

Road Maintenance Agreement

Template

SAMPLE

*Disclaimer – This sample agreement is intended to be used only as a guide by municipalities to develop their Road Maintenance Agreements and is in no way intended to be legal advice. The content **must** be modified and formatted to suit the needs of the municipality. It is strongly encouraged that municipalities work with or engage legal counsel to ensure the procedures address their council's specific needs and capabilities.*

Explanatory Notes

The Ministry of Government Relations has created a sample Road Maintenance Agreement (RMA) for municipalities and industry to use co-operatively. The primary intent of an RMA is to provide the parties with an efficient method by which haulers compensate the municipality for the additional road maintenance, restoration and loss of road service life resulting from their bulk hauls. RMAs cover only the incremental cost that occurs above regular maintenance costs due to the increased pressures of heavy or bulk hauls. Anything in **blue font** is optional, and the council should consider whether they want to have it in their bylaw. Footnotes and this page should be removed when finalizing the bylaw.

The objective of this RMA template is to provide a flexible agreement that meets the needs of both parties and can be altered to suit a variety of situations. It clarifies the contractual responsibilities with sections detailing the responsibility of each party to maintain and invest in the roads. The template is subject to *The Municipalities Act* and its regulations. Parties to the RMA are responsible for ensuring that it is completed according to the most current regulations. In addition, other documentation, such as maps, can be attached to the agreement to clarify both parties' expectations of the RMA. By including proposed dates of hauling and a timeframe for renegotiation, the agreement can be tailored to short-term or long-term hauls.

This template agreement reflects the recent amendments to *The Municipalities Regulations* found in *The Municipalities (Road Maintenance Agreements) Amendment Regulations, 2021*, which include:

- Clarifying the definition of a bulk haul and who RMAs are to be applied to;
- Establishing a new rate structure based on verifiable data to replace the minimum and maximum rate ranges with a single per tonne per kilometer rate;
- Applying the new rate structure to regions based on Area Transportation Planning Committees;
- Determining that RMA rates are updated with refreshed data every two years; and
- Outlining the process for cancellation and suspension of agreements.

This sample agreement also incorporates the 2010 amendments, giving the Saskatchewan Municipal Board (SMB) the authority and responsibility to resolve RMA disputes as per section 22.1 of *The Municipalities Act* and section 15 of *The Municipalities Regulations*. It also includes a provision that responds to a 2010 Saskatchewan Association of Rural Municipalities Annual Convention Resolution to require a performance bond from haulers subsequent to entering into RMAs. Municipalities have the authority to request a performance bond from haulers if it is negotiated and included in the RMA. This requirement can be found in subsection 3(c) of the template. If this requirement does not apply to the agreement, the clause can be removed.

NOTE: If a municipality and a hauler decide to forgo the regulated rate stated in the 2021 amendments, they can negotiate a separate agreement under subsection 22(1.2) of *The Municipalities Act* with a different schedule of charges or fees if:

- The schedule of charges or fees is applied consistently within the municipality;
- It includes provisions regarding dispute resolution; and
- The parties to the agreement will no longer be eligible to apply to SMB for a decision on any dispute.

ROAD MAINTENANCE AGREEMENT

FULL NAME OF MUNICIPALITY

AGREEMENT NO ____

THIS AGREEMENT is made in duplicate;

BETWEEN:

The (*name of Municipality*) _____
(hereinafter called the "Municipality")

- and -

(hereinafter called the "Hauler")

Together referred to as "the Parties".

WHEREAS:

The Hauler wishes to ship, haul or receive certain goods, equipment or materials over certain public roads within the Municipality, the movement of which in the opinion of the council of the Municipality is likely to result in damage.

The Hauler is a person described in clause 22(1)(b) of *The Municipalities Act* who is required to enter into an Agreement with a municipality pursuant to that section and has control, direction or hire over a Bulk Haul. Typically, a hauler may be a shipper, producer, or receiver.

The council of the Municipality requires the Hauler to enter into a Road Maintenance Agreement pursuant to Section 22 of *The Municipalities Act*.

