

**MINING AGREEMENT BETWEEN THE TOWN OF AUBURN AND
DRT SANDS, LLC**

RECITALS

- A. This Mining Agreement (“**Agreement**”) is by and between DRT Sands, LLC, a Wisconsin limited liability company (“**DRT**”), and the Town of Auburn, Wisconsin (“**Town**”), with an effective date of _____ (“**Effective Date**”). DRT and the Town are sometimes referred to individually as a “**Party**” and collectively as the “**Parties**.”
- B. As used herein, the term “**Property**” refers to those certain parcels of land located in Chippewa County, Wisconsin and legally described on Exhibit A attached hereto. The Property is owned by DRT; Karla M. Culver, Lori A. Clark, Kathy J. Schultz, Lisa M. Melberg, Tony J. Rihn, Rosella Rihn, and AuburnSandyHills, LLC as mineral rights owner(collectively, the “**Owners**”).
- C. DRT owns, leases or has contractual rights over all of the land comprising the Property.
- D. This Agreement is predicated on DRT’s intended operations on the Property as described in the NonMetallic Mining Reclamation Plans submitted by DRT to Chippewa County (the “**Reclamation Plan**”) on February 23, 2015, and the County Nonmetallic Mining Reclamation Permit (the “**Reclamation Permit**”).
- E. DRT desires certain exceptions from and modifications of the requirements of Chapter 46 of the Town’s code of ordinances (the “**Mine Ordinance**”) by entering into a “Mining Agreement” with the Town in accordance with Section 46.13 of the Mine Ordinance.
- F. The Mine Ordinance recognizes that large scale nonmetallic mining operations, while a vital component of state and local economies, can also have direct and indirect adverse impacts, particularly if, among other things, washing or drying operations are undertaken. The Town has reviewed the scope and size of the proposed DRT operation as set forth in the Reclamation Plan and the Reclamation Permit. Pursuant to Section 46.13 of the Mine Ordinance, the Town finds that the intent of the Mine Ordinance will be achieved, and that the public health, safety and welfare will be protected and not adversely affected, by the alternative measures, terms and conditions set forth in this Agreement.
- G. Capitalized terms not specifically defined in this Agreement shall have the meaning ascribed to them in the Mine Ordinance.

AGREEMENT

THEREFORE, DRT and the Town agree as follows:

- **Approval**

- DRT agrees to pay the Town's costs related to negotiation of this Agreement in accordance with Mine Ordinance Section 46.05(3) within thirty (30) days following the Effective Date. The Town acknowledges receipt of fees, and materials sufficient to fulfill the application requirements of Chapters 45, 46 and 47 of the Town's code of ordinances.

- This Agreement is issued pursuant to Section 46.13 of the Mine Ordinance and grants and constitutes an approval ("**Approval**") authorizing DRT to conduct nonmetallic mining operations on the Property under the terms and conditions set forth herein. This Agreement (and the Approval contained herein) is intended to and does satisfy all requirements of the Town's code of ordinances including, without limitation, all license requirements of the Mine Ordinance, the weight limit permit provisions under Chapter 45 of the Town's Code of Ordinances and the blasting permit provisions under Chapter 47 of the Town's Code of Ordinances.

- This Agreement modifies certain provisions of the Mine Ordinance. Any sections of the Mine Ordinance not specifically modified by this Agreement remain in effect. To the extent of any conflict between the terms of this Agreement, the Town's code of ordinances and other applicable laws that fall under the jurisdiction of the Town, the parties agree that DRT's rights under this Agreement shall supersede such ordinances and laws and continue in effect for the duration of this Agreement.

- The Approval granted under this Agreement shall run for the term of this Agreement set forth in Section 2.2, and such Approval shall be subject to the Town's review of the Annual Report required to be prepared by DRT under Section 46.08(1) of the Mine Ordinance and submitted to the Town on or before March 1 of each year during the Term of this Agreement. The cost of such review shall be subject to reimbursement in accordance with the provisions of Section 46.05(3)(a) of the Mine Ordinance.

1.5 This Agreement is expressly contingent on DRT obtaining the Reclamation Permit from the County and any other applicable state or federal permits and approvals prior to commencing any construction or operation on site.

- **Term**

- This Agreement shall be effective as of the Effective Date upon execution by the Town and DRT.

- The "**Initial Term**" of this Agreement shall commence on the Effective Date and, subject to compliance by DRT with the terms and conditions of this Agreement, and subject to the remedies afforded to the Town in this Agreement, shall continue until the earlier of: (a) the date DRT has notified the Town that it has completed all nonmetallic

mining operations (as defined in Section 46.03(6) of the Mine Ordinance) governed by this Agreement; or (b) the 20th anniversary of the Effective Date.

- This Agreement is subject to renewal for an additional ten (10) years (the “**Renewal Term**”) provided that DRT provides the Town with written notice of an intent to renew not more than one hundred eighty (180) days prior to the end of the Initial Term and not less than one hundred twenty (120) days prior to the end of the Initial Term. The Town may disapprove renewal of this Agreement if it determines that:

- There have been material violations of this Agreement or the operative provisions of the Mine Ordinance which have not been appropriately remedied by DRT following notification of the same from the Town;

- DRT has received recurring citations or orders arising from material violations of this Agreement or the operative provisions of the Mine Ordinance, and DRT has demonstrated a continuing inability to resolve the conditions or circumstances giving rise to such citations or orders; or

- All applicable fees have not been paid or DRT’s financial obligations under this Agreement have not been met following notification of the same from the Town.

- The “**Renewal Term**” shall commence at the end of the Initial Term and shall continue until the earlier of: (a) the date DRT has notified the Town that it has completed all nonmetallic mining operations governed by this Agreement; or (b) the tenth (10th) anniversary of the commencement of the Renewal Term.

- The phrase “**during the Term of this Agreement**” and similar phrases refers to the entire period of time that this Agreement remains in effect.

- The obligations of DRT and the Town’s rights under this Agreement shall survive termination of this Agreement only to the extent expressly provided in this Agreement.

