

**BRIDGEWATER TOWNSHIP BOARD OF TRUSTEES  
SPECIAL MEETING  
THURSDAY, SEPTEMBER 24, 2020, 7:00 P.M.  
BRIDGEWATER TOWNSHIP HALL  
10990 CLINTON RD, MANCHESTER, MI 48158**

**AGENDA**

- I. CALL TO ORDER / ESTABLISH QUORUM / PLEDGE ALLEGIANCE
- II. CITIZEN PARTICIPATION
- III. PUBLIC HEARING
  - A. Gerken Materials Inc. Mineral Extraction License Application
- IV. CITIZEN PARTICIPATION
- V. ADJOURNMENT



## **MINERAL EXTRACTION LICENSE REPORT**

### **Bridgewater Township Board of Trustees**

Gerken Materials, Inc. and Crego Trust Property

13500 Allen Road

Parcels No. Q-17-29-200-008, -009 & -010; and Q-17-30-100-002, -003 & -013

Report Date: September 14, 2020

#### **1. Description**

- 1.01 Action Requested.** The applicant is requesting final Board of Trustees approval of a mineral extraction license renewal and expansion of mining operations and the associated “Peltcs Lake” on the Crego-Peltcs parcels (Q-17-29-200-008, -009 & -010) per the Bridgewater Township Extraction Ordinance No. 59.
- 1.02 Applicant and Landowner.** Gerken Materials, Inc., 9072 County Road 424, Napoleon, OH 43545; and the Mary Janet Crego Peltcs Living Trust, c/o Mr. Kirk Johnson, Trustee, Yeo & Yeo, P.C., 1450 Eisenhower Place, Ann Arbor, MI 48108.
- 1.03 Location.** NW  $\frac{1}{4}$  of Section 29 and E  $\frac{1}{2}$  of Section 30; bound by Willow Rd. to the north, Hogan Rd. to the east, and Allen Rd to the south, and located in the AG (General Agriculture) District.

#### **2. Review of the Extraction Permit Renewal Application**

The following comments are based upon our review of the updated application materials and associated set of plans with a cover page revision date of 8/18/2020, and the requirements of Extraction Ordinance No. 59 and Zoning Ordinance No. 67:

- 2.01 Required information.** The revised application materials and plans are generally complete and include the minimum information required by Ord. No. 59.
- 2.02 Survey.** The Planning Commission determined that the updated photogrammetric mapping using Unmanned Aerial Systems (UAS) with certification provided by the applicant’s consultant at Natural Resources Management LLC (NRM) was acceptable to satisfy the requirements of Section 7.07A (Survey). We would recommend that this data format also be accepted by the Board of Trustees.
- 2.03 Site inventory map and assessment.** The updated plans are consistent with the requirements of Section 7.07B (Site Inventory Map and Assessment).
- 2.04 Setbacks.** The proposed mining and stockpiling setbacks to adjacent road rights-of-way and existing residences conform to minimum Ord. No. 59 requirements.
- 2.05 Prior approval information.** A copy of the existing special use permit for the Crego-Peltcs parcel has been provided in Appendix 1 of the application. The applicant has also provided a copy of the consent agreement governing allowable

mining activities on the adjacent Gerken Materials land, and has confirmed that they no longer have plans to transition to unified operation under Ord. No. 59.

**2.06 Mining plan.** The revised application information and mining plan details are consistent with applicable requirements of Ord. No. 59.

**2.07 Haul route map and plan for Bartlett Road improvements.** The haul route map using Bartlett Road has been added to sheet 2B and a Final Draft Proposed Bartlett Road Improvement Agreement (RIA) between Gerken Materials and the Washtenaw County Road Commission (WCRC) has been provided for work within the WCRC's jurisdiction. An 8/18/2020 letter from the Lenawee County Road Commission included in "Appendix 9" of the "Clinton MEL Appendices 8-18-2020" .PDF file (page 382) acknowledges and accepts the road improvement work within their jurisdiction during the Permit period, but fails to actually state what that work will include. The applicant provided a chain of email correspondence to the Planning Commission that includes the specific scope of work. The relevant excerpts from this email chain are included on the page attached to this report, and should be made part of the approved permit.

