



CYPRESS COUNTY

816 2nd Avenue
Dunmore, Alberta T1B 0K3
Phone: 403.526.2888 Fax: 403.526.8958
www.cypress.ab.ca

PUBLIC WORKS DEPARTMENT

ROAD NOTIFICATION AND REPAIR AGREEMENT

The Agreement made in duplicate this _____ day of _____, --

Between: _____
CYPRESS COUNTY
(The "County")

And: _____
(The "Applicant")

1. PURPOSE OF AGREEMENT

The purpose of this Agreement is to define the terms and conditions under which the parties to this Agreement agree:

- a) to provide notification to each other regarding the use of Roads and Appurtenances within the County for the purpose of moving vehicles and equipment,
- b) with the monitoring of such use,
- c) on an inspection process,

that in the event there is damage from the use of Roads, those parties responsible for such damage are held accountable.

This Agreement is intended to engage both the County and the Applicant in an effort to avoid causing damage to Roads and Appurtenances.

2. TERM

- 2.1) This Agreement shall commence on the date shown on this page and shall continue until terminated by either party in accordance with paragraph 2(b) below.
- 2.2) This Agreement may be terminated by either party by written notice being given to the other party.
- 2.3) Notwithstanding the termination of this Agreement, the provisions respecting liability and indemnification, to the extent of liabilities that may have accrued prior to the termination, and provisions respecting settlement of accounts shall remain in full force in accordance with their terms.

3. NOTIFICATION

The Applicant shall provide advance written notification (“Notification”), in accordance with Schedule “A” to the County of its intention to use the Roads.

4. PRELIMINARY REVIEW BY THE COUNTY

After receipt of the Notification, the County shall conduct a preliminary review (“Preliminary”) of the Notification. If, following the Preliminary Review, the County acting reasonably determines that it is not necessary to impose any restrictions on the Applicant in relation to the activities specified in the Notification, the County shall notify the Applicant accordingly, and the Applicant may proceed to use the Roads in strict compliance with the Notification. The County shall complete its Preliminary Review of the Notification, and provide its response to the Applicant, within two business days of receiving the Notification from the Applicant.

5. RESTRICTIONS AND RELAXATIONS

5.1) If following the Preliminary Review of the Notification, the County acting reasonably, determines that it is necessary to impose restrictions on the Applicant in relation to the Notification, the County shall:

- a) provide the Applicant with a notice in writing, in the form set out in Schedule “B” attached hereto (the “Restrictions and Relaxations Notice”);
- b) set out the specifics of the restrictions imposed on the Applicant in relation to the Notification, and the details of any relaxations it is prepared to grant to those restrictions, and the conditions under which such relaxations will be granted, including any requirements for the Applicant to post security;
- c) have two business days from the date of receipt of the Notification from the Applicant within which to issue a Restrictions and Relaxations Notice.

5.2) It is understood that any relaxations granted by the County comply with provincial regulations and that the County has no authority to grant permits for loads over the legal load limits pursuant to the Alberta Public Vehicle Dimensions and Weight Regulations.

5.3) Upon receipt of the Restrictions and Relaxations Notice, the Applicant may:

- comply with the restriction imposed; or
- comply with the terms of the relaxations.

The Applicant shall provide the County with notice of its decision within two business days of receiving the Restrictions and Relaxations Notice from the County.

6. SECURITY

The County may require that the Applicant post security (the “Security”) as set out in the Restrictions and Relaxations Notice referred to in 5 above for repairs that are required by paragraph 8 c. below, in an amount to be specified by the County.

If the County requires that the Applicant post Security, \$8,000.00 per kilometer on gravel roads, \$70,000.00 per kilometer on oiled roads, and \$200,000.00 per kilometre on paved roads, the Applicant shall not use the Roads until it has:

- a) delivered to the County both the Security required (in the form of cash, certified cheque, or irrevocable letter of credit), and;
- b) where appropriate, the duly executed duplicate copy of the Relaxations and Relaxations Notice and an Initial Inspection pursuant to 7(a) 1) below has been completed.

7. INSPECTIONS

7.1) In the event that the County and the Applicant have signed a Restrictions and Relaxations Notice, the following inspections of the Roads identified within the relevant Notice shall be carried out at the following times and in the presence of official designates of both the County and the Applicant:

- a) prior to use of the Roads (the “Initial Inspection”), and;
- b) following completion of use of the Roads (the “Final Inspection”).

7.2) The Applicant shall notify the County within 24 hours of the completion of its use of the Roads, and the County shall have two business days from receipt of such notification, within which to complete the “Final Inspection”.

7.3) The County and the Applicant may at any time during the term of this Agreement, request that an inspection of the Roads be carried out the “Interim Inspection”.