- **Impact Fees**

- DRT agrees that it shall remit to the Town, on a quarterly basis during the term of this Agreement, a sum (in each case, the “**Impact Fee**”) equal to fifteen cents (\$0.15) per each ton of sand leaving the Property during the previous calendar quarter.

- 3.1.1 For purposes of this Agreement, sand “leaves the Property” when it is transported onto the rightofway of the nearest public highway adjacent to the Property following completion of the washing process at the Property.

- 3.1.2 Each Impact Fee payment shall be paid on a quarterly basis and shall be remitted to the Town Treasurer on or before each April 20th, July 20th, October 20th and January 20th of each year during the Term of this Agreement.

3.1.3 The Impact Fee payment shall be paid to the Town Impact Fee Account.

- 3.1.4 Failure or refusal to pay any Impact Fee payment within fourteen (14) days after the due date shall be cause for suspension of all operating privileges afforded to DRT under this Agreement until the past due Impact Fee payment is paid in full.

3.2 Calculation of Fee

- 3.2.1 The weight of the sand for the purposes of computing the Impact Fee shall be measured after completion of the washing process at the Property.

3.2.2 DRT agrees that all sand shall be weighed after completion of the washing process at the Property and before it is transported away from the Property and that weight slips shall be prepared and kept by it for a period of three (3) years. A summary of such weight slips shall be prepared by DRT and provided to the Town with each Impact Fee payment.

3.3 Advance Payment. DRT agrees to pay \$75,000 into the Impact Fee Account within 30 days of the effective date of this Agreement for the purpose of covering the cost of the purchase of any air monitoring equipment and installation of any groundwater monitoring wells; and for the purpose of covering initial monitoring costs. DRT shall pay an additional \$75,000 into the Impact Fee Account within 30 days upon notice by the Town that the amount in the Impact Fee Account is less than \$5,000. At such time that the amount of impact funds received under Section 3.1 are adequate to cover the cost of on-going monitoring and other Town costs related to the mining operations, the Town shall reimburse DRT the \$150,000 advance from the Account. Such reimbursement can be paid over a period of time to ensure an adequate balance in the fund.

- 3.4 This Section specifically modifies and replaces Section 46.10 of the Mine Ordinance.

- **Hours of Operation**

- OnSite Operations. Mining, excavation, extraction and grading operations on the Property may occur 14 hours a day, 7 days a week and onsite processing operations, including crushing, sorting, washing, and stock-piling of silica sand may occur 24 hours a day, 7 days a week.

- OffSite Operations. Transportation of nonmetallic minerals and waste materials to or from the Property shall be permitted to occur between 6:00 a.m. to 7:00 p.m. each day Monday through Friday, and 6:00 a.m. to 3:00 p.m. on Saturdays.

- This Section specifically modifies and replaces Section 46.07(3) of the Mine Ordinance.

- **Use of Roads in the Town**

- The transport of nonmetallic minerals and waste materials to and from the Property is anticipated to occur from the driveway shown on the site plan attached

hereto as Exhibit B (the “**Site Plan**”) to 30th Street and then to State Highway 64 (the “**Haul Route**”).

- 5.2 Prior to the use of 30th Street and/or other Town Roads, DRT will cause the portion of any Town Road included in the Haul Route and used by it for nonmetallic mining operations to be improved to “Class A” standard (as that standard exists as of the Effective Date) if it has not already been improved to such standard by other parties. As soon as practicable following the Term of this Agreement DRT will cause the road will be rebuilt to Class A standards unless arrangements have been made with other parties to do so. In each case DRT shall submit any road plans for review and approval by the Town. The Class A section of 30th Street, shall extend to the north entrance of the mine, plus an additional 100 yards beyond the entrance.

- 5.3 To the extent that DRT uses a Town Road as a Haul Route, or for other mine related purposes such as onsite construction and/or other operation. DRT shall maintain any such Town Road to the applicable standard (Class A or Class B) for the duration of DRT’s use of such Town Road. This subsection shall not apply to routine use of Town Roads by DRT’s agents, employees, guests or business invitees or by government authorities. .

5.4 Notwithstanding the foregoing, the Town and DRT understand and agree that the Town has entered into agreements similar to this Agreement with Preferred Sands of Minnesota, LLC, and may enter into other similar agreements with third-parties in the future (“Third Parties”). The Town and DRT also acknowledge that, by virtue of entering into such similar agreements, DRT, Preferred and any Future Parties will each accrue certain financial obligations (the “Obligations”) to the Town, based on their respective uses of 30th Street. Therefore, the Town agrees, that it will seek to have DRT and any Third Parties contribute a share of costs proportionate to their respective uses of 30th Street, but nothing in this paragraph relieves DRT of its obligation to fulfill the entirety of the obligations in this section should Third Parties not contribute a proportionate share within a reasonable time, as determined solely by the Town.

- 5.5 Any of the obligations in this Section that arise prior to termination of this Agreement shall survive termination of this Agreement.

- 5.6 DRT shall schedule sand hauling vehicles to and from the Property to the maximum extent practicable to avoid interfering with the safety of children during the hours that roads comprising the Haul Route are used by school buses. Such schedules shall be reviewed at the beginning of each school year.

- 5.7 Within the Town, DRT shall ensure that any sand hauling trucks owned or operated by DRT or any of its contract haulers comply with the following requirements set forth below. If recurring violations of these requirements occur and DRT fails to take appropriate corrective action to remedy these violations, the Town shall evaluate appropriate enforcement responses against DRT.

- 5.7.1 To use only the identified Haul Route (as same may change during the Term of this Agreement);
- 5.7.2 To not use compression release engine brakes, commonly known as Jake brakes, except in the case of emergency;
- 5.7.2 To adhere to all posted speed limits;
- 5.7.3 To have proper mufflers on all trucks.
- 5.7.4 To not travel on 30th Street to the Property except over that portion of 30th Street from State Highway 64 made part of the Haul Route), loaded or unloaded, and then at a speed not to exceed 35 mph.
- 5.7.5 All trucks used by DRT shall display a magnetic sign (or other identifier acceptable to the Town) no smaller than 24 inches by 24 inches stating that the truck is hauling for DRT Sands and including a number for contacting DRT.
- 5.8 This Section specifically modifies and replaces Section 46.07(4) of the Mine Ordinance.

