

Contract No: C20

Expiration Date:

**ST. LOUIS COUNTY LAND & MINERALS DEPARTMENT
LEASE FOR REMOVAL OF EARTHEN MATERIALS**

This lease is made this XXth day of click here to enter month, 2019, by and between the County of St. Louis, a body corporate and politic, hereinafter referred to as "Lessor," St. Louis County Land & Minerals Department, and Click here to enter text, hereinafter referred to as "Lessee."

WHEREAS, Pursuant to Minn. Stat. 282.04, Subd. 1, and Resolution Click here to enter text, adopted by the Board of County Commissioners, the County of St. Louis has offered at public sale for the purpose of removing earthen materials, tax forfeited land described as follows:

Legal Description
Pit Name

WHEREAS, Click here to enter text, was the successful bidder for the above described lease having offered a bid of \$1.50 per cubic yard for Loose Volume Measure. See Item #4 for other methods of measurement and volume conversions of pit run material;

NOW THEREFORE, in consideration of the terms, covenants and obligations hereinafter contained, the parties do agree as follows:

\$ 00.00 Materials (18,000 cubic yards x \$ 1.50 per cubic yard) of Loose Volume Measure.

\$ 00.00 Timber Damages

\$ 00.00 Administration Fee

\$ 00.00 Publication Cost

\$ 00.00 Refundable Reclamation Deposit

\$ 00.00 Total Due at Time of Sale

1. The materials portion of the deposit will act as a credit-on-account for payment in full of the amount of materials sold under this lease. Additional payments will become due when annual removal of material exceeds the Click here to enter text, cubic yard minimum.

2. Any additional pit run gravel used beyond that which is pre-purchased through this lease, will be charged at the overrun rate of \$1.50 per cubic yard of Loose Volume Measure. Any timber damages resulting from additional site development shall be determined by Lessor and paid for by Lessee upon final billing.
3. Before beginning any activity authorized in this lease, the Lessee agrees to make a refundable reclamation deposit of \$[Click here to enter text.](#), conditioned that the Lessee shall perform all reclamation requirements contained in this lease and in the accompanying reclamation plan.
4. Before removal of any earthen material authorized under this lease, an initial cross section must be made of the source area(s) and recorded as a baseline bank measure. Billings and payments for materials taken under this lease shall be based upon the difference between the baseline bank measure and bank measures taken annually and after the execution of this lease.
 - 4.1. No reclamation material or spoils may be brought in until a final Bank Volume measure is taken, unless with expressed written permission by Lessor. Reclamation material or spoils will be placed in a location approved by the Lessor.
5. Upon expiration of this lease, the Contract Administrator shall inspect the reclaimed area. If reclamation criteria have been met to the satisfaction of the Contract Administrator, the reclamation deposit shall be returned to the Lessee. Should the Lessee fail to reclaim in a timely manner and according to the provisions of this lease and the accompanying reclamation plan, as determined by the Contract Administrator, the Lessee shall forfeit the reclamation deposit to the Land and Minerals Department. If the Lessee's failure to perform reclamation results in costs to the Lessor in excess of the reclamation deposit, the Lessee agrees to pay the Lessor for the additional costs.
6. Lessor and Lessee agree that bank measure shall be the preferred method of determining materials removed, said bank measure to be done in the method and manner acceptable by the Lessor. However, at the discretion of the Lessor, methods of measurement other than bank measure, such as, but not limited to, weight, compacted project volume, and/or truck load measure may be substituted for bank measure where appropriate.
 - 6.1. Gravel royalties due with these methods shall be based on certified belt scale, tested to actual weight on site prior to aggregate production, and/or the amount of Class 5 placed on the road project as determined by the St. Louis County Project Engineer. In the event of any dispute, the decision of the Lessor as to the amount of materials removed shall be final.
7. Conversion of weight, compacted and bank volume measurements to loose volume measurement shall be at the rate of one cubic yard compacted measure equals 1.3

cubic yards loose volume measure; one cubic yard bank measure equals 1.25 cubic yards loose volume measure; and, one cubic yard loose volume measure equals 2800 pounds.

