

NONMETALLIC MINING OPERATING AGREEMENT

This Nonmetallic Mining Operating Agreement ("Agreement") is entered into by and between the Town of Frankfort, a municipal corporation located in Pepin County, Wisconsin, ("Town") and Greg Bechel Trucking and Excavating, LLC ("Bechel"); and

WHEREAS, Bechel has been, and currently is, engaged in nonmetallic mining for gravel and limestone in the Town, and is now expanding the area being mined and is expanding its nonmetallic mining operation to increase blasting activities and add the extraction and removal of sandstone and/or sand, and as a result, will extract, remove and transport exponentially greater weights and volumes of nonmetallic minerals over public roads in the Town than when Bechel was engaged in nonmetallic mining on its original site for gravel and limestone only; and

WHEREAS, Bechel has applied for and obtained an amendment to its original Pepin County Reclamation Permit ("Reclamation Permit") to expand its mining operations as described above over an area shown on the map attached hereto as Exhibit A and which has the legal description described in Exhibit B ("Property"), also attached hereto, both of which Exhibits are incorporated herein by reference; and

WHEREAS, the current owners of the Property are Randy and Audrey Richardson, while Bechel holds a leasehold interest in the Property, together with additional real property not subject to this Agreement, which Memorandum of Lease showing its duration is attached hereto and incorporated herein as Exhibit C; and

WHEREAS, the Town has recently enacted an ordinance requiring certain entities and individuals planning to engage in nonmetallic mining to apply for and receive an operator's license before conducting nonmetallic mining activity in the Town ("Ordinance"), which Ordinance would apply to Bechel and that also authorizes the Town to enter into agreements with nonmetallic mining operators with terms that modify or differ from the requirements of the Ordinance when the Town Board is able to determine that public health, safety and welfare will be protected under the terms of such an agreement at least as well as under its Ordinance; and

WHEREAS, Bechel wishes to make such an agreement with the Town that would be in effect for an extended term rather than being required to obtain and renew an operator's license every five years as the Ordinance would otherwise require; and

WHEREAS, the Town is willing to enter into such an agreement for an extended term so long as the Town Board determines that the standards of the Ordinance are met and the public safety, health and welfare is protected as completely and effectively would be the case under a license issued pursuant to the Town's Ordinance.

NOW, THEREFORE, Bechel and the Town agree as follows:

I. Definitions. As used in this Agreement, the following terms have the following meanings.

A. Adjoining Landowner: an owner of land located within one-half (1/2) mile of the perimeter of the Property.

B. Haul Route: all public roads in the Town used by Bechel to transport Raw Material (defined below), and Nonmetallic Mining Fine Material (defined below), to and from the Property, including related empty truck return trips.

C. Nonmetallic Mining Site, Mine, Pit, Mine Site or the Property: that real property shown and described on Exhibits A and B.

D. Nonmetallic Mining or Nonmetallic Mining Operation: all operations on the Mine Site that relate to or are involved in the extraction from the earth of nonmetallic minerals, together with on-site operations in compliance with the Reclamation Permit and the terms of this Agreement.

E. Raw Material: those nonmetallic minerals taken from the earth at the Mine Site and transported off the Mine Site for final processing into Sand.

F. Nonmetallic Mining Fine Material: soil, rock, clay, sand and other nonmetallic minerals that are separated from Raw Material at an off-site processing facility as part of the Sand production process.

G. Sand: industrial grade silica sand, which is final processed at an off-site facility from Raw Material, leaving Nonmetallic Mining Fine Material as the byproduct of the off site processing.

II. License, Term.

A. This Agreement becomes effective on the date first fully signed and shall be in effect and have as its expiration date the earliest of:

(i) twenty (20) years from the date of execution;

(ii) receipt of a written request from Bechel to so terminate this Agreement; or

(iii) Town Board termination of this Agreement pursuant to Section X.C. of this Agreement. Bechel's soil monitoring and groundwater protection obligations, the Town's rights and the private remedies established under this Agreement as to soil monitoring and groundwater protection shall survive and continue for three (3) years after the termination date of the Agreement.

B. This Agreement constitutes a "written mining agreement" between the Town and Bechel as authorized by Section 13 of the Ordinance. As such, this Agreement operates as authority for the Nonmetallic Mining Operation described herein in lieu of Bechel being required to apply for, maintain and renew an operator's license as would otherwise be required by the Ordinance. Bechel's Nonmetallic Mining on the Property, transportation of Raw Materials off the Property, and any permitted future return of Nonmetallic Mining Fine Materials to, or the re-depositing of, such Materials at the Mine Site shall be governed by this Agreement only, and not by the Ordinance.

C. Bechel certifies that all applicable federal, state, county and local requirements, licenses, permits and approvals required for Nonmetallic Mining on the Property have either been met or obtained or will be met or obtained prior to its commencement of movement of Raw Material off the Property. All such requirements, licenses, permits and approvals will be filed with the Town on a continuous basis. Bechel will continue to meet, obtain and maintain compliance with all such

requirements, licenses, permits and approvals, in good standing, during the term of this Agreement. Failure to do so is a breach of this Agreement.

D. Bechel shall provide the Town with an annual report no later than July 1 of each year during the term of this Agreement (starting July 1, 2013) that shall include the following information:

1. A map of the active Nonmetallic Mining areas on the Mine Site, anticipated areas of Nonmetallic Mining and reclamation activity during the coming year, and number of acres of each.