- **Control of Light and Noise**

- The Operator shall limit night lighting on the Property to that which is the minimum necessary for security and worker safety consistent with MSHA rules, regulations, and requirements for worker safety. Every effort shall be made to minimize illumination of the night sky and properties within ¼ mile of the mine site. At a minimum, and if not contradictory to MSHA rules, regulations and requirements, DRT shall undertake the following:

- The use of cutoff shrouds on all lights;
- Portable lighting shall be used only as necessary to illuminate temporary work areas;
- The use of berms and/or other methods of visual screening to block light from neighboring properties; and
- The design and location of any new access roads to minimize lights from traffic and operations to neighboring properties.
- DRT shall control noise levels off of the Property to the maximum extent practicable to minimize adverse impacts to the residents of the properties listed on Exhibit C attached hereto (the “**Adjoining Residences**”). Among other things, these practices shall include the use MSHAapproved “white noise” back up alarms, and properly maintained mufflers on mining equipment.

- The noise levels at the Adjoining Residences (to be measured 200 feet from the corner of the dwelling closest to the Property) shall not exceed 55dB. Noise levels shall not include vehicle roadways adjacent to the Adjoining Residences. Decibels shall be based on dbA, which is the unit of sound level expressed in decibels (db) and Aweighted, as described in ANSI S 1.4, 1983, Section 1.5, and shall be measured in accordance with accepted protocols.

- Upon request by the owner of any Adjoining Residence, the Town may install a decibel monitor at the Adjoining Residence. Noise levels shall be taken to avoid offsite truck noise. The tests shall occur for a 10day period. If the test results are 55 db or below, the resident may not request another test for one year. If the test results are above 55 db, then DRT shall undertake additional efforts to mitigate noise at the Adjoining Residence within ninety (90) days of the test result (unless an additional reasonable period of time is needed due to the nature of the mitigation efforts to be undertaken), and DRT shall provide a retest upon request of the resident. DRT also reserves the right to demonstrate that the noise exceedance is not attributable to its operations. In the event of a dispute over the cause of the noise, the Dispute Resolution procedures in Section 13 shall be used. The Town shall provide notice to DRT prior to the testing and shall provide any test results within thirty (30) days of the Town's receipt of the test results. All costs associated with initial noise level testing or monitoring shall be funded by the Town from its Impact Fee Account. Any follow up tests where there has been an exceedance will be the responsibility of DRT.

- This Section specifically modifies and replaces Section 46.07(5) of the Mine Ordinance.

- **Air Quality and Fugitive Dust**

- DRT shall comply with its fugitive dust control plan as and when approved by the WDNR (as same may be amended from time to time, the "**Dust Control Plan**"). DRT shall provide to the Town a copy of DRT's approved Dust Control Plan and any and all subsequent modifications thereof.

- Any resident of the Town may document a complaint about fugitive dust originating from and leaving the Property by taking a photograph or video showing visible emissions from the mine site that includes the time, date and location at which the photograph or video was taken and sending a copy to the Town and DRT. DRT will have ten (10) days to respond to the complaint and indicate what if any additional operational practices, best management practices or control devices will be implemented. If there are more than three such documented complaints in a six (6) month period the Town shall evaluate appropriate enforcement responses.

- DRT agrees that the Town may install four or more air monitors and a meteorological station on the Mine Site. DRT agrees to provide the Town or its designee access to the site upon advanced notice to DRT for the purpose of installing such monitors and obtaining at least four samples per monitor per season (16 total samples per year). DRT acknowledges that additional sampling could be warranted based on complaints under section 7.2 or exceedances of federal or state air quality standards shown in prior sampling events and

sampling can be reduced based on tests showing no exceedances. DRT shall allow sampling to begin as soon as practicable after the effective date of this Agreement and prior to the commencement of mining in order to obtain baseline air quality samples.

- The cost for the monitors and sampling shall be borne by the Town from the Impact Fees under in Section 3. unless: (a) any such sampling is required by federal, state or other local authorities or (b) such sampling is in response to prior exceedances, in which case DRT shall pay for the cost of such sampling.

- If the monitors show an exceedance of a federal or state air quality standard, DRT will have ten (10) days from the receipt of notice of the exceedance to indicate to the Town what if any additional operational practices, best management practices or control devices will be implemented to comply with air quality standards. If there are more than three sampling events in a six (6) month period that show an exceedance, the Town shall evaluate appropriate enforcement responses. DRT also reserves the right to demonstrate that the exceedance is not attributable to its operations. In the event of a dispute over the cause of the exceedance, the Dispute Resolution procedures in Section 13 shall be used.

- This Section specifically modifies and replaces Section 46.07(6) of the Mine Ordinance.

- **Control of Waste Materials**

The amount of waste material (nonmarketable fines) returned to the Property as part of the reclamation process shall not exceed the amount of waste material that results from processing of silica sand mined from the Property. Unless otherwise agreed to by the Town and the Owners, DRT shall not bring waste material from offsite silica sand sources onto the Property.

- **Standards Regarding Groundwater**

- DRT agrees that all mining will occur at least ten (10) feet above the water table.

- DRT agrees to comply with any groundwater monitoring required by Chippewa County and to include any such results as part of its Annual Report.

- DRT agrees to allow the Town or its designee to install groundwater monitoring wells if necessary to ensure that there are at least five (5) such wells on-site. DRT shall coordinate with the Town to allow all wells to be installed at the same time. Such wells shall be installed and operational prior to the commencement of mining activities on site to enable baseline water quality samples to be obtained.

- DRT agrees to allow the Town or its designee to sample all onsite monitoring wells on a semi-annual basis for the following constituents: gasoline range organics, total dissolved solids, manganese, copper, barium, cadmium, chromium, boron, sulfate and alkalinity. lead, arsenic, turbidity, total suspended solids, chlorides, nitrates, specific conductivity, flocculants used in the wash plant process and any other toxic substance that may

reasonably be believed to be present in the area of the deposit. Sample frequency and parameters may be altered by the Town based on sample results.