7.4) An “Interim Inspection” shall be carried out within two business days of receipt of a request for such inspection, and in the presence of official designates of both the County and the Applicant.

The County and the Applicant may, at any time during the term of this Agreement, and regardless of whether a Restrictions and Relaxations Notice has been issued, request that an inspection of the Roads be carried out.

The County and the Applicant shall both acknowledge the result of all inspections by having the inspection document(s) signed by their official designates – see Schedule “C”.

A fee of \$100 shall be paid by the Applicant to the County for each of the Initial Inspection, the Final Inspection, and any Interim Inspection or inspection under 7(d) above requested by the Applicant.

8. OTHER TERMS AND CONDITIONS

The following terms and conditions shall apply at all times during the term of this Agreement, and regardless of whether the County has issued a Relaxation Notice:

8.1) Restriction on Use

The County reserves the right to determine the hours during which vehicles and equipment may be moved on the Roads covered by this Agreement and may temporarily suspend approvals under this Agreement if in the opinion of the County, acting reasonably, the prevailing weather conditions, or emergencies warrant such suspension.

8.2) Maintenance

If required by the County, the Applicant shall provide, at its sole expense, all equipment, materials and labor required to maintain the road surface in the same condition it was immediately prior to the use of the Road.

8.3) Damages

8.3.1) The Applicant shall be liable at all times for the repair, to the reasonable satisfaction of the County, of any damage to the Roads caused by the Applicant's use. Any repairs required by this section shall restore the road surface to the same condition it was in immediately prior to the Agreement. The Applicant shall, providing that the weather and weather related conditions permit complete these repairs within two (2) business days of being notified by the County of the need for such repairs.

8.3.2) In the event the Applicant is prevented by the weather or weather related conditions from completing the repairs specified in 8 (c)1) above within two business days, the County, acting reasonably, may specify a different period of time within which the Applicant must complete such repairs.

8.3.3) In the event that the Applicant fails to complete the repairs required by paragraph 8 (c) (1) and (2) above, the County may draw upon the Security to affect the repairs in accordance with the provisions set out in Schedule "D". In the event that the Security is not sufficient to meet the cost of repairs, or if no Security was posted, the Applicant shall be liable to the County for all reasonable costs (including legal) incurred by the County in repairing the roads to the same condition they were in immediately prior to use by the Applicant and recovering the costs of such repairs. The Applicant shall have a right to review details of all expenses incurred by the County.

8.4) Ingress and Egress

The Applicant shall be responsible at all times for securing for its contractors and subcontractors all rights of ingress and egress to all sites covered by this Agreement. The Applicant shall be responsible for notifying its contractors and subcontractors of any limitations or restrictions affecting ingress and egress and shall be responsible for ensuring that the contractor and subcontractors abide by all such limitations or restrictions.

8.5) Emergencies

The County may in emergency situations and acting reasonably and without giving any notice to the Applicant as required elsewhere in this Agreement, take immediate and all action necessary to complete repairs to the Roads that it deems necessary to ensure public safety.

The Applicant may in emergency situations and acting reasonably and without giving any notice to the County as required elsewhere in this Agreement, take immediate and all action necessary to move vehicles and equipment on the Roads that it deems necessary to ensure public safety or preserve the environment.

8.6) Notification

The County and the Applicant shall provide notification to each other of any action under 8(f) and (g) above as soon as is reasonably practicable.

Indemnity

The Applicant shall indemnify the County against all actions, proceedings, claims, demands and costs suffered by the County to the extent that they are attributable to the damage caused by the Applicant, its employees, agents, contractors or subcontractors to the Roads. In no event shall the Applicant be required to indemnify the County for consequential damages suffered or claimed by a third party.

Force Majeure

No party shall be deemed to be in default with respect to non-performance if due to strikes, lockouts, fire, tempest or acts of God or the Queen’s enemies, or any other cause (whether similar or dissimilar to those enumerated) beyond its control; but lack of finances shall in no event be deemed to be a cause beyond a party’s control.

9. NOTICES

All notices required to be given under the terms of this Agreement, shall be in writing and may be mailed or electronically transmitted, addressed to the parties as follows:

County: Address: 816-2nd Avenue Dunmore, Alberta T1B 0K3
Attention: Name & Title: Curtis Richter, Director of Public Works
Tel #: 403.526.2888 Fax #: 403.526.8958
E-mail: Curtis.Richter@cypress.ab.ca

Applicant: Address: _____

Attention: Name & Title: _____

Tel #: _____ Fax #: _____

E-mail: _____

10. ENUREMENT

This Agreement shall ensure to the benefit of, and be binding upon the County and the Applicant and their respective heirs, executors, administrators, successors and permitted assigns. Time shall be of the essence in this Agreement.

IN WITNESS WHEREOF the parties hereto have executed and delivered this Agreement as of the date and year above written.

