

THE STATE OF TEXAS §

THE COUNTY OF BROWN §

This agreement is made by and between Brown County, hereinafter referred to as "County", and Lortscher Animal Nutrition, Inc., hereinafter referred to as "LANI", for the construction of a temporary earthen loading dock on a County owned road, hereinafter referred to as "The Activity".

WITNESSETH

WHEREAS, the County owns and maintains Blake Street which is in an unincorporated part of the County, as well as the right-of-way immediately adjacent to Blake Street and located between Blake Street and the TXR Railway Railroad Tracks; and

WHEREAS, Lortscher Animal Nutrition, Inc., is a Kansas corporation, located at 310 Railroad Street, Bern, KS will be unloading bulk grain commodities to manufacture pet food at their Brownwood, TX facility, 1600 Custer road; and

WHEREAS, LANI desires to utilize Blake Street for the unloading of grain commodities or other bulk dry material to manufacture pet food; and

WHEREAS, LANI has requested permission from the County to use Blake Street and the adjoining right-of-way, for the purpose of building a temporary earthen loading dock and staging center; and

WHEREAS, LANI and/or his agent/contractor may conduct the work agreed to in this document;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and agreements of the parties hereto, to be by them kept and performed as set forth, it is hereby agreed as follows:

AGREEMENT

Article 1 Site Investigation, Preparation and Completion

- A. The Activity shall conform to a plan of action approved by Brown County Commissioner Precinct 1 at least 30 days in advance.
- B. The Activity shall be conducted in compliance with all governing laws and State regulations and policies.
- C. LANI shall perform the Activity in such a manner as to avoid safety hazards and inconveniences to or interference with local traffic. Traffic control plan and traffic

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(Exhibit #4)

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control devices required by said Activity shall be approved by the County and installed by LANI in accordance with the *Texas Manual on Uniform Traffic Control Devices for Streets and Highways*.

- D. The Activity shall be performed as expeditiously as possible and with as little disruption to local traffic as possible.
- E. LANI is solely responsible for all costs associated with the building, maintaining and removal of the Activity.
- F. Prior to termination of this agreement, LANI will remove all materials associated with the activity, including its facilities and equipment, from Blake Street and the adjoining right-of-way and restore Blake Street and the adjoining right-of-way to its original condition, free of any damage, including ruts or any other injury to the environment.
- G. LANI shall be liable for and obligated to clean up and remediate any contamination from petroleum or hazardous substances on Blake Street and the adjoining right-of-way found to originate from the Activity. If contamination should occur, all liability and obligation shall be borne by LANI until such time when a letter from TCEQ is received by The County stating that the said site investigation and/or remediation is complete and is agreed to by the County.
- H. LANI will reimburse the County for any costs incurred by the County for repairs of Blake Street and the adjoining right-of-way, for removal of the Activity, or for any other necessary restoration or remediation work performed by the County.

Article 2. General Terms and Conditions

- A. LANI will provide the County with a performance bond or escrow account in the amount of \$25,000 on or before the date the Activity begins.
- B. The County's authorization to allow entry onto Blake Street and the adjoining right-of-way does not in any way impair or relinquish the County's right to use such land for its purposes, nor shall use of the land for other than highway purposes under this agreement ever be construed as abandonment of the land by the County.
- C. LANI agrees to indemnify and hold harmless the County, its agents and employees, from all suits, actions or claims and from all liability and damages for any and all injuries sustained by a person or property as a consequence of any neglect in the performance of the activity and any related action by LANI and from any

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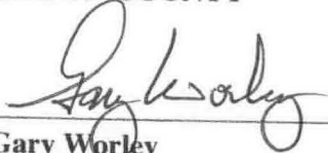
claims or losses arising or recovered under the Workers Compensation laws of Texas, The Texas Tort Claims Act, or any other laws.

- D. LANI understands that utility installations owned by others may exist in the right-of-way. LANI shall provide adequate notice of the Activity to all utility companies potentially impacted by the investigation.
- E. LANI shall further indemnify the County and accept responsibility for all damages or injury to property of any character, including utilities, occurring during the prosecution of the Activity resulting from any act, omission, neglect or misconduct on the part of LANI in the manner or method of executing the Activity.

Article 3. Termination

- A. It is mutually agreed and understood that this agreement shall terminate after a period of not more than one (1) year from the date of the final execution of this agreement.
- B. The County reserves the right to terminate this agreement at any time after notifying the other party in writing at least thirty (30) days in advance of the intended termination and establishing the conditions of termination.
- C. The County may, at its discretion, extend the period of this agreement upon receipt of a written request from LANI, provided that such request is received at least thirty days prior to the scheduled termination of the agreement. Amendments may be in the form of a letter and shall be attached hereto and shall be made a part of this agreement.

BROWN COUNTY



Gary Worley
Brown County Commissioner Precinct 1

11-17-14
Date

Lortscher Animal Nutrition, Inc.



Rand Schafer-General Manager

11-13-14
Date