9.5 The Town will pay for the cost of installing any monitoring wells or any groundwater quality monitoring from the impacts fees under Section 3. unless: (a) any such sampling is required by federal, state or other local authorities or (b) such sampling is in response to prior exceedances, in which case DRT shall pay for the cost of such sampling

- 9.6 In the event that the groundwater monitoring from the on-site wells or any groundwater quality monitoring taken from private wells within 1/2 mile of the mine site down gradient of the groundwater flow show an exceedance of either (a) a preventative action limit (PAL) under Wis. Admin Code ch. NR 140, or (b) if the baseline levels already exceeded the PAL, an exceedance of the baseline levels, then the Town shall evaluate appropriate enforcement responses. DRT also reserves the right to demonstrate that exceedance is not attributable to its operations. In the event of a dispute over the cause of the exceedance, the Dispute Resolution procedures in Section 13 shall be used.

- 9.7 DRT will comply with WDNR regulations under Wis. Admn. Code Ch. NR 820 relating to protection of groundwater quality and it shall obtain a high capacity well permit for all qualifying wells that may be installed for mining and production purposes to the extent required by WDNR.

- 9.8 DRT shall comply with the requirements of the high capacity well permit as determined by WDNR, which may include maintaining records of pumping rates and volumes for all high capacity wells at the mine site on a monthly basis following procedures established in NR 820.13. To the extent that such records are required pursuant to the high capacity well permits, DRT shall make copies of such records available for review by the Town upon the Town's request, which may be made no more frequently than quarterly during any 12month period.

- 9.9 This Agreement does not relieve DRT of the responsibility for compliance with all provisions of Wisconsin State Statutes Ch. 281, Wisconsin Administrative Code NR 140, NR 820 NR 812, as they may pertain to waters of the state and the operation of any private wells on neighboring properties, nor does this Permit restrict any property owner from pursuing rights or remedies available under applicable laws, including but not limited to common law and Wis. Stat. § 281.77, and the well guarantee provisions of this Agreement, for damages sustained as a result of DRT's failure to comply with the referenced statutes and regulations.

- 9.10 This Section specifically modifies and replaces Section 46.07(8) of the Mine Ordinance.

- **Incorporation of Other Operational Standards**

- Mine Ordinance Operation Standards. DRT shall comply with all relevant Mine Ordinance Operation Standards not modified by this Agreement, which include:

- General Standards in Mine Ordinance Section 46.07(1)

- Buffer Areas in Mine Ordinance Section 46.07(2), except that if a property owner otherwise entitled to notice of blasting events indicates in writing that notification is not required, then no such notification need be provided. DRT shall screen the mining operations from public view to the maximum extent practicable through the use of berms, the natural topography of the Property, the planting of tree rows, additional setbacks, and other measures to the extent physically and financially feasible.

- Control of hazardous materials in Mine Ordinance Section 46.07(9).

- Storm Water Management.

- DRT shall comply with the Storm Water Management and Erosion Control Plan included in the Reclamation Plan, which is incorporated by reference.

- DRT shall repair any damage to, and remove sediment from, Town road ditches and other drainage ways adjacent to the Property caused as a direct result of DRT's nonmetallic mining operations.

- Damages to Private Water Supplies.

- A property owner within 1/2 mile of the mine site may seek remedies under Subsections 10.3.2 through 10.3.5 below for any of the following damages to private water supply demonstrated to have been caused primarily by DRT's nonmetallic mining operations:

- A maximum contaminant level, preventative action limit or enforcement standard is exceeded in a private water supply well on the owner's property; or
- A substantial adverse impact on the quantity of water from a private well on the owner's property occurs, including, but not limited to, the inability of any such well to provide water on a continuous basis.

- Any property owner under Subsection 10.3.1 seeking a remedy under this Section shall simultaneously file a notice with the Town and DRT of the occurrence of an event under Subsection 10.3.1 explaining the nature and extent of the problem.

- Within one (1) business day after receipt of such notice in Subsection 10.3.2, the Town may use funds paid to the Town by DRT under Section 3 of this Agreement to provide an adequate interim water supply. The Town may also use funds paid to the Town by DRT under Section 3 to indemnify the Town for any claims filed under Wis. Stat. § 281.77(4). An interim water supply shall continue until the Town has approved the report or plan under Subsection 10.3.4. Funds used by the Town pursuant to this Section 10.3.3 shall be subject to reimbursement by the property owner if it is determined that DRT's nonmetallic mining operations did not cause damage to the owner's private water supply.

- Within twenty (20) days after receipt of notice under Subsection 10.3.2, DRT shall provide to the property owner and to the Town either (a) a report that confirms that the impact to the property owner was not primarily attributable to DRT's nonmetallic mining operations or (b) a plan for providing a permanent alternative water supply for the property owner to be paid for by DRT.

- The Town, in consultation with the property owner, shall review the report or plan and approve or deny such report or plan. If the Town determines that DRT was not the primary cause of damage to the private water supply, then DRT shall have no responsibility for damage to the private water supply. If the Town determines that DRT was the primary cause of damage to the private water supply, then, subject to the terms and conditions of this Agreement, DRT shall reimburse to the Town funds used by the Town under Section 10.3.3, and DRT shall provide a permanent alternative water supply for the property owner to be paid by DRT out of funds separate from Impact Fee payments.

- A property owner beyond 1/2 mile of the mine site may apply to the Town for use of funds paid by DRT under Section 3 of this Agreement to remedy damages to a private water supply identified in Subsection 10.3.1 provided that the property owner can demonstrate to the Town that the damage to the private water supply was caused primarily by DRT's nonmetallic mining operations. If the Town determines that the damage was caused primarily by DRT's nonmetallic mining operations, the property owner can utilize the remedies in Subsections 10.3.2 through 10.3.5.

- This Section specifically modifies and replaces Section 46.11 of the Mine Ordinance.

- Blasting. Blasting as defined in Chapter 47 of the Town's code of ordinances, shall occur between the hours of 9:00 a.m. and 3:00 p.m.; except that blasting may occur after 3:00 p.m. if required for safety reasons beyond the reasonable control of DRT and its contractors. Blasting is not anticipated to occur more than 3 times per week. The provisions of Sections 47.07 and 47.0947.16 are incorporated into this Agreement by reference.