**2.08 Impact mitigation, berms, and screening.** The applicant has confirmed in their 11/25/2019 response letter that all perimeter berms depicted on the mining plan sheet 2A *"have been completed, unless larger berms are requested by the township."* With the expansion of mining operations into closer proximity with nearby residences, there is potential for increased noise, dust, and other impacts that could be mitigated by augmentation of perimeter berms and screening.

However, until the operation is fully underway and the applicant has completed an updated noise investigation, the efficacy of the perimeter berms cannot be fully evaluated. In the interim, we recommend that any approval action include the following conditions:

- The applicant shall conduct a new noise investigation to confirm compliance with Section 11.14 of Ord. No. 59 after the expanded mining operations are fully underway, and shall provide a report and evaluation to the Planning Commission for review.
- The berm height and extent on the Crego-Peltes parcel is subject to future re-evaluation by the Township in response to the findings of the noise investigation and any noise, dust, and other mining operation complaints.

**2.09 Reclamation plan.** The Planning Commission determined that the Reclamation Plan documentation (sheet 4) was acceptable to satisfy the requirements of Section 12 (Reclamation) of Ord. No. 59. We would recommend that this plan also be accepted by the Board of Trustees.

**2.10 Conceptual end use.** The Planning Commission determined that the updated end use plan documentation (sheet 8) was acceptable to satisfy the requirements of Ord. No. 59. We would recommend that this plan also be accepted by the Board of Trustees. The intended end uses of the Crego-Peltes parcels on the plan include a 46.3-acre lake, existing wetlands, and 15 rural single-family residential lots ranging in size from 2.12 acres to 6.12 acres. Eleven (11) proposed lots would

have frontage on the public roads, while a new internal road would serve the remaining four (4) lots in this conceptual layout. We have confirmed that all of the conceptual lots conform to the minimum lot area and lot width/road frontage requirements of the Zoning Ordinance.

**2.11 Outside agency permits and approvals.** Documentation of all required outside agency permits and approvals are required to be provided to the Township. We recommend that any approval action include the following condition:

- The applicant shall submit copies of all required outside agency permits and approvals to the Twp. Clerk, Zoning Administrator, and Twp. Engineer within 30 calendar days of any approval or amendment.

**3. Findings and Conclusions**

Section 8.0 of Ord. No. 59 requires that a public hearing be conducted on the application by the Board of Trustees prior to final deliberation and action on the application. The requested license should be approved if the Board of Trustees determines that the applicant has satisfied all of the following criteria, as specified in Sections 8.01C and 14.04:

Criteria for Approval of Mineral License Applications and Renewals		Conforms?
<b>8.01 C.1.</b>	The applicant can comply with this ordinance.	Yes/No
<b>8.01 C.2.</b>	The proposed operation will not adversely affect the health, safety, and welfare of the residents of the Township.	Yes/No
<b>8.01 C.3.</b>	The proposed operation will not cause traffic hazards.	Yes/No
<b>8.01 C.4.</b>	The proposed operation will not adversely affect the water table, water quality, or water supply of any surrounding land.	Yes/No
<b>8.01 C.5.</b>	The site will be restored so it is safe and harmonious with the surrounding land uses.	Yes/No
<b>8.01 C.6.</b>	The end use proposed in the reclamation plan is acceptable [to the Planning Commission], based upon the Commission’s review of the Township zoning ordinance, Township master plan, surrounding land uses and site characteristics.	Yes/No
<b>14.04 B.</b>	Documented negative impacts of the extraction operation on the environment and in relation to the health, safety, and welfare of the community.	Yes/No
<b>14.04 C.</b>	Substantial non-compliance with the previously approved extraction license particularly in regard to required environmental monitoring or the required reclamation.	Yes/No

**4. Board of Trustees Action**

The updated application and plans are complete and ready for a public hearing and Board of Trustees review and final action. Any action on the application should be in the form of a motion to approve, deny, or approve the mineral extraction license with conditions.

