

STATE OF TEXAS §

COUNTY OF SAN AUGUSTINE §

**ROAD USE AGREEMENT BETWEEN SAN AUGUSTINE COUNTY, TEXAS
AND _____**

THIS COUNTY ROAD USE AGREEMENT, made and entered into this ____ day of _____, 20____, by and between San Augustine County, Texas (“County”), and _____, (CONTRACTOR”). The CONTRACTOR, as used herein, shall include the following: CONTRACTOR, its subcontractors, vendors, and/or all other affiliates.

WHEREAS, CONTRACTOR plans to use County Roads in transporting items related to the construction of its proposed project, including but not limited to products, equipment, materials, maintenance, and/or supplies over County Roads; and

WHEREAS, the County is responsible for constructing, altering, improving, and maintaining County Roads under the supervision of its County Commissioners; and

WHEREAS, the County and CONTRACTOR anticipate that as a result of CONTRACTOR’S use of County Roads, accelerated deterioration may occur. Thus, repairs or improvements may be required and additional maintenance expenses may be incurred by the taxpayers of San Augustine County as a result of CONTRACTOR’S activities; and

NOW, THEREFORE, in consideration of the terms, conditions, and covenants contained herein, it is mutually agreed as follows:

1. PURPOSE:

This County Road Use Agreement shall generally govern CONTRACTOR’S responsibilities for use of any County Road during CONTRACTOR’S construction of its proposed pipeline to the extent CONTRACTOR’S hauling operations cause accelerated deterioration of County Roads. These hauling operations shall only apply to CONTRACTOR, its employees, its contractors, or authorized designees thereof.

2. DEFINITIONS:

The following definitions and terms shall apply to the entirety of this Agreement:

- a. Additional Maintenance. “Additional Maintenance” means grading, reshaping, repair, and/or modification that must be performed on County Roads in excess of the usual and customary maintenance operations performed as routine maintenance by the County.
- b. County Road(s). “County Road” means a street, road, or other public way, including shoulders, ditches, culverts, drain pipes, and/or bridges, designated for the purpose of vehicular traffic and under the jurisdiction of the County. This shall include all county roads, created by “prescription” under Texas law.

- c. Haul Road. “Haul Road” means any County Road, bridge, or other structure which is used for transporting items including, but not limited to products, equipment, materials, and/or supplies and as a result incurs deterioration.
- d. County Road Use Agreement. “County Road Use Agreement” means the system of Haul Roads between a source site and the destination and/or the source site and the nearest major intersection as determined by the County.
- e. Improvements. “Improvements” mean roadway improvements, including but not limited to widening or modification of roadway approaches to accommodate transport vehicles, required by the Administrator because of CONTRACTOR’S anticipated use of the County Roads as Haul Roads.

All County Roads are subject to closure to all heavy truck traffic or other equipment utilized by Permit-holder without notice if in the opinion of a County Commissioner, the County Judge and/or Sheriff that the road is being severely damaged by such traffic. Such closure may continue indefinitely and all unauthorized use will be considered criminal.

3. GENERAL AGREEMENT AS TO COUNTY ROAD USE:

- a. CONTRACTOR understands and agrees that, although the Haul Roads covered by this Agreement are County Roads and are subject to normal traffic use, CONTRACTOR, by virtue of its use of the County Roads as a County Road Use Agreement, assumes responsibility for Additional Maintenance on such County Roads resulting from its use of such County Roads as a County Road Use Agreement. Other than its own negligence, CONTRACTOR will not be responsible or liable for any accident, injury, tort, or other theory of liability to any third party solely by virtue of this Agreement. Furthermore, no third-party beneficiary may claim or assert any benefit or right, either directly or indirectly, by or through this Agreement.
- b. Once CONTRACTOR has ceased using the Haul Roads for the purposes stated herein, CONTRACTOR shall notify the County, and the County, within ninety (90) days thereafter, shall notify CONTRACTOR of any Additional Maintenance that the County asserts as an obligation of CONTRACTOR. CONTRACTOR agrees that if the Haul Roads are damaged because of CONTRACTOR’S use of the Haul Roads, CONTRACTOR will restore the Haul Roads to at least as good a condition as existed prior to CONTRACTOR’S use of the Haul Roads or reimburse the County for all expenses incurred by the County to restore the Haul Roads. The decision whether CONTRACTOR or the County restores the Haul Roads rests solely with the County. Damage, if any, will be determined by comparing the Pre-Construction Assessment to the condition following CONTRACTOR’S use of the Haul Roads. If the County chooses to restore the Haul Roads, CONTRACTOR agrees to reimburse the County no later than 30 days after it receives the invoice itemizing said costs.
- c. Any damages deemed dangerous or hazardous to the public or regular traffic of said road by the County or CONTRACTOR shall be repaired immediately. In the event CONTRACTOR’S operations

cause an immediate and serious safety concern, CONTRACTOR or its representative shall, without delay, call the County Commissioner's Court at, or if the emergency occurs outside normal working hours or CONTRACTOR is unable to contact either of the above, the County Sheriff's Department at (936) 275-2424.

