



City of St. Marys, PA
Street Department

CONSTRUCTION
EXCESS MAINTENANCE AGREEMENT PROCEDURES

A. TYPE OF PERMIT

The City Street Superintendent (or his designate) decides what excess maintenance is required.

1. Permit authorizes the use of construction equipment on City owned highways. This does not permit highway excavation.

B. PERFORMANCE OF EXCESS MAINTENANCE

A determination must be made as to who is to perform the Excess Maintenance [Option A – Municipality maintains forces and/or its contractor(s), or Option B – the User and/or its contractor(s)]. If the user will perform the excess maintenance (Option B of the Excess Maintenance Agreement), the user shall provide a certificate of insurance naming the City of St. Marys as an additional insured. This certificate should be incorporated in the Excess Maintenance Agreement as an exhibit.

C. PRELIMINARY INSPECTION

The user shall be notified of the inspection and shall participate in the inspection. The user shall receive a copy of the inspection report. Fees for the inspection and permit are established by Resolution of Council.

D. AMOUNT AND TYPE OF SECURITY

The user may be required to provide an approved form of security in favor of the City of St. Marys in the amount specified by the City.

E. ISSUANCE OF PERMIT

After the Excess Maintenance Agreement has been executed between the user and the Municipality, the City shall issue the appropriate permit to the user. No permit shall extend for a time period in excess of one year.

F. OTHER CONSIDERATIONS

1. The City Street Superintendent shall monitor the condition of the highway and shall notify the user to make any necessary repairs if Option B was selected, or repair the damage and bill the user if Option A was selected.
2. The cost to perform excess maintenance shall not be allowed to go beyond 75% of security amount without repairs being made. If no security has been required, repairs shall be demanded when roadway causes residents and other users distress.
3. The municipality cannot make the user improve the road, only restore it to the state of repair existing at the time of the preliminary inspection.
4. The user is only responsible for damages caused by construction operation. He is not responsible for normal maintenance activities that would routinely be performed on the highway had the user not been there.

NORMAL MAINTENANCE vs. EXCESS MAINTENANCE

STABILIZED ROADWAYS

| <u>ACTIVITY</u> | <u>NORMAL MAINTENANCE</u> | <u>EXCESS MAINTENANCE</u> |
|--------------------------|--|---|
| Grading and shaping | Spring and fall material to stabilize added as needed | Grading and shaping beyond normal maintenance. |
| Dust palliative | Once a year | Anything more often than once a year. |
| Inlet and ditch cleaning | As needed due to storm conditions and gradual sediment. | As needed due to run-off from user's approach, shoulder deterioration arising from bonded trucks running on shoulders, ditches pushed shut by bonded trucks riding on shoulders. |
| Pipe replacement | When pipe wears out (25 – 30 years). | Pipe crushed due to heavy hauling activities. |
| Pipe flushing | As needed due to storm conditions and gradual buildup of debris. | As needed due to run-off from user's approach, shoulder deterioration arising from bonded trucks running on shoulders, pipe blocked as result of bonded trucks riding on shoulders. |