As part of your review and deliberation, the Board should identify findings of fact regarding consistency with applicable Ordinance standards as noted in our report and the Township Engineer's report, which should be incorporated into any motion.

If the Board determines that the proposed road improvements are acceptable as presented and the applicant has met all of the criteria for approval listed in part 3 (Findings and Conclusions) of our report, we would have no objection from a planning perspective to the following Board action:

To approve the Gerken Materials, Inc. mineral extraction license renewal and expansion of mining operations and the associated "Pelts Lake" on the Crego-Pelts parcels (Q-17-29-200-008, -009 & -010) in compliance with Extraction Ordinance No. 59 and the updated plan set with a cover sheet revision date of 8/18/2020, subject to the following conditions:

- (1) Extraction Permit approval is contingent upon execution of the Bartlett Road Improvement Agreement (RIA) between Gerken Materials and the Washtenaw County Road Commission, and prompt completion of all road improvements and maintenance activities as specified in this agreement and also in the scope of work in Lenawee County as documented in the 8/12/2020 emails between Joe Knepley (Gerken Materials) and Scott Merillat (Lenawee County Road Commission).
- (2) The applicant shall conduct a new noise investigation to confirm compliance with Section 11.14 of Ord. No. 59 after the expanded mining operations are fully underway, and shall provide a report and evaluation to the Planning Commission for review within 90 days of completion of the investigation.
- (3) The Township retains the option to require additional height and expansion of the extent of perimeter berms and other screening and buffering measures on the Crego-Pelts parcel in response to the findings of the noise investigation and any noise, dust, and other mining operation complaints.
- (4) The applicant shall submit copies of all required outside agency permits and approvals to the Twp. Clerk, Zoning Administrator, and Twp. Engineer within 30 calendar days of any approval or amendment.

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Respectfully submitted,  
  
**Donald N. Pennington**  
**Rodney C. Nanney, AICP**  
Township Planning Consultants

This report is made to the Board of Trustees, and is the property of Bridgewater Township. The report addresses the completeness of the application and issues of concern. While reports may be provided to applicants and may be helpful to them, the report is not generated for the applicant and does not necessarily address all items that may be raised by the Board or required by Township ordinances. The report is not binding upon the Township, and final authority to determine all matters, including completeness of application, remains with the Board. In all cases, it is the responsibility of the applicant to carefully review Township ordinances, and to ensure that all requirements have been met.

## **Fwd: Bartlett Hwy [*Lenawee County Proposed Scope of Work Email*]**

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**Chip Tokar** <ctokar@nrmsolution.com>

Here is the email from Lenawee County

----- Forwarded message -----

From: **Joe Knepley** <jknepley@gerkenpaving.com>

Date: Mon, Aug 17, 2020 at 2:57 PM

Subject: Re: Bartlett Hwy

To: Chip Tokar <ctokar@nrmsolution.com>

Chip,

The scope of work in the email to Scott is in regards to their portion. There is more items on the Wastenaw side. Base repair and crack sealing. Lenawee portion did not require these items.

Joe

On Wed, Aug 12, 2020 at 1:35 PM Joe Knepley <jknepley@gerkenpaving.com> wrote:

**From:** Scott Merillat

**Sent:** Wednesday, August 12, 2020 1:32 PM **To:** Joe Knepley

<jknepley@gerkenpaving.com> **Subject:** Re: Bartlett Hwy

Joe,

Your email regarding your intentions on Bartlett Road is sufficient. Thank you for including the Lenawee County section in your work. As you get closer to construction please keep me updated as to the possible schedule.

