

ENCROACHMENT PERMIT

TR-0120

Copy to Mot 4/10/04

Permit No. 0403-NMC2525	
Dist/Co/Rte/PM 04-Ala-680-10.25	
Date March 1, 2004	
Fee Paid \$	Deposit \$
Performance Bond Amount (1) \$	Payment Bond Amount (2) \$
Bond Company	
Bond Number (1)	Bond Number (2)

In compliance with (Check one):

- Your application of December 11, 2003
- Utility Notice No. _____ of _____
- Agreement No. _____ of _____
- R/W Contract No. _____ of _____

TO: SAN FRANCISCO PUBLIC UTILITIES COMMISSION
 1155 Market Street, 4th Floor
 San Francisco, CA 94103
 Attn: Garrett M. Dowd
 Phone: (415) 487-5211

PERMITTEE

and subject to the following, **PERMISSION IS HEREBY GRANTED** to:

Improve and maintain existing dirt access road, and install portable belt conveyor for gravel mixing, under State Highway 04-Ala-680, Post Mile 10.25, at Bridge No. 33-44, in the County of Alameda.

A minimum of one week prior to start of work under this permit, notice shall be given to, and approval of construction details, operations, public safety, and traffic control shall be obtained from State Representative N. Freitag, 600 Lewelling Blvd., San Leandro, 94579, 510-614-5951, weekdays, between 7:30 AM and 4:00 PM.

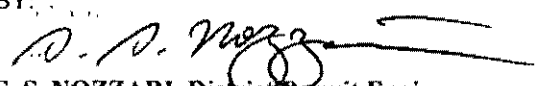
All permitted work requires the Permittee to apply for and obtain a work authorization number prior to start of work. See the attached "Encroachment Permit Project Work Scheduling Procedures" and the attached "Permit Project Work Scheduling Request Form". Additional time beyond the minimum seven-day advanced notice required in the above paragraph may be required for obtaining the traffic control approval.

The following attachments are also included as part of this permit (Check applicable):			In addition to fee, the permittee will be billed actual costs for:		
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	General Provisions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Review
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Utility Maintenance Provisions	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Inspection
<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No	Special Provisions	<input checked="" type="checkbox"/> Yes	-----	Field Work
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No	A Cal-OSHA permit required prior to beginning work: # _____	(If any Caltrans effort expended)		

Yes No The information in the environmental documentation has been reviewed and considered prior to approval of this permit.

This permit is void unless the work is completed before December 31, 2005.
 This permit is to be strictly construed and no other work other than specifically mentioned is hereby authorized.
 No project work shall be commenced until all other necessary permits and environmental clearances have been obtained.

APPROVED:

BIJAN SARTIPI, District Director
 BY:

S. S. NOZZARI, District Permit Engineer

Immediately following completion of the work permitted herein, the permittee shall fill out and mail the Notice of completion attached to this permit.

All Permittee's personnel shall wear appropriate personal protective equipment, including hard hats and bright colored vests, shirts, or jackets with retro-reflective material while on State highway right of way.

All utility work shall be performed in accordance with the Department of Transportation Encroachment Permit Utility, Tree Trimming, and Tree Removal Provisions dated August 1, 1998.

The site of the work shall be enclosed by suitable barricades, signs and lights, as approved by State's representative, to warn and protect traffic effectively.

Excavation backfill shall be in accordance with State Standards and as directed by the State's Representative.

Any excavation within 3.0 m (10') of the traveled way shall be protected by Type K Barrier Railing placed at a 10:1 taper or as otherwise directed by the State's representative. Any Type K Barrier Railing placed within 3.0 m (10') of the traveled way shall have one appropriate reflective marker affixed to the top of each section. A Type "P" object marker shall be installed in front of the approach end section.

Any damage to existing facilities, landscaping or irrigation within the State's Right of Way shall be replaced in kind by the permittee at permittee's expense.

Traffic control is not authorized as part of this permit.

Certain details of work authorized hereby are shown on permittee's plans dated 1/20/2004, submitted with request for permit.

Work within State highway right-of-way shall be conducted in compliance with applicable requirements of National Pollutant Discharge Elimination System (NPDES) and attached copy of Storm Water Special Provisions.

Notwithstanding General Provision # 4, your contractor is required to apply for and obtain an encroachment permit prior to starting work. Application shall be accompanied by a check for \$ 320.00. Contractor shall be billed for the actual inspection time at a rate of \$82.00 an hour.

If an accident or other incident (related to or not related to the permitted activity) occurs within, or close to the permitted activity, the permittee shall immediately stop work and remove traffic controls from the highway unless public health, welfare and safety is endangered by unfinished work. Only traffic control to protect open excavations may remain in place. After free traffic flow is restored, work in accordance with the conditions of the permit may be returned.

work on the highway. The permittee at his sole expense, unless under a prior agreement, JUA, or a CCUA, shall comply with said request.

26. **ARCHAEOLOGICAL/HISTORICAL:** If any archaeological or historical resources are revealed in the work vicinity, the permittee shall immediately stop work, notify the Department's representative, retain a qualified archaeologist who shall evaluate the site, and make recommendations to the Department representative regarding the continuance of work.
27. **PREVAILING WAGES:** Work performed by or under a permit may require permittee's contractors and subcontractors to pay appropriate prevailing wages as set by the Department of Industrial Relations. Inquiries or requests for interpretations relative to enforcement of prevailing wage requirements are directed to State of California Department of Industrial Relations, 525 Golden Gate Avenue, San Francisco, California 94102.
28. **RESPONSIBILITY FOR DAMAGE:** The State of California and all officers and employees thereof, including but not limited to the Director of Transportation and the Deputy Director, shall not be answerable or accountable in any manner for injury to or death of any person, including but not limited to the permittee, persons employed by the permittee, persons acting in behalf of the permittee, or for damage to property from any cause. The permittee shall be responsible for any liability imposed by law and for injuries to or death of any person, including but not limited to the permittee, persons employed by the permittee, persons acting in behalf of the permittee, or for damage to property arising out of work, or other activity permitted and done by the permittee under a permit, or arising out of the failure on the permittee's part to perform his obligations under any permit in respect to maintenance or any other obligations, or resulting from defects or obstructions, or from any cause whatsoever during the progress of the work, or other activity or at any subsequent time, work or other activity is being performed under the obligations provided by and contemplated by the permit.

The permittee shall indemnify and save harmless the State of California, all officers, employees, and State's contractors, thereof, including but not limited to the Director of Transportation and the Deputy Director, from all claims, suits or actions of every name, kind and description brought for or on account of injuries to or death of any person, including but not limited to the permittee, persons employed by the permittee, persons acting in behalf of the permittee and the public, or damage to property resulting from the performance of work or other activity under the permit, or arising out of the failure on the permittee's part to perform his obligations under any permit in respect to maintenance or any other obligations, or resulting from defects or obstructions, or from any cause whatsoever during the progress of the work, or other activity or at any subsequent time, work or other activity is being performed under the obligations provided by and contemplated by the permit, except as otherwise provided by statute.

The duty of the permittee to indemnify and save harmless includes the duties to defend as set forth in Section 2778 of the Civil Code. The permittee waives any and all rights to any type of expressed or implied indemnity against the State, its officers, employees, and State contractors. It is the intent of the parties that the permittee will indemnify and hold harmless the State, its officers, employees, and State's contractors, from any and all claims, suits or actions as set forth above regardless of the existence or degree of fault or negligence, whether active or passive, primary or secondary, on the part of the State, the permittee, persons employed by the permittee, or acting on behalf of the permittee.

For the purpose of this section, "State's contractors" shall include contractors and their subcontractors under contract to the State of California performing work within the limits of this permit.

29. **NO PRECEDENT ESTABLISHED:** This permit is issued with the understanding that it does not establish a precedent.
30. **FEDERAL CIVIL RIGHTS REQUIREMENTS FOR PUBLIC ACCOMMODATION:**
A. The permittee, for himself, his personal representative, successors in interest, and assigns as part of the consideration hereof, does hereby covenant and agree that:
1. No person on the grounds of race, color, or national origin shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
2. That in connection with the construction of any improvements on said lands and the furnishings of services thereon, no discrimination shall be practiced in the selection and retention of first-tier subcontractors in the selection of second-tier subcontractors.
3. That such discrimination shall not be practiced against the public in their access to and use of the facilities and services provided for

public accommodations (such as eating, sleeping, rest, recreation), and operation on, over, or under the space of the right of way.

4. That the permittee shall use the premises in compliance with all other requirements imposed pursuant to Title 15, Code of Federal Regulations, Commerce and Foreign Trade, Subtitle A, Office of the Secretary of Commerce, Part 8 (15 C.F.R. Part 8) and as said Regulations may be amended.
B. That in the event of breach of any of the above nondiscrimination covenants, the State shall have the right to terminate the permit and to re-enter and repossess said land and the land and the facilities thereon, and hold the same as if said permit had never been made or issued.
31. **MAINTENANCE OF HIGHWAYS:** The permittee agrees, by acceptance of a permit, to properly maintain any encroachment. This assurance requires the permittee to provide inspection and repair any damage, at permittee's expense, to State facilities resulting from the encroachment.
32. **SPECIAL EVENTS:** In accordance with subdivision (a) of Streets and Highways Code Section 682.5, the Department of Transportation shall not be responsible for the conduct or operation of the permitted activity, and the applicant agrees to defend, indemnify, and hold harmless the State and the city or county against any and all claims arising out of any activity for which the permit is issued.
Permittee understands and agrees that it will comply with the obligations of Titles II and III of the Americans with Disabilities Act of 1990 in the conduct of the event, and further agrees to indemnify and save harmless the State of California, all officers and employees thereof, including but not limited to the Director of Transportation, from any claims or liability arising out of or by virtue of said Act.
33. **PRIVATE USE OF RIGHT OF WAY:** Highway right of way shall not be used for private purposes without compensation to the State. The gifting of public property use and therefore public funds is prohibited under the California Constitution, Article 16.
34. **FIELD WORK REIMBURSEMENT:** Permittee shall reimburse State for field work performed on permittee's behalf to correct or remedy hazards or damaged facilities, or clear debris not attended to by the permittee.
35. **Notification of Department and TMC:** The permittee shall notify the Department's representative and the Traffic Management Center (TMC) at least 7 days before initiating a lane closure or conducting an activity that may cause a traffic impact. A confirmation notification should occur 3 days before closure or other potential traffic impacts. In emergency situations when the corrective work or the emergency itself may affect traffic, TMC and the Department's representative shall be notified as soon as possible.
36. **Underground Service Alert (USA) Notification:** Any excavation requires compliance with the provisions of Government Code Section 4216 et. seq., including, but not limited to notice to a regional notification center, such as Underground Service Alert (USA). The permittee shall provide notification at least 48 hours before performing any excavation work within the right of way.

STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION
ENCROACHMENT PERMIT GENERAL PROVISIONS
TR-0045 (REV. 8/98)

1. **AUTHORITY:** The Department's authority to issue encroachment permits is provided under, Div. 1, Chpt. 3, Art. 1, Sect. 660 to 734 of the Streets and Highways Code.
2. **REVOCAION:** Encroachment permits are revocable on five days notice unless otherwise stated on the permit and except as provided by law for public corporations, franchise holders, and utilities. These General Provisions and the Encroachment Permit Utility Provisions are subject to modification or abrogation at any time. Permittees' joint use agreements, franchise rights, reserved rights or any other agreements for operating purposes in State highway right of way are exceptions to this revocation.
3. **DENIAL FOR NONPAYMENT OF FEES:** Failure to pay permit fees when due can result in rejection of future applications and denial of permits.
4. **ASSIGNMENT:** No party other than the permittee or permittee's authorized agent is allowed to work under this permit.
5. **ACCEPTANCE OF PROVISIONS:** Permittee understands and agrees to accept these General Provisions and all attachments to this permit, for any work to be performed under this permit.
6. **BEGINNING OF WORK:** When traffic is not impacted (see Number 35), the permittee shall notify the Department's representative, two (2) days before the intent to start permitted work. Permittee shall notify the Department's Representative if the work is to be interrupted for a period of five (5) days or more, unless otherwise agreed upon. All work shall be performed on weekdays during regular work hours, excluding holidays, unless otherwise specified in this permit.
7. **STANDARDS OF CONSTRUCTION:** All work performed within highway right of way shall conform to recognized construction standards and current Department Standard Specifications, Department Standard Plans High and Low Risk Facility Specifications, and Utility Special Provisions. Where reference is made to "Contractor and Engineer," these are amended to be read as "Permittee and Department representative."
8. **PLAN CHANGES:** Changes to plans, specifications, and permit provisions are not allowed without prior approval from the State representative.
9. **INSPECTION AND APPROVAL:** All work is subject to monitoring and inspection. Upon completion of work, permittee shall request a final inspection for acceptance and approval by the Department. The local agency permittee shall not give final construction approval to its contractor until final acceptance and approval by the Department is obtained.
10. **PERMIT AT WORKSITE:** Permittee shall keep the permit package or a copy thereof, at the work site and show it upon request to any Department representative or law enforcement officer. If the permit package is not kept and made available at the work site, the work shall be suspended.
11. **CONFLICTING ENCROACHMENTS:** Permittee shall yield start of work to ongoing, prior authorized, work adjacent to or within the limits of the project site. When existing encroachments conflict with new work, the permittee shall bear all cost for rearrangements, (e.g., relocation, alteration, removal, etc.).
12. **PERMITS FROM OTHER AGENCIES:** This permit is invalidated if the permittee has not obtained all permits necessary and required by law, from the Public Utilities Commission of the State of California (PUC), California Occupational Safety and Health Administration (Cal-OSHA), or any other public agency having jurisdiction.
13. **PEDESTRIAN AND BICYCLIST SAFETY:** A safe minimum passageway of 1.21 meter (4') shall be maintained through the work area at existing pedestrian or bicycle facilities. At no time shall pedestrians be diverted onto a portion of the street used for vehicular traffic. At locations where safe alternate passageways cannot be provided, appropriate signs and barricades shall be installed at the limits of construction and in advance of the limits of construction at the nearest crosswalk or intersection to detour pedestrians to facilities across the street.
14. **PUBLIC TRAFFIC CONTROL:** As required by law, the permittee shall provide traffic control protection warning signs, lights, safety devices, etc., and take all other measures necessary for traveling public's safety. Day and night time lane closures shall comply with the Manuals of Traffic Controls, Standard Plans, and Standard

Specifications for traffic control systems. These General Provisions are not intended to impose upon the permittee, by third parties, any duty or standard of care, greater than or different from, as required by law.

