

LIMITED LICENSE FOR USE OF ROAD RIGHT-OF-WAY

WHEREAS, Grant County is rural in nature and with the agricultural industry the road infrastructure is used extensively. The heavy agricultural farm trucks can do serious damage to roads and bridges. In an effort to reduce the amount of damage that is done to Grant County's roads and bridges, the county commission recognizes the benefit of using manure pipes/hoses to transport manure to fields.

THIS LICENSE AGREEMENT is made and entered into between Grant County, South Dakota, and _____, (hereinafter "Licensee".)

WHEREAS, Licensee, operates a Concentrated Animal Feeding Operation, located in Section _____, Township _____, Range _____, Grant County, South Dakota; and

WHEREAS, as part of its manure disposal system, Licensee uses hoses or pipes to transport manure to other locations for purposes of treatment or disposal; and

WHEREAS, Licensee desires to place one of its manure hoses or pipes along, across, over, or through the right-of-way of the following Grant County Highways:

Locations as shown in Exhibit "A" attached hereto and by this reference incorporated herein; and

WHEREAS, Grant County, as the circumstances may require, are willing to grant to Licensee a license for the use of such right-of-ways for such purposes on the terms and conditions as hereafter set forth.

THEREFORE, in consideration of the mutual agreements herein set forth, the Parties agree as follows:

1. The Political Subdivision of Grant County does hereby grant to Licensee the non-exclusive right to use Grant County Highway(s) _____ right-of-way for the purpose of placing a manure disposal hose or pipe at the location identified in Exhibit "A" under the following conditions:
 - a. The term of this license shall be for _____ days, commencing at 12:00 a.m. on the ____ day of ____, 20____, and ending at 11:59 p.m. on the ____ day of ____, 20____;
 - b. The exact location and manner of placing the manure disposal hose or pipe shall be as approved by the Grant County Highway Superintendent;
 - c. The hose or pipe shall not be placed upon the road surface but shall remain in the ditches, culverts, drainways, and otherwise away from and off the road surface;
 - d. The manure hose or pipe shall be placed so as to prevent the manure from entering areas of drainage or drainage detention.
 - e. The Licensee shall pay all costs for the installation of such culvert and manure hose or pipe.
 - f. The Licensee shall at all times at its sole cost properly maintain the manure hose or pipe so as to prevent leaks;
 - g. The Licensee shall inspect the manure hoses or pipes on a daily basis while land application of process wastewater or manure is occurring. This inspection is to ensure that the manure hoses or pipes are not leaking and runoff from the land application site and irrigation system is not occurring. If a discharge or leaks are found where process wastewater or manure is reaching any surface waters of the state or flowing onto property not owned by the Licensee or not included in the Licensee's nutrient management plan, the Licensee is responsible for taking immediate steps to stop the discharge or leaks and to immediately report such discharge to the Grant County Highway Superintendent.
 - h. The Licensee shall maintain documentation of these inspections consistent with the requirements of the Department of Environment and Natural Resources, which documentation shall be available for inspection by the Political Subdivisions upon request.
 - i. The Licensee shall at its sole cost restore the road right-of-way, and road surface if necessary, to its condition prior to the exercise of permitted use under this license, such restoration to be done to the satisfaction of the Grant County Highway Superintendent;
 - j. In the event the road right-of-way or road surface at any time thereafter collapses or deteriorates as a result of licensee's operations under this license, Licensee shall at its sole cost restore such road right-of-way or road surface; and

- k. In the event Grant County determines it necessary to grade or otherwise improve such County Highway which grading or improvement requires the removal and/or relocation of such manure hose or pipe, the County Highway Superintendent shall give notice to the Licensee of such requirement and Licensee shall, at Licensee's sole expense, promptly remove and/or relocate such manure hose or pipe as per the specifications of the County Highway Superintendent;
2. In the event at any time Licensee fails to perform any of the obligations listed above, including the obligation to properly maintain the manure hose or pipe, then and in such event either the County Highway Superintendent or a County Commissioner may terminate this license and Licensee shall remove such manure hose or pipe and restore the road right-of- way. In the event Licensee, upon demand of the County Highway Superintendent or County Commissioner, fails to remove such manure hose or pipe and restore the road right-of-way, Grant County shall be entitled to recover from Licensee all costs for such removal and restoration.
3. In the event of a leak or spill of manure from the manure hose or pipe, Licensee shall promptly clean up such leak or spill and shall be solely responsible for and shall pay all costs involved in such cleanups.
4. In the event a civil lawsuit arising from the acts or omissions of the Licensee, its officers, employees, agents, and representatives in the placing or maintaining of such manure hose or pipe under this License or arising in any manner regarding the operation of the Concentrated Animal Feeding Operation of Licensee, the Licensee shall defend, indemnify, and hold harmless Grant County, their officers, employees, agents, and representatives from and against any and all liability, claims, damages, actions, judgment, losses, costs, and expenses, including costs of litigation and attorney's fees, whether at law, in equity before an administrative agency or otherwise.
5. Licensee shall provide and at all times maintain General Liability Insurance in the amount of at least \$1,000,000.00, with an Environmental Protection Insurance rider in the amount of at least \$100,000.00; to clean up any spills or environmental damages which might occur as a result of the operation of the Concentrated Animal Feeding Operation. Such insurance shall name Grant County as additional insured(s) as related to this license.
6. This Agreement contains the entire agreement and understanding of the parties with respect to the subject matter of this Agreement and supersedes all prior or contemporaneous oral or written understandings, agreements, promises, or other undertakings by and among the parties. This Agreement may not be modified or amended, nor any rights there under waived, other than by a written document signed by all parties.
7. This Agreement shall be governed by, interpreted and construed in accordance with the laws of South Dakota. The venue of any mediation or suit or other proceedings arising under this Agreement shall be in Grant County, South Dakota.
8. Nothing herein shall be construed to constitute or establish any type of joint venture, partnership, or any other type of legal relationship between the parties relating to such manure pipe or hose and the use of the Political Subdivisions' rights-of-way.

Dated this _____ day of _____, 20__

LICENSEE: _____

By: _____ **Its:** _____

COUNTY: _____
Kerwin Schultz, County Hwy Supt