2. A general description of activities and operations on the Mine Site during the applicable reporting period, including actual days and hours of operation, actual days and hours of hauling on public roads, weights of nonmetallic minerals transported off the Mine Site broken down for Sand and limestone or gravel, and weights of Nonmetallic Mining Fine Material returned to the Mine Site.

E. Bechel shall meet with a designated Town representative monthly from the time this Agreement is fully executed until July 1, 2013, then at least quarterly for the remainder of the Agreement term to review issues and concerns related to the Mine Site operation, Agreement compliance and to resolve issues of concern to either party. The initial Town representative for this purpose is Supervisor Bryce Black. Either party may also call a meeting at any time, with 24 hours notice, to address a concern received from a member of the public.

F. Bechel has provided each Town Board member, the Town Clerk and each Adjoining Landowner and each resident within one-half (1/2) mile of the Mine Site with the name, address, business phone number and cell phone number of its designated representative and shall notify all such individuals within twenty-four (24) hours of any change. Bechel's designated representative shall be available for communication with Town officials, Adjoining Landowners and residents on a continuous basis.

III. Mine Operation.

A. The primary operational features of Bechel's Nonmetallic Mining Operation are described in its Operational Overview, which is attached hereto as Exhibit E and incorporated herein by reference ("Operating Plan"). During the term of this Agreement, Bechel shall engage in Nonmetallic Mining on the Property in full compliance with its Operating Plan, this Agreement and the exhibits thereto, all of which are incorporated herein by reference, in addition to other applicable laws and regulations.

B. As of the execution of this Agreement, Bechel has located three buildings on the Mine Site. During the term of the Agreement, Bechel must apply for and receive all building and other permits, authorizations, or approvals required by the Town or other public entity with jurisdiction to build any additional buildings or access point(s) to the public right of way. Notwithstanding that requirement, this Agreement is not intended to impose further contractual limitations on construction at the Mine Site for the purposes contemplated by this Agreement, provided that no additional buildings will be placed in a location at the Mine Site closer than 500 feet to an existing residence, 200 feet to a public road right of way line, 100 feet to a property line or 50 feet to the edge of any

slope on Site that is greater than 3:1, measured horizontally for a distance of not more than 50 feet nor less than 25 feet.

C. No On-Site Processing. This Agreement does not authorize Bechel to engage in any on-site processing of Raw Material at the Mine Site except for the basic preparatory processing described in its Operating Plan (Exhibit E). Prohibited on-site processing of Raw Material includes the washing, treatment with flocculants, drying, and fine screening of Raw Material to produce fully processed Sand, and including any activities not identified in Exhibit E. Bechel shall not engage in any Raw Material processing at the Mine Site during the term of this Agreement that involves the use of water mixed with flocculants or other settling agents, sedimentation ponds, fine screening, drying or transport of Sand by conveyor or elevator. It is acknowledged that Bechel will extract, mechanically crush, coarse screen and stockpile Raw Material at the Mine Site in the manner described in Exhibit E.

D. Material Transportation. Semis shall not be used to haul loads of Raw Material or Nonmetallic Mining Fine Material over public roads in the Town. No loaded vehicle with a gross weight greater than 73,000 pounds shall be used for transportation of Raw Material or Nonmetallic Mining Fine Material to or from the Mine Site and over public roads in the Town.

E. Bechel shall defer in its use of Haul Routes within the Town when sharing the road with school buses to protect the safety of school children, motorists and Town residents in all of the following ways. Trucks used by Bechel to haul Raw Material, trucks that are returning empty after transporting Raw Material and trucks that are transporting Nonmetallic Mining Fine Material to the Mine Site shall maintain separation of between 660 feet when following a school bus (subject to sight line limitations); shall, to the extent safe and practical, pull over and wait until the bus has gone past when meeting a school bus; shall watch for and carefully avoid children waiting for or disembarking from school buses along the Haul Routes; and shall not exceed 45 mph when using Haul Routes where school buses are present. Drivers shall likewise avoid interference with rural mail carriers when they are delivering mail along Haul Routes. These requirements specifically include late starts, early dismissals, noon or special bus runs and any other time a school bus is using a Haul Route within the Town.

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F. Mine Site reclamation shall comply with the Reclamation Permit, and as it may be amended from time to time. A copy of the Reclamation Permit is attached hereto as Exhibit F and incorporated herein by reference. Bechel shall notify the Town of any application it submits to amend any aspect of its Reclamation Permit during the term of this Agreement. The Town has standing to participate in the Reclamation Permit amendment process. Bechel shall inform the Town Clerk promptly of the scheduling of all hearings and County meetings at which Bechel's Reclamation Permit is on the agenda. Any subsequent amendments to the Reclamation Plan shall likewise be incorporated into Exhibit F, as applicable.

1. The parties acknowledge that it will be necessary for Bechel to apply to Pepin County to amend its Reclamation Permit to allow it to return Nonmetallic Mining Fine Material to the Mine Site, as this is not allowed under the current Reclamation Permit. As an additional requirement for any such return of Nonmetallic Mining Fine Materials to the Mine Site, Bechel shall strictly follow the terms of the Fine Material Handling Plan, which shall be attached hereto and incorporated

herein by reference as Exhibit G upon approval of both Bechel and the Town Board based on the recommendation of the Town's retained experts. The Fine Material Handling Plan is intended to prevent the groundwater quality in the Town from being adversely affected by chemical compounds used in processing Raw Material and that remain in Nonmetallic Mining Fine Material, including but not limited to acrylamides that may be present, in or a byproduct of degradation of, flocculants used in off-site processing. In addition to first obtaining an amended Reclamation Permit and strict compliance with the Fine Material Handling Plan, should Bechel return Nonmetallic Mining Fine Material to the Mine Site, the following requirements shall be met:

a. No greater volume of Nonmetallic Mining Fine Material shall be returned to the Property than is expected to remain after processing Raw Material, estimated at 10 - 25% of the volume of Raw Material removed for off-site processing.