15. **MINIMUM INTERFERENCE WITH TRAFFIC:** Permittee shall plan and conduct work so as to create the least possible inconvenience to the traveling public; traffic shall not be unreasonably delayed. On conventional highways, permittee shall place properly attired flagger(s) to stop or warn the traveling public in compliance with the Manual of Traffic Controls and Instructions to Flaggers Pamphlet.
16. **STORAGE OF EQUIPMENT AND MATERIALS:** Equipment and material storage in State right of way shall comply with Standard Specifications, Standard Plans, and Special Provisions. Whenever the permittee places an obstacle within 3.63 m (12') feet of the traveled way, the permittee shall place temporary railing (Type K).
17. **CARE OF DRAINAGE:** Permittee shall provide alternate drainage for any work interfering with an existing drainage facility in compliance with the Standard Specifications, Standard Plans and/or as directed by the Department's representative.
18. **RESTORATION AND REPAIRS IN RIGHT OF WAY:** Permittee is responsible for restoration and repair of State highway right of way resulting from permitted work (State Streets and Highways Code, Sections 670 et. seq.).
19. **RIGHT OF WAY CLEAN UP:** Upon completion of work, permittee shall remove and dispose of all scraps, brush, timber, materials, etc. off the right of way. The aesthetics of the highway shall be as it was before work started.
20. **COST OF WORK:** Unless stated in the permit, or a separate written agreement, the permittee shall bear all costs incurred for work within the State right of way and waives all claims for indemnification or contribution from the State.
21. **ACTUAL COST BILLING:** When specified in the permit, the Department will bill the permittee actual costs at the currently set hourly rate for encroachment permits.
22. **AS-BUILT PLANS:** When required, permittee shall submit one (1) set of as-built plans in compliance with Department's requirements. Plans shall be submitted within thirty (30) days after completion and approval of work.

As-Built plans or accompanying correspondence shall not include disclaimer statements of any kind. Such statements shall constitute non-compliance with these provisions. Failure to provide complete and signed As-Built plans shall be cause for bond or deposit retention by the Department.
23. **PERMITS FOR RECORD PURPOSES ONLY:** When work in the right of way is within an area under a Joint Use Agreement (JUA) or a Consent to Common Use Agreement (CCUA), a fee exempt permit is issued to the permittee for the purpose of providing a notice and record of work. The Permittee's prior rights shall be preserved without the intention of creating new or different rights or obligations. "Notice and Record Purposes Only" shall be stamped across the face of the permit.
24. **BONDING:** The permittee shall file bond(s), in advance, in the amount set by the Department. Failure to maintain bond(s) in full force and effect will result in the Department stopping of all work and revoking permit(s). Bonds are not required of public corporations or privately owned utilities, unless permittee failed to comply with the provision and conditions under a prior permit. The surety company is responsible for any latent defects as provided in California Code of Civil Procedures, Section 337.15. Local agency permittee shall comply with requirements established as follows: In recognition that project construction work done on State property will not be directly funded and paid by State, for the purpose of protecting stop notice claimants and the interests of State relative to successful project completion, the local agency permittee agrees to require the construction contractor furnish both a payment and performance bond in the local agency's name with both bonds complying with the requirements set forth in Section 3-1.02 of State's current Standard Specifications before performing any project construction work. The local agency permittee shall defend, indemnify, and hold harmless the State, its officers and employees from all project construction related claims by contractors and all stop notice or mechanic's lien claimants. The local agency also agrees to remedy, in a timely manner and to State's satisfaction, any latent defects occurring as a result of the project construction work.
25. **FUTURE MOVING OF INSTALLATIONS:** Permittee understands and agrees to rearrange a permitted installation upon request by the Department, for State construction, reconstruction, or maintenance

1. **NPDES REQUIREMENTS:** Permittee shall be responsible for full compliance with the Caltrans Storm Water Program and the Caltrans NPDES permit requirements. For additional information, visit the Caltrans Stormwater Website at <http://www.dot.ca.gov/hq/construct/stormwater/stormwater1.htm>
2. **RESPONSIBILITY FOR DEBRIS:** Permittee shall be responsible for preventing all dirt, trash, debris and other construction waste from entering storm drains, local creeks, or other bodies of water.
3. **VEHICLES AT THE WORK SITE:** Permittee shall prevent all vehicles, equipment, etc. from leakage or mud tracking onto roadways.
4. **VEHICLE FUEL AT THE WORKSITE:** Permittee equipment fueling and maintenance activities shall not result in any pollution at the job site.
5. **CLEANING VEHICLES AT WORKSITE:** Permittee shall clean all equipment with clean water only in a bermed area or over a drip pan large enough to prevent run-off. No soaps, solvents, degreasers, etc shall be used in State right of way. Any water from this operation shall be collected and disposed of at an appropriate site.
6. **WEATHER CONDITIONS AT WORKSITE:** All paving, painting, grinding, and saw-cutting operations shall be performed during dry weather.
7. **FRESH AC:** Fresh AC shall not be washed.
8. **PROTECTION OF DRAINAGE:** Permittee shall protect/cover gutters, ditches, drainage courses, and inlets with sand/gravel bags, fiber rolls, etc., to the satisfaction of the State representative during paving operations, saw-cutting, etc.
9. **SAW CUTTING:** No dry saw-cutting shall be allowed.
10. **SPOILS & RESIDUE:** Permittee shall vacuum or sweep any saw-cut spoils, debris, residue, etc. No spoils, debris, residue, etc. shall be washed into a drainage system.
11. **PAINT:** Rinsing of paintbrushes or materials is not permitted in state right-of-way. Oil based paint sludge and unusable thinner shall be disposed of at an approved hazardous waste site.
12. **GROUT & MORTAR:** All construction materials including concrete, grout, cement containing premixes and mortar shall be stored under cover and separated away from drainage areas. Stored materials shall not reach a storm drain.
13. **CONCRETE EQUIPMENT/VEHICLES:** Concrete equipment/trucks shall be washed out off of State right of way or in a designated washing area as required by Caltrans Standards.
14. **SOIL DISTURBANCE:** Soil disturbing activities shall be avoided during the rainy season. If grading activities during wet weather are allowed in your permit, all control measures necessary to prevent erosion shall be implemented.
15. **EXISTING VEGETATION:** Mature vegetation is the best form of erosion control. Disturbance to existing vegetation shall be minimized whenever possible.
16. **SLOPES:** In cases where slopes are disturbed during construction, soil shall be secured with erosion control and soil stabilization measures. Fiber rolls shall be placed downslope until the soil is secure.
17. **CATCH BASINS:** Sand, dirt, and similar materials shall be stored at least 3-meters (10-feet) from catch basins and covered with a tarp during wet weather or when rain is forecast.
18. **SWEEPING:** Roadways and other paved areas shall be swept daily. Roadways or work areas shall not be washed down with water.
19. **CONTAMINATED WATER:** The State representative shall be notified in case any unusual discoloration, odor, texture in ground water, in excavated material or abandoned underground tanks, pipes, or buried debris are encountered.
20. **DIESEL FUELS:** Use of diesel as a form-oil shall not be Permitted.
21. **DEWATERING:** Any effluent discharged into any storm water system requires a waste discharge permit from the Regional Water Quality Control Board. The permittee shall provide the State Representative with the Waste Discharge Identification Number.

Encroachment Permit Project Work Scheduling Request Form



Requests for scheduling & approval of traffic control shall be submitted weekly, on this form, through the designated State Representative by FAX to 510-286-3960 or E-mail: Permit_Duty_Engineer@DOT.CA.GOV, a minimum of 7 days in advance of proposed work

1. Permit No.: _____ Expiration Date: _____ 2. Request date: _____

3. State Representative: _____

4. Route _____ 5. County _____ 6. City or township _____

7. Permit Work Hours Use 24 hour clock format: ____:____ to ____:____ 8. *Requested Work Week: _____ to _____

9. PostMiles or Kilopost: From: _____ To: _____ 10. Existing Lanes (each dir) Dir ____ Lns ____ / Dir ____ Lns ____

11. Describe Location (use landmark if necessary): From: _____ To: _____

12. Name of Conventional Highway or Surface St _____

13. Check any of the following that apply: Connector ramp (Connects 2 State Rtes) From SR # _____ To SR # _____

Off/ramp (Freeway to City St) Ramp Name _____ Ramp or Connector

On/ramp (City St to Freeway) Ramp Name; _____ Completely Closed

One-way Traffic Control w/flaggers or pilot car (Alternate use of the same lane for both dir) Full Closure (All lns, 1 dir)

Traffic Diversion (Reconfigure lane use & divert traffic to allow at least 1 ln open in each dir, describe in comments below)

Intermittent Traffic Control Long-Term (24+ hour continuous) Long-Term Date/Time Open _____

***IMPORTANT:** Resubmit request weekly, a minimum of 7 days in advance. Work Hours and Days must comply with Permit Requirements. Deviation from permit provisions must be requested in writing to Caltrans. Once approved, a rider will be issued.

YEAR:			TIME		DIR	RESTRICTED LANES													BREAKS		#	
Month	Day	Day of Week	Start (10-97)	Finish (10-98)	NB - SB EB - WB	ALL Lanes	SHLDR		1	2	3	4	5	6	V L	Aux Coll	CD Med	LT Pckt	RT Pckt	10-15 Min	Roll	Caltrans will complete and return
							Left	Right														

NOTES:
Month: Enter month (1 thru 12) for which traffic control is requested. **DAY:** Enter day of closure (1 thru 31) **Day of Week:** Enter (M-T-W-TH-F-SA-SU.)
DIRECTION (N - S - W - E) Enter North, South, East, West. Separate lane closure #'s are required for each direction unless work is on an undivided hwy.
LANES: Lanes are numbered in direction of travel from left to right, excluding tumpockets (left is always #1 or "fast lane") Check lanes or portions of highway to be closed, including Shoulders, Auxiliary Lane, Center Divide. "V/L" (Various Lanes) may be used, but comments must indicate the # of lanes to remain open at all times. "# " Work Scheduling Number - assigned by Caltrans and faxed back to requestor.

13. Description of work _____

14. Detour (Required for full closure) _____

15. On-site during work (circle if applicable) CHP / PD / Other _____

16. Comments: _____

17. Contingency Plan:

Permittee:	Contractor:
Address:	
Contact: (On-Site personnel)	Name(s)
	Telephone-Office: _____ FAX: _____
	Cellular: _____ Pager: _____ Other: _____

While performing the approved traffic control, Permittee shall notify Caltrans Communications Center via telephone at 510-286-6359 daily. Notifications shall be completed at start time (10-97) AND completion time (10-98), OR cancellation (10-22).