NORMAL MAINTENANCE vs. EXCESS MAINTENANCE

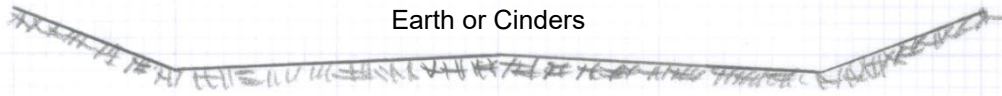
PAVED ROADWAYS

| <u>ACTIVITY</u> | <u>NORMAL MAINTENANCE</u> | <u>EXCESS MAINTENANCE</u> |
|-----------------------------|--|---|
| Pothole patching | No patching required until three years after a roadway has been scratch and seal coated; otherwise, when needed but not more than once a year. | Potholes or wheel depressed areas after roadway has been scratched and seal coated within a three year period; otherwise, when needed but usually not more than once a year. |
| Shoulder cutting or grading | Three to four year cycle. | Anything more often than three – four year cycle. Shoulder build-up due to bonded truck running off edge of pavement. Shoulder cutting or grading due to roadway being pushed down. |
| Inlet and ditch cleaning | As needed due to storm conditions and gradual sediment. | As needed due to run-off from user's approach, shoulder deterioration arising from bonded trucks running on shoulders, ditches pushed shut by bonded trucks riding on shoulders. |
| Pipe replacement | When pipe wears out (25 – 30 years). | Pipe crushed due to heavy hauling activities. |
| Pipe flushing | As needed due to storm conditions and gradual build-up of debris | As needed due to run-off from user's approach, shoulder deterioration arising from bonded trucks running on shoulders, pipe blocked as result of bonded trucks riding on shoulders. |

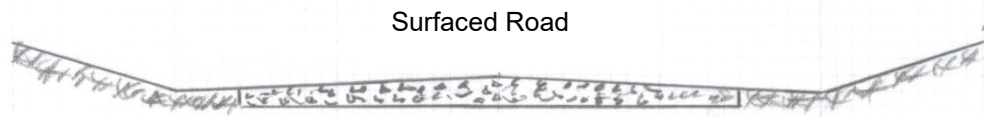
PAVED ROADS REVERTED TO STABILIZED

| <u>ACTIVITY</u> | <u>NORMAL MAINTENANCE</u> | <u>EXCESS MAINTENANCE</u> |
|--------------------------|---|---|
| Dust palliative | | Dust oil entire length as needed. |
| Grading and shaping | | As needed |
| Inlet and ditch cleaning | As needed due to storm conditions and gradual sediment. | As needed due to run-off from user's approach, shoulder deterioration arising from bonded trucks running on shoulders, ditches pushed shut by bonded trucks riding on shoulders. |
| Pipe replacement | When pipe wears out (25 – 30 years). | Pipe crushed due to heavy hauling activities. |
| Pipe flushing | As needed due to storm conditions and gradual build-up of debris. | As needed due to run-off from user's approach, shoulder deterioration arising from bonded trucks running on shoulders, pipe blocked as result of bonded trucks riding on shoulders. |

HIGHWAY TYPE

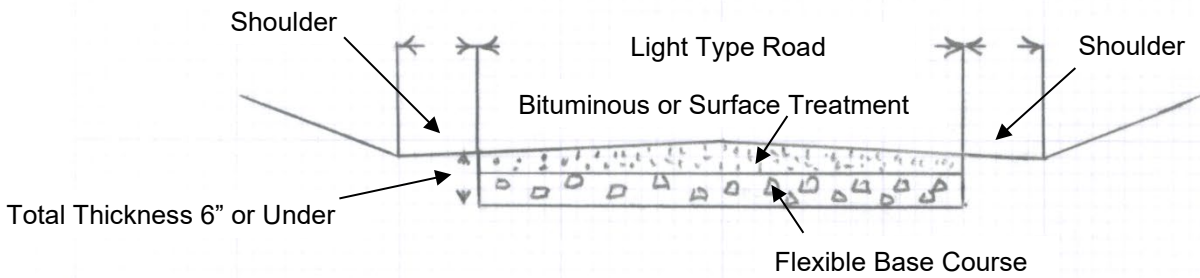


Type 10

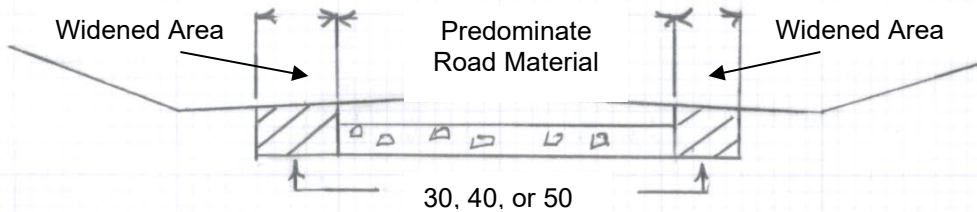


Stone-Slag-Shale-Gravel-Stabilized Earth-Traffic Bound, etc.