- Restoration. DRT shall complete restoration of the Property as set forth in the Reclamation Plan.

- **Property Value Guarantee**

- DRT hereby grants certain residential property owners the Property Value Guarantee set forth in the attached Exhibit D. To the extent any payment obligations arise under the Property Value Guarantee prior to termination of this Agreement, such obligations shall survive this Agreement.

- The property owners listed in Attachment 1 to Exhibit D are third party beneficiaries of this Agreement as it pertains to the Property Value Guarantee.

- **Laws to be Observed**

- DRT shall at all times comply with all federal, state, county and, subject to the provisions of Section 1.3 of this Agreement, local laws, regulations and ordinances applicable to DRT's operations on the Property which are in effect or which may become effective in the future.

- This Agreement modifies certain requirements of the Mine Ordinance relating to license application requirements pursuant to Section 46.06(5) of the Mine Ordinance and minimum standards of operation pursuant to Section 46.07 of the Mine Ordinance as set forth in this Agreement. It replaces the license requirements and procedures in Sections 46.04 and 46.05 of the Mine Ordinance.

- A violation by DRT of any law, regulation, ordinance or permit applicable to DRT's nonmetallic mining operations on the Property shall not constitute a violation of this Agreement provided DRT is working diligently with the governmental authority(ies) charged with administering such law, regulation or ordinance to cure such violation. This Section 12.3 shall not apply to a violation of this Agreement or any operative provision of the Mine Ordinance or, subject to Section 1.3, other Town ordinances.

- **Dispute Resolution**

- Disputes Concerning Agreement. Any dispute concerning: (i) the interpretation or application of any provision of this Agreement, or any operative provision of the Mine Ordinance, (ii) enforcement seeking the remedies in Mine Ordinance Sections 46.09(4)(c), (e) and (f), (iii) a decision of the Town not to renew this Agreement (and the Approval contained herein), or (iv) a determination by the Town that DRT's nonmetallic mining operations caused damage to a private water supply shall be addressed as follows: The party asserting a dispute shall first give written notice thereof to the other party and specify the nature of the dispute in reasonable detail and shall meet with such other party within thirty (30) days of the event giving rise to the dispute. Such notice shall set forth in reasonable detail all reasons supporting the basis of the dispute. Within thirty (30) days following the date of the notice, a meeting between the parties shall be held to attempt in good faith to negotiate a resolution of the dispute or controversy.

- Mediation. In case of a dispute under Section 13.1 that cannot be resolved pursuant to the procedures in that Section, either Party may make a written request to have the dispute resolved through mediation.

- The Parties shall meet within twenty (20) days of the request for mediation. The Parties shall jointly appoint a mutually acceptable neutral person not affiliated with either Party (the "**Mediator**") to conduct the mediation. The fees of the Mediator shall be shared equally by the Parties. If the Parties are unable to agree upon the selection of a Mediator within twenty (20) days after the initial meeting provided for in Section 13.1, the Parties shall either request that the Chippewa County Circuit Court select the Mediator or, in the alternative, each select a third party and have the two third parties appoint the Mediator.

- In consultation with the Parties, the Mediator will select or devise the mediation procedure to be held in Chippewa County, Wisconsin, by which the Parties will attempt to resolve the dispute or controversy. In consultation with the Parties, the Mediator will also select a date and time for the mediation and a date by which the mediation will be completed.

- The Parties shall participate in good faith in the mediation to its conclusion as designated by the Mediator. If the Parties are not successful in resolving the dispute or controversy through the mediation, then the Parties may agree in writing to resolve the dispute by binding arbitration or, if no written agreement to resort to binding arbitration is reached by the Parties, the dispute may be resolved by litigation or other appropriate means.

- Except as expressly provided herein, each Party shall bear its own costs associated with dispute resolution, including attorneys' fees and litigation expenses, unless such fees and expenses are awarded to the prevailing Party by a court.

- Remedies

- Inspection and Right of Entry. DRT shall, upon not less than 24 hours notice by the Town, provide the Town's officers, agents, employees and contractors with access to the Property for purposes of determining or enforcing compliance with this Agreement or as otherwise provided by law or this Agreement, unless the Town reasonably determines that imminent threats to health, safety or property require a shorter notice period. In the event of DRT's failure or refusal to permit access to the Property, the Town may obtain an inspection warrant, injunction or other relief from a court to enforce its right to access, and the provisions of Sections 13.1 and 13.2 shall not apply.

- Notice of NonPerformance. In the event that the Town believes DRT has failed to perform any of its obligations under this Agreement, or has violated any operative provision of the Mine Ordinance, the Town shall provide written notice to DRT and the parties shall hold an initial meeting within ten (10) days following such notice for purposes of attempting to resolve the matter on an amicable basis, unless the Town reasonably determines that imminent threats to health, safety or property require a shorter notice period. If the parties cannot so resolve the matter the Town may elect to enforce the remedies provided for herein.

- Corrective Orders. Unless the Town reasonably determines that imminent threats to health, safety or property require immediate action, following compliance with the procedures set forth in Section 13.3.2, the Town may issue a written notice of default and a written order that specifies the action to be taken to remedy a default and the time period for curing the default. Upon mutual consent, the parties may agree to utilize the procedures in Section 13.2 to resolve any disputes concerning such orders.

- Remediation and Reimbursement. In the event DRT fails to perform any of its obligations under this Agreement, including, but not limited to, maintenance of storm water management facilities and restoration of the Property, the Town

may, but shall not be required to, perform such obligations at DRT's expense. Before performing DRT's obligations, the Town shall give DRT at least sixty (60) days written notice unless the Town reasonably determines that imminent threats to health, safety or property require a shorter notice period. DRT shall reimburse the Town for all reasonable expenses incurred for materials, contractors, engineers, attorneys and other consultants in connection with performing DRT's obligations within sixty (60) days of billing therefor.

- Nonexclusivity. The remedies provided above are not exclusive. In addition to, or in lieu of, the remedies provided above, the Town may use any other remedies available to it under this Agreement or the Ordinance provided that remedies under Ordinance Section 46.09 (4)(c), (e) or (f) subject to compliance with the procedures set forth in Section 13.2.