ENCROACHMENT PERMIT PROJECTS WORK SCHEDULING PROCEDURES

1. The intent of these procedures is to help ensure public convenience by identifying planned closures on the State highway system, resolving potential conflicts, and disseminating all available real-time information to the California motorists via the internet, media, etc.
2. All permitted work (with or without traffic control) is subject to advance scheduling and approvals on a weekly basis.
3. Requests shall be submitted one week in advance for the weekly cycle. The one week in advance period is defined as the upcoming week that starts on Monday at Noon and ends Sunday at Midnight. Any closure that begins on upcoming Sunday and ends on the same day or on Monday must be requested on the prior week's submittal cycle.
4. Any requested traffic control shall be in conformance to that specified in the permit provisions or otherwise coordinated with the designated State representative in advance.
5. Requests for scheduling and approval of field work shall be submitted on attached form via facsimile at 510-286-3960, via E-mail to: Permit_Duty_Engineer@DOT.CA.GOV, or through the designated State representative.
6. Requests submitted with incomplete, illegible, or inaccurate information will be returned for correction. Assistance for completing the request form may be obtained from the designated State representative or via telephone at 510-286-4406.
7. All requests must include a contingency plan for restoring public traffic (i.e., reopening of a closed lane, ramp and/or shoulder) in the event of an equipment breakdown, shortage of or lack of production materials or any other failure which would otherwise delay restoring public convenience within the time limits specified in the permit. The contingency plan shall include availability of any proposed standby equipment and stockpiled materials that can be utilized for the immediate opening of closures, when ordered by the State representative. Acceptance of the contingency plan by the Engineer shall not relieve the Contractor from the requirement of opening the lane, ramp and shoulder closure to public traffic as specified in the lane closure hours section of the permit provisions.
8. Completed request forms shall be submitted on or before 12:00 Noon on Monday preceding the week during which work is to be scheduled.
9. The Permittee will be notified of approval or denial of the submitted request no later than 1:00 p.m. on Thursday of the week preceding the requested work schedule. When deemed necessary to ensure public convenience, Caltrans may deny or re-schedule the request.
10. Notification of approval shall be accompanied by a work authorization number, which must be provided to Caltrans at the time the scheduled work is performed.
11. Before, during, and after undertaking the approved traffic control, Permittee shall communicate with Caltrans/District Communication Center via telephone at 510-286-6359 as follows:
 - a. If for any reason the scheduled work is cancelled or delayed, Permittee shall contact Caltrans and relay: "Work number _____ is 10-22" and shall provide any requested information regarding the cancellation (e.g. inclement weather, breakdown of equipment, lack of personnel, rescheduling, unforeseen problems, etc.).
 - b. Prior to start of the approved work, Permittee shall contact Caltrans and relay: "Work number _____ is 10-97."
 - c. During the work, any unexpected occurrences including delayed openings, accidents, etc. shall be communicated to Caltrans.
 - d. Upon completion of the approved work, Permittee shall contact Caltrans and relay: "Work number _____ is 10-98."

ORIGINAL

ASSIGNMENT OF LEASE

FOR VALUE RECEIVED by the undersigned, the receipt whereof is hereby acknowledged, the undersigned, G. ARMANINO & SON, INC., a corporation, hereinafter referred to as "Assignor", and effective on the later of December 23, 1986, or as soon thereafter as approval of the City and County of San Francisco is given, does hereby grant, transfer, assign and set over to MISSION VALLEY ROCK CO., a corporation, hereinafter referred to as "Assignee", all of Assignor's right, title and interest of whatsoever nature or kind in and to that certain lease made by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, as lessor, and said G. ARMANINO & SON, as lessee, dated June 20, 1985, covering a term expiring October 31, 2012, hereby referred to and by such reference incorporated herein with the same force and effect as though fully set forth at length herein, and leasing those certain premises consisting of 204 acres in Alameda County, California, as more particularly described and set forth in said lease of June 20, 1985, with the understanding that said lessor, in consenting to this assignment, is insisting that the undersigned remain liable under the terms of said lease for and during the entire term thereof.

Said assignment of said lease to said Assignee is upon the express understanding and agreement that said Assignee shall faithfully perform all of the terms, covenants and provisions of said lease, including the payment of rental on the part of the lessee therein reserved at the time and in the manner therein provided.

Any further assignment of said lease by the Assignee herein, with the consent of the lessor, shall not release the undersigned from liability under the terms of said lease, whether or not the undersigned is notified of such assignment or consents thereto, and whether or not the terms of said lease are changed or modified. The liability of the undersigned, however, shall not extend beyond the term of said lease nor be for an amount in excess of the rental therein provided.

Dated this 17 day of December, 1986, at
San Francisco, California.

Assignor:

G. ARMANINO & SON, Inc.

By: John J. [Signature]

ACCEPTANCE OF ASSIGNMENT

Effective on the later of December 23, 1986, or as soon thereafter as approval of the City and County of San Francisco is given, the undersigned MISSION VALLEY ROCK CO., the Assignee above referred to, does hereby accept the foregoing assignment of said lease hereinabove specifically mentioned and set forth in said ASSIGNMENT OF LEASE, covering a term for said demised premises terminating October 31, 2012, and does hereby agree to be bound by and shall perform all the terms, covenants and provisions contained in said lease; and further agrees to and shall make all rental payments promptly as specified thereunder, for the balance of the term of said lease expiring October 31, 2012, and lastly, the undersigned agrees to and shall save the Assignor free and harmless from any liability arising under or pursuant to said lease.

Executed by and on behalf of the undersigned through its duty authorized officers at San Francisco, California, this 16 day of December, 1986.

Assignee:

MISSION VALLEY ROCK CO.

By: Robert C. O'Neil

CONSENT TO ASSIGNMENT BY LESSOR

Effective as of December 23, 1986, the undersigned CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, by and through its Public Utilities Commission as represented by its General Manager of Public Utilities does hereby consent to the above and foregoing assignment of said lease from said G. ARMANINO & SON, INC., to said MISSION VALLEY ROCK CO., all as above set forth in the foregoing ASSIGNMENT OF LEASE and ACCEPTANCE OF ASSIGNMENT it being understood and agreed that the within consent to said assignment is subject to all the terms, covenants and conditions in said lease contained, and with the specific understanding: (1) that this consent is not a consent to any future assignment of said lease; and (2) that the original lessee, to wit, the foregoing Assignor, G. ARMANINO & SON, INC., is not released from any liability thereunder not withstanding said assignment, or any further assignment of said lease until the termination of such lease on October 31, 2012.

IN WITNESS WHEREOF, the undersigned has executed this consent to said assignment this 23rd day of December, 1986.

Lessor:

CITY AND COUNTY OF SAN
FRANCISCO, a municipal
corporation

PUBLIC UTILITIES COMMISSION

By: 

PUBLIC UTILITIES COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 86-0517

WHEREAS, The City and County of San Francisco, a municipal corporation, by and through its Public Utilities Commission, pursuant to its Resolution No. 85-0147, adopted April 23, 1985, leased to G. Armanino & Son, 204 acres of Water Department land in Alameda County for vineyard, row crop and rock quarry use for a term of twenty seven (27) years eight (8) months, commencing March 1, 1985; and

WHEREAS, pursuant to the aforementioned Resolution No. 85-0147, Commission also approved a sublease of a 135 acre portion of the 204 acre parcel to Mission Valley Rock Company for purpose of gravel extraction, subject to royalty payments for quarry products removed from premises by sublessee, in accordance with the subject lease and sublease agreements; and

WHEREAS, G. Armanino & Son, Lessee, desires to assign its master lease of the entire 204 acre to Mission Valley Rock Company, subject to its lease terms and conditions for the remainder term of said lease; and

WHEREAS, It will be to the best interest of City to consent to the assignment of the subject lease from G. Armanino & Son, Inc., Lessee/Assignor to Mission Valley Rock Company, Sublessee/Assignee; therefore be it

PUBLIC UTILITIES COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. _____

RESOLVED, That this Commission hereby consents to the Assignment of the 204 acre lease for purposes of agricultural and rock quarry use, subject to all terms and conditions of said lease to Mission Valley Rock Company, for the remainder term of said lease; and be it further

RESOLVED, That City's Board of Supervisors be requested to approve, by ordinance, the subject lease assignment.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission
at its meeting of _____ DECEMBER 23 1986

Romaine A. Boldridge
Secretary, Public Utilities Commission

ORIGINAL

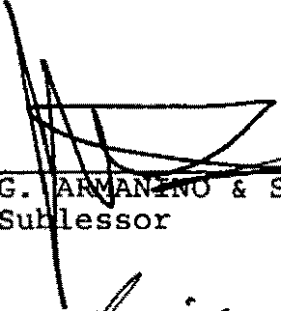
AMENDMENT TO SUBLEASE BETWEEN

G. ARMANINO & SON, INC., and MISSION VALLEY ROCK CO.

It is hereby agreed that Paragraph 9 D shall be amended
as follows:

"Sublessee's gravel pit shall not exceed a
depth of 140 feet."

Dated: August 20, 1986



G. ARMANINO & SON, INC.
Sublessor

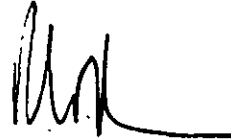


MISSION VALLEY ROCK CO.
Sublessee

CONSENT

Consent of the City and County of San Francisco, a municipal corporation, and its Public Utilities Commission is hereby given to amend that certain SUBLEASE, dated June 20, 1985, by and between G. Armanino & Son, Inc., and Mission Valley Rock Company, by modifying Paragraph 9D as follows:

"Sublessee's gravel pit shall not exceed a depth of 140 feet."



RUDOLF NOTHENBERG
General Manager of Public Utilities

Approved as to Form:
Louise Renne, City Attorney

By 
GEORGE KRUEGER
Utilities General Counsel

Authorized by Public Utilities
Commission:

Resolution No. 86-0451
Adopted: October 28, 1986
Attest:


ROMAINE BOLDRIDGE
Secretary

PUBLIC UTILITIES COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 86-0451

RESOLVED, That this Commission hereby approves and authorizes the execution of that Second Supplemental Agreement in Modification of Lease for Mission Valley Rock Company (copies of which agreement are on file with San Francisco Water Department) so as to modify subparagraph D of Section 7 - Operation of Quarry provision of the present lease (adopted January 10, 1978 by Resolution 78-0013); and be it further

RESOLVED, That this Commission hereby gives consent to amend that certain sublease dated June 20, 1985 by and between G. Armanino and Son, Inc., and Mission Valley Rock Company (adopted April 23, 1985 by Resolution 85-0147) by modifying Paragraph 9.D thereof; and be it further

RESOLVED, That pursuant to Section 7.402-1 of the Charter, the subject Second Supplemental Agreement in Modification of Lease be submitted to the Board of Supervisors for confirmation by Ordinance.

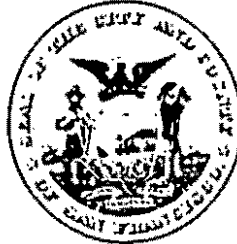
I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission
at its meeting of OCTOBER 23 1986

Gail Johnson
ACTING Secretary, Public Utilities Commission

ORIGINAL

CITY AND COUNTY OF SAN FRANCISCO
A MUNICIPAL CORPORATION

DIANNE FEINSTEIN, MAYOR



SUBLEASE

G. ARMANINO & SON, INC.

TO

MISSION VALLEY ROCK CO.

ALAMEDA COUNTY

CALIFORNIA

PUBLIC UTILITIES COMMISSION

LOUIS J. GIRAUDO PRESIDENT
H. WELTON FLYNN VICE-PRESIDENT
JOHN M. SANGER COMMISSIONER
NANCY C. LENVIN COMMISSIONER
JOSEPH F. BARLETTA COMMISSIONER

RUDOLF NOTHENBERG
GENERAL MANAGER OF PUBLIC UTILITIES

SAN FRANCISCO WATER DEPARTMENT
ARTHUR R. JENSEN
ACTING GENERAL MANAGER AND CHIEF ENGINEER

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SUBLEASE

THIS SUBLEASE is made on JUNE 20, 1985, by and between G. ARMANINO & SON, Inc. ("Sublessor") and MISSION VALLEY ROCK CO. ("Sublessee"), with reference to the following facts and objectives.

W I T N E S S E T H

WHEREAS, the City and County of San Francisco, a municipal corporation ("City"), by and through its Public Utilities Commission ("Commission"), owns 204 acres, more or less, of real property situated in the County of Alameda, State of California, and

WHEREAS, the Sublessor has entered into a Master Lease with the City dated JUNE 20, 1985 (attached hereto as Exhibit "A") for 204 acres, more or less, more particularly described on page two of said Master Lease, and

WHEREAS, the Sublessor wishes to lease to Sublessee and Sublessee wishes to lease from Sublessor the hereinafter described 135 acres, more or less, of the aforementioned 204 acres of real property for gravel extraction purposes; and

WHEREAS, the City shall consent to this Sublease on the condition set forth in this Sublease; and

WHEREAS, Sublessor wishes to require Sublessee to perform its obligations under this Sublease directly to the City;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and of payment of monies by Sublessee

as hereinafter required, the parties hereto mutually agree as follows:

1. PREMISES.

Sublessor hereby leases to Sublessee, and Sublessee hereby hires and takes from Sublessor, for the purposes herein enumerated, the following described real property situated in the County of Alameda, State of California (hereinafter referred to as "Premises"):

PARCEL "B"

A portion of Parcel 65 Sunol San Antonio Lands, Alameda County, as said Parcel is described in deed from Spring Valley Water Company to the City dated and recorded March 3, 1930 in Liber 2350 of Official Records, Alameda County at Page 1; said portion commencing at a point on the easterly right of way line opposite engineers station A352+25 of State Freeway Route 680; thence from said point of commencement by the following courses and distances, South 50° 16' 30" East 754 feet, South 30° 08' 30" East 477 feet, South 52° 45' 30" East 324 feet, South 5° 49' 30" East 720 feet, South 35° 01' 30" East 1038 feet, North 88° 58' 30" East 116 feet to the westerly right of way at Calaveras Road (Co Road 6618), thence along said Right of Way South 13° 59' East, 369.4 feet, thence leaving said Right of Way, South 54° 00' West 1056 feet, North 79° 00' West 1539 feet, North 44° 00' West 1220 feet to the easterly right of way line of State Freeway Route 680, thence along said right of way line North 39° 00' East 502 feet, North 24° 43' 30" East 2282 feet to the point of commencement containing 135 acres more or less.