- d. CONTRACTOR agrees to use its vehicles in such a manner as not to block or otherwise interfere with other traffic along the route specified and that said route will be open to public traffic at all times, and further agrees to provide 48-hour notice to the County before transporting any equipment along the route that would interrupt the normal flow of traffic.
- e. CONTRACTOR agrees that should it become necessary for CONTRACTOR, its agents, servants, or employees, while operating motorized equipment, to exit a County Road by moving in, or across, or through a bar ditch on the County Road **more than once**, (once being defined as both ingress and egress), CONTRACTOR shall install, at its own expense, a culvert not less than 15 inches in diameter, and not less than 24 feet in length; but in any event sufficient, in the opinion of the County, or its appointed representative, to allow the normal flow of water through the bar ditch, without diversion or inhibition. Any deviation from the above shall be approved by the County.
- f. At the request of the County, CONTRACTOR shall remove the culvert, and all materials used in constructing said crossing and restore the bar ditch/right of way to the same condition it was prior to the installation of the culvert.
- g. The County hereby agrees to CONTRACTOR'S use of the Haul Roads covered by this Agreement subject to the conditions contained herein. CONTRACTOR shall be responsible for obtaining any other permits or licenses which the County or any other governmental entity may require to operate or move its vehicles on County Roads. **This Agreement shall not serve to relieve any operator of a CONTRACTOR'S vehicle from complying with applicable speed limits, weight restrictions, or other posted restrictions.**
- h. Any Improvements of the Haul Roads necessitated by CONTRACTOR'S operations and agreed upon by the Parties pursuant to Section 3(d) above, shall be considered incidental to the hauling performed, and shall be made at CONTRACTOR'S sole expense unless otherwise authorized in addendum to this Agreement. Any such Improvement shall be authorized by County permit or express written permission signed by the Administrator or County Judge.

4. GENERAL TERMS:

- a. Compliance with Laws and Regulations

CONTRACTOR shall comply with all Federal, State, and local laws and regulations.

- b. Severability

If any portion of this Agreement is held invalid it shall have no effect upon the validity of the remaining portions of this Agreement.

- c. Scope and Construction of Terms

The definitions in this Agreement shall control the meaning of terms used herein. Where no definition is expressly stated herein, a term shall have that meaning clearly indicated by, or reasonably implied from, the context in which such term is used.

d. Venue

This Agreement and its interpretation, validity and performance shall be governed by the laws of the State of Texas without regard to its conflict of laws principles. In the event any court of law of appropriate judicial authority shall hold or declare that the law of another jurisdiction is applicable, this Agreement shall remain enforceable under the laws of the appropriate jurisdiction. The parties have agreed that venue for any action in connection herewith shall be proper in San Augustine County, Texas. Each party hereto consents to the jurisdiction of any local, state or federal court situated in any of such locations and waives any objection which it may have pertaining to improper venue or forum non conveniens to the conduct of any proceeding in any such court.

e. Authority

Each party covenants that it has and will continue to have throughout the term of this Agreement, the full right to enter into this agreement and perform its obligations hereunder and any requisite approval from the governing body shall have been obtained.

f. Entirety

This Agreement constitutes the entire agreement hereto with respect to the subject matter hereof, and supersedes any prior understanding or written or oral agreements between the parties with respect to the subject matter of this License Agreement. No modification, amendment or alteration of the terms of the Agreement shall be binding on either party, unless the same is in writing, dated subsequent to the date hereto, and is duly executed by the party against whom enforcement is sought.

g. Remedies

No right or remedy granted herein or reserved to the parties, is exclusive of any other right or remedy herein by law or equity provided or permitted; but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this agreement may be waived without written consent of the parties. Forbearance or indulgence by either party shall not constitute a waiver of any covenant or condition to be performed pursuant to this agreement.

h. Notification

All notices and oral or written communications relating to this agreement may be forwarded to:
On behalf of the County: On behalf of CONTRACTOR:

County Commissioner
100 W. Columbia Room 107
San Augustine, Texas 75972
(936) 288-0128

Contractor Name

Contractor Address

Contractor Phone No.

Contractor Signature

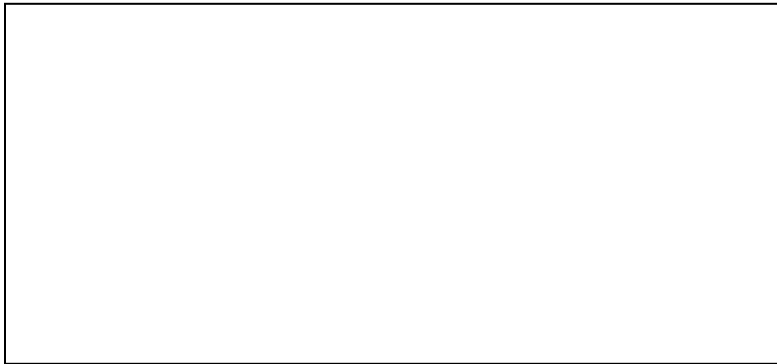
This **County Road Use Agreement** is hereby approved and application for Heavy Haul Permits and/or Pipeline Road Crossing may be granted by each precinct Commissioner for a period of **to the end of the year** from the date of this Agreement.

Precinct No.

County Commissioner

Has Approved Co. Rd. Use Agreement through **December 31, 2022** (date)

The above named Contractor has SWORN and SUBSCRIBED before me to executed this County Road Use Agreement as of the first date hereinabove written the _____ day of _____, 20_____.



Notary Public Stamp

Notary Public