



**FOSTER COUNTY
Haul Road Agreement**

Agreement Number: _____ Dated this _____ day of _____, 20____

Whereas, _____ (hereinafter referred to as Permittee)

has requested authorization to use Foster County Road _____

_____ to haul equipment and materials as set forth in the attached report (must include origination and destination)

Type of material being hauled: _____

Quantity of material: _____

Start Date: _____ End Date: _____

WHEREAS, in order to complete project it has become necessary for the contractor to utilize a portion of the Foster County Road System of Foster County for the conveyance of equipment and materials;

and WHEREAS, the Permittee or its designee will restore that portion of said road system, after it has been used to convey said equipment and materials, to the condition which existed immediately prior to its use;

and WHEREAS, the Foster County Road Superintendent or designee and the Permittee (or authorized agent thereof), after making said inspection and recording the existing conditions of the haul road, shall all sign the inspection report, agreeing to the conditions stated therein.

And WHEREAS, the Permittee agrees to maintain the haul road in a safe condition satisfactory to the Foster County Road Department. Maintenance of non-gravel roads shall include blading of material, material replacement, dust control and snow removal as so determined. Maintenance of asphalt roads shall include repairing of road surface defects, deformities, and any other asphalt failures. All signing as determined shall be in accordance with the Manual of Traffic Control Devices;

And WHEREAS, any improvements, alternations or proposed changes to said route will be pre-approved by the Foster County Road Superintendent in accordance with Foster County's standard specifications for roads before such improvements, alternations or proposed changes take place.

NOW THEREFORE, in consideration of the premises, the mutual and independent covenants, all as hereinafter more fully set forth, the parties hereto agree as follows:

1. That the portion of the Foster County Road System as shown above, is maintained by Foster County and is that portion which is proposed for use as a haul road, and that, after use of said road as a haul road for the purposes herein set forth, the Permittee hereby agrees to maintain and restore to the satisfaction of the Foster County Road Superintendent said road to its pre-existing condition, as reported in the Haul Road Inspection Report in accordance with measurements and observations at the time of inspection.
2. That permittee shall comply with terms of the Risk Management Appendix which is appended hereto and incorporated herein by reference.
3. Other:

IN WITNESS WHEREOF, the said parties hereto have caused this agreement to be signed by their representative and duly authorized officers.

Failure to comply with any permit or application will result in a revoked permit and create an immediate hold on any work on the project. Operating without applicable approval and permits will result in a fine of \$500/day until the permit is reinstated.

Application Date: _____

Permittee Name: _____

Address: _____

Phone Number: _____

By: _____ (Representative Signature)

Title: _____

FOR OFFICIAL USE ONLY

Foster County Road Department
1000 5th St. N
Carrington, ND 58421

Phone: 701-652-3926

Approved this date: _____

Foster County Chairman

Foster County Road Superintendent

Risk Management Appendix

Permittee agrees to defend, indemnify, and hold harmless Foster County, its agencies, officers and employees (County), from and against claims based on the vicarious liability of the County or its agents and based on the County's contributory negligence, comparative, and/or contributory negligence or fault, and sole negligence, and intentional misconduct. The legal defense provided by the Permittee to the County under this provision must be free of any conflict of interest, even if retention of separate legal counsel for the County is necessary. Permittee also agrees to defend, indemnify, and hold the County harmless for all costs, expenses, and attorney's fees incurred if the County prevails in an action against the Permittee in establishing and litigating the indemnification coverage provided herein. The obligation shall continue after the termination of this agreement.

Permittee shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools, or government self-retention funds authorized to do business in North Dakota, the following insurance coverages:

1. Commercial general liability insurance – minimum limits of liability required are \$1,000,000 per person and \$2,000,000 per occurrence. If it is not practical for the Permittee to carry commercial general liability insurance, Permittee may substitute farm liability insurance, renters' insurance, or homeowners' insurance in the amount of at least \$1,000,000.
2. If Permittee may use an automobile in relation to the attached agreement, Permittee must secure automobile liability insurance with a minimum liability of at least \$1,000,000. The above limits may be satisfied through a policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form.
3. The County, its agencies, officers, and employees (County) shall be endorsed as additional insured on the above policies.

The Permittee shall furnish a certificate of insurance coverage evidencing the requirement in 1 through 3 above to the undersigned County representative prior to commencement of this agreement.

Permittees' insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance, or self-retention maintained by the County.

The insolvency or bankruptcy of the insured Permittee shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Permittee from meeting the retention limit under this policy.

The Permittee must secure any necessary Workers Compensation coverage that may be required by North Dakota law.

When a portion of the contract is sublet, the Permittee shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Permittee and the County because of work undertaken by the Subcontractor or Sublessor. In addition, the Permittee shall ensure that any and all parties performing work under the Contract are covered by public liability insurance as outlined above. All Subcontractors or Sublessors performing work under the permit are required to maintain the same scope of insurance required of the Permittee. The Permittee shall be held responsible for ensuring compliance with those requirements by all Subcontractors and Sublessors.