THE TOTAL AREA HEREBY DEMISED BEING 135 ACRES, more or less, all as indicated on San Francisco Water Department Drawing No. B-4374, attached hereto and made a part hereof.

2. PERMIT TO OPERATE.

Prior to commencement of operation of the Premises as a quarry, Sublessee will furnish to City satisfactory evidence that the necessary permit for gravel quarry operation from Alameda County Planning Commission and other required public agency

approvals, including an Environmental Impact Report, have been obtained. (City will give assistance to Sublessee in obtaining quarry permit, when requested.) The burden is upon Sublessee to obtain such permit or any necessary renewal thereof. In the event Sublessee fails to obtain the required initial permit or approvals from any of the public agencies, then this Sublease shall terminate and Sublessee will vacate and surrender to Lessee all of the Premises hereby demised. There shall be no refund of rentals or any payments paid in advance. If, however, during the term of this Sublease, such permit, or any renewal thereof, ceases to be in force and effect, Sublessee shall be responsible for payment of \$1,000,000 minimum royalty required for the full term of this sublease, as provided in Section 4, "Rental Royalties", of this lease.

3. TERM.

The term of this Sublease shall commence no later than February 1, 1992 and shall terminate on the 31st day of October, 2012. The actual date of commencement shall be determined by the date Sublessor (Armanino Farms) gives written notice to the Sublessee, with a copy delivered to the General Manager and Chief Engineer, San Francisco Water Department (hereinafter referred to as "Manager"), of Sublessor's intention to terminate row crop operations on the Premises. Notwithstanding the above, Sublessor and Sublessee have agreed that, as to twenty-eight (28) acres, more or less, of the Premises adjacent to Alameda Creek (as shown on S.F.W.D. Drawing No. B-4374), Sublessor shall deliver said

notice of termination and the term of this Sublease as to said acreage shall commence no later than February 1, 1988.

It is understood that all gravel harvest and the required reclamation of the Premises, in accordance with the approved reclamation plan, shall be completed during the term of this sublease.

4. RENTAL/ROYALTIES. Sublessee shall pay to City as royalties during each year of the Sublease period, a royalty of 50 cents per ton of quarry products, removed from the Premises by Sublessee or by its agents or customers; provided, however, that in no event shall the royalty amount to less than \$1,000,000 for the full term.

Sublessee recognizes its obligation to pay the rent provided for in the Master Lease.

City reserves the right to review and adjust royalty payment on per ton or cubic yard of quarry products removed from the Premises on January 10, 1988, and on January 10 of each succeeding five year period. Any increase of royalty payment to City shall be justifiable and fair.

Payment of royalties shall be made monthly, as follows: On or before the twentieth day of the second and each succeeding calendar month of the Sublease term, Sublessee shall pay the royalty hereinbefore specified on the number of tons of quarry materials removed from the demised premises during the calendar month next preceding, provided, however, that on termination of

this said Sublease, if the amount of royalties paid to City for the entire term is less than \$1,000,000, Sublessee shall within ten (10) days pay to City an amount equal to the difference between the amount of royalties actually paid during the Sublease term and \$1,000,000.

Sublessee shall weigh or measure all quarry products prior to removal from Premises to the satisfaction of the Manager.

Sublessee shall keep accurate books and accounts showing in detail all gross revenues from quarry, as well as quantities, prices, date of deliveries and names of the receivers of all quarry materials removed from the Premises and disposed of by Sublessee by sale or otherwise. City's Controller and other authorized representatives of City shall have the right to examine the books and records of Sublessee pertaining to all quarry operations at any and all reasonable times for the purpose of auditing the same, and may prescribe the forms for keeping such accounts. The intent and purpose of the provisions of this section is that Sublessee shall keep and maintain records which will enable City and Sublessee to ascertain and determine, clearly and accurately, the quantity of quarry materials removed by Sublessee, and that the form and method of Sublessee's reporting of quarry materials removed will be adequate to provide a control and test check of all revenues derived by Sublessee under this Sublease. City shall have the right at least quarterly each year to examine and inspect the books, records and accounts of

Sublessee with respect to said revenues. Sublessee shall maintain on the Premises all necessary books, records and accounts by which the daily report may be examined at any time by City.

Not later than one hundred twenty (120) days after the annual closing of Sublessee's books, Sublessee shall furnish to Manager an unqualified report, certified by a certified public accountant, of the gross revenues derived from its operations permitted herein. Said report shall not be made public except as required by law. The cost of said report shall be paid by Sublessee.

All rentals shall be paid in lawful money of the United States of America, free from all claims, demands, set-offs or counterclaims against City of any kind or character with the sole exception of a set-off for the rent paid to Sublessor.

5. SURETY BONDS

A. \$1,000,000 Rental/Royalty Bond

Lessee agrees that, as soon as he obtains the quarry permit referred to in Section 2 hereof, he will obtain and deliver to Manager a valid surety bond in the sum of \$1,000,000, issued by a surety company acceptable to the Controller of City and in such form approved by the City Attorney of City, guaranteeing payment by Lessee of the minimum \$1,000,000 royalty referred to in Section 4, "Rental/Royalties" hereof. Each year after the delivery of such bond, the amount thereof shall be reduced by the amount of royalties paid to City.

Said bond shall provide that thirty (30) days' written notice of cancellation or material change of said bond shall be delivered to Manager.

B. \$50,000 Faithful Performance Bond.

Lessee agrees that prior to commencement of quarrying operations, he will obtain and deliver to Manager a valid surety bond in a sum equal to fifty thousand (\$50,000.00) dollars, issued by a surety company acceptable to the Controller of City and in such forms as approved by the City Attorney of City, which surety bond or bonds shall be kept at Lessee's own expense in full force and effect during the complete term of this lease, to insure faithful performance by Lessee of all the covenants, terms and conditions of this lease, inclusive of, but not restricted to, the payment of all rent. Said bond shall provide that thirty (30) days' written notice of cancellation or material change of said bond shall be delivered to Manager.

Lessee agrees to increase forthwith the aforesaid bond amount to that determined and if demanded in writing by Commission, but said increase must be reasonable and justifiable by Commission.

6. SUBLESSEE PERFORMANCE UNDER MASTER LEASE.

At any time and on prior notice to Sublessee, Sublessor can elect to require Sublessee to perform its obligations under this Sublease directly to the City, and Sublessee shall do so on Sublessor's election, in which event Sublessee shall send to Sublessor from time to time copies of all notices and other communications it shall send to and receive from City.

7. INCORPORATION BY REFERENCE: MASTER LEASE.

The following paragraphs of the Master Lease (Exhibit "A") are incorporated into this Sublease as if fully set forth in this Sublease except as noted:

- Paragraph 4 TAXES, ASSESSMENTS AND LIENS
- Paragraph 5 BUILDINGS AND IMPROVEMENTS
- Paragraph 7 COMPLIANCE WITH LAWS AND REGULATIONS
- Paragraph 9 HEALTH, SAFETY AND SANITARY REQUIREMENTS
- Paragraph 11 WASTE
- Paragraph 12 BURNING
- Paragraph 13 HUNTING AND FISHING
- Paragraph 15 NOTICE OF NONRESPONSIBILITY
- Paragraph 16 PIPELINES AND MONUMENTS
- Paragraph 17 UTILITY INSTALLATIONS
- Paragraph 18 DEFAULT BY LESSEE: REMEDIES OF CITY ON DEFAULT
- Paragraph 19 WORKMEN'S COMPENSATION INSURANCE AND SOCIAL SECURITY
- Paragraph 20 ASSIGNMENT OR SUBLETTING
- Paragraph 21 SURRENDER OF POSSESSION
- Paragraph 22 CITY TO BE HELD HARMLESS
- Paragraph 23 INSOLVENCY: RECEIVER
- Paragraph 24 CONDEMNATION
- Paragraph 25 PUBLIC LIABILITY AND PROPERTY DAMAGE
- Paragraph 27 CONFLICT OF INTEREST
- Paragraph 29 HOLDING OVER
- Paragraph 30 LITIGATION COSTS; ATTORNEYS FEES

Paragraph 31 NOTICES

Paragraph 32 LESSEE OBLIGATIONS

Paragraph 33 APPLICATION OF PAYMENTS

Paragraph 34 CHARTER PROVISIONS

Paragraph 35 AGREEMENT MADE IN CALIFORNIA

Paragraph 36 SUCCESSORS AND ASSIGNS

Paragraph 37 SECTION HEADINGS

Paragraph 38 NON-DISCRIMINATION PROVISIONS

Paragraph 39 TIME

8. USE AND OPERATION OF PREMISES.

The Premises shall be used by Sublessee only for the purpose of quarrying and removal of gravel and rock products therefrom. Sublessee agrees that overburden and silt material shall be stockpiled, and not removed from the Premises. Said materials are to be utilized for reclamation development in accordance with Section 9, "RECLAMATION", of this Sublease.

The operations of Sublessee and any construction, alterations, and improvements hereunder shall, at all times, be subject to the approval of Manager. Plans for such work must be submitted to and approved by Manager in writing before commencing the work.

All buildings, gravel plant equipment, structures and improvements, except fences constructed or placed by Sublessee on the Premises for the purpose of removal and processing of gravel and rock products, shall remain the property of Sublessee and shall be removed by Sublessee within thirty (30) days after

termination or expiration of this lease, provided there are no defaults in the payment of royalties and no violation by Sublessee of any of the terms and conditions of said Sublease; and if not so removed, City shall have the option to remove all buildings, structures, improvements and debris at Sublessee's expense, or such structures, buildings and improvements as selected by City shall become and remain the sole property of City. If Sublessee should damage said land in removing its buildings, structures or improvements therefrom, then Sublessee shall repair such damage to Manager's satisfaction. Fences constructed by Sublessee shall be left in good condition on the property:

Access Road: Sublessee will not be permitted to construct an access road connecting with Calaveras Road for quarry products.

9. OPERATION OF QUARRY.

A. Sublessee shall provide and maintain adequate approved fences surrounding the Premises and access road. Gates at the entrance of quarry shall be kept closed and locked at night and when plant is not in operation.

Sublessee shall maintain and keep in good repair all existing and new roads and water courses, and at no time cause dust or other detrimental factors affecting the agricultural and pasture lands and livestock in the adjacent area. Sublessee shall promptly and satisfactorily repair, or cause to be repaired, any damage to public or private roads caused by operation thereon of its vehicles, or by vehicles of its customers hauling gravel or quarry products from Premises.

Sublessee shall construct and maintain a dike of sufficient size and design to prevent any ponding of adjacent lands. The size, design and construction of said dike shall be to the approval of Manager.

B. All matters herein provided for in this section shall be in accordance with the direction of, and to the satisfaction of, Manager. The quarry shall be operated by Sublessee in such manner and to such extent as to meet all reasonable demands for sale of the quarry products. Sublessee shall, at all times, maintain stock of quarry products on hand in bunkers or stockpiles available for sale and delivery to prospective buyers. Sublessee shall establish and post, or advertise, a schedule of prices for general sale of the various classes of quarry products which may be produced from the Premises, which schedule of prices, while providing for a fair ^{profit} product for Sublessee, shall be in competition with other quarries.

C. There shall be no discharge of wash water into Alameda Creek.

D. Sublessee's gravel pit shall not exceed a depth of 100 feet.

E. Authorized representatives of City, Commission and Water Department shall be allowed access to the Premises to inspect operations and for other reasonable purposes.

F. Sublessee shall commence quarry operation on or before the fifth (5th) year from the commencement date of this Sublease.

G. Sublessee shall be solely responsible for any and all costs which may be incurred for the relocation of any and all transmission pipelines, aqueduct or overhead transmission lines located on the Premises, if relocation is necessary.

H. Sublessee shall be solely responsible for any and all costs which may be incurred for the relocation of any and all transmission pipelines, aqueduct or overhead transmission lines on the Premises, if relocation is necessary.

10. RECLAMATION.

When the quarry permit is obtained by Sublessee from the Alameda County Planning Commission, if the reclamation provisions of the permit are satisfactory to City, the reclamation provisions thereof, shall be incorporated into this Sublease. Sublessee shall be obligated to City to perform the reclamation obligations imposed by the permit.

If the reclamation provisions of the permit are not satisfactory to City, then City and Sublessee shall prescribe reclamation obligations of Sublease which are satisfactory to City.

11. COVENANTS BY SUBLESSEE AS CONDITIONS PRECEDENT.

It is mutually agreed that the subletting hereunder is upon and subject to the terms, covenants and conditions hereof, and Sublessee covenants, as a material part of the consideration for this Sublease, to keep and perform each and all of said terms, covenants and conditions by it to be kept or performed, and that this Sublease is made upon the condition of such per-

formance. Unless otherwise specifically provided herein, performance of all terms, covenants and conditions of this Sublease shall be at Sublessee's expense.