8. The sale of earthen material described herein, does not imply that the material meets the standards for quality or quantity that may be required for any specific projects on which it may be used. Lessee shall determine the suitability of said materials prior to bidding. "Earthen material" shall include sand, gravel, clay, marl, or common borrow.
9. Payments to Lessor for materials taken shall be made annually or as billed, based on estimates of materials removed as determined by the Lessor from the available documents and data. Payments by Lessee shall be made within ten (10) days of billing and checks made payable to:

"St. Louis County Auditor"

and mailed to the:

**Government Services Center
Land and Minerals Department,
320 W. 2nd St., Suite 302,
Duluth, MN 55802**

At the discretion of the Lessor, the final payment shall be made based upon the final quantities as determined by St. Louis County records and measurements.

10. Lessor retains the right to have a Contract Administrator make periodic inspections of the lease site to insure compliance with the terms of this lease. Further, it is understood and agreed that Lessor may make periodic inquiries and verification concerning the Lessee's project and amount of materials utilized by Lessee from the lease site.
11. Lessee further agrees that in removing materials from said site, Lessee shall comply with the St. Louis County Zoning Ordinance 62 Amended 2016:

<https://www.stlouiscountymn.gov/departments-a-z/auditor/clerk-of-the-county-board/ordinances/ordinances-documents>

12. Lessee shall also comply with the following conditions:

- 12.1. Lessee shall obtain and keep current all necessary licenses and permits as required for the operation of portable crushers and bituminous asphalt mix plants used in conjunction with this permit, and shall provide copies upon request to the Land and Minerals Department. Portable crushers and bituminous

asphalt mix plants to be operated in conjunction with the lease site shall be operated in accordance with Minnesota Pollution Control Agency (MPCA) noise and air quality standards.

- 12.2. In the event Lessee wishes to retain ownership of any of the excess materials, the volume of the stockpiles(s) will either be measured or calculated from certified scale measurements, as determined by the Contract Administrator and the value added as a royalty overrun due at lease expiration.
- 12.3. In the event Lessee wishes to retain ownership of any excess material stockpiles **after this lease expires**, a separate stockpile storage and pit access authorization MAY be granted upon terms and conditions as approved by the Contract Administrator.
- 12.4. Total square footage of the area occupied by excess stockpile(s) will be determined by the Contract Administrator and a price per square foot of **\$0.023** will be used to calculate monthly storage fees.
- 12.5. Storage of excess piles is **limited to 1 year after the leases expiration date, unless with the express written consent of the Lessor**. A new fee schedule may be imposed at the discretion of the Lessor. If Lessee does not wish to retain ownership of any or all remaining aggregate produced under this lease after expiration, such materials **shall become the property of the St. Louis County Land and Minerals Department**. No gravel royalty is due on relinquished materials remaining after permit expiration.
- 12.6. Lessee shall keep the lease area neat and free from refuse at all times during the term of this lease and no hazardous waste shall be disposed of on this site. Upon expiration of this lease or cessation of the operation, all equipment of Lessee shall be removed from the site within three months.
- 12.7. All trees, brush, stumps and debris resulting from clearing, stripping and lease site operations shall be burned or buried upon cessation of lease site operations. All burning shall be done in accordance with Minnesota Statutes and Department of Natural Resources and MPCA regulations.
- 12.8. Hours of operation shall be limited to 7:00 a.m. to 8:00 p.m., Monday through Saturday. No lease site operations may take place on Memorial Day, Independence Day, Labor Day, or Sundays. The hours of operation may be expanded or further limited if necessary, as determined and as authorized by the Contract Administrator.
- 12.9. No off-site material is permitted to be brought in, except with the express written consent of the Lessor.

