



MEMORANDUM OF AGREEMENT entered into this _____ day of _____, A.D., 20(yr)

BETWEEN:

PARKLAND COUNTY

OF THE FIRST PART,

-and-

(insert Company name)
(insert Company address)

OF THE SECOND PART.

WHEREAS Parkland County (hereinafter referred to as "Parkland") is responsible for the control and management of certain public highways, roads, streets, lanes, alleys and bridges (hereinafter referred to as "the Parkland Roadways") within Parkland and (insert Company name) has applied to Parkland for permission to haul certain goods and materials on the Parkland Roadways; and

WHEREAS Parkland is prepared to permit (insert Company name) its servants, employees, agents, licensees and independent contractors (hereinafter referred to as the "Hauler") to haul the goods and materials requested by the Hauler on the Parkland Roadways, subject to the Hauler undertaking to repair any damage caused to the Parkland Roadways by the Hauler, all on the terms and subject to the conditions hereinafter set forth;

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT, in consideration of the mutual covenants and agreements hereinafter set-forth and in consideration of Parkland permitting the Hauler to haul certain goods and materials, as specified on Schedule "A" hereto attached, over the Parkland Roadways during the period of time specified on Schedule "A", Parkland and the Hauler agree as follows:

1. Forthwith upon the execution of this Agreement by the Hauler and Parkland, the Hauler shall supply Parkland with security in the amount as may be specified on Schedule "A" to ensure compliance by the Hauler with each of the terms, covenants and conditions of this Agreement. The

security to be provided by the Hauler to Parkland pursuant to this Agreement shall consist of cash, certified cheque or bank draft or an irrevocable Letter or Letters of Credit issued by a chartered bank or the Treasury Branch in favour of Parkland in such form as may be required by Parkland. Such security shall secure all levies, taxes, fees, charges, and amounts owing to Parkland under this Agreement, including without limitation any levy in respect of a sand and gravel business operating in Parkland.

2. Parkland and the Hauler agree that any costs associated with the use of the security shall be formalized and invoiced by Parkland, and the Hauler shall have the option of paying such costs within sixty (60) days of such invoicing being sent to the Hauler. In the event the Hauler does not pay the invoiced amount within sixty (60) days, Parkland shall charge such invoiced costs against the security. Upon satisfactory inspection by Parkland at the completion of the haul or term of the Agreement, the residual security shall be refunded to the Hauler.

3. The Hauler shall not haul any goods or materials on the Parkland Roadways until such time as the following conditions shall have been met:

- a. this Agreement shall have been executed by the Hauler and by Parkland;
- b. the Hauler shall have paid to Parkland any applicable permit or administration fee identified in Parkland's current Fees and Charges Schedule as required by Parkland for the entering into of this Agreement and the granting of approval to the Hauler to haul the goods and materials specified on the Parkland Roadways.
- c. Parkland shall have acknowledged receipt of the specified security and authorized the Hauler in writing to proceed with the haulage.

4. The Hauler, while operating within Parkland, shall at all times comply with all relevant statutes, regulations, by-laws and resolutions, including, without restricting the generality of the foregoing, all permits, licenses and approvals issued by Parkland and the directions from time to time of Parkland.

5. The Hauler shall at all times ensure the hauling is carried out by drivers who are insured, qualified and licensed to carry out the hauling. Further, the Hauler shall at all times abide by and comply

with the terms and conditions of this Agreement. In the event that the Hauler shall fail to abide by the terms and conditions of this Agreement, Parkland shall be entitled to any of the remedies hereinafter contained.

6. The Hauler acknowledges that he is responsible for and shall indemnify Parkland and save Parkland harmless from any and all liability or damages that result from any failure of the Hauler to abide by the terms and conditions of this Agreement.

7. The Hauler shall ensure that the goods and materials to be hauled by the Hauler are hauled only on those Parkland Roadways which are designated in Schedule "A". Upon the written request by Parkland, the Hauler shall provide Parkland with evidence satisfactory to Parkland respecting the nature of the goods and materials hauled and the quantity of each good or material hauled by the Hauler. The Hauler hereby grants to Parkland an easement for the purposes of entering onto any lands which are subject to the provisions of this Agreement for the purpose of ensuring that the terms of this Agreement are being complied with by the Hauler.

