780.846.2985
publicworks@county24.com

www.vermilion-river.com

and effect.

31. This Agreement is non-transferable but shall enure to be binding upon the parties hereto, their respective heirs, executors, administrators, successors and assigns.

IN WITNESS WHEREOF the parties have hereunder affixed their seals of their proper officers as of the day and year first above written.

County of Vermilion River

(Industry Operator)

Darrell Denis, Operations Manager

xxx

(Date)

(Date)

(Signature)

(Signature)

(Date)

(Date)

(Witness)

(Witness)

Contact Information:

Primary Contact: xxx
Primary Phone: (123) 456-7890

"APPENDIX - A" - ROADS COVERED UNDER AGREEMENT

Appendix A Type: RPMA Full Season

*** ('Industry Operator')

Takes responsibility for:

| On | From | To |
|------------|---------------|-----------|
| Range Road | Township Road | Highway |

"APPENDIX - B" - SECURITY OBLIGATION

1. Security

- a. As security for the performance of all obligations of the Industry Operator under this Agreement and the appendixes thereto, the Industry Operator shall provide the County with either cash in the amount of \$0.00 or an irrevocable letter of credit payable to the County with a face amount of **(\$0.00)** to be held by the County throughout the Term (the "**Security**"). If a letter of credit comprises the Security, it shall:
 - i. be in a form and content acceptable to the County and its solicitors, and comply with the County's policies and procedures of general application to letters of credit;
 - ii. be issued by an Appendix I or II chartered bank (as defined in the *Bank Act* (Canada)), the Alberta Treasury Branch, or such other financial institution as may be approved by the solicitors for the County;
 - iii. provide for either:
 - A. a covenant by the issuer that if the issuer has not received a release from the County 60 days prior to the expiry of the date of the letter of credit, then the letter of credit shall automatically be renewed, upon the same terms and conditions, for a further period of 1 year; or
 - B. a right on the part of the County to draw upon the full amount of the letter of credit, or any portion thereof, in the event that the County has not received a replacement letter, or confirmation of an extension or renewal of the existing letter, at least 60 days prior to the expiry of the letter of credit.
- b. The County shall be entitled to call upon the Security herein contemplated at any time in order to satisfy any obligation of the Industry Operator that is in default under this Agreement or any appendix thereto, provided always that the County shall provide a written accounting of the applicable for any amounts received by the County pursuant to the enforcement of the Security.
- c. In the event that this Road Protection Maintenance Agreement is renewed in accordance with the terms hereof and the Security is an irrevocable letter of credit, a replacement letter of credit must be provided in accordance with the terms and conditions herein, save and except for the face value of the letter of credit which shall be established by the County at the time of renewal, and such replacement letter of credit shall be held by the County throughout the renewal term.

d. The Security provided by the Industry Operator hereunder is without prejudice to the Industry Operator's responsibility under this Road Protection Maintenance Agreement and the appendixes attached thereto. Nothing shall prevent the County from demanding payment or performance by the Industry Operator in excess of the required Security, and without having to call upon or otherwise exhaust its remedies in respect of the required Security prior to making such demand.

e. In the event that the County has negotiated, called upon, or otherwise received proceeds from the Security provided hereunder, the County shall be entitled to hold and apply same as a security deposit in lieu of the original Security.

f. In the event that the County has negotiated, called upon, or otherwise received proceeds from the Security provided hereunder, the County may, at its sole option and discretion, use any such proceeds in any manner the County deems fit to discharge the obligations of the Industry Operator pursuant to this Agreement and the appendixes attached thereto.

g. The Industry Operator acknowledges that notwithstanding anything contained in this appendix or this Road Protection Maintenance Agreement, the County shall be entitled, in its sole discretion, to adjust the Security amount required as contemplated within Section 1(a) above on an annual basis.

h. In the event of a renewal of this Agreement, the then current and applicable Security amount imposed by the County shall be required as a condition precedent to the renewal.

County of Vermilion River

Darrell Denis, Operations Manager

(Signature)

(Signature)

Contact Information:

Primary Contact: xxx

Primary Phone: (123) 456-7890

HEAVY VEHICLE PERMIT

(Issued under the authorization of Bylaw 14-04 Traffic Safety Bylaw)

Permit # **23-XXX-139**

Industry Operator: ***

Multiple Carrier

[View Carrier List \(attached\)](#)

Special Terms & Conditions of Permit:

Further permission required to travel restricted and/or banned County roads.

Road Protection Maintenance Agreement(s) entered into by Industry Operator
(Appendix A attached): RPMA-A-139

Issue Date: January 01, 2023

Expiry Date: December 31, 2023

Authorized
Signature:

County of Vermilion River - Darrell Denis, Operations Manager

Distributor's
Authorized Signature:

Industry - Controlling Movement of Carrier

**** Permit not valid until carrier information is received by the County of Vermilion River.**

****Permit only valid for permitted roads as specified on Appendices.**