The Agreement is made pursuant to and subject to the provisions of *The Municipalities Act* and its regulations.

THE PARTIES AGREE AS FOLLOWS:

Definitions

1. In this Agreement:

- a) "Bulk Haul" means any single or repeated transportation of goods by, to or for a shipper, hauler or receiver, of divisible or non-divisible loads, over a defined route, that: (i) amount to a payload in excess of 2 tonnes; and (ii) in the opinion of council responsible for the defined route: (A) are significant in nature by haul type, weight, or frequency; and (B) may cause damage to streets or roads or cause road maintenance requirements that exceed that of other users of the roads.

- b) "Region" means the Area Transportation Planning Committee (ATPC) Region that a municipality is located in, as set out in Map 1 of Part IV of the Regulations, attached hereto as Schedule "C".
- c) "Regulations" means *The Municipalities Regulations*.

General Matters

2. The Municipality shall:

- a) Permit the Hauler to use the Haul Roads, subject to the terms of this Agreement;
- b) Administer this Agreement by providing up to date information that would be subject to review by the Parties;
- c) Ensure that the information identified by the Parties as confidential is held in strict confidence subject to *The Local Authority Freedom of Information and Protection of Privacy Act*;
- d) Ensure that municipal roads are in a reasonable state of repair as defined in Section 343 of *The Municipalities Act*; and
- e) Continue to apply for any available government grants for road upgrading.

3. The Hauler shall

- a) Only haul the following goods and materials: *(list the goods and materials to be hauled)*

within the specified timeframe of *(include from what month and year to what month and year the timeframe will include)* _____, 20____ to of _____, 20____;

- b) On or over the following road(s): *(list the specific roads, including the number of kilometres that the Hauler will travel on, attaching a map may assist in clarifying the road(s) described)*

(roads listed are herein referred to as the "Haul Roads"); and

(Include 3 (c) if the council of the Municipality requires the Hauler to purchase a performance bond prior to initiating hauling)

- c) Provide the Municipality with a performance bond issued by a surety company acceptable to the Municipality, obtained with respect to the Hauler's obligations pursuant to section 3.

Environmental

4. The Hauler shall:

- a) Comply with the provisions of all applicable federal, provincial or municipal laws with respect to maintaining a clean environment;
- b) Notify the Municipality immediately in the event of any spills and environmental contamination problems on the Haul Roads or any adjacent lands as a result of the use of the haul road, and the Hauler shall be solely responsible for the cost of all work to be carried out to correct such problems caused by the operation; and
- c) Upon expiry or termination of this Agreement, leave the Haul Roads and any adjacent lands free of any environmental contamination resulting from the Hauler's operation which may adversely affect the land or result in a breach of the duties described in subsection 4(a). The responsibility of the Hauler and the Municipality with respect to the environmental obligations contained herein shall continue to be enforceable by the Municipality, notwithstanding the termination of this Agreement.

Traffic

5. The Hauler shall:

- a) Conduct the bulk hauling operation in a manner to minimize interference with other traffic on the Haul Roads;
- b) Notify the Municipality if any work is being done that will require temporary closure of a road or an interruption of motor vehicle traffic; and
- c) Abide by the following weight restrictions: _____ *(include the weight restrictions required)*

Compensation and Calculation

6. The Municipality shall:

- a) Expend, or retain in order to expend in the future, all compensation paid by the Parties, on roadway maintenance work on the Haul Roads, or portions thereof, that are indicated in subsection 3(b); and
- b) Arrange for the engineering, tendering and contracting of roadway maintenance work unless the Municipality conducts all of the work itself. All arrangements will be available for review by the Parties on request.