Thanks,

[Scott A. Merillat, P.E.](#)

[Managing Director](#)

[Lenawee County Road Commission](#)

[\(517\) 577-6364 direct](#)

[\(517\) 902-6791 cell](#)

On Wed, Aug 12, 2020 at 8:30 AM Joe Knepley <jknepley@gerkenpaving.com> wrote:

Scott,

**Our scope of work for the Bartlett Rd. improvement is as follows:**

- Milled Butt Jt. On the north Side of the US 12 concrete intersection
- 1.5" LVSP Overlay with PG 70-22 Polymer modified AC
- 23A Shoulder Berm

The Gerken Companies estimate the Sand and Gravel Reserve to last between 5- 7 more years. We are performing this improvement at our cost in the agreement that Gerken's will not be required to improve/ upgrade the road in the future for either Road Commission or Township involved.

Scott, I hope this Email will suffice for documentation of our intentions on Bartlett Rd. If not, I can work with Mandy Gerken to draft something more in depth.

Thanks,

***Joe Knepley***

VP, Gerken Materials Aggregate Division

Cell. 419-261-2393

September 21, 2020

Bridgewater Township  
10900 Clinton Road  
Manchester, MI 48158

Regarding: Crego Trust Sand & Gravel Operation Gerken Materials Inc.  
Mineral Extraction License Application



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Mr. Wharam,

We have reviewed the fifth submittal for Gerken Materials, LLC (GMI) located at 13500 Allen Road, dated August 18, 2020. The application was reviewed in accordance with Ordinance Number 59, regulating the extraction of sand, gravel, and other earthen materials.

Natural Resources Management, LLC submitted information on behalf of GMI. This information included a comprehensive application.

*7.03 Form of Application and Signature of Applicant*

Our office does not have a copy of a signed application form.

*7.04 Application Fees and Escrow*

Our office will defer to the Township regarding the processing of application fees and escrows as well as their appropriate amounts.

*7.05 Licensing Fees*

Our office will defer to the Township regarding the processing of licensing fees as well as their appropriate amounts.

*7.06 Costs*

Our office will defer to the Township regarding the cost associated with meetings, public hearings, and consultant review fees.

Beckett & Raeder, Inc.  
535 West William, Suite 101  
Ann Arbor, MI 48103

734 663.2622 ph  
734 663.6759 fx

Petoskey Office  
113 Howard St.  
Petoskey, MI 49770

231 347.2523 ph  
231 347.2524 fx

Traverse City Office  
148 East Front St., Suite 207  
Traverse City, MI 49684

231 649.1065 ph  
231 944.1709 fx

Toledo  
419.242.3428 ph

7.07 *Information and Data Required for an Extraction License*

A. *Survey*

The Boundary Survey within Appendix 1 was completed by a registered surveyor within the State of Michigan. Existing topography is required to be obtained from “an actual on-site land survey”. While the ordinance states that the topographic survey will need to be signed and sealed by a registered surveyor within the State of Michigan, the applicant has requested that NRM certify the topographic survey as a certificated UAS mapping scientist through the American Society for Photogrammetry and Remote Sensing (ASPRS). Our office has no issues with the request based on historical topographic surveys and site visits.

B. *Site Inventory Map and Assessment*

It is noted by the applicant that the west side setback received a variance from the Township Board in 2016. Our office does not have a copy of the variance; we defer to the Township.

C. *Environmental Impact Statement*

The Air Quality Analysis, from 2004, has been provided. Our office has reviewed the analysis and have no comments.

Noise level monitoring appears to be last completed in 2005 by the Washtenaw County Sheriff’s Department. The applicant has indicated that noise levels are not expected to change during the proposed lake expansions. **The applicant has indicated that they will provide an updated noise investigation upon beginning the project to confirm compliance with Section 11.14 of the ordinance. This would occur assuming the expansion is approved and while the expansion activities have started.**

D. *Hydrogeological Analysis*

The Hydrogeological Analysis has been reviewed and approved by the Michigan Department of Environment, Great Lakes, and Energy (EGLE, the former MDEQ). The permit authorizes the excavation of approximately 960,000 cubic yards of sand and gravel from upland to create a previously permitted 38.7 acre lake, which will be maintained at a water elevation of 850.00 feet. Remove approximately 1,400,000 cubic yards of sand and gravel from upland to expand an existing 27.1 acre lake to 46.3 acres, which will be maintained at a water elevation no higher than an elevation of 835.00 feet.