- **Warranties**

- DRT warrants that the Owners have authorized DRT to engage in nonmetallic mining on the Property and to enter into this Agreement.

- DRT warrants that DRT has full right and authority to enter into this Agreement.

- The obligations of DRT under this Agreement shall be binding on DRT and its successors and assigns.

- The Town may record a memorandum of this Agreement with the Register of Deeds. The cost of recording shall be paid by DRT. Any such memorandum shall attach only to the interest of DRT in the Property.

- **Miscellaneous Provisions**

- All Parties participated in negotiating the terms of this Agreement. No party shall benefit from not having drafted this Agreement. If any term, section or other portion of this Agreement is reviewed by an administrative agency, court, mediator, arbitrator or other judicial or quasijudicial entity, such entity shall treat this Agreement as having been jointly drafted by the parties.

- No waiver of any provision of this Agreement shall be deemed to constitute a waiver of any other provision, nor will it be deemed to constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both the Town and DRT, nor shall the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. Any Party's failure to exercise any right under this Agreement shall not constitute approval of any breach of this Agreement or wrongful act.

- Any notice required or permitted by this Agreement, except the notice required under the Property Value Guarantee (Exhibit D), shall be deemed effective when personally delivered in writing, or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, and addressed as follows:

If to DRT: DRT Sands, LLC
7140 State Highway 40
Bloomer, WI 54724
Attention: Donald Rihn

If to the Town: Town Clerk, Town of Auburn
Town of Auburn
1811 State Highway 64
Bloomer, WI 54724

Any party may change the address to which notices must be sent by giving notices as provided herein.

- 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 a Wisconsin court of competent jurisdiction.
- No changes, amendments, alterations or modifications to this Agreement shall be effective unless in writing and signed by both Parties and, if required, upon approval by competent governing authorities of each Party following notice and opportunity for hearing.
- This Agreement is entered into by the Parties for the purposes of approving the conducting by DRT of nonmetallic mining operations on the Property. DRT may assign or transfer its rights and obligations under this Agreement to any entity who succeeds, in whole or in part, to DRT's interest in the Property, without the prior written consent of the Town, provided: (i) the Property will continue to be used for mining activities, (ii) that the assignee assumes in writing the obligations of DRT pursuant to this Agreement, (iii) the assignee provides reasonable proof that the ability of the assignee to discharge its monetary obligations of this Agreement is at least equal to that of DRT, and (iv) DRT provides a copy of such agreement to the Town prior to the transfer. In the event DRT transfers its rights and obligations for a purpose other than nonmetallic mining, this Agreement shall be terminated.
- DRT shall at all times have an agent, whose name, fax number, email address and telephone numbers are made known to the Town Clerk, available to respond to complaints and problems and the notice required under the Property Value Guarantee (Exhibit D).

DRT Sands, LLC

By: _____

Name: _____

Position: _____

STATE OF WISCONSIN
CHIPPEWA COUNTY

Personally came before me this ____ day of _____, 2014 the above-named _____ to me known to be the _____ of DRT Sands of Minnesota, LLC., and the persons who executed the foregoing instrument and acknowledge the same.

Print Name: _____
Notary Public, State of Wisconsin
My commission expires _____

(SEAL)

TOWN OF AUBURN
Chippewa County, Wisconsin

Paul Scheidecker, Town Board Chairperson

Albert Blaha, Supervisor

Kevin Ludwigson, Supervisor

Attested to as of ____, 2015.

Judy Misner, Town Clerk

EXHIBIT A

PROPERTY

EXHIBIT B

SITE PLAN

EXHIBIT C

ADJOINING RESIDENCES

EXHIBIT D

PROPERTY VALUE GUARANTEE

DRT shall provide a property value guarantee to the owners (the “**Protected Owners**”) of legal parcels of real property which contain existing homesteads (the “**Guaranteed Properties**”) located within ½ mile of the mine site and any Town or County Road adjacent to the mine site or used as a haul road (the “**Protected Area**”) not already included under the Property Value Guarantee provided by Preferred Sands of Minnesota, LLC (Preferred) pursuant to the Mining Agreement Between the Town of Auburn and Preferred Sands of Minnesota, LLC with an effective date of December 10, 2014 (Preferred Agreement) subject to the following terms and conditions:

- (1) The Protected Owners are identified on Attachment 1 hereto. This Property Value Guarantee does not apply to those properties covered by the Preferred Agreement, unless Preferred becomes bankrupt or otherwise ceases to exist as an entity and therefore the property is no longer covered by the Preferred Agreement.

(2) Determination of Fair Market Value (“**FMV**”)

- (a) The Protected Owner and DRT shall attempt to agree on an appraiser who is licensed as a real estate appraiser in Wisconsin.
- (b) In the event DRT and the Protected Owner cannot agree on an appraiser, the Protected Owner shall select a bank or credit union in Chippewa County, with whom the Protected Owner does not do business, to provide the name of an appraiser it regularly employs to do appraisals.
- (c) The appraiser selected shall provide DRT and the Protected Owner with an appraisal of the fair market value of the property, assuming DRT’s sand mine did not exist.
- (d) DRT shall pay for the appraisal.

(3) A property value guarantee (“**Guarantee**”) shall be provided in connection with the sale of any Guaranteed that closes, or with respect to which the 150day listing period expires, during the Term of this Agreement The “**Guaranteed Value**” of each such Guaranteed Property shall be equal to 120% of the FMV determined above.

(4) If a Protected Owner elects to sell a Guaranteed Property at any time during the term of the Agreement, such Protected Owner shall first notify DRT of such desire in writing.

(5) After such notice, the Protected Owner shall enter into a listing contract with a real estate broker licensed in the State of Wisconsin. The listing contract shall run for a minimum of 150 days. The listing price shall be not less than the applicable Guaranteed Value. Any listing contract shall exclude DRT as a potential buyer so that if DRT purchases the Guaranteed Property, no commission shall be due.