7. The Hauler shall:

- a) Before commencing a bulk haul, estimate and report to the Municipality:
 - i. The total quantity of goods and materials, in tonnes, to be hauled on the Haul Roads, represented as "T" in the Compensation Formula;
 - ii. The distance hauled, in kilometres, represented as "D" in the Compensation Formula; and
 - iii. The number of times that the bulk haul is carried out during the summer and winter haul period over the period of the Agreement, represented as "N" in the Compensation Formula;
- b) Use the regional rate set for the _____ *(insert the name of the ATPC region the Municipality is in on Schedule B)* region, represented as "R" in the Compensation Formula, for the calendar year in which the haul occurs;

- c) Pay to the Municipality, compensation for road maintenance (represented as “C” in the Compensation Formula), based on the Compensation Formula, which is $C = R \times T \times D \times N$ (the compensation is equal to the estimated total quantity hauled multiplied by the regional rate (R) multiplied by the distance hauled multiplied by number of times that the bulk haul is carried out);
- d) Pay the compensation to the Municipality within 60 days of the completion of the haul, based on verified quantities. For bulk hauls, the Hauler shall pay the compensation in subsection 7(c) to the Municipality on a quarterly basis and will be based on verified quantities;
- e) Make payment for compensation in subsection 7(c) at a rate of one-half the calculated amount if hauling takes place during the winter haul period, between _____ and _____, *(insert dates of the agreed upon winter haul period, if no agreed period, the Regulations defines this as the period between November 15th and March 15th); and*
- f) *Inspect the roadway every (insert number of days) days to determine if damage has been done and will give the Municipality notice of necessary repairs within _____ (insert number of days) days.*

Inspections

- 8. Both Parties shall appoint a representative to complete the following inspections:
 - a) Prior to commencement of the haul to establish the condition of the road. The Haul Road Inspection Form is provided in Schedule A;
 - b) Within five (5) days of completion of the haul, the representatives shall inspect the road to determine if the conditions of this Agreement respecting restoration of the road have been satisfied. If restoration is satisfied, a release for the inspection report shall be issued by the Municipality; and
 - c) In the case of a bulk haul, the representatives shall inspect the road to determine if the conditions of this Agreement respecting restoration of the road continue to be satisfied. The Parties agree on an acceptable frequency for inspection of _____ *(insert timeframe to complete inspection, for example, daily, weekly, monthly).*

Special Provisions

- 9. Each party shall agree to the following special provisions: *(list all the provisions, which could include, but are not limited to road conditions, weather, or dust control)*

Dispute Resolution

- 10. Both Parties can initiate the dispute resolution process by *(include how a dispute resolution process is going to be initiated, for example, in writing to the other party)*

11. Both Parties shall agree to resolve all dispute(s) through the following process: *(determine the process that will be used for dispute resolution, for example, the use of mediation or arbitration. You may also want to consider including how a mediator or arbitrator will be picked, such as off a roster list provided by a dispute resolution organization or through a specific company that provides these services and how the services will be paid for, for example, split equally)*

12. Only after attempts to resolve the dispute(s), in accordance with section 11 of this Agreement, is unsuccessful:
- a) The Parties may submit the dispute(s) to the Saskatchewan Municipal Board, pursuant to clause 22.1(2)(b) of *The Municipalities Act*;
 - b) The Municipality may cancel the Agreement, by council resolution, in accordance with subsection 15.1 (2) of the Regulations, if:
 - i. The Hauler has willfully disobeyed a suspension order imposed by the road committee;
 - ii. The terms of the Agreement have not been adhered to or have been altered without notification by the Hauler; or
 - iii. The Hauler fails to make payment according to the rates and timing agreed to in the Agreement;
 - c) The Municipality may suspend the Agreement, by council resolution, in accordance with subsection 15.1 (3) of the Regulations, if due to inclement weather or unfavourable road conditions, the use of the road in the manner set out in the Agreement would, in the opinion of the council, reasonably be expected to result in:
 - i. Damage to the road; or
 - ii. A high risk of:
 - 1. Property damage; or
 - 2. Personal injury to the public; or
 - d) The Hauler may cancel or suspend the Agreement, in accordance with subsection 15.1 (1) of the Regulations, under the following condition(s): *(insert the conditions below)*

13. If the Municipality cancels or suspends the Agreement, the Hauler can appeal the resolution to the Saskatchewan Municipal Board in pursuant to section 22.1 of *The Municipalities Act*.

