

ROAD IMPACT AGREEMENT

This Road Impact Agreement (Agreement) dated May 9, 2013 is entered into between Fillmore County, Minnesota (County) and Reilly Construction Co., Inc. (Mining Operator), with reference to the following facts and assumptions:

- A. Mining Operator is being issued a conditional use permit to authorize and permit Mining Operator to extract and mine industrial minerals from the mining site located at 37825 County Road 10 in Holt Township, Fillmore County, Minnesota (Property). The Property bears the county parcel identification number of 11.0295.000.
- B. Mining Operator proposes to haul a maximum of 120 truck loads per day of extracted and mined industrial minerals from the Property to a processing facility located in Winona, Minnesota. Mining Operator will periodically return rejected materials to the Property from the processing facility.
- C. Fillmore County has conducted a study of the potential impact on county roads from the high volume and heavy weight of trucks hauling industrial minerals to destinations for processing and loading onto rail or barge transportation. Fillmore County has determined that such high volume and heavy weight of industrial minerals hauling will cause excessive repairs and maintenance of county roads compared to the hauling of other mined or farmed products in the county.
- D. Fillmore County has determined that it must be reimbursed for the projected costs of repairing and replacing road pavement damaged by the hauling of industrial minerals in lieu of transportation/maintenance bond.
- E. Section 736.11 of the Fillmore County Zoning Ordinance requires mining operators to enter into road impact agreements with Fillmore County to (i) designate a roundtrip hauling route for the shipping of extracted and mined industrial minerals from the mining site to a processing destination, and (ii) provide for determination and payment of a road pavement impact fee to reimburse Fillmore County for the estimated costs of repairing and maintaining the county roads used by such mining operators.

Based upon these facts and assumptions, Fillmore County and Mining Operator agree as follows:

1. **Designation of Haul Route.** Fillmore County and Mining Operator have agreed that Mining Operator will use the following approved route for hauling industrial minerals from the Property to the Winona, Minnesota processing destination:
 - All loaded trucks will leave the drive access on the Property (i) travel northeast on Fillmore County Road 10 to Fillmore County Road 37, (ii) travel southeast on

Fillmore County Road 37 to State Highway 43, (iii) travel north on State Highway 43 through the City of Rushford and into Winona County. The destination route in Winona County is north to Interstate 90, then north on State Highway 43, then north on State Highway 61 into the City of Winona. All unloaded trucks will re-enter Fillmore County from State Highway 43 north of the City of Rushford, and use the same route returning through Fillmore County to the Property.

This approved haul route is required as a condition of the conditional use permit issued to Mining Operator. Mining Operator will not be entitled to use any other routes unless designated for hauling industrial minerals and returned empty trucks in Fillmore County, without the prior approval of the Fillmore County Board of Commissioners, following a public hearing before the Fillmore County Planning Commission. Mining Operator's use of any route other than the approved route is a violation of this Agreement and Mining Operator's conditional use permit, and will be a cause for Fillmore County terminating the conditional use permit.

During the term of this Agreement, County and Operator shall meet as needed to discuss Project activities and County Road construction and maintenance schedules. County agrees to keep those County Roads specified as the haul route to Project traffic during County Road construction and maintenance activities, except that County may temporarily close any of the County Roads specified as the haul route for replacement of a culvert, structure or due to an emergency. County will provide a temporary alternate haul route when reasonably practicable. Annual temporary seasonal weight limitations shall apply to all haul routes and to any alternate routes approved by County.

Emergency Actions

Both Parties acknowledge that while County is the Jurisdictional Authority for those County Roads used as the designated haul route, certain emergency situation(s) may arise that fall under law enforcement, fire district or emergency management control. In such situations, the road may be closed to traffic, including traffic from the Project, outside the control of the County. County shall not be responsible for any harm to Operator, Operator's Representatives or the Project that may result from County Road closings that occur due to such emergencies.

If any portion of the approved haul route is closed temporarily (for a period not exceeding 10 days), Mining Operator and the Fillmore County Engineer may select and agree upon a temporary detoured hauling route for the period the approved haul route is closed temporarily. The Fillmore County Engineer shall notify the County Board and Zoning Administrator about any temporary changes to the designated haul route.

2. **Factors Used in Determining Potential Alternative Haul Routes.** Fillmore County will use the following factors in determining the feasibility of potential alternative haul routes requested by Mining Operator in the future:
 - a) Shortest route to Mining Operator's hauling destination
 - b) Physical condition of roads requested to be used by Mining Operator
 - c) Potential disruption of town or village residents and businesses along route requested by Mining Operator
 - d) Traffic safety conditions along roads requested by Mining Operator
 - e) Use of requested roads by other heavy agricultural or industrial traffic
 - f) The position and consent of neighboring counties whose public roads would be used by Mining Operator
 - g) The use of gravel roads is prohibited according to Section 736 of the Fillmore County Zoning Ordinance unless an exception is granted as outlined in Section 736.