8. Parkland shall endeavour to provide a level of maintenance, including snow and ice control, for Parkland Roadways consistent with Parkland's Road Maintenance Guidelines and Procedures. The Hauler, at the sole cost and expense of the Hauler, shall be required to carry out additional maintenance including snow and ice control, when conditions warrant in order to allow the Hauler to maintain its hauling schedule and when its operations have the potential to result in unsafe traffic conditions due to increased traffic volumes. The Hauler shall ensure that during the times the Hauler is in use of the Parkland Roadways designated in Schedule "A" the said Parkland Roadways are at all times maintained and repaired by the Hauler in the manner set out in Schedule "A". Notwithstanding the foregoing, in the event Parkland determines in its sole discretion that inadequate dust control measures have been implemented by the Hauler, Parkland may, without notice to the Hauler, apply dust control measures and the costs of such dust control measures shall be paid by the Hauler to Parkland.

9. In the event that the Hauler shall fail to perform or carry out one or more of the obligations and undertakings to be performed or carried out by the Hauler pursuant to this Agreement, Parkland shall be at liberty to issue a notice of deficiency to the Hauler advising the Hauler of his failure to perform or carry out one or more of his obligations or undertakings pursuant to this Agreement and the Hauler shall immediately undertake to perform or carry out such works or actions as might be stated in the notice of deficiency.

10. In the further event that the Hauler fails to commence to perform or carry out the works or actions stated in the notice of deficiency to the satisfaction of Parkland within a period of seventy two (72) hours from the receipt of such notice of deficiency by the Hauler, or within such other period of time which might be agreeable to Parkland, Parkland shall be at liberty, but not obligated, to perform and carry out the obligations and undertakings. Every reasonable cost and expense incurred by Parkland in carrying out the said obligations and undertakings shall be paid by the Hauler to Parkland within sixty (60) days of such invoicing being sent to the Hauler. In the event the Hauler does not pay the invoiced amount within sixty (60) days, Parkland shall charge such invoiced costs against the security.

11. Furthermore, in the event that the Hauler shall fail to perform or carry out any of the obligations or undertakings to be performed or carried out by the Hauler pursuant to this Agreement, the Hauler shall pay to Parkland every reasonable cost and expense incurred by Parkland in enforcing or in attempting to enforce, or both, the terms and conditions contained in this Agreement, including, without restricting the generality of the foregoing, all reasonable legal fees and disbursements incurred by Parkland on a solicitor and client basis. Such payment shall be due within sixty (60) days of such invoicing being sent to the Hauler. In the event the Hauler does not pay the invoiced amount within sixty (60) days, Parkland shall charge such invoiced costs against the Hauler's security.

12. The Hauler hereby agrees to authorize the release of any information collected by the Alberta Sand and Gravel Association with respect to any hauls within the County by the Hauler including number and type of complaints or calls from the public.

13. Notwithstanding any other provision contained in this Agreement to the contrary, in the event that Parkland's General Manager of Infrastructure Services or his designate shall declare in writing that an emergency exists as a result of the failure of the Hauler to perform or carry out one or

more of its obligations and undertakings under this Agreement, Parkland shall be at liberty, but not obligated, to immediately perform or carry out the obligations or undertakings which the Hauler has failed to perform or carry out without notice to the Hauler, and the Hauler shall pay on demand to Parkland every reasonable cost and expense incurred by Parkland in performing or carrying out any obligation or undertaking which the Hauler has failed to perform or carry out.

14. In the event that Parkland produces one or more certificates certifying that Parkland, or any person claiming from or through Parkland, is entitled to payment from the security provided by the Hauler for the sum or sums so certified, the Hauler undertakes jointly with the financial institution providing the security pursuant to paragraph 1 of this Agreement that the said sum or sums will be so paid immediately on demand without deduction, holdback or further proof and that the Hauler will not say or do anything to impede the prompt payment of such sum or sums by the said financial institution, whether or not the Hauler believes in the accuracy of such certificate. No such certificate shall be invalidated by want of, from, or error in wording and such certificates may be amended from time to time.