b. Nonmetallic Mining Fine Materials may be returned and deposited at the Mine Site only if the chemical composition of the flocculants in the Nonmetallic Mining Fine Material meets the ANSI/NSF Standard 60 certification for flocculants used in public water drinking systems.

c. Bechel shall notify the Town each time there is a change in the chemical composition of the flocculant(s) used to process Raw Material or in the concentration at which it is applied to Raw Material.

d. The purpose of the Fine Material Handling Plan is to avoid and prevent unacceptable levels of acrylamide from reaching the groundwater, as such levels are identified in the Plan and agreed upon and approved by both Bechel's and the Town's retained experts. The Plan shall include monitoring of the degradation of the acrylamide in the dewatered Nonmetallic Mining Fine Material as permitted to be returned to the Mine Site. Monitoring shall be accomplished through periodic, controlled soil testing conducted in conformity with the Plan. Said Plan shall require and include testing and deposit methodology, parameters, intervals, and locations as approved by Bechel's and the Town's retained experts. Additionally, the Plan shall call for the use of test plots at the Mine Site that will be employed to verify that acrylamide degrades to inert material and acceptable acrylamide levels under the Plan prior to any authorized placement of Nonmetallic Mining Fine Material on the Mine Site pursuant to an amended Reclamation Permit. Once authorized, the Plan shall require ongoing documentation of the location and amounts of Nonmetallic Mining Fine Material placed at the Site as permitted by Pepin County. The Town shall have the continuing right of access to the reclamation areas of the Mine Site to monitor and verify the location and depth of deposit of Nonmetallic Mining Fine Material by survey, if or when Nonmetallic Mining Fine Material is incorporated into reclamation areas on the Mine Site under an amended Reclamation Permit. The Plan shall provide for documentation of the horizontal and vertical location of Nonmetallic Mining Fine Material being placed in or on the Mine Site. Implementation of the Fine Material Handling Plan (Exhibit G) is a condition of the return of any Nonmetallic Mining Fine Material to the Mine Site other than for test plots as described above.

G. Hours for Hauling and Mine Operation.

1. Trucks hauling Raw Material from the Mine Site and trucks returning to the Mine Site whether empty when previously hauling Raw Material or containing Nonmetallic Mining Fine Material, shall haul on public roads in the Town only between the hours of ~~7:00 a.m. and 5 p.m., Monday through Friday from April 1 to October 31 of each year, between~~ ^{7:00 a.m. and 5 p.m.,} Monday through Friday ~~from November 1 to March 31 of each year~~ ^{from November 1 to March 31 of each year} between 7:00 a.m. and 12 p.m. on Saturdays, and not on Sundays, New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. The hauling hours limitations shall also apply to Bechel's pre-existing operation of hauling limestone and gravel, except that Bechel may request and receive permission from the Town Chairman to temporarily haul limestone and gravel outside of the agreed upon hours for emergency municipal road projects. Said permission shall be in the sole discretion of the Town Chairman.

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2. Bechel's Nonmetallic Mining Operation at the Mine Site shall be limited to the days and hours established above for truck hauling plus 1.5 additional hours on the Mine Site, both before and at the end of each day, and except for Saturday, where no additional hours shall be granted at the end of the day. Equipment maintenance may be performed at the Mine Site during the Mine Site operation hours and on Saturdays until 5:00 p.m., provided that Nonmetallic Mining shall cease by noon on Saturdays.

H. Transportation Routes. As of the effective date of this Agreement, Bechel's Haul Route does not use any Town roads. Exhibit H, attached hereto and incorporated herein by reference, shows the designated Haul Route that Bechel shall use for the hauling of Raw Material, including all return truck traffic whether empty when previously hauling Raw Material or containing Nonmetallic Mining Fine Material. Bechel shall not use any other public road in the Town as a Haul Route without first obtaining the written agreement of the municipal body with responsibility for maintaining the road. Bechel shall provide a copy of all such agreements to the Town promptly upon execution.

1. In the event that Bechel wishes to use a Town road for a Haul Route during the Agreement term, Bechel shall first have a Traffic Impact Analysis with related AET Report ("TIA") completed by a qualified third party acceptable to the Town, with the scope and method of the TIA approved in advance by the Town's engineer. The purpose of the TIA and related AET Report shall be to determine the then-existing condition of the Town road Bechel wishes to use for a Haul Route and to identify the repairs, upgrades and additional road maintenance expected to be necessary to accommodate the additional weight and volume of truck traffic caused by Bechel's use of the Town road. Engineering design plans shall then be developed to more specifically define the parameters for anticipated repairs and upgrades to the proposed Town road Haul Route which shall also be reviewed and approved by the Town's engineer. All such upgrades and repairs shall be designed to meet the standards in the Wisconsin Department of Transportation's Facilities Development Manual (FDM)

2. Prior to using a Town road for a Haul Route during the Agreement term, Bechel shall provide a cash deposit or an irrevocable letter of credit to the Town for 120% of the cost of the anticipated repairs or upgrades identified in the TIA as estimated by the Town engineer, which amount shall be adjusted for inflation every three years, and which funds shall be available for use by

the Town to offset the cost of the repairs, upgrades and additional road maintenance identified by the TIA, and for unanticipated repairs, upgrades or road maintenance that the parties agree are fairly attributable to Bechel's operation.