12. DELIVERY BY CITY OF POSSESSION

In the event of the inability of City to deliver possession of Premises at the time of commencement of the term of this Sublease, City shall not be liable for any damage caused thereby, nor shall this Sublease thereby become void or voidable, nor shall the term herein specified be in any way extended, but in such event Sublessee shall not be liable for any royalty until such time as City can deliver possession.

13. MAINTENANCE AND REPAIRS.

Sublessee has examined and inspected and knows the condition of the Premises and every part thereof and will receive and accept said Premises in this same present condition, except only as otherwise provided in this Sublease. Sublessee shall maintain Premises, and every part thereof, in good repair and order, and in good and safe condition, and shall make all necessary repairs thereto, and shall not permit trash or rubbish to accumulate; all of which shall be done to the satisfaction of Manager. Sublessee waives the benefits of the provisions of subsection 1 of Section 1932 and of Sections 1941 and 1942 of the Civil Code of California and all right to make repairs at the expense of City as provided in Section 1942 of that Code.

14. DISPOSAL OF WASTE.

Overburden and other waste materials not suitable for use as rock products and not required for the purposes set forth

in this Sublease shall be stockpiled within the Premises and, unless otherwise permitted by Manager, shall be disposed of within the Premises in a manner subject to the approval of Manager at the termination of this Sublease.

15. UTILITIES.

Sublessee shall install on the premises any necessary utilities and facilities and agrees to pay promptly, when due and payable, all charges for water, gas, electricity, heat and other services, furnished to or used by Sublessee in, or about Premises, in addition to the royalties herein reserved.

Sublessee will not be permitted to pump water from the Creek for quarry operations but shall purchase such water from the City although it is expected that Sublessee will pond and recycle in accordance with the Rules and Regulations governing water service to consumers as adopted by Commission.

16. LABOR AND MATERIALS.

All the labor to be performed and materials to be furnished in the construction by and operations of Sublessee hereunder shall be at the cost and expense of Sublessee, and City shall not be chargeable with, nor liable for, any part thereof. Sublessee agrees to protect the Premises against liens of any character arising from its construction and operations thereon. Sublessee agrees to give Manager not less than ten (10) days' written notice in advance of commencement of any construction work upon the Premises and City shall have the right to enter the Premises for posting signs of its non-responsibility, which shall remain posted thereon until work completion.

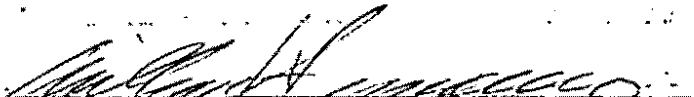
17. ASSIGNMENT OF MASTER LEASE.

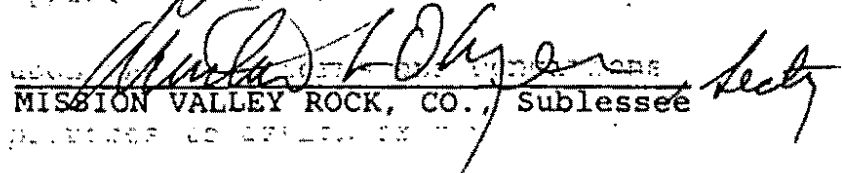
In the event Sublessor at any time desires to surrender its interest under the Master Lease or to assign or sublet its interest to any person or entity whomsoever, then Sublessor shall first offer to Sublessee, or its successor in interest, the right to acquire the Master Lease by assignment or subletting. Such offer shall be made and based upon the same terms and conditions as those upon which Sublessor proposes to assign or sublet its interest to any third party. Sublessee, or its successor in interest, shall have 30 days within which to exercise its right to acquire an assignment or sublease of the Master Lease. In the event Sublessee or its successor in interest accepts the assignment of the Master Lease, such an assignment shall not effect a merger of the Master Lease and Sublease but all of the obligations of Sublessee or its successor in interest under the Sublease to City shall remain in full force and effect.

It is understood, notwithstanding the above, that any assignment or subletting of this lease or the Master Lease may not be made without the express written consent of the City, which consent may be withheld for any reasons whatsoever, reasonable or unreasonable, arbitrary or capricious. This prohibition does not extend however to the subletting of all or a portion of Parcel B of the Premises herein described by Sublessor to Sublessee. It is further understood that the provisions of

paragraph 20 of the Master Lease shall apply to any assignment or subletting hereunder.

Dated: JUNE 20, 1985.


G. ARMANINO & SON, INC., Sublessor


MISSION VALLEY ROCK, CO., Sublessee *secty*

CONSENT

Consent of the City and County of San Francisco, a municipal corporation, and its Public Utilities Commission is hereby given to this Sublease.



General Manager of Public
Utilities

Approved as to Form

George Agnost
George Agnost, City Attorney

By Thomas M. Berliano
Utilities General Counsel
Deputy City Attorney

Authorized by Public Utilities
Commission:

Resolution No. 85-0147

Adopted: April 23, 1985

Attest Romaine A. Boldridge
Secretary

C11438D

PUBLIC UTILITIES COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. **85-0147**

WHEREAS, The City and County of San Francisco, a municipal corporation, by and through its Public Utilities Commission, pursuant to its Resolution No. 73-0116, leased to Loretto Winery Ltd., dba Villa Armando Winery, 204 acres in the County of Alameda, California, for vineyard purposes, for a term of Thirty Nine (39) years Eight (8) months plus an additional five (5) year term, commencing March 1, 1973; and

WHEREAS, In 1983, the City and County of San Francisco filed a complaint against Loretto Winery Ltd., for breach of certain provisions of their lease, and this matter is still pending; and

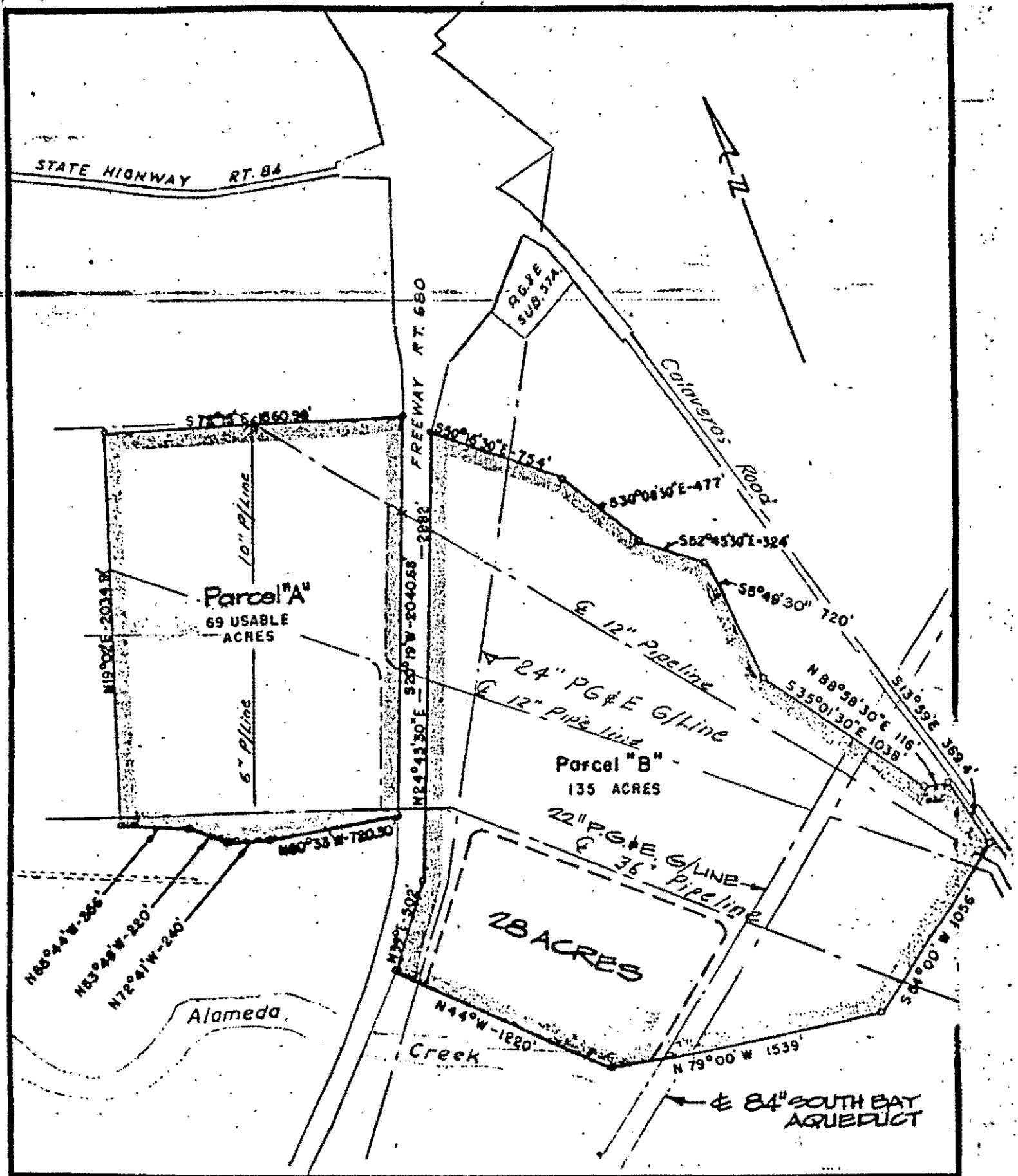
WHEREAS, Loretto Winery Ltd., has offered to compromise and settle the pending lawsuit, provided City approve the assignment of the 204 acre vineyard lease to G. Armanino and Son, Inc., for the remainder of the term of said lease; and

WHEREAS, G. Armanino and Son, Inc., Assignee, to said Loretto Winery Lease, has further agreed to negotiate inclusion of new lease terms and conditions for the remainder term of said lease; and

WHEREAS, It will be to the best interest of City to compromise settlement of this lawsuit; therefore, be it

RESOLVED, That this Commission hereby consents to the Assignment of said 204 acre vineyard lease from Loretto Winery Ltd., dba Villa Armando Winery to G. Armanino and Son, Inc., for the remainder term of said lease; and be it further

RESOLVED, That this Commission hereby approves the terms and conditions of the new lease agreement with G. Armanino and Son, Inc., for subject 204 acres (shown as Parcel A and Parcel B on San Francisco Water Department Drawing No. B-4374) for purposes of agricultural row crop and rock quarry use, and concurrent thereto, approves the sublease



CITY AND COUNTY OF SAN FRANCISCO
 PUBLIC UTILITIES COMMISSION
 SAN FRANCISCO WATER DEPARTMENT

AREA TO BE LEASED TO ARMANINO FARMS

PORTION OF PARCEL 65

ALAMEDA COUNTY

APPROVED	SCALE 1" = 660'	BY A.C.	DR.	DRAWING NO.
APPROVED		REVIEWED	CH. A.C.	B-4374
GENERAL MANAGER AND CHIEF ENGINEER		DATE 2-14-86	REVISED	

PUBLIC UTILITIES COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. _____

by G. Armanino and Son, Inc., of a 135 acre portion (Parcel B) to Mission Valley Rock Company for purpose of gravel extraction; commencing March 1, 1985 and terminating October 31, 2012, subject to revised rental schedule including periodic adjustments for row crop use, and royalty payments for quarry products removed from premises by sublessee, in accordance with the subject lease and sublease agreements (copies of which are on file at San Francisco Water Department); and be it further

RESOLVED, That City's Board of Supervisors be requested to approve, by ordinance, the aforementioned lease assignment, new lease, and sublease of the 204 acre parcel; and be it further

RESOLVED, That upon approval by the Board of Supervisors, the General Manager of Public Utilities is hereby authorized and directed to execute the applicable lease and sublease agreements.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission
at its meeting of APRIL 23 1985

Romaine A. Boldridge
Secretary, Public Utilities Commission

1 (LEASE OF PROPERTY)
 2 APPROVING LEASE BETWEEN G. ARMANINO AND SONS, INC. AND CITY AND
 3 COUNTY OF SAN FRANCISCO, OPERATING BY AND THROUGH THE PUBLIC
 4 UTILITIES COMMISSION, AND APPROVING SUBLEASE BETWEEN MISSION
 5 VALLEY ROCK CO. AND G. ARMANINO AND SONS, INC.

7 BE IT ORDAINED by the People of the City and County of San
 8 Francisco:

9 Section 1. Pursuant to Section 7.402.1 of the Charter, the
 10 Board of Supervisors hereby approves lease between G. Armanino
 11 and Sons, Inc. and City and County of San Francisco, operating by
 12 and through the Public Utilities Commission, and further approves
 13 a sublease between Mission Valley Rock Co. and G. Armanino and
 14 Sons, Inc., a copy of which is contained in Board of Supervisors
 15 File No. 65-85-9.
 16
 17

Board of Supervisors, San Francisco

Passed for Second Reading

June 3, 1985

Ayes: Supervisors Britt Kennedy
Maher Nelder Renne Silver Walker
Ward

Absent: Supervisors Hongisto Kopp
Molinari

§ Finally Passed

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June 10, 1985

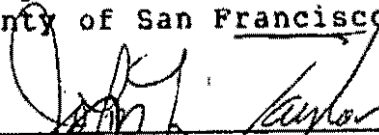
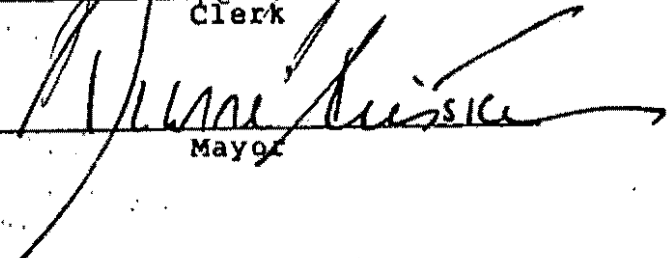
Ayes: Supervisors Hongisto Kennedy
Maher Molinari Nelder Renne
Silver Ward

Absent: Supervisors Britt Kopp
Walker

I hereby certify that the foregoing ordinance
was finally passed by the Board of Supervisors
of the City and County of San Francisco

File No.
65-85-9

JUNE 20, 1985
Date Approved


Clerk

Mayor

DATE January 12, 1987

TO:

LARDY NAJARRO

K. Y. CHIU

ED FONSECA

ALLAN LUCAS

MARTY LIEBERMAN

ASSESSOR'S OFFICE

SUNOL ASST. MGR.