15. Any certificates above-described shall be sufficient and conclusive proof between the parties hereto that Parkland, or any person claiming from or through Parkland, is entitled to payment of any sum or sums under any of the clauses of this Agreement notwithstanding the fact that any bank Letter of Credit may have expired, or not have been granted, or that payment of any amount (including damages) due from the Hauler to Parkland may not be covered by the amount (or terms accepted by Parkland) of the security provided pursuant to paragraph 1 of this Agreement.

16. Upon the completion of the haul, the Parkland Roadways used by the Hauler shall forthwith be restored by the Hauler to a condition, reasonable wear and tear excepted, which is satisfactory to Parkland.

17. In the event the Hauler shall fail to comply with any of the terms or conditions of this Agreement, Parkland shall be at liberty to serve a notice upon the Hauler requiring the Hauler to quit hauling and upon the service of such a notice by Parkland on the Hauler, the Hauler shall forthwith stop all hauling activities within Parkland and the Hauler's rights under any permit or license issued by Parkland to haul goods or materials within Parkland on Parkland Roadways shall be suspended until such time as the suspension shall be lifted by Parkland.

18. This Agreement shall not be transferred or assigned by the Hauler without the consent in writing of Parkland.

19. All notices shall be valid and effective if personally delivered to, or sending it by facsimile transmission, or given by mail by registered letter, postage prepaid (unless at the time of or within forty-eight (48) hours thereof there shall be a general disruption in the postal service, in which case, service shall be by delivery only) addressed:

i. In the case of Parkland, to:

Parkland County
c/o Director, Public Works
53109A Hwy 779
Parkland County, Alberta T7Z 1R1

ii: In the case of the Hauler, to:

(insert Company name)
(insert Company address)
(insert Company address)

and if mailed, shall be deemed to have been effectively given three (3) days after mailing and, if delivered, shall be deemed to have been given on the date on which it was delivered, and if transmitted by facsimile on the next business day following the day of transmission. Notices may also be communicated by any electronic means which can produce a written copy provided that written acknowledgement of the receipt of the electronic communication notice is obtained.

Any party may change its address for receipt of notice by giving notice of its new address to the other party as herein contemplated.

20. This Agreement may be terminated by either party by giving thirty (30) days written notice of the intention to terminate in accordance with the notice provision above.

21. The Hauler acknowledges and agrees that Parkland shall be at liberty to revise Schedule "A" from time to time.

[SIGNATURE PAGE IMMEDIATELY FOLLOWS]

Industrial Haul Agreement File 20(yr)-H-(file #)
(insert Company name)
(pertaining to Development Permit (file #))

(insert Company name) has hereunto subscribed their name and executed an Affidavit of Corp Signing Authority OR the Operator has affixed its seal by the hands of its proper officers duly authorized in that behalf this _____ day of _____, A.D., 20(yr).

SIGNED BY THE SAID

(insert Company name)

IN THE PRESENCE OF:

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)
)
)

WITNESS

PARKLAND COUNTY has hereunto subscribed their name and affixed its seal by the hands of its proper officers duly authorized in that behalf this _____ day of _____, A.D., 20(yr).

PARKLAND COUNTY

LEO GIRARD
DIRECTOR, PUBLIC WORKS

53109A Hwy 779, Parkland County, AB, T7Z 1R1 Tel: 780.968.8448 Fax: 780.968.8451 Toll free: 1.888.880.0858 www.parklandcounty.com

The personal information provided by you is being collected under the authority of the *Municipal Government Act* and will be used for the purposes under that Act. The personal information that you provide may be made public, subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. Questions about the collection of this information can be directed to the Freedom Of Information and Protection Of Privacy Coordinator for Parkland County, 53109A Hwy 779, Parkland County, Alberta T7Z 1R1 (780.968.3229).