COUNTY

Per: Curtis Richter

Per: _____

APPLICANT

Per: _____

Per: _____

AGREEMENT # _____

SCHEDULE "A"

(To be completed by the Applicant or Applicant's Designated Contractor)

NOTIFICATION FORM

This Notification when completed and duly signed is made pursuant to, and is governed by, the Road.

Notification and Repair Agreement between the County and the Applicant dated _____

County: CYPRESS COUNTY

Applicant: _____

Applicant Address: _____

Applicant Contact: _____

Phone: _____

Cell: _____

Fax: _____

Designated Contractor Contact: _____

Phone: _____

Cell: _____

Fax: _____

Details of Roads to be used (attach sketch or map), and indicate LSD

Estimate of Loads to be transported and relevant dates

(E.g. estimate of the maximum number of loads and estimate of maximum weights and dimensions of the loads, and dates on which loads will be moved)

Provincial Permit #: _____ (copy attached)

Axle Weight Allowance: _____

Dated: _____

Signed: _____

Authorized Applicant Representative or Designated Contractor Representative

AGREEMENT # _____

SCHEDULE "B"

(To be completed by the County)

RESTRICTIONS AND RELAXATIONS NOTICE

This Notice when completed and duly signed is made pursuant to, and is governed by, the Road Notification and Repair Agreement executed between the County and the Applicant.

The provisions under this Schedule "B" shall not override Provincial regulations. The exceeding of legal load limits is not permitted by the County.

County: CYPRESS COUNTY

Applicant: _____

Applicant Contact: _____ Phone: _____

Designated Contractor Contact: _____

Phone: _____ Cell: _____ Fax: _____

Details of Roads to be used (attach sketch or map)

Estimate of Loads to be transported and relevant dates

(E.g. estimate of the maximum number of loads and estimate of maximum weights and dimensions of the loads, and dates on which loads will be moved)

Provincial Permit #: _____ (copy attached)

Axle Weight Allowance: 100% Other than roads posted @ 75%

Details of prohibitions, limitations, conditions or restrictions, i.e.

Roads to be used Centre of road surface travel?

Dust Control – type Dimensions – length and width

Other? Times of day

Maximum percent of axle weight 100% Escort car required?

Travel Speed 80 km/hr

(Note: the above are some examples of prohibitions, limitations, conditions or restrictions that may be imposed by the municipality – this space will be blank on the actual schedule and will be completed by the County.)

SCHEDULE "B" (continued)

Details of Relaxations

Maximum % of axle weight 100% Maximum travel speed 80 km/hr Dust Control – type N/A
(Note: these are some examples of relaxations that may be approved by the County, this space will be blank on the actual schedule and will be completed by the County.)

Security Required: \$_____

All security to be held in trust until project is completed.

Dated: _____

Signed: _____
Authorized County Representative

ACCEPTED AND AGREED TO this _____ day of _____, _____

Company: _____

Signed: _____
Authorized Company Representative

AGREEMENT # _____

SCHEDULE "C"

(To be completed by the County and signed by authorized representatives of the County and the Company or its Designated Contractor)

INSPECTION DOCUMENT

DATE: _____

COUNTY: CYPRESS COUNTY REPRESENTATIVE: _____

APPLICANT: _____ REPRESENTATIVE: _____

SECURITY: IN PLACE: ____ REQUIRED: ____ AMOUNT: \$ _____

INSPECTION: PRE:____ POST: ____ INTERIM: _____ NUMBER: _____

ROAD BANS: NO: __ YES: _____ % AXLE: _____

WEATHER (At Time Of Inspection): _____

CURRENT LOCAL CONDITIONS (i.e. Wet/Frozen): _____

INSPECTION DETAILS:

A) ROAD SURFACE TYPE: _____

ROADS TO BE USED: _____

GOOD	BAD	N/A	LOCATION/COMMENTS
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B) ROAD SURFACE CONDITIONS: _____

C) SIGNS: _____

D) CULVERTS: _____

E) APPROACHES: _____

F) DUST CONTROL NOT REQUIRED: _____ REQUIRED: _____ TYPE: _____

G) OTHER REQUIREMENTS: (i.e. Grading, Gravel, Signage, Time Restrictions)

H) REMEDIAL WORK REQUIRED (If Interim or Post)

PICTURES TAKEN: YES: _____ NO: _____

COMMENTS: _____

APPLICANT: _____

COUNTY: _____

INITIALS: APPLICANT: _____ COUNTY: _____

Copy provided to Applicant YES: _____ NO: _____

(Note: In the event that the Applicant elects not to participate in an Inspection, this form, once signed by the authorized representative of the County, will be considered a valid "Inspection Form" for the purposes of this Agreement.)