(6) If, following the listing of the Guaranteed Property as provided above, the Protected Owner receives a bona fide arm’slength offer, from a third party who intends to use the Guaranteed Property for residential purposes, for a price less than the applicable Guaranteed Value that the Protected Owner wishes to accept, the Protected Owner shall provide a copy of such offer to DRT. For ten (10) business days after receipt of such offer by DRT, DRT shall have the right to elect to purchase the Guaranteed Property on the same terms and conditions as contained in the bona fide offer, less any commission the Protected Owner would otherwise be required to pay to the selling broker on such third party sale (the “**Right of First Refusal**”). DRT shall exercise its Right of First Refusal by delivering written notice of such exercise to Protected Owner. If DRT fails to so notify Protected Owner, Protected Owner shall be free to accept the bona fide offer from such third party and sell the Guaranteed Property.

(7) If the Protected Owner sells the Guaranteed Property for less than the Guaranteed Value pursuant to a bona fide offer, and such sale closes during the term of this Guarantee, DRT shall pay the Protected Owner the difference between the selling price set forth in the

bona fide offer and the Guaranteed Value, less the selling broker's commission that would have been payable on that difference, subject to the limitations below. Such payment shall be due even if DRT exercises its Right of First Refusal. DRT shall make such payment within ten (10) business days following notification to DRT from the Protected Owner confirming closing of the sale of the Guaranteed Property. Such notice shall include a copy of the final signed settlement statement.

(8) If the Guaranteed Property is not sold within 150 days of the date of the listing contract, DRT shall purchase the property for an amount equal to the Guaranteed Value less the selling broker's commission that would have been paid if the Guaranteed Property had sold under the listing contract, such purchase to be completed at the closing date following notification to DRT from the Protected Owner that the Guaranteed Property was not sold during the 150day listing period.

(9) If subsequent to the execution of this Agreement the Guaranteed Property falls within 1/2 mile of any mine site owned or operated by anyone other than DRT or Preferred (for the mine site covered by the Preferred Agreement), and/or 1/2 mile of any Town or County Road adjacent to a mine site or used as a haul road by any nonmetallic mining owner or operator other than DRT or Preferred (for the mine site covered by the Preferred Agreement), then DRT's liability for any costs pursuant to the terms of this Property Value Guarantee shall be limited to its pro rata share assuming, , DRT and each such other nonmetallic mining owner or operator were to equally bear such costs.

(10) This Guarantee shall apply only once for any Guaranteed Property and shall be available only to the Protected Owners.

(11) A Guaranteed Property will not qualify for the Guarantee in the event the Protected Owner sells or otherwise conveys the Guaranteed Property by a transaction that is not considered a bona fide, arm'slength sale (such as a sale or gift to a relative) or a sale, gift or transfer to a third party who does not intend to utilize the Guaranteed Property for residential purposes.

(12) This Guarantee shall cease to apply to any Protected Owner (a) who uses the Guaranteed Property for nonmetallic mining, or (b) who subjects all or any portion of his Guaranteed Property to a lease, a purchase and sale agreement or any other financial arrangement or agreement with any person or entity engaged in nonmetallic mining,.

(13) If a Protected Owner does not want to sell all of the Guaranteed Property, the Protected Owner at its choice can create a 5 acre parcel containing the Protected Owner's residence (if authorized under County zoning) and proceed to list the 5 acre parcel. The fair market value of the new 5 acre parcel, shall be determined by the procedure in section 2.

(14) This Guarantee does not apply to Property which is for sale on the Effective Date.

ATTACHMENT 1 TO EXHIBIT D

PROTECTED OWNERS

DRT SANDS – Property Owner Listing

Property Owners	Property Address
William E. & Lucretia C. Waldbuesser	20991 30 th Street, Bloomer, WI 54724
Paul W. Harelstad	21278 27 th Street, Bloomer, WI 54724
Daniel D. & Gena F. Borntrager	21094 27 th Street, Bloomer, WI 54724
Douglas A. & Susan K. Martin	21315 27 th Street, Bloomer, WI 54724
William M. & Mary Ellen Canfield	21342 27 th Street, Bloomer, WI 54724
Lee J. & Jennifer L. Beaudette	21576 27 th Street, Bloomer, WI 54724
George B. & Carol M. Belgarde	21004 County Highway DD, Bloomer, WI 54724
Clyde & Janet Allison	20454 County Highway DD, Bloomer, WI 54724
Dorothy E. Conrad Trust	3255 State Highway 64, Bloomer, WI 54724
Anthony Glaser c/o Gerald Glaser	19980 County Highway DD, Bloomer, WI 54724

**MINING AGREEMENT BETWEEN THE TOWN OF AUBURN AND
DRT SANDS, LLC**

RECITALS

A. This Mining Agreement ("**Agreement**") is by and between DRT Sands, LLC, a Wisconsin limited liability company ("**DRT**"), and the Town of Auburn, Wisconsin ("**Town**"), with an effective date of 15th of April 2015 ("**Effective Date**"). DRT and the Town are sometimes referred to individually as a "**Party**" and collectively as the "**Parties**."

B. As used herein, the term "**Property**" refers to those certain parcels of land located in Chippewa County, Wisconsin and legally described on Exhibit A attached hereto. The Property is owned by DRT; Karla M. Culver, Lori A. Clark, Kathy J. Schultz, Lisa M. Melberg, Tony J. Rihn, Rosella Rihn, and AuburnSandyHills, LLC as mineral rights owner(collectively, the "**Owners**").

C. DRT owns, leases or has contractual rights over all of the land comprising the Property.

D. This Agreement is predicated on DRT's intended operations on the Property as described in the Non-Metallic Mining Reclamation Plans submitted by DRT to Chippewa County (the "**Reclamation Plan**") on February 23, 2015, and the County Nonmetallic Mining Reclamation Permit (the "**Reclamation Permit**").

E. DRT desires certain exceptions from and modifications of the requirements of Chapter 46 of the Town's code of ordinances (the "**Mine Ordinance**") by entering into a "Mining Agreement" with the Town in accordance with Section 46.13 of the Mine Ordinance.