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*E. Subsurface Information*

The applicant has indicated that an additional soil boring (SB-1A) has been taken to get better information on the soils composition between the two lakes.

*F. Monitoring Controls*

The applicant indicates that monitoring controls will remain as-is and will be evaluated on an annual basis, per Township requirements. It is noted that Monitoring Well #13 will be abandoned as it will conflict with the proposed lake expansion. The applicant has provided a replacement monitoring well, Monitoring Well #14, drilled northwest of the old monitoring well.

*H. Operations Plan*

Todd Crane will be the designated individual from GMI who will receive citizen complaints (if any) and communicate these with the Township.

*I. Mining Plans*

Site Plan 2A and Section 11.15 notes a berm height of 8 to 11 feet with vegetative plantings. With the proposed mining activity coming close to the 250-foot setback, additional berm height could be considered to minimize potential noise. As noted already, noise level monitoring will be conducted by the applicant during the expanded operation, if expansion is approved.

*J. Detailed Reclamation Plan*

The Reclamation Plan appears to be meet ordinance requirements. We offer the following comments for future consideration:

- Wetlands should be held outside of the right-of-way (between lots 14 and 15).
- Several of the lots are wider than they are deep, which may not be desirable to a future owner, though they appear to meet zoning requirements. We defer to the Planning consultant on this issue.

*7.08 Supporting Documentation*

*D. Noise Control Plan*

As noted already, noise level monitoring will be conducted by the applicant during the expanded operations, if the application is approved by the Township.

*F. Pollution Prevention Plan*

A copy of this plan, dated August 22, 2019, has been provided for review. Our office has no comments on the plan.



*G. Impact Mitigation Plan*

Todd Crane is the designated individual from GMI who will receive citizen complaints (if any) and communicate these with the Township.

*H. Permits*

Current permits from the EGLE (former MDEQ), SESC, and Notice of Coverage SESC permits have been provided.

It is our understanding that a revised road improvement agreement for Bartlett Road with the Washtenaw County Road Commission is forthcoming that will reflect the following changes:

1. Section 1.3.c should reference sub-section "g", not "f".
2. Section 1.6: The Haul Route Improvements should be completed during the 2020 construction season, that being November 1<sup>st</sup>, 2020 in lieu of October 1<sup>st</sup>. This would allow more time for the applicant to complete the work.
3. Appendix A: There appears to be a 78' long section of 4' wide 2-inch milling and filling that is missing. This would be on the northbound lane, from station 11+77 to 12+55.

The applicant requested a review of the Reclamation Bond. We offer the following two comments:

1. The area requested is consistent with what is shown on their most recent plan associated with their 2019 annual report.
2. The reclamation bond amount has been consistently \$5,500 per acre, per the consent judgment dated August 2001. However, based on the consumer pricing index inflation from the Bureau of Labor and Statistics, \$5,500 from August of 2001 is equivalent to \$8,028.48 for July 2020. It would be our recommendation that this amount be used per acre based on inflation of costs over the past 19 years.  $36.9 \text{ acres} \times \$8,028.48 = \$296,250.91$ .

If there are any questions regarding this review, please feel free to contact me at (734) 239-6610.

Thank you,

Kristofer Enlow, P.E.  
Principal

cc: Tom Wharam, Township Clerk, via e-mail  
Laurie Fromhart, Township Supervisor, via e-mail  
Michelle McQueer, Township Treasurer, via e-mail  
Rodney Nanney, Building Place Consultants, via e-mail  
Chip Toker – NRM, Natural Resources Management, LLC, via e-mail  
Alyssa Grell – NRM, Natural Resources Management, LLC, via e-mail



*initiative*

## ROAD IMPROVEMENT AGREEMENT

THIS ROAD IMPROVEMENT AGREEMENT ("Agreement"), is entered into as of the \_\_\_\_ day of \_\_\_\_\_ 2020, and memorializes and confirms certain verbal commitments and understandings previously made by the **Board of County Road Commissioners of the County of Washtenaw**, a Michigan municipal body corporate, 555 N. Zeeb Road, Ann Arbor, Michigan, 48103 ("WCRC") and the **Gerken Materials, Inc.**, an Ohio Corporation, with its headquarters located at 9072 County Road 424, Napoleon, OH 43545 ("Gerken").