Type 20

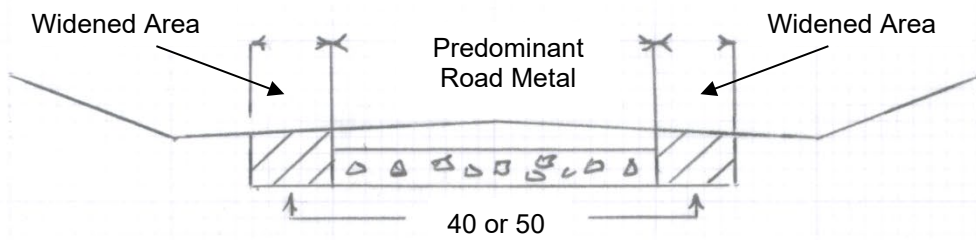
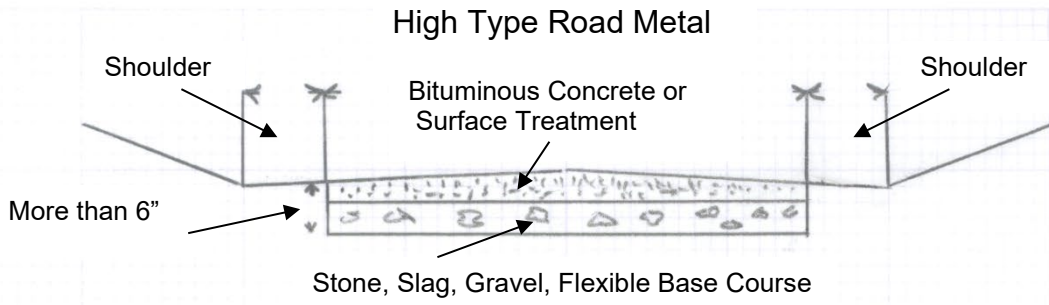


Roads with stone, slate, gravel, flint, reddog, or shale base more than 6" total thickness remain Type 30.