F. The Mine Ordinance recognizes that large scale nonmetallic mining operations, while a vital component of state and local economies, can also have direct and indirect adverse impacts, particularly if, among other things, washing or drying operations are undertaken. The Town has reviewed the scope and size of the proposed DRT operation as set forth in the Reclamation Plan and the Reclamation Permit. Pursuant to Section 46.13 of the Mine Ordinance, the Town finds that the intent of the Mine Ordinance will be achieved, and that the public health, safety and welfare will be protected and not adversely affected, by the alternative measures, terms and conditions set forth in this Agreement.

G. Capitalized terms not specifically defined in this Agreement shall have the meaning ascribed to them in the Mine Ordinance.

15.6 This Agreement is entered into by the Parties for the purposes of approving the conducting by DRT of nonmetallic mining operations on the Property. DRT may assign or transfer its rights and obligations under this Agreement to any entity who succeeds, in whole or in part, to DRT's interest in the Property, without the prior written consent of the Town, provided: (i) the Property will continue to be used for mining activities, (ii) that the assignee assumes in writing the obligations of DRT pursuant to this Agreement, (iii) the assignee provides reasonable proof that the ability of the assignee to discharge its monetary obligations of this Agreement is at least equal to that of DRT, and (iv) DRT provides a copy of such agreement to the Town prior to the transfer. In the event DRT transfers its rights and obligations for a purpose other than nonmetallic mining, this Agreement shall be terminated.

15.7 DRT shall at all times have an agent, whose name, fax number, email address and telephone numbers are made known to the Town Clerk, available to respond to complaints and problems and the notice required under the Property Value Guarantee (Exhibit D).

DRT Sands, LLC


By: 

Name: Donald P. Rhin

Position: Sole Member

STATE OF WISCONSIN
CHIPPEWA COUNTY

Personally came before me this 1st day of April, 2014⁵ the above-named Donald P. Rhin to me known to be the Sole Member of DRT Sands ~~of Minnesota~~, LLC., and the persons who executed the foregoing instrument and acknowledge the same.


Print Name: Richard J. Summerfield (SEAL)
Notary Public, State of Wisconsin
My commission expires permanently

Par. # 23110-2133-14527001

1/4 OF THE SOUTHEAST 1/4 SECTION 20, TOWN 31
NORTH, RANGE 10 WEST, TOWN OF AUBURN,
CHIPPEWA COUNTY, WISCONSIN

FOUND
S1/4 SEC. 20-31-10
PER CHIPPEWA
COUNTY COORDINATE
SYSTEM NAD83 (2011)

N 29°31'42"W

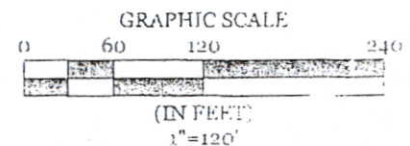
February 14, 2015
Marge L. Giesler

Marge L. Giesler
REGISTER

BEARINGS REFERENCED TO THE EAST LINE
OF THE SOUTHEAST 1/4 OF SEC. 20-31-10
BEING N 01°05'41"E PER CHIPPEWA COUNTY
COORDINATE SYSTEM NAD83 (2011)

FOUND HARRISON
MONUMENT
E1/4 SEC. 20-31-10
PER CHIPPEWA
COUNTY COORDINATE
SYSTEM NAD83 (2011)

DATE APPROVED 02-10-2015
CHIPPEWA COUNTY ZONING AGENCY
BY: [Signature]



LEGEND

- SET 3/4"x18" IRON REBAR
(WEIGHING 1.50 LBS./FT.)
- ⊕ GOVERNMENT CORNER (AS NOTED)
- ⊙ WELL
- ⊙ SEPTIC
- △ CENTERLINE POINT NO MON. SET
- ⊞ LP TANK

UNPLATTED LANDS

FOUND HARRISON
MONUMENT
SE COR. SEC. 20-31-10
PER CHIPPEWA
COUNTY COORDINATE
SYSTEM NAD83 (2011)

LOT 1

230,150 SQ. FT. OR 5.28
ACRES MORE OR LESS
(217,800 SQ. FT. OR 5.00
MORE OR LESS EXCL. R/W)

DRIVEWAY

HOUSE

SILLO

TRAIL

UNPLATTED LANDS

CALLS
A S 00°00'00"E 19.00'
B N 89°25'01"W 70.00'
C N 00°00'00"W 19.00'

PREPARED FOR:
William and Lucretia Waldbueser
20991 30th ST
BLOOMER, WI 54724

PREPARED BY:
DANIEL J. FEDDERLY P.E., P.L.S.,
D.J. FEDDERLY MANAGEMENT CONSULTANT LLC
N9387 330TH STREET
ROYCEVILLE, WI 54725

FOUND 1" REBAR
S1/4 SEC. 21-31-10
PER CHIPPEWA
COUNTY COORDINATE
SYSTEM NAD83 (2011)

UNPLATTED LANDS



EXHIBIT A

LEGAL DESCRIPTION

The Northwest Quarter (NW $\frac{1}{4}$) of Section 28, Township 31 North, Range 10 West.

23110-2823-00020000; 23110-2822-00000000;

23110-2821-00000000; 23110-2824-00020000;

AND

The North Half of the Northeast Quarter (N $\frac{1}{2}$ – NE $\frac{1}{4}$) of Section 28, Township 31 North, Range 10 West.

23110-2812-00000000; 23110-2811-00000000

AND

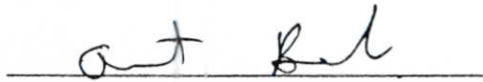
That part of the Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ - NW $\frac{1}{4}$), of Section 27, Township 31 North, Range 10 West, lying West of County Highway DD, EXCEPT Lot 1 of Certified Survey Map 2552, recorded in Volume 11 on page 247 as Document Number 672351

Part of 23110-2722-00020000 lying West of County Hwy DD

TOWN OF AUBURN
Chippewa County, Wisconsin



Paul Scheidecker, Town Board Chairperson

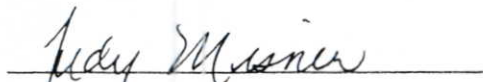


Albert Blaha, Supervisor



Kevin Ludwigson, Supervisor

Attested to as of 4/1, 2015.



Judy Misner, Town Clerk