AGREEMENT # _____

SCHEDULE "D"

SECURITY DRAW DOWN PROVISIONS

The County may draw upon all or part of any Security required by this Agreement to complete repairs and to recover all costs (including legal) incurred by the County in the event of any one of the following:

- 1) The Applicant fails to complete required repairs within 2 business days of being notified by the County of the need for such repairs.
- 2) The Applicant fails to complete repairs to the satisfaction of the County within 2 business days of being notified by the County of deficiencies in repairs previously required by the County under # 1 above.
- 3) Damage attributable to the Applicant has been rectified by the County in accordance with the provisions of this Agreement and the Applicant has failed to pay the costs of such rectification within 15 business days after receipt of an invoice for the work from the County.
- 4) Emergency repair work has been completed by the County to rectify damage attributable to the Applicant in accordance with the provisions of this Agreement and the Applicant has failed to pay the cost of such emergency repairs within 15 business days after receipt of an invoice for the work from the County.
- 5) The Security to be provided by the Applicant pursuant to this Agreement is due to expire within a period of 30 days and the Applicant is still operating in the County under the terms of this Agreement, has not provided notification of cancellation of this Agreement and has not deposited a renewal or replacement of such Security in terms and form acceptable to the County.
- 6) Invoking these draw down provisions shall be authorized by the Chief Administrative Officer of the County who shall make a reasonable attempt to notify the Company prior to, or concurrent with, taking such action. The County may make demands as payee and beneficiary under the Security. The County may hold the proceeds as security for the performance of the obligations of the Applicant under this Agreement and the County may use the proceeds to discharge any of the obligations of the Applicant under this Agreement. After the discharge of all of the obligations of the Applicant pursuant to this Agreement, any remaining balance shall be returned to the Applicant within 15 business days. The County shall not charge any administrative fee relating to the holding or draw down of security nor shall it pay interest on the funds held.

AGREEMENT # _____

SCHEDULE "E"

DEFINITION OF TERMS USED IN THIS AGREEMENT

"Appurtenance" means:

A sidewalk, ditch, or any type of wall, fence, guardrail, curb, pavement marking, traffic control device, illumination device, mailbox or barrier adjacent to or in, along or on a road, or any construction, obstruction, erection or any situation, arrangement or disposition of any earth, rock, tree or other material or thing adjacent to or in, along or on a road that is not on the traveled portion of the road.

"Business Days" means:

Monday to Friday, during normal business hours, excluding statutory holidays.

"Continuous haul" means:

Regular, ongoing use of Roads over a defined route and time period by a specified Company, which use is likely to be the major cause of road maintenance requirements or damage relative to other users of the Roads involved.

"Designated Contractor" means:

A company or someone hired by a "Company" (as defined herein) to perform work for or on behalf of the Applicant.

"Legal load" means:

The maximum gross weight that may be borne by a tire, an axle or an axle group of any of them, or; the maximum gross weight that may be borne by a public vehicle or combination of public vehicles on a highway, secondary road, rural road or street and as set out from time to time under the Motor Transport Act and regulations or orders made there under.

"Pipeline" as defined in the Oil and Gas Conservation Act means:

(i) any pipe or any system or arrangement of pipes wholly within Alberta and whereby oil, gas or synthetic crude oil or water incidental to the drilling for or production of oil, gas or synthetic crude oil is conveyed, and

(ii) includes all property of any kind used for the purpose of, or in connection with, or incidental to, the operation of a pipeline in the gathering, transporting, handling and delivery of oil, gas, synthetic crude oil or water, but

(iii) does not include any pipe or any system or arrangement of pipes that constitutes a distribution system for the distribution within a community of gas to ultimate consumers.

"Pipeline" as defined in the Pipeline Act means:

(i) a pipe used to convey a substance or combination of substances, including installations associated with the pipe, but does not include;

(ii) a pipe used to convey water other than water used in connection with a facility, scheme or other matter authorized under the Oil and Gas Conservation Act or the Oil Sands Conservation Act, or

(iii) a pipe used to convey gas, if the pipe is operated at a maximum pressure of 700 kilopascals or less, and is not used to convey gas in connection with a facility, scheme or other matter authorized under the Oil and Gas Conservation Act or the Oil Sands Conservation Act, or; a pipe used to convey sewage.

"Road" means:

- (i) a road under the direction, control and management of the County, including a developed road on which improvements such as grading or surfacing have been made for the purpose of public access and includes any appurtenances, and includes a bridge forming part of a public road and any structure incidental to a public road;
- (ii) undeveloped surveyed road allowance.

"Well drilling" means:

- (i) any activity to bore into the earth for the purpose of creating a well. A "well" means an orifice in the ground completed or being drilled,
- (ii) for the production of oil or gas, or
- (iii) for injection to an underground formation, or
- (iv) as an evaluation well or test hole.