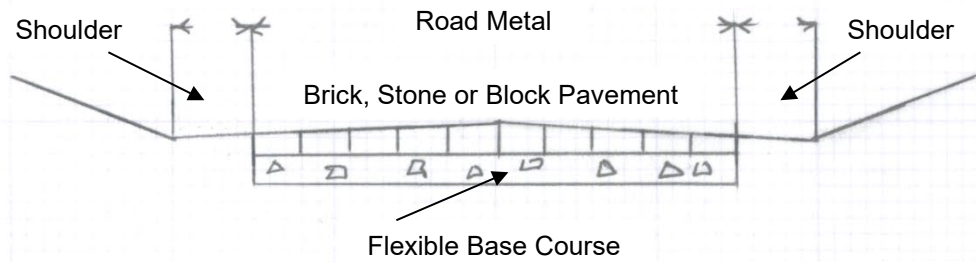


Type 30

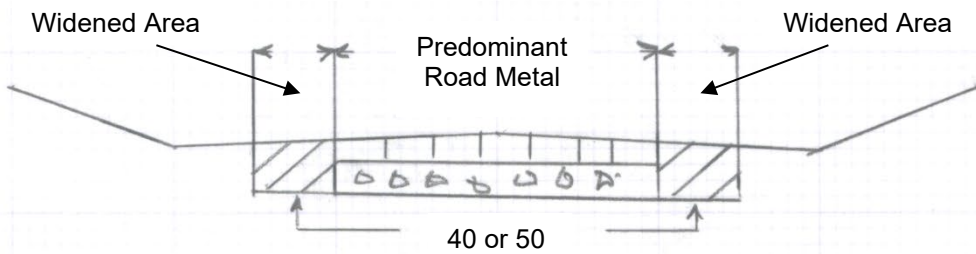
HIGHWAY TYPE



Type 40

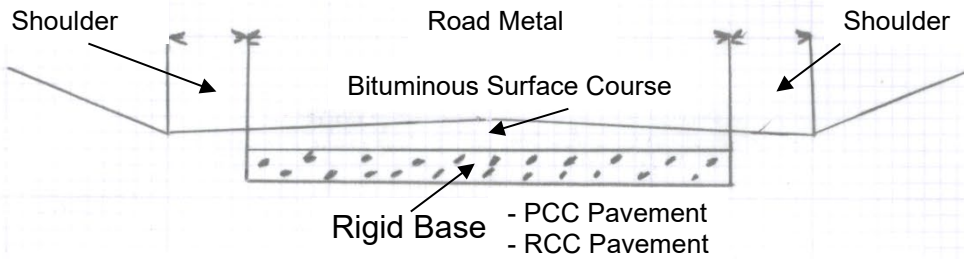


Street Surface Composite of Wood or Asphalt Streets

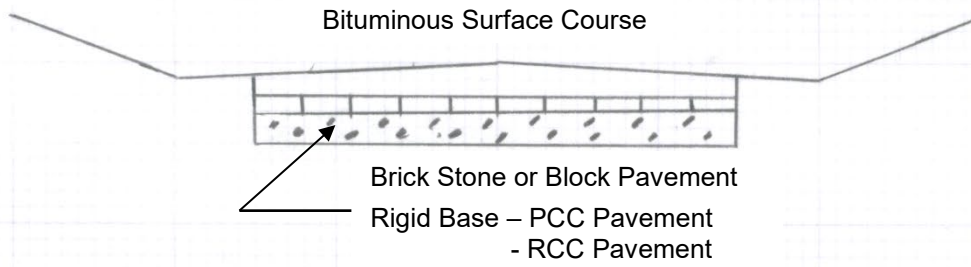


Type 50

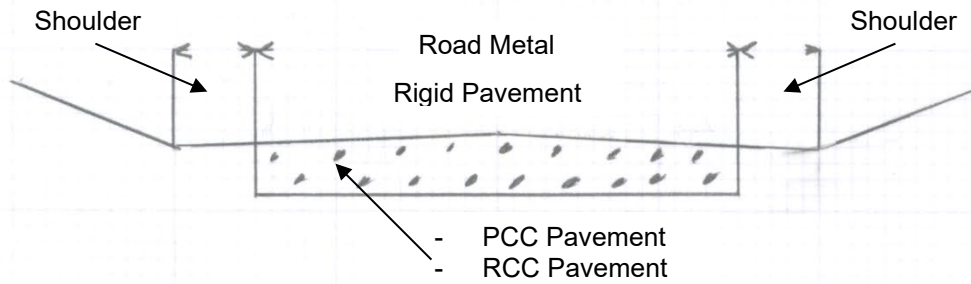
HIGHWAY TYPE



Type 60



Type 61



Type 70

APPENDIX C

BACKGROUND

The USER in the conduct of its business makes use of portions of Municipal highways which are under the jurisdiction, maintenance, and control of the Municipality.

Pursuant to the provisions of Section 4902 of the Vehicle Code, Act of June 17, 1976, P.L. 162, as amended, 75 PaCS 4902, the Municipality has posted gross weight restrictions on portions of these Municipal highways.

The USER wishes to move vehicles or combinations, together with loads, in excess of the posted gross weight restrictions over and across portions of those posted Municipal highways.

The Municipality, pursuant to 67 PA. Code, Chapter 189, is willing to permit the movement of the USER'S vehicles or combinations, together with loads, in excess of the posted gross weight restrictions, conditioned upon the execution of an approved form of security by the USER in favor of the Municipality to cover the cost of excess maintenance and restoration necessitated by the movement in accordance with the terms, conditions, and provisions hereinafter contained in this Agreement.

AGREEMENT

For and in consideration of the mutual promises hereinafter set forth, the parties hereto, intending to be legally bound hereby, agree for themselves and their successors and assigns as follows:

Permission to Move Vehicles

1. The Municipality will permit the USER to move vehicles or combinations, together with loads, in excess of the posted gross weight restrictions on the portion(s) of Municipal highway(s) indicated below subject to all provisions of the Vehicle Code, Act of June 17, 1976, P.L. 162, as amended, (75 PaCS) and Pa. Code, Chapter 189.