Communication

14. Any notices or communications required or permitted to be given pursuant to this Agreement shall be in writing and may be delivered to, or sent by prepaid registered, certified mail or electronically addressed to:

a) In the case of a notice or communication to the Municipality: *(insert name and address)*

_____;

b) In the case of a notice or communication to the Hauler: *(insert name and address)*

_____; or

c) To any other address, as provided by either party in accordance with this section.

15. Delivery of communication under section 14 of this Agreement shall be deemed delivered:

a) At the time of personal delivery, if delivered in person; or

b) Five (5) business days after the date of mailing, except in the case of a mail strike or other disruption of postal service, in which case it shall be deemed delivered on the third business day after such strike or disruption ceases.

Signature Block

16. The Agreement shall be in effect from *(insert effective dates)* _____ to _____
and may be extended by the Agreement of the Parties.

Agreed this _____ day of _____, 20 ____.

For *(Name of Municipality)* _____

Reeve/Mayor (or a person designated by council) Administrator (or a person designated by council)

For *(Name of Hauler)* _____

President or other person designated

Secretary/Treasurer or Witness

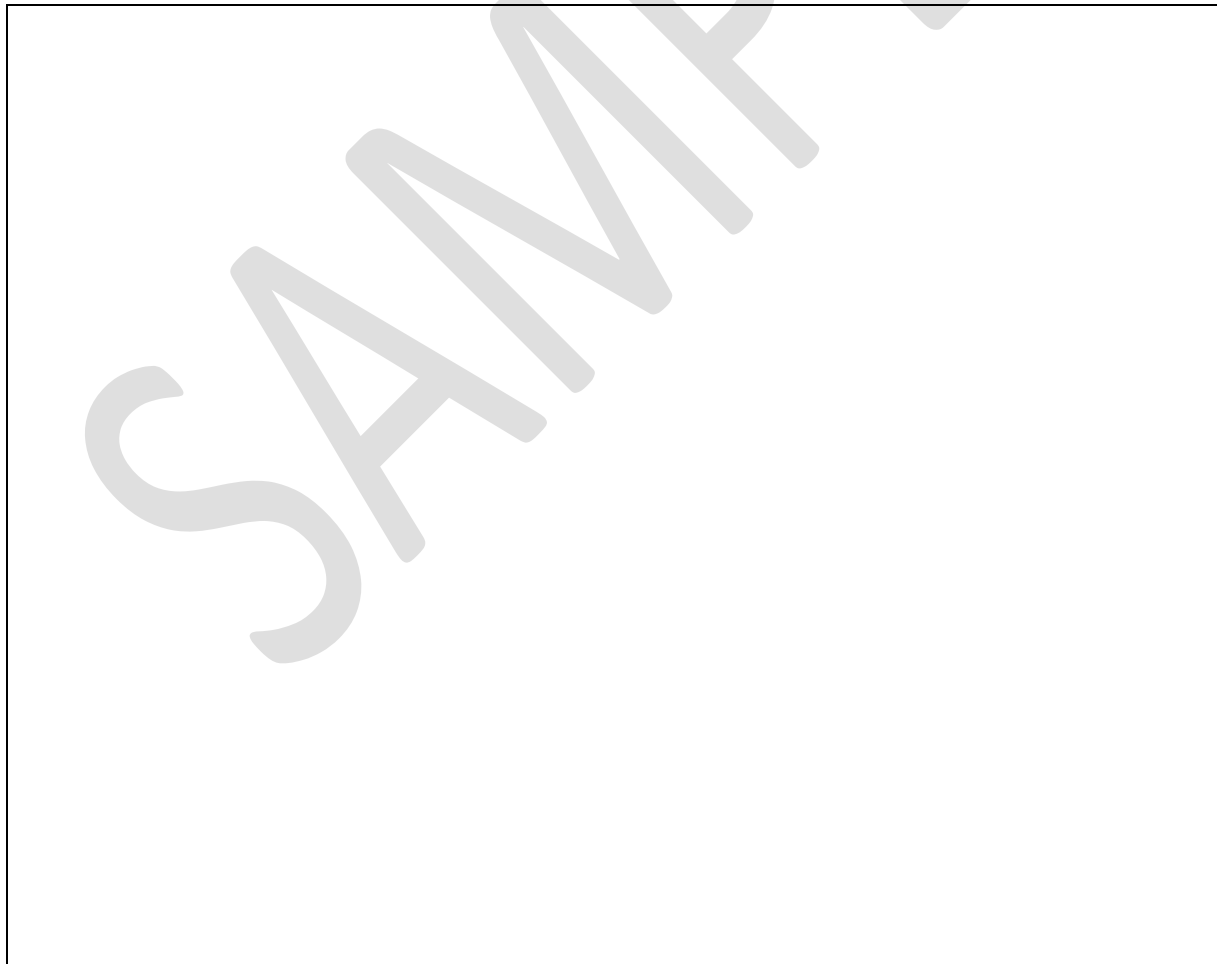