### STATEMENT OF FACTS

A. Gerken is the owner of certain real property and operator of a mineral extraction pit (MDOT Pit #81-21) located in Bridgewater Township, Washtenaw County, Michigan ("Pit").

B. WCRC and Gerken's predecessor in interest, Stansley Mineral Resources, Inc. d/b/a Adrian Sand & Stone, Inc. ("Adrian"), were parties in 2001 to a certain "Bartlett Road Haul Route Improvement Agreement" whereby WCRC designed and Adrian paid to construct and pave Bartlett Road from its Pit location to U.S. 12 in Lenawee County to facilitate use of Bartlett Road as an All-Season Roadway ("Haul Route") with a twenty (20) year design life cycle.

C. Per the 2001 agreement, WCRC *"retained the right to impose load limits and revoke or condition such permits they may determine necessary to protect the safety of the public and insure against undue damage to the haul route, including springtime weight restrictions, as measured by normal, accepted engineering practices"*.

D. Based on current surface conditions, WCRC has determined that the Haul Route requires specific preventative maintenance measures ("Haul Route Improvements") in order to allow the roadway to continue as an All-Season Roadway, which would allow Gerken to transport Class A loads year-round from the Pit to U.S. 12 under the Michigan Motor Vehicle Code.

E. Gerken desires an expansion to its current Mineral Extraction License in Bridgewater Township. Said license was applied for on September 4, 2019. Bridgewater Township is conditioning issuance of the permit until which time maintenance of Bartlett Road is addressed. No preventative maintenance was performed by WCRC between the time of 2001 Road Agreement and the date of execution of this Agreement. WCRC has indicated that the All-Season status agreed to in the 2001 Road Agreement will be terminated if Gerken does not perform preventative maintenance to Bartlett Road. Gerken desires to receive its Mineral Extraction License and that the Haul Route remain an All-Season Roadway for commercial trucking operations and is therefore willing, as a business decision, to construct the following "Haul Route Improvements" subject to the terms of this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

## **ARTICLE 1 HAUL ROUTE IMPROVEMENTS**

**1.1 Construction.** Gerken shall construct the Haul Route Improvements at its sole expense. Construction of the Haul Route Improvements shall be subject to inspection and approval by WCRC. WCRC shall inspect and document the work performed for the Haul Route Improvements in accordance with MDOT 2012 Standard Specifications for Construction and the terms of an approved WCRC permit.

**1.2 WCRC Permit.** Prior to commencing work, Gerken shall submit to WCRC a permit application to perform the Haul Route Improvements. It is understood that no work within any right-of-way shall occur until Gerken has obtained such WCRC permit, which shall not be unreasonably withheld or delayed by WCRC. WCRC shall issue the necessary permit, subject to its standard permit process and terms, for the Haul Route Improvements without the imposition of any additional conditions or requirements and upon Gerken's compliance with the provisions of this Agreement.