The Municipality has issued the USER a Type _____ permit to exceed the posted gross weight restrictions on the portions of Municipal highways identified below.

| <u>COUNTY</u> | <u>MUNICIPALITY</u> | <u>MUNICIPAL HIGHWAY</u> | <u>FROM</u> | <u>TO</u> |
|---------------|---------------------|------------------------------|-------------|-----------|
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ | _____ |

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Joint Use

2. In the event that more than one USER makes use of the portion(s) of Municipal highway(s) described in Paragraph 1, (above) the USER shall report to the Municipality the amount of tonnage and or trips. The Municipality may assess and proportion, in its discretion, the maintenance and restoration costs among the USERS on a periodic basis or upon termination of this Agreement.

Responsibility of USER

3. The portion(s) of Municipal highway(s) and appurtenances shall be maintained to a level consistent with the attached cross-section identified as "Type _____", and the portion(s) of Municipal highway(s) and appurtenance shall be restored to a level consistent with the attached cross-section identified as "Type _____". A copy of the cross-section(s) shall be attached to this Agreement as a Schedule and made a part hereof.

The USER'S responsibility shall only extend to excess maintenance and restoration. The non-performance of normal maintenance by the Municipality shall under no circumstances constitute grounds for an offset or credit against any excess maintenance or restoration responsibilities of the USER.

If the USER selects Paragraph 6, Option B, (below) the Municipality shall determine, in its discretion, whether the excess maintenance and restoration are satisfactory.

On-Site Inspection

4. The USER and the Municipality agree that in order to determine the condition of the portion(s) of the Municipal highway(s) and appurtenances, an on-site field inspection shall be made jointly by the Municipality and the USER. A memorandum shall be prepared describing the condition of Municipal highway(s) and appurtenances together with the nature and extent of any repairs needed to correct any existing damage for which the USER will not be liable. Photographs may also be taken. The memorandum and photographs (if taken) shall be incorporated as an exhibit as part of this Agreement. All costs of this inspection shall be paid by the USER.

Maintenance Not Covered

5. The USER shall have no obligation for maintenance to remedy damage directly resulting from acts of God or war or for routine removal of snow or ice.

Performance of Excess Maintenance and Restoration

6. Excess maintenance and restoration shall be performed in accordance with option _____ below.

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OPTION A

The Municipality's maintenance forces and/or a contractor(s) selected by the Municipality through its prescribed procedures. The excess maintenance and restoration shall be performed to a level consistent with that agreed to in Paragraph 3 (above). The work shall be in conformance with Municipality Specifications and shall be supervised and inspected by Municipality personnel.

The Municipality may invoice the USER for the estimated cost of repairs using either the latest maintenance contract prices or the Municipality's latest average monthly maintenance unit prices. These estimated costs shall be computed for all damages noted on the on-site inspection form. The USER agrees to reimburse the Municipality for all estimated costs.

The USER shall submit payment to the Municipality within 30 days from the date of invoice. If the USER fails to make the payment, the Municipality may in its discretion:

1. Rescind the USER'S permission to move vehicles or combinations, together with loads, in excess of the posted weight restriction over and across any Municipality highway(s) until payment is made.
2. Terminate this Agreement.
3. Proceed against security provided pursuant to Paragraphs 7 and 13 below.
4. Any or all of the above.

OPTION B

The USER and/or its contractor(s). The excess maintenance and restoration shall be performed to a level consistent with that agreed to in Paragraph 3 (above). The work shall be in conformance with the Municipality Specifications. If the USER does not work, he should notify the Municipality three days in advance of doing the work. Any excess maintenance or restoration associated with bridges shall be specifically developed in a memorandum by the Municipality and directed to the USER for completion. The Municipality reserves the right to monitor or direct any excess maintenance or restoration. The USER shall reimburse the Municipality for any expenses so incurred by the Municipality.