SCHEDULE A

HAUL ROAD INSPECTION FORM

R.M. of	No.	Pre / Post Haul Inspection (Circle one)
Contract No.		Date:
Contractor:		
R.M. Representative(s): (print)		
Contractor Representative(s): (print)		

Sketch of Haul Road:

Show Significant Points (km) referred to in the Descriptions listed below, including major culverts and bridges. Show farmyards, villages, pastures, intersections, etc. where dust control may be required. Note other special conditions.



Subject to Dust Control: Not Required: _____ Required: _____ Type: _____

Subject to Road Bans: No: _____ Yes: _____ % _____ Axle: _____

Current Local Conditions (i.e., Wet/Frozen): _____

Description of Road: (Note: 1 yard³ / mile = 0.475 m³ / km) & (1.0 m³ / km = 2.1 yard³ / mile)

From km	To km	Type Grid, Farm Access, Trail, etc.	Approx. Gravel Coverage yd ³ /mile or m ³ /km	Were CL Profile or X-Sec's Done?	Photo No.	Comments (if required, use additional sheets)

Description of Cross Section:

From km	To km	Gradeline Hi / Med / Low / Nil	Crown ~ % X- Slope	Ride Smooth, Rough, etc.	Conditions /Comments

Drainage Structures:

km	Approx. Cover	Culvert Size & Type	General Condition	Photo No.	Associated Drainage, Other Comments

Pre-Haul Preparations: Note any dust control, special gravel, or grading, etc. that may be required

From km	To km	Treatment	Comments (Reason for Treatment)