- 12.10. Lessee shall be responsible to repair any damage to public roads, ditches, or driveway entrance sustained as a result of lease activities.
- 12.11. All necessary measures shall be taken to control erosion and off site runoff, including but not limited to, sloping, ditch rip rap, silt fencing, seeding, mulching, and the construction of runoff ponds if deemed necessary by Contract Administrator. No unabated offsite storm water drainage shall be allowed into any waterway, ditch, or wetland.
- 12.12. Lessee agrees to conduct pit development operations, locate stockpiles, and overburden piles, construct temporary roads within the pit, and otherwise open and utilize the pit in consultation with, and approval by, the Contract Administrator. **Any prior existing stockpiles must be kept accessible at all times.** If necessary, **existing stockpiles can be moved** with approval of the stockpile owner and the Contract Administrator.
13. Lessee shall, by [Click here to enter text](#), provide the Contract Administrator with, and subsequently accomplish as agreed to, the reclamation efforts specified in a reclamation plan detailing by scale, drawing and written description of the location of any stockpiles, the method and location of any stockpiles, the method and location of disposal of any topsoil, vegetation and other debris which has resulted from the operation, the proposed shape of the lease site after all reclamation activities required herein are completed, including the slope on all sides or banks of the lease site, and a list of all equipment to be left in the lease site.
- 13.1. The schedule and method of revegetation will be determined by the Contract Administrator at the time the reclamation plan is submitted. The lease site restoration and reclamation activities and costs shall be considered incidental to lease site development and will not be measured for payment. The Lessor may waive the requirements of a reclamation plan for all or parts of the lease area.
14. Within thirty (30) days after the expiration of this lease or after the extraction operation has been terminated, shall slope all sides or banks of the lease site from any common property line to the floor of the lease site, to minimize the hazard to the public and to minimize erosion. In no case shall there be a slope steeper than 2.5: 1. The top of all banks shall be rounded with a radius of approximately 10 feet. The bottom of the lease *site* shall be shaped so as not to pond water unless otherwise authorized by the Contract Administrator. General shaping shall be done to effect the appearance of a closed pit, except where agreed upon. Construction of storm water control structures (if any) needed to mitigate offsite runoff.
15. It is specifically understood that this **lease may not in any way be assigned by the lessee to any other party**. Lessee may not grant permission to any third parties to enter upon the property described in this lease without first obtaining written approval from the Lessor.

16. Lessor retains the right to suspend and/or terminate this lease immediately upon breach of any of the terms or conditions herein set forth.
17. Lessee agrees to indemnify, save and hold harmless the County of St. Louis, its agents and employees, of and from any and all claims, demands, actions or causes of *action* of whatsoever nature or character arising out of or by reason of the execution or performance of the terms and conditions provided for in this lease.
18. Lessee agrees to defend at its own sole cost and expense any action or proceeding commenced for the purpose of asserting any claims of whatsoever character or nature against the County of St. Louis, its employees, or agents. Lessee shall provide Lessor with immediate notice of any personal or property damage from whatever cause occurring to third parties at or near the lease site.
19. The Lessee and any subcontractor performing work pursuant to this Lease must be on the Land and Minerals Department's Responsible Operators List.
20. The following insurance must be maintained for the duration of this lease. A Certificate of Insurance for each policy must be on file with the St. Louis County Land and Minerals Department within 10 days of execution of this lease and prior to commencement of any work under this lease. Each certificate must include a ten (10) day notice of cancellation, non-renewal, or material change to all named and additional insureds.
21. County reserves the right to rescind any lease not in compliance with these requirements and retains all rights thereafter to pursue any legal remedies against Lessee. All insurance policies shall be open to inspection by the County, and copies of policies shall be submitted to the County upon written request. All subcontractors shall provide evidence of similar coverage.

21.1. **General Liability Insurance**

\$500,000 when the claim is one for death by wrongful act or omission and \$500,000 to any claimant in any other case.

\$1,500,000 for any number of claims arising out of a single occurrence

No Less Than \$2,000,000 Aggregate coverage.

Policy shall include at least premises, operations, completed operations, independent contractors and subcontractors, and contractual liability and environmental liability.

21.2. **Business Automobile Liability Insurance**

\$500,000 for claims for wrongful death and each claimant for other claims.

\$1,500,000 each occurrence.

Must cover owned, non-owned and hired vehicles.

21.3. **Workers' Compensation**

Per statutory requirements, Certificate of Compliance with Minnesota Workers' Compensation Law (Minn. Stat. § 176.182) must be provided.

22. All communications, notices, or demands from the parties shall be directed to the Contract Administrator, [Click here to enter text.](#), at:

**Land and Minerals Department
Address**

Phone number
Land Department Representative

on behalf of the Lessor and [Click here to enter text.](#), at [Click here to enter text.](#) on behalf of the Lessee.

23. Additional terms

1. [Click here to enter text.](#)

2. See attached SWPPP.

LESSEE:

LESSOR:

ST. LOUIS COUNTY

[Click here to enter text.](#)

By: _____

DEPUTY AUDITOR