If performance Option B has been agreed to, the USER shall:

1. Provide proper traffic protection at all times during excess maintenance and restoration. This protection shall comply with Municipality work area traffic control requirements as contained in Pennsylvania Department of Transportation (PennDOT) Specification Publication 408 and supplements thereto and PennDOT Publication 203.

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2. Indemnify, save harmless, and defend (if requested) the Municipality and its officers, agents, and employees, from all suits, actions or claims of any character, name, or description brought for or on account of any injuries, death, or damages received or sustained by any person, persons, or property, during the performance of the work on portion(s) of Municipal highway(s) and appurtenances to be repaired, by or for the USER or its officers, agents, employees, contractors, or representatives, whether the same be due to the use of defective materials, defective workmanship, neglect in safeguarding the work or by or on account of any act, omission, neglect, or misconduct of the USER or its officers, agents, employees, contractors, or representatives, during the performance of the work.
3. Provide evidence to the Municipality of public liability insurance for bodily injury and property damage in the minimum amounts of " \$250,000 each person, " \$1,000,000 each occurrence. The insurance policy shall cover any loss that might occur during the performance of any excess maintenance or restoration by the USER, or its officers, agents, employees, contractors, or representatives. The Municipality shall be named as an additional insured on the certificate of insurance. A copy of the certificate of insurance shall be attached to this Agreement as an Exhibit. This insurance shall neither be changed nor cancelled without forty-five days advance written notice of such change or cancellation. This advance written notice of change or cancellation shall be forwarded to the Municipality located at _____.
4. Promptly perform excess maintenance or restoration as needed. If the Municipality determines that the USER is not maintaining or restoring the Portion(s) of Municipal highway(s) and appurtenances to the level agreed to In Paragraph 3, (above) the Municipality and the USER shall promptly perform the required excess maintenance or restoration.
5. If the USER fails to perform the excess maintenance or restoration promptly after receipt of notice, the Municipality may, in its discretion:
 - a. Rescind the USER'S permission to perform excess maintenance and restoration, and to move vehicles or combinations, together with loads, in excess of the posted weight restriction over and across any Municipal highway(s) until necessary excess maintenance and restoration are satisfactorily performed or costs thereof are paid.
 - b. Maintain or restore the portion(s) of Municipal highway(s) and appurtenances with the USER reimbursing the Municipality for all costs so incurred.
 - c. Proceed against security provided pursuant to Paragraphs 7 and 13 below.
 - d. Terminate this Agreement.
 - e. Any or all of the above.

APPENDIX C

Security

7. To secure the performance of the USER'S obligations, the USER shall execute and deliver to the Municipality the following type(s) of security in the amounts as indicated.

| | | |
|----|-------------------------------------|----------|
| a. | Irrevocable Letter of Credit | \$ _____ |
| b. | Certified Check | \$ _____ |
| c. | Cashier's Check | \$ _____ |
| d. | Bank Account | \$ _____ |
| e. | Certificate of Deposit (cash value) | \$ _____ |
| f. | Security Agreement | \$ _____ |
| g. | Escrow Agreement | \$ _____ |
| h. | Performance Bond | \$ _____ |
| i. | Other | \$ _____ |

Security option(s) _____ in the total amount of \$ _____ has (have) been agreed to.

This Agreement, together with the type(s) of security provided, may be filed in the appropriate prothonotary's office or other registry in a manner and at such time and frequency as the Municipality deems proper. The USER shall pay costs of such filings.

a. A copy of the security(ies) shall be attached to this Agreement as Exhibit(s)

Liability of USER

8. The USER shall be liable for all costs of excess maintenance and restoration and all other expenses incurred pursuant to this Agreement. The USER'S liability shall not be limited to the total amount of security shown in Paragraph 7 (above).