3. Bechel's use of Town roads that are not Haul Routes for its transport of limestone and gravel from the Mine Site shall not exceed 20,000 tons per calendar year.

IV. Protecting Air Quality: Preventing Fugitive Dust.

A. Bechel shall meet the requirements of its Fugitive Dust Plan, a copy of which is attached hereto as Exhibit I and incorporated herein by reference. In addition to the measures described therein, Bechel shall control dust, and in that way protect air quality, by undertaking the following measures:

1. Dust on all areas utilized for vehicular travel within the Property shall be suppressed and controlled by frequent and regular sweeping of paved areas and by application of water and/or nonhazardous dust suppressants to unpaved areas and stockpiled Raw Material and Nonmetallic Mining Fine Material on site as necessary to comply with best management practices in the industry. Application materials, type and amount of dust suppressants used shall also comply with best management practices.

2. Bechel shall pave the first two hundred (200) feet of any access road used for vehicular travel from a public road right-of-way into the Site by October 31, 2012, except that such distance may be shortened in the event Nonmetallic Mining utilizes a portion of the access road as it relates to phasing of mining and reclamation.

3. Tracking pads shall be installed on every road leading from the Pit from which Raw Material is then being moved by truck to the public right-of-way, which shall be sufficiently powerful and effective to knock mud and dirt off the trucks moving the Raw Material.

4. All loads of Raw Material and of Nonmetallic Mining Fine Material shall be fully covered while on Haul Routes using mechanical covering devices such as autoroll tarps, and shall be attached to and compatible with the truck hauling the load.

5. Water for dust control shall be brought to and kept at the Mine Site in tanker trucks. No septic systems or well shall be installed at the Mine Site during the term of this Agreement, other than monitoring wells if required by this Agreement. At least one day's water requirement in a quantity anticipated to be sufficient for all uses shall be kept on the Mine Site at all times.

6. Bechel shall construct the earthen berms identified on the Site Plan and required by the Reclamation Permit. The earthen berms being installed by Bechel are intended to mitigate dust, noise and storm water runoff, and to provide a more acceptable view from the road for the neighboring properties and passers-by. Berms shall be installed and maintained in the location shown on the Site Plan and shall be maintained in a proper condition, seeded as required by the Reclamation Permit and planted at the top with at least one row of evergreen trees, no less than four (4) feet tall, and planted not more than twenty (20) feet apart, which shall be planted by May 15, 2013. Bechel

shall develop and follow a landscape and maintenance plan for the berms, and shall provide the plan to the Town by October 31, 2012.

V. Noise, Light and Security.

A. All trucks and equipment used by Bechel and its subcontractors for Nonmetallic Mining or hauling purposes at the Mine Site shall use required safety back-up alarms that create the least offensive, least audible noise for nearby residents, consistent with safety and legal requirements. By December 31, 2012, none of the trucks and equipment used by Bechel and its subcontractors at the Mine Site shall employ "beeping", shrill or piercing noises for a back-up alarm.

B. Bechel and its subcontractors shall refrain from using compression release engine brakes, commonly known as "jake brakes" in trucks used to haul Raw Material from the Mine Site and to return Nonmetallic Mining Waste Material to the Mine Site when such trucks are within one (1) mile of the Mine Site, unless necessary for emergency or safety reasons.

C. Bechel shall use the best lighting technology available to minimize lighting impact from its Nonmetallic Mining Operation. Night lighting at the Mine Site shall shield off site illumination with full cut-off shrouds. Portable lighting shall be used only when necessary to temporarily illuminate work areas and shall maximize light cast on the ground. Every reasonable effort shall be made to minimize illumination of the night sky and to prevent light from reaching the residences of Adjoining Landowners.

D. Bechel shall use best management practices to keep noise at reasonable levels at the Mine Site boundary. Best management practices include, but are not limited to the use of strobe, "burp", "swoosh" or "white noise" back up alarms and properly maintaining equipment and mufflers in equipment and vehicles operated on the Property. Bechel's above-stated planting of evergreen trees on the top of berms is also intended to reduce noise. Noise at the perimeter of the Mine Site should be minimal, and Bechel shall use its best efforts to not routinely and consistently exceed sixty (60) decibels at the Mine Site perimeter, with exceptions allowed for blasting and for trucks entering and leaving the Property. If complaints are received about noise levels, Bechel shall be allowed a reasonable amount of time, not to exceed 14 days, to determine whether noise in excess of 60 decibels is being routinely and consistently generated at the Mine Site perimeter. Bechel shall promptly investigate and report its findings in response to such complaints to the Town Board, along with a proposal for mitigation. If the Town Board then determines that noise in excess of 60 decibels is being routinely and consistently generated at the Mine Site perimeter, Bechel shall promptly present a plan for remediation, subject to Town approval, and shall promptly implement the plan once approved by the Town Board. All costs of sound level investigation and remediation shall be paid and/or reimbursed by Bechel.

E. The area of the Mine Site adjoining the public right-of-way shall be gated and otherwise secured by berms in a manner that will prevent access to the Property by unauthorized vehicles and people. The south property line adjoining the Baker/Juleff property shall be fully fenced with chain link fencing by October 31, 2012 provided said adjoining landowner agrees in writing, no later than September 15, 2012, to pay for 25% of the installation and continued maintenance costs. Unless separately authorized by the Town, no advertising materials or signage of any type shall be

posted on the gates, fencing or berms at the Property boundaries other than indicia of ownership, equipment information or safety warnings. No illuminated signs, signs more than four (4) feet by four (4) feet or signs of more than fifteen (15) feet high shall be erected on the Property.

