



January 10, 2014 **Proposed Application for Town Road Upgrade and Right-of-Way Permit**

TOWN ROAD UPGRADE AND RIGHT-OF-WAY PERMIT
TOWN OF GARFIELD
Permit No. _____

This Permit is hereby approved and issued by the Town of Garfield, a Wisconsin municipal entity located in Jackson County, Wisconsin, (the "Town") and issued to Larchmont Holdings, LLC., an entity incorporated in the state of Wisconsin (the "Operator").

WHEREAS, it is the desire of the Operator to mine sand from a quarry located on that real property (the "Property") in the Town of Garfield described on Exhibit A; and

WHEREAS, the desired haul route for sand on roads within the Town encompass a route between _____; and

WHEREAS, the Town has agreed that Operator shall be granted a Right-of-Way Permit relative to the Town road bed, improvements and right-of-way to allow the Operator to perform all functions incidental and necessary to reconstruct and improve that roadway that is the subject of this Right-of-Way Permit (the "Permit"); and

WHEREAS, Operator will supply at no cost to the Town, all labor, materials and equipment necessary to reconstruct and improve the Town roads to a standard consistent with the proposed use and dedicate the improvements thereafter to the Town; and

WHEREAS, the Town will agree that during the pendency of construction and thereafter, the weight limits and frost bans will not be imposed by the Town on the Operator, Operator's representatives, agents, contractors, subcontractors, successors and assigns.

NOW THEREFORE, the Town hereby grants this Right-of-Way Permit subject to the conditions described below.

CONDITIONS

1. The proposed haul route is attached and marked as Exhibit B and

encompasses a route between the _____.

2. All work done on the Right-of-Way shall be performed by Wisconsin Department of Transportation ("WDOT") approved contractors rated for the type of work performed. Operator shall bear full financial responsibility for the design phase of the improvements contemplated herein, and shall submit such plans and specifications as may be required by state or local regulations for the improvement of Town roads in Wisconsin. All such plans shall be prepared at Operator's sole cost and expense and shall be prepared by a licensed civil engineer. Construction shall not commence until the Town has reviewed and approved the submittal. This Permit shall run from the commencement period described above until the completion of the improvements. The project improvements shall be dedicated to the Town upon final inspection by the Town Board or a third-party designated by the Town Board.

3. This Right-of-Way Permit shall become effective upon the date it is approved by the Town of Garfield Town Board and that Operator is compliant with all conditions precedent hereto.

4. The upgrading of pavement sections on the Town roads will be to a design standard as directed by the WDOT Facilities Development Manual Section 11-40, to withstand the hauling of products and equipment that are necessary for the project. This includes improvements at entrances, intersections and to the typical cross-section. Geometric improvements shall also include any improvements to structures and culverts that are necessary to accommodate the increased traffic from the Project.

5. Operator agrees to incur all costs related to the recruitment, supervision and payment of a private contractor who shall rebuild the Town roads consistent with the standard set forth in this Permit. The chosen contractor shall be fully insured, bonded and in good corporate and financial standing and shall not have been debarred from public employment. Operator shall provide assurance to Town that contractor is fully compliant with all state and federal employment regulations including but not limited to prevailing wage regulations and equal employment provisions.

6. Upon completion of the improvements provided for in this permit, the Town shall be responsible for all road maintenance consistent with the Town's maintenance of those other Town roads in the Township except Operator shall be responsible to make any repairs to the Town road caused solely by Operator's use of the Town road.

7. Operator shall procure and maintain throughout the term of this Permit, Commercial General Liability insurance including bodily injury, property damage and personal injury, in an amount not less than Five Million Dollars (\$5,000,000.00) per occurrence. The policy shall also provide contractual liability in the same amount. Operator's coverage shall to the extent of the liability and indemnity obligations assumed by Operator under this Permit; (1) be primary, and (2) list Town of Garfield, its officers, officials, agents and employees as additional insureds. Operator shall, at the time of execution of this Permit, provide the Town of Garfield with certificate(s) of insurance showing the type, amount, class of operations covered, effective dates and expiration dates of the policy. A certified copy of the Certificate of Insurance shall be filed with the Town Clerk prior to construction.

8. Upon Operator discontinuing its sand mine operation on the Property, including the reclamation of the Property pursuant to its Nonmetallic Mining Reclamation Permit, the Town road shall meet the minimum town road standards of the Town, in effect as of the date of issuance of this permit. The guaranty covers all improvements done in the Right- of-Way consistent with Exhibit B.

9. Operator agrees to indemnify and hold harmless the Town for any costs, claim, suit, liability and/or award which might come, be brought or be assessed, because of the issuance or exercise of the access permit, or because of any adverse effect upon any person or property which is attributed to the partially or entirely completed works of the Operator. This indemnification language shall also include any prevailing wage claim filed in conjunction with this project.

10. Operator is hereby further granted all necessary rights of ingress, egress and access to the Right-of-Way, road bed, subsurface and improvements located within the Town road as may be necessary to fulfill Operator's obligations hereunder.

11. Town agrees that during the pendency of construction and as long as Operator continues, or intends to continue, its sand mining operation on the Property, the weight limits and frost bans will not be imposed by the Town on the Operator, Operator's representatives, agents, contractors, subcontractors, successors and assigns.

TOWN:

Town of Garfield

By: , Chairman

By: ,Town Clerk

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EXHIBIT A

LEGAL DESCRIPTION OF PROPOSED MINING PROPERTY

EXHIBIT B

HAUL ROUTE