Termination

9. The USER and the Municipality retain the right to terminate their future obligations under this Agreement at any time by submitting a written notice of intent to terminate. As soon as possible after receipt of such notice, the Municipality and the USER'S representatives shall inspect the Municipal highway(s) and appurtenances. The Municipal highway(s) and appurtenances, if Paragraph 6 Option B was selected, shall be restored to a level consistent with that agreed to in Paragraph 3 (above). Restoration shall be performed by the party(ies) agreed to in Paragraph 6 (above). Thereupon this Agreement shall be terminated and of no further force or effect and all security delivered to the Municipality by the USER shall be released.

APPENDIX C

Revocation of Permit

- 10. The Municipality may revoke the USER’S permit and may pursue whatever legal remedies it deems proper, if it determines in its discretion, that the USER is not in compliance with any provision of this Agreement. In the event the USER has concluded its operations on any or all portions of highway covered by this Agreement, the Municipality may, in its discretion, revoke the USER’S permit(s) to operate on any other highway(s) under any other similar Agreement.

Closing of Municipal Highways

- 11. This Agreement shall not prohibit the Municipality from closing a highway or bridge to any vehicle or combination in excess of a specific weight if such closing is authorized by law and is necessary for safety, or is a temporary closing due to climatic conditions or an act of God or war.

Effective Date

- 12. The effective date of this agreement shall be the date upon which the on-site inspection memorandum is signed by the USER and the Municipality. The effective period of this Agreement shall continue from its effective date until the date of its termination as provided for herein.

Additional Security and Termination

- 13. In addition to the Municipality’s right of termination set forth above, the Municipality shall have the right to require additional security upon that date that the Municipality determines, in its discretion, that the aggregate amount of damage to the Municipal highway(s) exceeds 75% of the face amount of the security furnished. If additional security is required, it shall be retained by the Municipality until all excess maintenance and restorations have been completed. Failure to provide such additional security as is required shall constitute a breach of this Agreement.

Attest

City of St. Marys

By: _____

City Manager

Attest

Date

USER

By: _____

Title

Date

APPENDIX C

EXCESS MAINTENANCE AGREEMENT

Agreement Number: _____

EXCESS CONSTRUCTION MAINTENANCE AGREEMENT _____,
User _____ of

DEFINITION

USER means that user who signs and executes this Agreement.

Municipality means the City of St. Marys acting through its Municipal Officials.

Appurtenance means the property lying within the right-of-way of a highway, together with any improvement placed within this right-of-way.

Bridge means any structure including supports, erected over a depression or any obstruction such as, but not limited to, water, highway, or railway and having a track or passageway for carrying traffic or other moving loads and having an opening measured along the center of the roadway of more than eight feet between supports.

Highway means any highway or bridge on the Municipality's system of highways and bridges, including the entire width between right-of-way lines over which the Municipality has assumed, or has been legislatively given, jurisdiction.

Excess Maintenance means maintenance or restoration or both (but not betterment) of a highway (in excess of normal maintenance) caused by construction procedures.

Normal Maintenance means the usual and typical activities necessary to maintain the roadway, shoulders, drainage facilities, and other appurtenances in the state of repair existing at the date of the inspection.

Over-Posted-Weight-Vehicle means a vehicle or combination having a gross weight in excess of a posted weight limit.



City of St. Marys, PA
Street Department

| |
|-------------------|
| Agreement # _____ |
| Issue Date _____ |
| Fee _____ |
| Paid _____ |

APPENDIX D
APPLICATION

Name _____

Address _____

Telephone # _____ FAX # _____

City road/street _____

Location: From _____

To _____

Approximate distance _____

Maintenance: Option A Option B (circle one)

Signature _____ Date _____

****This permit is not valid until signed by the City Manager or authorized representative.****

By signing this application you are agreeing to all terms and condition of this agreement.



Permit

Permission is hereby granted to _____
for movement of vehicles in excess of _____ tons over _____
road/street.

City Manager/Street Superintendent Date Expiration Date

**THIS PERMIT IS VALID ONLY FOR THE SIGNEE OR IT'S LEGAL REPRESENTATIVES.
THIS PERMIT IS NOT TRANSFERRABLE.**