QUARTERLY REPORT FILE

AL SPOTORNO

LEASE/PERMIT FILE

TOM CHAN

FROM:

RICHARD Y. TANAKA, MANAGER
AGRICULTURE & LAND DIVISION

SUBJECT:

FACT SHEET - LEASE/PERMIT

THE FOLLOWING INFORMATION IS SUBMITTED FOR YOUR INFORMATION AND FILE:

LEASE PERMITTEE Mission Valley Rock Company
699 Virginia Street
PERMIT BILLING ADDRESS Berkeley, CA 94710
NO. 3555A TELEPHONE 526-1611
STATUS PURPOSE Vineyard, Row Crop, Rock Quarry
Assignment COMMENCEMENT DATE December 23, 1986
DRAWING EXP./TERMINATION DATE _____
NO. B-4374 LOCATION Por. Parcel 65, Sunol & San Antonio Lands, Alameda County
ACRES 204± RENT \$64,725 PER YEAR PAYABLE semi-annually @ \$32,362.50
TAXES AND ASSESSMENTS _____
SURETY BOND \$64,725

COMMENTS Assignment of Lease from G. Armanino & Son, Inc.

FORMER LESSEE/PERMITTEE G. Armanino & Son, Inc. NO. L-3555

EXP./TERMINATION DATE December 22, 1986 DRAWING NO. B-4374

CITY AND COUNTY OF SAN FRANCISCO
A MUNICIPAL CORPORATION

ORIGINAL

DIANNE FEINSTEIN, MAYOR



G. ARMANINO & SON, INC.

204 ACRE RIGHT OF WAY LEASE

ALAMEDA COUNTY

CALIFORNIA

PUBLIC UTILITIES COMMISSION

LOUIS J. GIRAUDO PRESIDENT
H. WELTON FLYNN VICE-PRESIDENT
JOHN M. SANGER COMMISSIONER
NANCY C. LENVIN COMMISSIONER
JOSEPH F. BARLETTA COMMISSIONER

RUDOLF NOTHENBERG
GENERAL MANAGER OF PUBLIC UTILITIES

SAN FRANCISCO WATER DEPARTMENT
ARTHUR R. JENSEN
ACTING GENERAL MANAGER AND CHIEF ENGINEER

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PUBLIC UTILITIES COMMISSION
SAN FRANCISCO WATER DEPARTMENT

204 ACRE AGRICULTURAL LEASE

THIS INDENTURE OF LEASE, made and entered into in the City and County of San Francisco this 20TH day of JUNE, 1985, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (hereinafter referred to as "City"), by and through its PUBLIC UTILITIES COMMISSION (hereinafter referred to as "Commission"), Lessor, and G. ARMANINO & SON, INC. (hereinafter referred to as "Lessee"), Lessee

W I T N E S S E T H:

WHEREAS, City owns the hereinafter described real property situated in the County of Alameda, State of California, and

WHEREAS, it is the intent of this agreement to formulate and adopt mutual covenants under which irrigated agricultural lands are to be operated by Lessee under the terms and conditions hereinafter set forth; and

WHEREAS, it is the intent of this agreement to provide for certain of the hereinafter described real property to be subleased for gravel extraction purposes;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and of the payment of moneys by Lessee as hereinafter required, the parties hereto mutually agree as follows:

1. PREMISES

City hereby leases to Lessee, and Lessee hereby hires and takes from City, for vineyard, row crop and rock quarry use only upon the terms and conditions hereinafter set forth, subject to all existing and subsequently granted easements, licenses, and permits for roadways, utilities, or other facilities located or to be located on the following real property situated in the County of Alameda, State of California, (hereinafter referred to as the "Premises"):

PARCEL "A"

A portion of Parcel 65 Sunol and San Antonio Lands, Alameda County, as said Parcel is described in deed from Spring Valley Water Company to the City dated and recorded March 3, 1930 in Liber 2350 of Official Records, Alameda County at Page 1; said portion commencing at the intersection of the westerly line of State Freeway Route 680 with the existing fence of the Lessor's filter gallery levee, thence along said fence North 80° 33' West 720.30 feet, North 72° 41' West 240 feet, North 53° 48' West 220 feet, North 65° 44' West 356 feet, thence leaving said fence North 19° 02' East 2034.91 feet, thence South 72° 15' East 1560.98 feet to the westerly right of way of said freeway Route 680, thence along said right of way South 20° 19' West 2040.68 feet to the point of commencement containing 69 acres more or less.

PARCEL "B"

A portion of Parcel 65 Sunol San Antonio Lands, Alameda County, as said Parcel is described in deed from Spring Valley Water Company to the City dated and recorded March 3, 1930 in Liber 2350 of Official Records, Alameda County at Page 1; said portion commencing at a point on the easterly right of way line opposite engineers station A352+25 of State Freeway Route 680; thence from said point of commencement by the following courses and distances, South 50° 16' 30" East 754 feet, South 30° 08' 30" East 477 feet, South 52° 45' 30" East 324 feet, South 5° 49' 30" East 720 feet, South 35° 01' 30" East 1038 feet, North 88° 58' 30" East 116 feet to the westerly right of way at Calaveras Road

(Co Road 6618), thence along said Right of Way South 13° 59' East, 369.4 feet, thence leaving said Right of Way, South 54° 00' West 1056 feet, North 79° 00' West 1539 feet, North 44° 00' West 1220 feet to the easterly right of way line of State Freeway Route 680, thence along said right of way line North 39° 00' East 502 feet, North 24° 43' 30" East 2282 feet to the point of commencement containing 135 acres more or less.

THE TOTAL AREA HEREBY DEMISED BEING 204 ACRES, more or less, all as indicated on San Francisco Water Department Drawing No. B-4374, attached hereto and made a part hereof.

This lease is made subject to any and all restrictions, utilities easements and rights-of-way.

The acreage stated in the hereinabove description is an estimate and is not warranted to be correct. City and Lessee agree, however, that for all purposes of this lease, including determination of rental and for bidding purposes, that the acreage so stated is correct.

Lessee hereby acknowledges the title of the City in and to the Premises. Said Premises is a portion of City's larger watershed area on adjacent land and is for the purposes of collecting, storing, transporting and distributing water for municipal use. Any and all rights granted or implied by this lease shall be subordinate to City's use of Premises for such purpose.

2. TERM:

The term of this lease shall be for a period of Twenty-seven (27) years and Eight (8) months, retroactively from and including the 1st day of March 1985 to and including the 31st day of October 2012.

Lessee shall have an option for one additional five (5) year term provided: (1) Lessee gives Commission written notice at least one year prior to the expiration of the lease term; (2) Lessee is not in default in any of the terms and conditions of this lease; (3) Said lease has not been terminated for any cause; and (4) Commission determines that it is in the best interests of City that the Premises continue to be used for the purposes herein enumerated, the determination of which issue shall be in the discretion of Commission.

3. RENTAL:

Lessee promises and agrees to pay City and City will accept as rental for the Premises, payable semi-annually, in advance the following:

Commencing March 1st, 1985, Lessee shall pay to City as rental for the first four (4) years of this lease the sum of Three Hundred Ninety Dollars (\$390.00) per acre per year, or a total of Seventy Nine Thousand Five Hundred Sixty Dollars (\$79,560.00) per year, for approximately 204 acres of land.

At the end of the Fourth (4th) year of this lease, and again at the end of each Four (4) year period thereafter, the lease rental per acre per year shall be adjusted for the succeeding four-year period commencing with the anniversary date in direct proportion to any increase in the cost of living index with a minimum of four percent (4%) to a maximum of ten percent (10%) per year compounded annually from the average annual base date to the last average annual cost of living index ending with the

month prior to the anniversary date for which the index is published. The cost of living index shall mean the United States Department of Labor's Bureau of Labor Statistics Consumer Price Index (all items), San Francisco-Oakland, California. If the aforesaid index is no longer published, the City shall use such index as is substantially similar in nature to the present publication, and appropriate adjustment shall be made, if necessary. The date on which the base shall be determined shall be the annual average index for the year 1984, and the parties agree that the average annual index was 319.8 for that year.

Notwithstanding the above, Lessee shall pay to City as rental for the demised premises known as "Parcel A" the sum of \$175.00 per acre per year for a period commencing March 1, 1985 and ending February 28, 1988. However, if row crop farming is allowed at any time the rental for Parcel A shall increase to the \$390.00 per acre per year base level provided above, with all rental adjustments current with those applicable to Parcel B. Thereafter, the rent for Parcel A shall be computed on the same basis as Parcel B. In the event that row crop farming is not allowed as to any or all of Parcel A, Lessee may, at its option, terminate this lease as to any or all of Parcel A, by giving City written notice of intention to do so prior to March 1, 1988. In the event that row crop farming is not allowed, but lessee does not exercise its option to terminate, the base rent for Parcel A shall remain \$175.00 per acre per year with rental increases to be applied as described in the rental adjustment paragraph above.

Prior to the anniversary date in question, a new annual rent shall be established on the tenth (10th) and twentieth (20th) anniversary of the Commencement Date, pursuant to the following procedures:

(a) City and Lessee shall mutually agree upon a new annual rent which shall be deemed to be the then "fair market annual rental value" of the Premises, limited to the uses similar to those permitted under this lease. In the event City and Lessee do not mutually agree upon the fair market annual rental value ninety (90) days prior to the anniversary date in question, then the appraisal procedure set forth hereafter shall be followed.

(b) City and Lessee shall promptly select two (2) disinterested appraisers who shall each be members of the American Institute of Real Estate Appraisers or if said organization does not then exist, the most similar successor organization, and who shall each have had recent experience in preparing appraisals of and with respect to commercial real property in the area. If City and Lessee are unable to agree upon the selection of two (2) such appraisers within ninety (90) days prior to the anniversary date in question, the Presiding Judge of the Superior Court for the County in which the Premises are located shall be petitioned by either City or Lessee to make said selection. City and Lessee each shall have the right to submit the names of two (2) appraisers so qualified and the Court, in said event, shall select the two (2) appraisers from

the names so submitted. The appraisers so selected shall furnish to both City and Lessee a written appraisal at least forty-five (45) days prior to the anniversary date in question, setting forth their determination of the fair market annual rental value of the Premises limited to the uses similar to those permitted herein as of a date one hundred twenty (120) days prior to the subject anniversary date. The average of the valuations of said appraisers shall be accepted as the fair market annual rental value of the Premises, provided, however, at no time during the term of this Lease shall the new annual rent be less than the initial annual rent set forth in this Lease. The cost of the appraisal shall be borne one-half (1/2) by City and one-half (1/2) by Lessee. If for any reason the new annual rent is not determined pursuant hereto, then the annual rent payable on the day immediately prior to the subject anniversary date shall continue to remain payable by Lessee until the said new fair market annual rental value is established. In the event the new fair market annual rental value is greater than the annual rent in effect on the day immediately prior to the subject anniversary date, Lessee shall, within ten (10) days after a decision is made as to the new annual rent, remit to City payment for all rents due and owing based upon the new rental rate from the anniversary date onwards.

(c) If the new annual fair market rental value is less than the annual rent in effect on the day immediately prior to the subject anniversary date, then the rental rate shall continue

at the existing rate and the provisions of this Section 3 above shall continue to be applicable regarding periodic increases in annual rentals based on the Cost of Living Index shall be applicable.

All rentals under this lease shall be paid to City by mailing or delivering a valid check therefor to the office of the Chief Accountant, San Francisco Water Department, 425 Mason Street, San Francisco, California 94101.

Lessee hereby acknowledges that late payment by Lessee to City of rent and other sums due hereunder will cause City to incur costs not contemplated by this lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges. Accordingly, if any installment of rent or any other sum due from Lessee shall not be received by City or City's designee within fifteen (15) days after such amount shall be due, Lessee shall pay to City a late charge of One Hundred Fifty Dollars (\$150.00). The parties hereby agree that such late charge represents a fair and reasonable estimate of the costs City will incur by reason of late payment by Lessee. Acceptance of such late charge by City neither constitutes a waiver of Lessee's default with respect to such overdue amount, nor prevents City from exercising any of the other rights and remedies granted hereunder.