After consulting with Mining Operator, Fillmore County will determine the alternative haul route in Fillmore County that can be used by Mining Operator for hauling mined industrial minerals from the Property.

3. **Loading and Parking.** Mining Operator will assure that all loading and unloading of trucks and equipment must occur on-site at the Property, and not on any public road. Trucks and equipment cannot park on the public road, and must park on-site at the Property. NO truck or equipment shall be driven on a public road unless its load is securely covered, and complies with all Minnesota law and Department of Transportation rules and standards.
4. **Imposition of Road Impact Fee.** Fillmore County imposes and levies a road impact fee on Mining Operator, to reimburse Fillmore County for the projected cost of repairing and replacing road pavement damaged by Mining Operator from the anticipated hauling of a maximum of 120 truck loads of extracted and mined industrial minerals each day from the Property to a processing facility located in Winona, Minnesota. The road impact fee is based upon a current construction cost of \$232,000 per mile. The single vehicle computation is based upon an Equivalent Single Axle Load (ESAL). One ESAL is recognized to cause a quantifiable and standardized amount of damage to the pavement structure equivalent to one pass of a single 18,000 pound, dual –tire axle with all four tires inflated to 110 psi. The road pavement damage calculation and resulting impact fee is based upon (i) a pavement design for 500 vehicles per day, (ii) 20-year road design, (iii) with traffic growing to 550 vehicles per day during the 20 years, (iv) 20-year design ESALs of 110,529, (v) \$2.099 per ESAL per mile, (vi) 23 tons per load on 80,000 pound gross-weight trucks that are 2.4 ESALs, and (vii) \$0.22 per ton per mile.

Based upon this calculation, Fillmore County imposed and levies a road impact fee on Mining Operator in the amount of \$0.22 per ton per mile of each and every truck (i) of loaded industrial minerals hauled by Mining Operator from the Property on the approved haul route in Fillmore County to its destination outside of Fillmore County, and (ii) of loaded rejected materials returned to the Property on the approved haul route in Fillmore County.

County agrees to exclusively use any payments received from the Operator as part of this Agreement on County Roads used as the designated haul routes by the Operator.

5. **Weighing of Trucks.** Mining Operator will prepare a haul ticket for each weighed truck leaving the Property or returning to the Property, recording the net amount of mined sand or rejected materials being hauled by each truck. Mining Operator will retain all of the haul tickets for a period of at least 5 years. The Fillmore County Zoning Administrator or Engineer will be entitled to inspect and audit all of the accumulated haul tickets at any time.

6. **Quarterly Reports to Fillmore County.** Mining Operator will use the accumulated haul tickets to prepare quarterly reports to Fillmore County reporting:
 - a) The total number of trucks leaving the Property hauling mined industrial minerals,
 - b) The total amount (in tonnage) of mined industrial minerals hauled from the Property,
 - c) The total number of trucks returning to the Property hauling materials rejected and returned to the Property, and
 - d) The total amount (in tonnage) of materials rejected and returned to the Property.

The quarterly reports will be delivered to the Fillmore County Engineer on April 15 (for the 1st quarter), July 15 (for the 2nd quarter), October 15 (for the 3rd quarter), and January 15 (for the 4th quarter) of each and every year, reporting hauling activity for the immediately preceding quarter.

7. **Payment of Road Impact Fee.** Fillmore County will use the information contained in Mining Operator's quarterly reports to determine the amount of the road impact fee payable by Mining Operator to Fillmore County for each quarter. Fillmore County will send a quarterly statement to Mining operator for the amount of road impact fee payable by Mining Operator to Fillmore County for the preceding quarter. Mining

Operator will pay such road impact fee to Fillmore County within 30 days of receipt of each such quarterly statement.

8. **Adjustment of Road Impact Fee.** The amount of the road impact fee will be reviewed and may be adjusted by the Fillmore County Engineer every two years. In adjusting the amount of the road impact fee, the Fillmore County Engineer will consider the following factors:

- a) The current condition of the public roads being used by Mining Operator for hauling mined industrial minerals.
- b) The current costs of repairing and replacing pavement on the public roads being used by Mining Operator for hauling mined industrial minerals.
- c) The then current standards and guidelines for calculating ESALs.
- d) The initial condition of the designated haul route is documented with MnDOT State Aid video log which was performed on May 8th, 2013. The video log will determine a PQI (Pavement Quality Index) rating. MnDOT State Aid conducts a video log on Fillmore County road system in four year intervals. The future maintenance and construction needs will be determined by the County Engineer.

Conclusion

Fillmore County and Reilly Construction Co., Inc. have indicated their full agreement with the terms and conditions of this Road Impact Agreement by signing in their respective spaces below.

FILLMORE COUNTY

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