**1.3 Scope of Work.** The scope of work of the Haul Route Improvements shall include the following:

- a. Crack seal the Haul Route from the Pit to the Washtenaw County boundary;
- b. Perform 2-inch milling and filling in failing road surface areas as previously agreed upon by the two parties, as described and located in Attachment 'A' to this Agreement;
- c. Pave the surface from the Pit to the Washtenaw County boundary with 1.5 inches of Superpave HMA 5E mix using PG 70-22 as a binder with a target aggregate wear index (AGI) of 260. The maximum recycled asphalt pavement content shall be limited to 25%. The target air void content shall be 3.0%. During paving and until the completion of subparagraph (f) below, apply and maintain temporary yellow tape in two-foot segments spaced every 25 feet along the centerline;
- d. Provide certified reports of material testing conducted by Gerken. Gerken's certified lab technicians will verify that HMA density is achieved per MDOT guidelines and that specifications outlined in subparagraph (c) above are met;
- e. Apply a fog seal to the entire paved surface of the Haul Route from the Pit to the Washtenaw County boundary;
- f. Apply 23A limestone to shoulders on both sides of the Haul Route within its existing shoulder footprint and as needed to gravel driveway approaches between the Pit to the Washtenaw County boundary;
- g. Apply two applications of 4-inch waterborne longline pavement markings (yellow and white), and any miscellaneous special markings such as cold plastic stop bars, to the full length of the Haul Route Improvements between the Pit and the Washtenaw County boundary; and

- h. Provide all necessary temporary traffic control devices, including but not limited to portable changeable message signs for advance public notification, signs, channelizing devices, cones, arrow boards, and flaggers, meeting the requirements and specifications of the current edition of the Michigan Manual of Uniform Traffic Control Devices (MMUTC).

**1.4 Pre-Construction Meeting.** Gerken shall schedule a pre-construction meeting with all applicable parties prior to commencing work on the Haul Route Improvements. Gerken shall furnish a detailed progress schedule for the Road Improvements to WCRC for approval.

**1.5 Designated Haul Route Status.** Acceptance by WCRC of the completed Haul Route Improvements shall constitute WCRC's assurance to Gerken and certification that the Haul Route's All-Season Roadway designation shall continue through December 31, 2027. Gerken and any person or entity hauling material from the Pit shall adhere to all Michigan Motor Vehicle Code requirements regulating vehicle length and width for non-state trunkline transport, unless and until Gerken obtains an annual Haul Route permit per the current edition of the WCRC Procedures and Regulations for Permit Activities. From and after January 1, 2028, WCRC shall retain the right to impose load limits, including springtime weight restrictions, to the Haul Route to protect the safety of the public and insure against undue damage to the Haul Route, based upon accepted engineering principles and practices.

**1.6 Timing and Completion of Haul Route Improvements.** Gerken shall complete all of the Haul Route Improvements by November 15, 2020. Failure to comply with the completion schedule, subject to any causes beyond Gerken's reasonable control, shall result in WCRC revoking All-Season status of the Haul Route until the improvements are completed.

**1.7 Maintenance.** Any and all routine maintenance of the paved portion of Bartlett Road referenced herein shall continue to be the responsibility of LCRC and WCRC. Gerken shall have no routine maintenance responsibilities beyond the scope of work to be completed in this Agreement.

## **ARTICLE 2 MISCELLANEOUS**

**2.1 Binding Agreement.** This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and assigns when fully executed by an authorized representative of each party.

**2.2 Time of the Essence.** Time is of the essence of all undertakings and agreements of the parties hereto.

**2.3 Amendment.** This Agreement may not be modified, replaced, amended or terminated without the prior written consent of the parties.

**2.4 Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Michigan. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, that invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid, illegal or unenforceable provisions had never been contained within the body of this Agreement.

**2.5 Execution in Counterparts/Fax Signature.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one agreement. In addition, facsimile signatures shall have the same force and effect as an original signature.

IN WITNESS WHEREOF, the parties hereto have executed this Road Improvement Agreement by affixing the signatures below effective as of the date set in the caption.

WITNESSED: Gerken Companies Materials, Inc.  
an Ohio Corporation

By: \_\_\_\_\_ By: \_\_\_\_\_

Name:  
Its:

BOARD OF COUNTY ROAD  
COMMISSIONERS OF WASHTENAW  
COUNTY, a Michigan Municipal Corporation

By: \_\_\_\_\_ By: \_\_\_\_\_

Name: Sheryl S. Siddall  
Its: Managing Director