Rent not paid when due shall bear interest at Bank of America prime rate plus three (3) percent from the date due until paid.

4. TAXES, ASSESSMENTS AND LIENS

Lessee promises to pay promptly all lawful taxes, including possessory interest taxes, excises, licenses, permit fees and assessments of whatever nature applicable to the operation of its business. Should Lessee desire to contest the legal validity thereof, the same may be paid under protest. Lessee shall not be liable for payment of any real property taxes.

Lessee agrees not to suffer any lien to be imposed upon said premises or upon any equipment or personal property located thereon without promptly discharging the same, provided that Lessee, if so desiring, may have reasonable opportunity to contest the legal validity of the same.

City, at its sole option, may make any payment required to be made by the Lessee under this section. In such event, any such payment by City shall be due immediately to City from Lessee in accordance with the provisions of the Lessee's Obligations.

5. BUILDINGS AND IMPROVEMENT

Lessee shall not erect nor permit the erection of buildings or structures of any kind on the premises without obtaining prior written approval from the General Manager and Chief Engineer of the San Francisco Water Department (hereinafter referred to as "Manager"). Upon expiration, or sooner termination of this lease, Lessee shall remove from the Premises any and all structures erected by Lessee, except fences, etc. as stated hereunder. If said structures are not so removed within thirty (30) days after such expiration or termination, City shall

have the option to remove same at Lessee's sole cost and expense, or all or any of said structures as selected by City shall become and remain the sole property of City. If Lessee shall damage the freehold in removing therefrom his structure, then Lessee agrees to repair such damage at his sole cost and expense and to the satisfaction of the Manager.

6. OPERATION OF DEMISED PREMISES

A. Lessee shall perform skillfully and efficiently the necessary acts in connection with all operations on said Premises including, but not limited to cultivating, fertilizing, controlling weeds and pests and removing dead or diseased trees to the satisfaction of the Manager.

B. Vehicular access to and from the Premises and Paloma Way (State Route 84) shall only be via the ranch entrance gate located near the northeasterly corner of the Premises. Use of Temple Avenue (entrance road to Water Department's Division Headquarters) as an access road to the Premises is forbidden, except for good cause upon prior application to and approval by Manager.

C. Lessee shall have the right to draw only untreated water from the existing pipeline for irrigation purposes, and shall not waste water or over-irrigate the Premises.

D. City shall not be liable or responsible for any damage to or loss of crops due to insufficiency of water, or due to restrictions or prohibitions imposed by City on use of pesticides (as defined in Section 10) or fertilizers, or due to any other cause whatsoever.

E. Lessee shall at its cost install culverts, drain ditches and control barriers promptly wherever and whenever, in the opinion of Manager, it becomes necessary to limit damage from erosion.

F. City hereby disclaims any warranty of soil suitability for Lessee's use.

7. COMPLIANCE WITH LAW AND REGULATIONS

Lessee shall engage a consultant approved by the Manager experienced in surface and ground water monitoring to develop a program for the testing of all surface and underground waters originating on or beneath the premises. These waters shall include all applied irrigation water, drainage or washing waters, etc., of the premises.

Monitoring points shall include or intercept both the surface and underground water flow as it enters and leaves the premises; additional monitoring points shall be included by the San Francisco Water Department at its discretion within the Sunol Filter Gallery and Alameda Creek.

Lessee shall submit to the City for review and approval a plan of the location, size and depth of all monitoring points, test parameters and frequency of sampling. San Francisco Water Department shall, at its discretion, include additional monitoring points, test parameters, or may change the sampling frequency, as reasonably warranted.

Lessee's consultant shall perform or cause to perform by a laboratory approved by the Manager and the State Department of

Health Services, Sanitation and Radiation Laboratory Section, chemical and/or biological monitoring of synthetic organics in water samples collected from the above monitoring points.

Consultants may use the Environmental Protection Agency's seven day biological toxicity tests for chronic effects, or other State recognized tests that would satisfactorily show any degradation of these waters by the agricultural activities of Lessee.

The Lessee realizes that above tests may not provide sufficient (qualitative and/or quantitative) information, and that additional chemical-specific tests may be reasonably required at any time upon reasonable notice by the San Francisco Water Department to substantiate whether chemical changes within the waters are caused by the Lessee's agricultural activities.

The test results submitted with this lease shall include reference information on the laboratory performing the tests, procedure of sampling, analyses and copies of chromatographs, or other testing methods where applicable. The minimum detection limit for each test parameter shall be reflected in the tabulated test results. All test results shall be forwarded to San Francisco Water Department within fourteen (14) days from the date the analyses have been completed.

Lessee shall provide a list with references of the proposed agrichemicals to be applied on the premises. At the present time, acceptable references where these chemicals may be described are:

1. Farm Chemical Handbook, published annually by Meister Publishing Company, 37841 Euclid Avenue, Willoughby, Ohio 44094, (216) 942-2000.
2. The Agrichemicals Handbook, published by the Royal Society of Chemistry, The University, Nottingham NG72RD, England.

References shall be by page number, e.g., A001/Oct. '83.

Should the agrichemicals being applied by the Lessee to the premises appear at the monitoring points in any significant concentrations as reasonably determined by the San Francisco Water Department or the State, the Lessee agrees to immediately alter its method of application or substitute for the agrichemical being used.

Should the Lessee not alter its methodology or substitute for the agrichemical to the reasonable satisfaction of the Manager within sixty (60) days, Lessee shall discontinue all application of agrichemicals to the premises.

Lessee may deduct, from rent owed, any reasonable costs incurred in fulfilling the requirement of this paragraph. However, in no event shall said deduction exceed the amount of Thirty Thousand Dollars (\$30,000.00) in the first year of the lease, or the amount of Twenty Thousand Dollars (\$20,000.00) in any subsequent year of the lease. The City shall receive copies of all invoices for work or services performed upon which computation of said deduction has been made.

8. BUFFER ZONE

During the first three years of the lease, only restricted farming shall be allowed in the Buffer Zone as defined on the map attached hereto as Drawing No. B-4374. This will exclude the farming of row crops or any other type of crop which uses agri-chemicals, not approved by the Manager for use in the Buffer Zone and shall include but not be limited to fertilizers, herbicides and pesticides. The Buffer Zone is defined as the area of land (approximately 80 acres) lying between the aquifer bed and the ridge line located on the east side of the aquifer bed. The drainage generated in the Buffer Zone flows directly into the aquifer bed. Various water quality parameters at three stations or as specified by the Manager in addition to those stated in Section 7, shall be installed by Lessee and will be monitored by City and Lessee during the first three years of restricted farming to assess and evaluate the effects of agri-chemicals on the surface and ground water quality in the region including the Sunol Filter Gallery and Alameda Creek.

The test results during the first three years will be used to develop base line data of various water quality parameters of the Sunol Filter gallery and Alameda Creek. If at any time the base line data shall be altered because of the use of agri-chemicals under this lease, any alteration will constitute degradation or a potential threat to water quality in the filtration gallery and other surface resources in the area.

Based on the outcome of the evaluation and assessment, City, after three years, will determine whether relaxation can be allowed under this lease for farming in the Buffer Zone which otherwise would not be allowed. . . In the event that such relaxation is allowed to farm row crops in the Buffer Zone, such allowance will be subject to the fact that the subsequent water quality analysis, shall not degrade the water quality in the Sunol Filter Gallery or other surface water resources in the vicinity, as determined by City. Additional monitoring requirements for testing, sampling points and water quality parameters shall be included should a need for such be determined essential by City based on the results of such monitoring.

City, at its discretion, shall enforce the provisions of Section 7 of this lease or disallow the farming in the Buffer Zone for which a relaxation was allowed. . . During the life of this lease, City reserves the right of restricted farming in the Buffer zone and any relaxation shall be allowed only on a case by case basis as outlined in this section.

9. HEALTH, SAFETY AND SANITARY REQUIREMENTS

The Premises, being located on watershed lands, Lessee shall comply with all health and sanitary laws and regulations adopted by the county, state or other duly constituted legal authority, without limitation and, by way of example, the applicable regulations of the County Health Department, the watershed sanitary directives of the San Francisco Water Department, and California Health and Safety Code Sections 4450 and 4458, inclusive.

All sewage, garbage and other sources of pollution and contamination of water that may originate on the Premises shall be completely removed at Lessee's cost. Lessee shall give access for inspection to any duly authorized representatives of any of said legal authorities.

All agrichemicals, other chemicals and fuels used for any purpose must be transported, stored, transferred, and used in a manner conforming to applicable regulations and recognized guidelines.

10. WEED AND PEST CONTROL

Lessee, at his sole cost and expense, shall conduct an acceptable noxious weed and pest control program which shall be in accordance with the standards set by the local county agricultural agent. The Lessee shall obtain written approval from Manager prior to using any pesticides, herbicides, insecticides, fungicides, and rodenticides, but does not include products commonly known as medicines. All pesticides/herbicides must be applied in accordance with label instructions and applied by trained and certified applicators.

11. WASTE

Lessee shall not commit any waste on Premises nor suffer any waste to be committed thereon.

Lessee shall not cut nor permit others to cut any trees on said premises without the written consent of Manager.

12. BURNING

Lessee shall not burn any weeds, stubble or debris on the Premises, unless, for each burn, both (1) Lessee first shall have obtained permission from Manager which permission shall specify acceptable burn dates, and (2) Lessee also shall have obtained appropriate burn permits required by law and by the appropriate Air Pollution Control District. Lessee shall carefully fireguard all trees, fences and structures when conducting burning operations.

13. HUNTING AND FISHING

Lessee shall not grant permission to any person to hunt, fish or build fires or otherwise trespass on the Premises; nor shall Lessee or Lessee's employees hunt or fish thereon, or on any other lands owned by City. Subject to prior approval of Manager, Lessee may take such actions as are necessary to protect Lessee's crops from foraging wildlife consistent with the provisions of this Lease.

14. ROADWAYS: INGRESS AND EGRESS

Lessee shall keep all roads on the premises open as same now exist and are used, and shall not interfere with travel on said roads by City's officers, employees and agents who shall have the right to enter upon and pass through or across said premises or any part thereof at any, and all, times. Lessee shall be responsible for any damage to Water Department roads caused by Lessee or Lessee's employees in operations of Lessee's activities on the Premises.

15. NOTICE OF NONRESPONSIBILITY

City reserves the right to post notices of nonresponsibility and Lessee agrees to save City free and harmless from claims or liens of every kind and nature in connection with any construction or improvement. In the event Lessee makes any improvements on the Premises he shall, not later than ten (10) days prior to the commencement of work upon any such improvements, notify the Manager in writing, so that City may install and maintain upon the Premises notices of nonresponsibility.

Should the City not post a notice of non-responsibility on the premises, the Lessee shall nevertheless be responsible for and save the City free and harmless from any claims or liens of every kind and nature in connection with any construction or improvement to said premises.

16. PIPELINES AND MONUMENTS

Lessee shall be liable for the protection of any of City's pipeline, pipeline appurtenances and survey monuments located on the Premises. Damage caused by Lessee shall be repaired by City at Lessee's expense.

17. UTILITY INSTALLATIONS

City shall have the right at all times, to enter upon said Premises to install, construct, repair, maintain, operate and remove water pipes (other than irrigation supply lines serving Lessee); drainage pipes, and any other utility facility.

In the event of any excavation upon the Premises for any of said purposes, the Premises shall be restored to its immediate

prior condition at City's expense, unless due to the fault of Lessee. In the event of any such excavation, City shall be held liable only if Lessee establishes actual damage, provided, however, that any claim for damages by Lessee shall be limited to a prorata refund of rental paid in advance, but not earned, on the acreage used for excavation and the actual expense incurred for crop destruction or removal; provided, further, that no claim for such actual expense shall be allowed where crops are harvested after notice of City's intention to excavate.

18. DEFAULTS BY LESSEE: REMEDIES OF CITY ON DEFAULT

Should the Lessee at any time be in default hereunder with respect to any rental payments or other charges payable by the Lessee hereunder, and should such default continue for a period of five (5) days after written notice from City to Lessee; or should the Lessee be in default in the prompt and full performance of any other of its promises, covenants or agreements herein contained and should such default or breach of performance continue for more than a reasonable time (in no event to exceed thirty (30) days) after written notice thereof from City to the Lessee specifying the particulars of such default or breach of performance; or should the Lessee vacate or abandon the Premises; then City may treat the occurrence of any one or more of the foregoing events as a breach of this lease, and in addition to any or all other rights or remedies of City hereunder and by the law provided, it shall be, at the option of City, without further notice or demand of any kind to Lessee or any other person:

(a) The right of City to declare the term hereof ended and to reenter the Premises and take possession thereof and remove all persons therefrom, and the Lessee shall have no further claim thereon or thereunder; or

(b) The right of City without declaring this lease ended to reenter the Premises and occupy the whole or any part thereof for and on account of the Lessee and to collect said rent and any other rent that may thereafter become payable;

(c) The right of City, even though it may have reentered the Premises, to thereafter elect to terminate this lease and all of the rights of the Lessee in or to the Premises.