VI. Storm Water and Surface Water.

A. Bechel shall repair all damage to, and remove all sediment from, public road right-of-way ditches, culverts, all other private or public drainage ways adjacent to the Mine Site and on property owned by Adjoining Landowners, when Bechel or the Town's engineer determines the damage or sediment deposit is attributable to Bechel's action or inaction. Such determination shall be made within seven (7) days of written notification to the Town and to Bechel, by notifying the representative required by Article X of this Agreement. Bechel represents that it has expedited completion of berms as called for by its WPDES Storm Water Management/Nonmetallic Mining Operations General Permit WI-0046515-5 ("Storm Water Permit") and is in compliance with said Storm Water Permit as it relates to the Adjoining Landowner along the southern boundary of the Property.

B. To the extent required by state and County regulations, surface and storm water shall be internally drained and surface water shall remain on the Mine Site and be managed in accordance with the requirements of the Reclamation Permit and the Storm Water Management Plan.

C. Bechel shall take all reasonable measures to attempt to prevent surface water and storm water run-off from reaching the property of Adjoining Landowners and from coming on to the Mine Site from the property of Adjoining Landowners and from mingling with onsite surface or storm water, and shall repair all related damage to Adjoining Landowners' Property attributable to Bechel's action or inaction by restoring it to its original condition as fully as possible.

VII. Groundwater and Well Protection.

A. By July 31, 2012, and again by August 31, 2012, the Town shall complete, at Bechel's cost, baseline water quality testing for all private wells located within one-half (1/2) mile of the perimeter of the Mine Site. Testing shall be conducted to determine levels of coliform bacteria, arsenic, lead, nitrate, chlorides, and acrylamide, plus total suspended solids, turbidity, specific conductance and pH. Bechel has conducted a physical search of the Mine Site and has not located any unrecorded or abandoned wells. Well testing results shall be provided at no charge to all landowners who consent to the testing and with test results for their own well provided in a comparative format before September 15, 2012. Well water testing after the two rounds of baseline testing shall be conducted by the Town, at Bechel's cost, in conformity with the Groundwater Monitoring Plan developed for the site by Cedar Corporation, a copy of which is attached hereto as Exhibit J and incorporated herein by reference. When the retained experts for the Town and for Bechel agree that the Fine Material Handling Plan is fully developed and functioning as expected, then the Groundwater Monitoring Plan will be reviewed by the parties to more effectively coordinate the two monitoring systems, particularly with respect to testing frequency and parameters. The Town shall competitively bid the testing required under this provision every three (3) years.

B. Bechel shall prepare a Monitoring Well Network Plan by October 31, 2012, which Plan shall be presented to the Town Engineer for approval and then attached as Exhibit K and incorporated herein by reference, once so approved. The said Plan shall show the suggested depth and location of monitoring wells, any one or more of which shall be installed upon Town request during the Agreement term if a substantial number of private landowners refuse to allow continued well water testing from their private wells during the term of the Groundwater Monitoring Plan. No well shall be installed at the Mine Site during the term of this Agreement for any purpose other than to serve as a monitoring well.

C. Bechel's Nonmetallic Mining Operation as authorized by this Agreement shall not result in the water in any tested private or future monitoring well exceeding the preventative action limit for public health groundwater quality standards as established in Wis. Admin. Code Ch. NR 140 for the conditions and substances being tested and monitored with the baseline and periodic testing conducted pursuant to the Groundwater Monitoring Plan (Exhibit J). If test results for any condition or substance that is the subject of such baseline or periodic testing do exceed preventative action limits in any private well, groundwater quality testing shall immediately be re-conducted at that well, conducted in such expanded area as recommended by the Town's engineer and the Well Water Impact procedure established in this Agreement shall be immediately invoked for each affected well in which a preventative action limit has been exceeded.

D. Bechel shall not extract Raw Material, gravel, limestone or excavate at the Mine Site for any reason to a depth below a point that is one hundred (100) feet above the groundwater table during the term of this Agreement.

E. Private well owners who permit testing of their wells to occur under the protocol in the Groundwater Monitoring Plan (Exhibit J) or as otherwise set out in this Agreement shall have a direct, private remedy to obtain the short and long term corrective measures as described in this Agreement from Bechel at Bechel's expense when either:

(1) a preventative action limit is exceeded in such a well for any of the substances identified there as a subject of ongoing water testing and is reasonably attributable to action or inaction by Bechel; or

(2) there is a substantial adverse impact on the quantity of water available to or found in such a well that is reasonably attributable to Bechel's action or inaction. A substantial adverse impact is a drop in the water table that adversely affects the capacity and operation of a private or high capacity well including, but not limited to, the inability of the well to provide potable water on a continuing basis.

These events are referred to in this Agreement as a "Well Water Impact", and when raised by well owners such impacts shall be remediated by Bechel in the manner set forth in this Agreement.