Post-Haul Remedial Work: Note any Restoration of Road Required

From km	To km	Type of Work	Comments

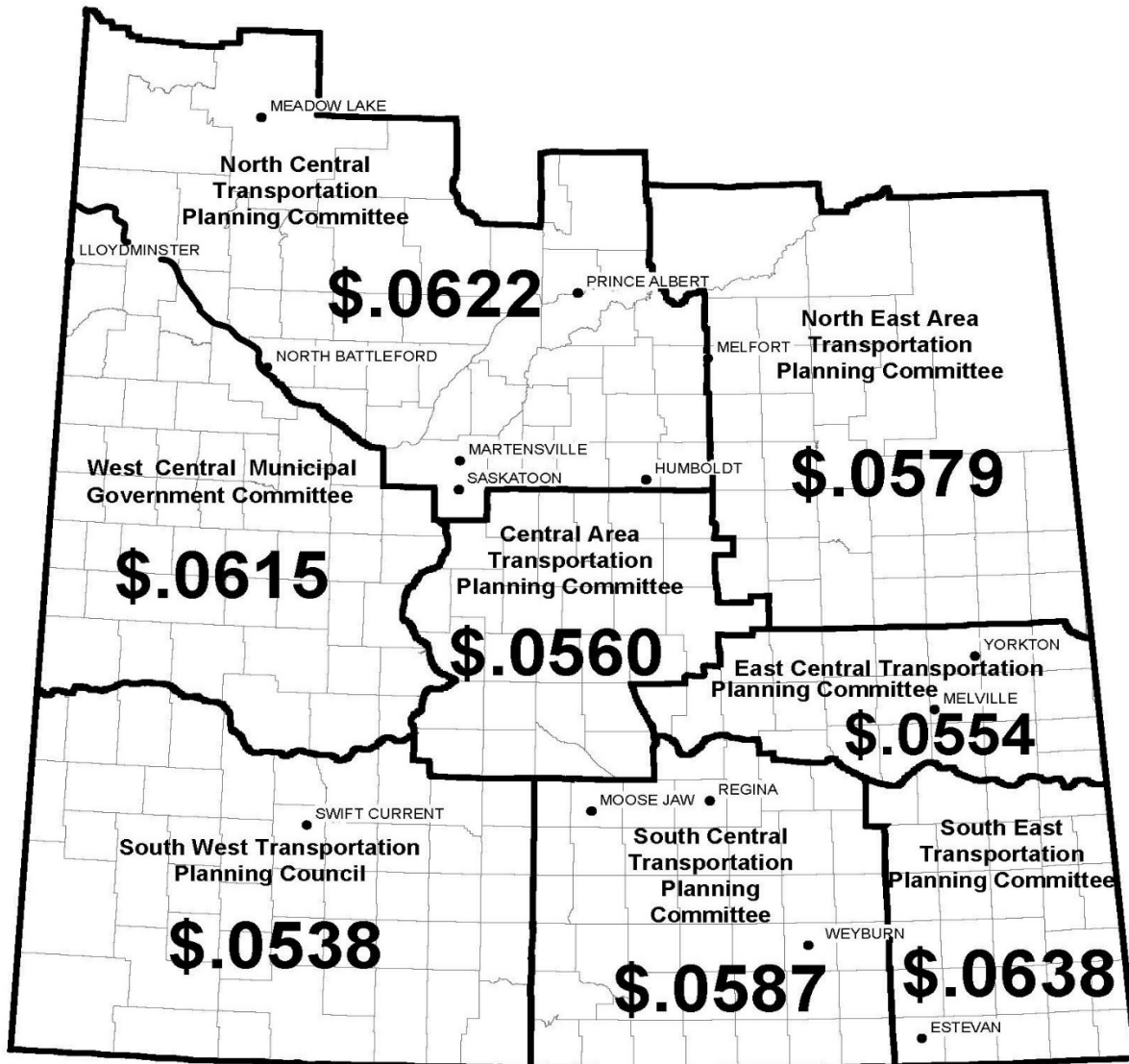
Follow-Up To Remedial Work (R.M. Approval & Clearance)

Pre-Haul Inspection		Post-Haul Inspection	
R.M. Rep. Signature	Date:	R.M. Rep. Signature	Date:
R.M. Rep. Signature	Date:	R.M. Rep. Signature	Date:
Contractor Rep. Signature	Date:	Contractor Rep. Signature	Date:
Additional Signature	Date:	Additional Signature	Date:

Schedule B

2022 Municipal Road Maintenance Agreement Regional Rates Per Tonne Per Kilometre

¹Pursuant to Section 12.1 of *The Municipalities Regulations*



Although the Ministry of Government Relations has exercised all reasonable care in the compilation, interpretation, and production of this map, it is not possible to ensure total accuracy, and all persons who rely on the information contained herein do so at their own risk. The Ministry of Government Relations and the Government of Saskatchewan do not accept liability for any errors, omissions, or inaccuracies that may be included in, or derived from, this map.

¹ Base map derived in part from data provided by Information Services Corporation of Saskatchewan. Map projection is universal transverse mercator extended Zone 13 North American Datum of 1983.

Area of Transportation Planning Committee - Rural Municipalities Map