VIII. Well Water Impact, Private Remedy

A. A private well owner seeking the remedy provided under this Agreement shall file a written Notice of Well Water Impact with the Town, the Pepin County Land Conservation

Department and Bechel, describing with particularity the Well Water Impact alleged to have affected the well at issue. Upon receipt of such notice Bechel shall, within twenty-one (21) days, retain a qualified professional, acceptable to the affected private well owner and capable of evaluating and determining the cause(s) of the alleged Well Water Impact. Bechel shall promptly notify the Town and the Pepin County Land Conservation Department of the identity of its retained, qualified professional. If Bechel and the private well owner cannot agree on a qualified professional for this purpose, then the qualified professional shall be selected forthwith by a representative of the Pepin County Conservation Department. Once selected, Bechel shall immediately retain the qualified professional, and the qualified professional shall, within thirty (30) days of being retained, investigate and issue a written report determining whether the alleged Well Water Impact is in fact a Well Water Impact giving rise to the private remedy available under this Agreement because said Well Water Impact is reasonably attributable to Bechel and, if so, describing the proper course of action to remediate and/or eliminate the Well Water Impact.

B. Corrective Measures. If a qualified professional issues a written report determining that the alleged Well Water Impact is not a Well Water Impact reasonably attributable to Bechel under this Agreement, then Bechel shall have no further obligation under this Agreement to the private well owner, other than continuation of any periodic water testing required under this Agreement and the related Groundwater Monitoring Plan. If the qualified professional issues a written report determining that the alleged Well Water Impact is in fact a Well Water Impact that is reasonably attributable to Bechel, then Bechel shall have all corrective measures recommended by the qualified professional completed promptly and tested at Bechel's sole cost and expense within sixty (60) days of the qualified professional's report and recommended corrective measures, or such longer time as is reasonably necessary, given the nature of the corrective measures being recommended, and agreed to with the private well owner. The private well owner shall be kept informed about the proposed corrective measures. All corrective measures shall be undertaken and completed by a certified plumber or licensed well driller as applicable.

C. Temporary Corrective Measures. Immediately upon receipt of written Notice of Well Water Impact from a private well owner describing an alleged Well Water Impact and beginning within twenty-four (24) hours after receipt of such Notice, Bechel shall have provided a continuous and adequate, interim potable water supply to the affected landowner for personal use, for livestock and for any food producing gardens then served by the well at issue. The interim water supply shall be continuously provided by Bechel until professional completion of the corrective measures recommended or until receipt of a qualified professional's determination that the alleged Well Water Impact is not reasonably attributable to Bechel.

IX. Blasting.

A. By October 31, 2012, Bechel shall have completed for all Adjoining Landowners, together with the landowner with the residence at the intersection of County Highway D and County Highway SS, who consent to it, a survey of all residences, applicable buildings, and related foundations. The purpose of the surveys shall be to document the then-existing condition of the residences, applicable buildings, and related foundations with video footage, photography and visual inspection by personnel qualified to detect, analyze and document structural damage or stresses. Survey information shall be provided to each said landowner and to the Town within thirty (30) days

of survey completion. In lieu of conducting a similar survey on the wells of Adjoining Landowners, together with the landowner with the residence at the intersection of County Highway D and County Highway SS, Bechel will install, with owner consent, by October 31, 2012, a water system filter(s) to address the possible presence of sand within said residential or agricultural water supplies.

B. All blasting occurring as part of Bechel's Nonmetallic Mining Operation at the Mine Site shall be conducted in compliance with Wis. Admin. Code Ch. SPS 307 and shall be preceded by at least twenty-four (24) hours advance notice, which said notice shall be provided via telephonic communication to Adjoining Landowners and the Town Clerk and by posting said notice at the entry to the Mine Site on the same time schedule. Blasting shall only occur between 10:00 a.m. and 3:00 p.m. on weekdays, except that blasting may occur after 3:00 p.m. on weekdays when necessary for safety reasons beyond Bechel's reasonable control or, where the blasting results are unsatisfactory or incomplete and Bechel requests and receives permission from the Town Chairman, to continue the blasting to the next day. Said permission shall be in the sole discretion of the Town Chairman. Blasting logs shall be provided to the Town within thirty (30) days of blasting.

C. Seismographic Monitoring. Bechel shall set up two properly operating and calibrated seismographs on the property of consenting, Adjoining Landowners that then record the intensity and duration of ground tremors and vibration attributable to its Mine Site blasting activity on a rotating basis, the information from which shall be included in its blasting logs.

D. Blasting Impacts, Remedy. Designated landowners who consent to and participate in the initial survey shall have a private remedy for damage to their residences, applicable buildings, and related foundations that are attributable to Bechel's blasting activity. An affected landowner seeking assistance or the remedy provided under this Agreement shall file a written Notice of Blasting with Bechel and the Town and Pepin County Land Conservation Department describing with particularity the blasting impact alleged to have affected the structure at issue. Upon receipt of such written Notice, Bechel shall, within twenty-one (21) days, retain a qualified professional, acceptable to the affected property owner and capable of evaluating and determining the cause of the alleged blasting impact. Bechel shall promptly notify the Town and the Pepin County Land Conservation Department of the identity of the qualified individual. If Bechel and the private property owner cannot agree on a qualified professional for this purpose, then a qualified professional shall be selected promptly by a representative of the Pepin County Land Conservation Department. Once selected, Bechel shall immediately retain the qualified professional, and the qualified professional shall, within thirty (30) days of being retained, issue a written report determining whether the alleged blasting impact is in fact reasonably attributable to Bechel and, if so, identify the proper course of action to remediate or mitigate the blasting impact.

E. Corrective Measures. When a blasting impact is determined to be attributable to Bechel's blasting activities, Bechel shall have all corrective measures recommended by the qualified professional completed and tested at Bechel's sole expense within sixty (60) days of the recommendation, unless the nature of the project is such that it will take more time, in which case Bechel and the affected Landowner shall enter into a written Agreement for a longer deadline. All corrective measures shall be undertaken by a qualified contractor acceptable to the affected Landowner.

X. Laws to be Observed.

A. Bechel shall at all times comply with all applicable federal, state, county and Town laws, regulations, and ordinances applicable to Bechel's operations on the Property and shall cause Bechel's subcontractors to do the same.

B. Enforcement

1. Inspection and Right of Entry. Within twenty-four (24) hours after receipt of written notice from the Town, Bechel shall provide the Town's officers or qualified professional agent/contractor, subject to MSHA training/certification, with full access to the Property for purposes of determining compliance with this Agreement, provided that such personnel must comply with all applicable laws and safety rules and regulations while on the Property.

C. Default. Any of the following occurrences shall constitute default ("Event of Default") under this Agreement.

1. Bechel's leasehold interest in the Property is terminated for any reason, or Bechel ceases to operate and maintain the Property for the Nonmetallic Mining purposes as described in this Agreement for a period not exceeding eighteen (18) months.

2. Bechel files a petition under any bankruptcy, reorganization, arrangement, insolvency, dissolution or liquidation law of any jurisdiction, whether now or hereafter in effect that is not dismissed within ninety (90) days after filing.

3. Bechel fails to perform any material condition or provision hereof for a period of thirty (30) days after receiving written notice of such failure from the Town; provided, however, that an Event of Default shall not occur if Bechel acts promptly within the thirty (30) day period, or longer if so required by the nature of the default, to perform such material condition or provision and thereby cures the default. Material conditions or provisions hereof include, without limitation because of enumeration, failure to continuously comply with the requirements of the Fine Materials Handling Plan (Exhibit G); failure to continuously comply with the County Reclamation Permit (Exhibit F); failure to reimburse the Town for its costs of preparation, development, negotiation, entry and administration of this Agreement; failure to continuously comply with the terms in this Agreement regulating hauling, operations and equipment maintenance hours, Haul Route designation, noise and dust mitigation measures and short and long term private remedies for ground water and blasting impacts.

4. Upon an Event of Default, the Town Board may revoke this Agreement after the following conditions are met:

a. the Town Board provides Bechel with written notification by personal service on its designated representative of an Event of Default;

(i) Bechel and the Town Board meet within fifteen (15) days of the date of personal service of the Notice of Default to attempt to resolve the default, unless the Town determines that threats to health, safety or property require less notice, in which case the Notice shall so state; and

(ii) Bechel and Town Board fail, after good faith efforts, to resolve the matter.

5. Disputes Concerning Agreement. Disputes concerning any provision of this Agreement not defined as an Event of Default under Section X, including private citizen complaints that are not successfully resolved by first meeting with Bechel's and the Town's representative, shall be resolved using the following procedure: the party asserting the dispute shall provide a written description of the problem to the other party describing the nature of the problem and proposing a range of solutions and shall then meet with the other party to discuss solutions, all within thirty (30) days of the event giving rise to the dispute. The notice shall also describe the basis for the dispute as completely as possible, the goal of both notice and meeting being the full and mutual understanding of the problem at issue and identification of a range of acceptable solutions. The parties shall then meet and attempt in good faith to reach a mutually acceptable resolution of the dispute.

6. Agent. Bechel shall at all times have an agent, whose name, telephone number, fax number, and email address are known to the Town Clerk, who is available to respond to all matters and who can receive all notices related to this Agreement. At commencement of this Agreement that individual is Mine Superintendent Bernard Larson.

7. Legal Action. Nothing in this Agreement prevents the Town or Bechel from commencing a legal action to enforce the terms of this Agreement and seeking remedies in the nature of specific performance, injunctive relief or for damages.

D. Town Indemnification, Fees and Costs

1. Indemnification. Bechel shall defend, indemnify and hold harmless the Town and its officials, employees and agents from and against any and all claims demands, losses, suits, causes of action, damages, injuries, costs, expenses and liabilities whatsoever, including reasonable attorneys' fees and costs (together described as "liability") arising out of Bechel's use and reclamation of the Property for the Nonmetallic Mining purposes authorized by this Agreement and all reclamation activities, equipment installation and operation and off-site truck operation on Haul Routes including, without limitation, liability for property damage or personal injury (including death), and whether grounded in contract or in tort theories, including strict liability or negligence. This general indemnification shall not be construed as limiting or qualifying the Town's other indemnification rights available under law or this Agreement and shall not extend to third party claims challenging the legality or enforceability of this Agreement or any portion thereof, or the issuance of any permits to Bechel by the Town and related to the Property, addressed below. The indemnification provided to the Town shall in no event extend to any liability arising in whole or in part from acts or omissions of the Town or any of its officials, employees, and/or agents.

2. Liability Insurance Reimbursement. Bechel shall pay to the Town upon the execution of the Agreement, and annually upon the anniversary of the Agreement, an amount equal to the Town's full annual Business Owner's Policy Annual Premium in an amount not to exceed \$4,000. The Parties shall reopen this provision in the event that either:

- a. the Annual Premium exceeds \$4,000; or

b. the Town is unable to obtain liability insurance coverage at levels and in categories comparable to those existing on the date of the Agreement.

3. Reimbursement of Fees and Costs. Bechel agrees to reimburse the Town's fees and costs, including its reasonable attorneys' fees and costs and professional engineering fees and costs (including contract costs with Cedar Corporation) related to issue review and development, evaluation, preparation, adoption and administration by the Town of this Agreement. Notwithstanding the foregoing, in the event that all of the Town's costs and fees described above will exceed \$15,000 in any given year going forward and based on the anniversary date of the Agreement, the Parties agree to meet, review, and agree, which agreement shall not be unreasonably withheld, on additional costs and fees in excess of \$15,000, which amount shall be annually increased by 3%, as a condition of the Town being reimbursed in amounts in excess of \$15,000 annually. This future financial reimbursement limitation shall not apply to the continuing costs of development and implementation of the Fine Material Handling Plan. Bechel shall reimburse the Town within thirty (30) days of receiving a written invoice.

4. Insurance. Bechel shall maintain the following insurance coverages, commencing on the effective date of this Agreement:

a. Comprehensive public liability insurance insuring Bechel against loss or liability caused by Bechel's occupation and use of the Property for the purposes authorized under this Agreement in an amount not less than Five Million Dollars of combined single limit liability coverage per occurrence, accident or incident with a commercially reasonable deductible, and naming the Town as an additional insured. Additionally, prior to the return of any Nonmetallic Mining Fine Material to the Mine Site, Bechel shall have obtained pollution insurance coverage sufficient to insure the Town and any affected landowner against any groundwater or soil contamination arising out of or relating to Bechel's activities at the Mine Site. Said coverage shall name the Town as an additional insured, and the scope and amount of said coverage shall be subject to separate review and approval by the Town Chair and Town Attorney, with said approval not being unreasonably withheld. Said coverage shall remain in effect for the term of the Agreement and shall be occurrence based.

b. Worker's Compensation coverage in the amount required under Wisconsin law. Bechel shall require subcontractors and others not protected under its insurance to obtain and maintain workers compensation and employers' liability insurance to the extent required under Wisconsin law.

c. Certificates of insurance evidencing compliance with these requirements shall be provided annually to the Town. Bechel shall promptly notify the Town of any known lapse in coverage. All policies other than pollution coverage and workers compensation may be written on either an occurrence or claims made basis; provided that if written on a claims made basis, such coverage shall be maintained for three years following termination of the Agreement.

E. Obligations Run with the Property

1. Bechel represents and warrants that it has the full right and authority to enter into this Agreement and fully perform its responsibilities under it.

2. Bechel's obligations shall run with the Property and are binding on Bechel, its agents, contractors, heirs, grantees, representatives, successors, and assigns. The Town shall record a copy of this Agreement or a short form Agreement with the Pepin County Register of Deeds. The cost of recording shall be paid by Bechel.

F. Miscellaneous Provisions

1. Both parties participated in negotiating the terms of this Agreement. If any part of this Agreement is reviewed by an administrative agency, mediator, arbitrator, or court, the reviewing entity shall construe this Agreement as having been jointly drafted.

2. No waiver of any provision of this Agreement shall be deemed or constitute a waiver of any other provision, nor will it be deemed to be or constitute a continuing waiver unless the waiver is expressly provided for in a written amendment to this Agreement, signed by the Town and Bechel. Any waiver of default under this Agreement shall not be deemed a waiver of any subsequent default or defaults of the same type.

3. Notices required or permitted by this Agreement shall be deemed effective when personally delivered in writing, or if sent by mail (which shall require a receipt signature), when signed for at the applicable address below:

If to Bechel: Gregory S. Bechel, Registered Agent for Gregory Bechel Trucking and Excavating, LLC, W2171 County Road S, Maiden Rock, WI 54750

If to the Town: Town Clerk: currently N3290 Byington Road, Pepin, WI 54759

Any Party may change the address to which notices must be sent by giving notice in this manner.

4. This Agreement shall be governed by and construed in accordance with the laws of the State of Wisconsin. All disputes arising under this Agreement shall be venued in Pepin County Circuit Court.

5. No changes, amendments, alterations, or modifications to this Agreement shall be effective unless made in writing, signed by both Parties and approved by the Town Board of the Town of Frankfort.

6. Bechel shall not assign or transfer its rights and obligations under this Agreement to any other person, firm or corporation without the express prior written consent of the Town, which shall not be unreasonably withheld. A proposed assignment shall be deemed to be reasonable when:

(a) the proposed assignee is properly formed and authorized to do business in Wisconsin;

(b) a signed, written assignment is presented to the Town that requires the proposed assignee to assume all of Bechel's rights, duties and obligations under this Agreement, to which the proposed assignee has agreed;

(c) the proposed assignee provided the Town with such information as the Town may reasonably require to be able to determine that the proposed assignee is able to demonstrate sufficient financial responsibility to meet all financial requirements of this Agreement on an ongoing basis during the term of the Agreement; and

(d) the proposed assignee first obtains the transfer of the Reclamation Permit for the Mine Site and posts the full financial security as required under the Reclamation Permit; and (e) the proposed assignee assumes all responsibilities under the Road Agreement in place concerning all Haul Routes in the Town and posts the full required financial assurance with the affected municipality.

7. This Agreement shall be interpreted and enforced under the law of Wisconsin. Any judicial determination that any portion of this Agreement is invalid shall not invalidate the entire Agreement but only that portion identified by the court. Any such determination of invalidity shall not be given retroactive effect.

GREG BECHEL TRUCKING AND EXCAVATING, LLC,

A Wisconsin Limited Liability Company

Dated: 8-27-12, 2012

By: Gregory S. Bechel

Name: Gregory S. Bechel

Title: President/CEO, Owner

TOWN OF FRANKFORT

Pepin County, Wisconsin

Dated: August 27th, 2012

By: Brad Anderson

Name: Brad Anderson

Title: Town Chair, Town of Frankfort

Attest:

By: Maureen Manore

Name: Maureen Manore

Title: Town Clerk, Town of Frankfort