(d) Should City have reentered the Premises under the provisions of subparagraph (b) above, City shall not be deemed to have terminated this lease, or the liability of the Lessee to pay rent thereafter to accrue or its liability for damages under any of the provisions hereof, by any such reentry or by any action in unlawful detainer, or otherwise, to obtain possession of the Premises, unless City shall have notified the Lessee in writing that it has so elected to terminate this lease, and the Lessee further covenants that the service by City of any notice pursuant to the unlawful detainer statutes of the State of California and the surrender of possession pursuant to such notice shall not (unless City elects to the contrary at the time of or at any time subsequent to the serving of such notices and such election be evidenced by a written notice to the Lessee) be deemed to be a termination of this lease. In the event of any entry or taking

possession of the Premises as aforesaid, City shall have the right, but not the obligation, to remove therefrom all or any part of the personal property located therein and may place the same in storage at a public warehouse at the expense and risk of the owner or owners thereof.

(e) Should City elect to terminate this lease under the provisions of subparagraphs (a) or (c) above, City may recover from the Lessee as damages:

(i) the worth at the time of award of any unpaid rent which had been earned at the time of such termination; plus

(ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss Lessee proves could have been reasonably avoided; plus

(iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; plus

(iv) any other amount necessary to compensate City for all the detriment proximately caused by Lessee's failure to perform his obligations under this lease or which in the ordinary course of things would be likely to result therefrom, including, but not limited to, any costs or expenses incurred by City in maintaining or preserving the Premises after such default, preparing the Premises for reletting to a new tenant, any repairs or alterations to the Premises for such reletting, leasing commis-

sions, or any other costs necessary or appropriate to relet the Premises;

(v) at City's election, such other amounts in addition to or in lieu of the foregoing as may be permitted from time to time by the laws of the State of California.

(vi) as used in subparagraphs (i) and (ii) above, the "worth at the time of award" is computed by allowing interest at Bank of America Prime Rate plus three (3) percent. As used in subparagraph (iii) above, the "worth at the time of award" is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco, at the time of award plus one percent (1%).

(f) For all purposes of this Section, the term "rent" shall be deemed to be the annual rental and all other sums required to be paid by Lessee pursuant to the terms of this lease.

(g) In the event of default, all of the Lessee's fixtures, furniture, equipment, improvements, additions, alterations, and other personal property shall remain on the Premises and, in that event, and continuing during the length of said default, City shall have the right to take the exclusive possession of same and to use same, rent or charge fees, until all defaults are cured or, at its option, at any time during the term of this lease, to require Lessee to forthwith remove same.

(h) Notwithstanding any other provisions of this Section, City agrees that if the default complained of, other than for the payment of monies, is of such a nature that the same cannot be

rectified or cured within the thirty (30) day period requiring such rectification or curing as specified in the written notice relating thereto, then such default shall be deemed to be rectified or cured if the Lessee within such period of thirty (30) days shall have commenced the rectification and curing thereof and shall continue thereafter with all due diligence to cause such rectification and curing and does so complete the same with the use of such diligence as aforesaid.

(i) The remedies given to City in this Section shall be in addition and supplemental to all other rights or remedies which the City may have under the laws then in force.

(j) The waiver by City of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by City shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this lease, other than the failure of Lessee to pay the particular rental so accepted, regardless of City's knowledge of such preceding breach at the time of acceptance of such rent. No covenant, term, or condition of this lease shall be deemed to have been waived by City unless such waiver be writing by City.

In the event City elects to terminate Lessee's right to possession, it shall forthwith offer to Mission Valley Rock Co., or its successor in interest, if it or such successor is then the

Quarry Sublessee, the right to cure such default within 30 days of the date of giving of notice. In the event Quarry Sublessee or its successor in interest does cure the default of Lessee hereunder then forthwith and without further action by any party, this lease automatically shall be assigned to Quarry Sublessee or its successor in interest and Quarry Sublessee shall thereafter be the Lessee hereunder. Despite the fact that Quarry Sublessee or its successor in interest shall be the Lessee hereunder there shall not be a merger of the sublease and this lease and all of the obligations of Quarry Sublessee under such sublease to City shall remain in full force and effect.

19. WORKERS' COMPENSATION INSURANCE AND SOCIAL SECURITY

Lessee enters into this agreement as an independent contractor and not as an agent or employee of City, as the word "employee" is defined in the Workers' Compensation Act of the State of California.

Lessee covenants that none of its officers, agents or employees are employees of City and further covenants to provide Workers' Compensation insurance, with employer's liability limits of not less than \$1,000,000 for each occurrence, and such social security and unemployment compensation benefits as may be required by law, and will, upon request, furnish to Manager adequate evidence of such coverage. Lessee agrees to increase forthwith the aforesaid limits to those determined by the Commission. Such increases shall be reasonable and justifiable.

20. ASSIGNMENT OR SUBLETTING

Lessee shall not assign this lease or any interest therein and shall not sublet the Premises or any part thereof, or any right or privilege appurtenant thereto, or mortgage or encumber any leasehold interest as security for any funds borrowed, or to extend or renew any loan for purposes of construction, or in connection with fixtures and equipment, or to serve as operating capital, or for any other purpose, without written consent of Commission first had and obtained. Any such assignment, subletting or encumbrance without such consent shall be void and shall, at the option of City, terminate this lease. It is understood by Lessee that City is entering into this lease with Lessee because of the known capabilities and qualifications which Lessee possesses in order to manage these particular parcels of City's properties. It is further understood that it is because of the personal qualities of the individuals who own and manage Lessee's business operations that City has been persuaded to enter into an agricultural lease with Lessee on these particularly sensitive parcels of property. Therefore it is understood that City may, for any reasons whatsoever, reasonable or unreasonable, arbitrary or capricious, withhold its consent to an assignment or subletting of the interests created by this lease. A consent to one assignment, subletting, encumbrance, occupation or use by another person shall not be deemed a consent to any subsequent assignment, subletting, encumbrance, occupation or use by another person. Nor shall this lease, or any interest therein, be assignable as to the interest of Lessee by operation of law, without the written consent of the City.

Notwithstanding the above, it is understood that Lessee may sublet its interests in Parcel B of the premises herein described to Mission Valley Rock Co. for quarry extraction purposes only. It is further understood that it is because of the known capabilities and qualifications of Mission Valley Rock Co. and those individuals who own and manage Mission Valley Rock's business operations that City has agreed that a subletting to Mission Valley Rock Co. would be in the best interests of the City.

Lessee further agrees and it is understood that in the event of an assignment or subletting by Lessee, that the intent and purpose of this Lease is to allow for farming or quarry extraction, and not for the purpose of creating an investment in property. Therefore, while Lessee may charge to an assignee or sublessee an amount in excess of that rent which is at the time being charged by City to Lessee, all rental income received by Lessee over and above that charged to Lessee by City shall be paid directly to City with no profit, direct or indirect to Lessee. Lessee expressly acknowledges and accepts that the City may contract with the quarry Sublessee for additional monies in the form of rent or royalties payable directly to the City.

If Lessee is a corporation, any dissolution, merger, consolidation, or other reorganization of Lessee, or the sale or other transfer, other than by reason of death, of a controlling percentage of the capital stock of Lessee, or the sale of 51% of the value of the assets, of Lessee, shall be deemed a voluntary assignment. The phrase "controlling percentage" means the ownership of, and the right to vote, stock possessing at least 51% of

the total combined voting power of all classes of Lessee's capital stock issued, outstanding, and entitled to vote for the election of directors. This paragraph shall not apply to corporations, the stock of which is traded through an exchange or over the counter.

21. SURRENDER OF POSSESSION

Lessee agrees to yield and deliver to City possession of the Premises at the termination, expiration or cancellation of this agreement, or as otherwise herein provided, in good condition and in accordance with the express obligations hereunder and shall execute and deliver to City a good and sufficient document of relinquishment, if and when requested.

22. LESSEE TO HOLD CITY HARMLESS

It is an express condition of this lease that City, its officers, agents and employees shall be free from any and all liabilities and claims for damages or suits for or by reason of any death or deaths of or any injury or injuries to any person or persons or damages to property of any kind whatsoever, whether the person or property of Lessee, its agents or employees, its sublessees, concessionaires or licensees or third persons, from any cause or causes whatsoever while in or upon said Premises or any part thereof during the term of this lease or occasioned by any occupancy or use of said premises or any activity carried on by occupancy or use of said premises or any activity carried on by Lessee, its sublessees, concessionaires or licensees in connection therewith, except where caused exclusively by negligence of City, its agents or employees, and Lessee hereby covenants and

agrees to indemnify and to save harmless City and its officers, agents and employees, from all liabilities, charges, expenses (including counsel fees) and costs on account of or by reason of any such death or deaths, injury or injuries, liabilities, claims, suits or losses however occurring or damages growing out of same, except where caused exclusively by the negligence of City, its agents or employees.

23. INSOLVENCY: RECEIVER

No interest of Lessee in this Lease shall assignable by operation of law, including, without limitation, the transfer of this lease by testacy or intestacy. Each of the following acts or events shall be considered an involuntary assignment:

If Lessee files a proceeding under Federal laws for financial relief as a farmer, or if Lessee shall file a voluntary petition in bankruptcy, or if proceedings in bankruptcy shall be instituted against Lessee and Lessee is thereafter adjudicated bankrupt pursuant to such proceedings, or if a Court shall take jurisdiction of Lessee and his assets pursuant to proceedings brought under the provisions of any Federal reorganization act, or if a receiver of Lessee's assets shall be appointed, or if Lessee executes an assignment for the benefit of his creditors, or if the leasehold be levied or under execution. Should any of the above listed acts or events occur, the City shall be deemed to have a security interest in any personalty, crops and fixtures on the Premises and the City shall further have the option to terminate this lease. If said option is exercised, the

termination shall be deemed to occur upon the happening of any of said events and from thenceforth Lessee shall have no rights in or to the Premises or to any of the privileges herein conferred.

24. CONDEMNATION

A. Definitions

1. "Condemnation" means (a) the exercise of any governmental power, whether by legal proceedings or otherwise, by a condemnor and (b) a voluntary sale or transfer by City to any condemnor, either under threat of condemnation or while legal proceedings for condemnation are pending.

2. "Date of taking" means the date the condemnor has the right to possession of the property being condemned.

3. "Award" means all compensation, sums, or anything of value awarded, paid, or received on a total or partial condemnation.

4. "Condemnor" means any public or quasi-public authority, or private corporation or individual, having the power of condemnation.

B. Parties' Right and Obligations To Be Governed by Lease

If, during the term or during the period of time between the execution of this lease and the term commencement there is any taking of all or any part of the property or any interest in this lease by condemnation, the rights and obligations of the parties shall be determined pursuant to the provisions set forth herein.

C. Total Taking

If the premises are totally taken by condemnation, this lease shall terminate on the date of taking.

D. Partial Taking

If any portion of the premises is taken by condemnation, this lease shall remain in effect, except that either party can elect to terminate this lease if 50% or more of the total number of acres leased herein is taken. If either party elects to terminate this lease, it must exercise its right to terminate pursuant to this paragraph by giving notice within sixty (60) days after the nature and extent of the taking have been finally determined. If either party elects to terminate this lease as provided in this paragraph, it also shall give notice of the date of termination, which date shall not be earlier than thirty (30) days nor later than ninety (90) days after it has notified the other party of its election to terminate; except that this lease shall not terminate on a date before the date of termination as designed by such notice. If neither party terminates this lease within the sixty (60) day period, this lease shall continue in full force and effect, except that minimum monthly rental shall be reduced pursuant to subparagraph E.

E. Effect on Rent

If any portion of the premises is taken by condemnation and this lease remains in full force and effect, on the date of taking the minimum monthly rent shall be reduced by an amount

that is in the same ratio to minimum monthly rent as the total number of acres taken bears to the total number of acres subject to this lease immediately before the date of taking.

F. Award - Distribution

The award shall belong to and be paid to City. Lessee waives, surrenders and assigns to City any right against condemnor or City to compensation in said condemnation proceeding.

25. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

Lessee shall, throughout the period of this lease, or any renewal thereof, at his own cost and expense, procure and maintain in full force and effect an insurance policy or policies insuring City and Commission, and all of their officers, servants, agents and employees, in a company or companies approved by the Controller of the City and in form satisfactory to the City Attorney of City in the amount of \$1,000,000 single limit each occurrence against loss or liability for damages for bodily injury, death or property damages occasioned by reason of the operation of Lessee upon the Premises, including operation of motor vehicles on or off the Premises with minimum liability limits of \$1,000,000 for bodily injury or death of any one person, or for bodily injury or death of two or more persons in any one accident or event, or for damage to property resulting from any one accident. Lessee agrees to increase forthwith the aforesaid liability limits and amounts to those determined by the Commission. Such increases shall be reasonable and justifiable. Said policy or policies shall contain a severability of interests

endorsement in form satisfactory to the City Attorney and a provision that written notice of cancellation or of any material change in said policy shall be delivered to Manager thirty (30) days in advance of the effective date thereof. Certified duplicate policies of said insurance shall be filed with Manager at the date of this lease.

26. FAITHFUL PERFORMANCE BOND

Lessee agrees that prior to the commencement of the term of this lease it will, at its own expense, obtain and deliver to City a valid surety bond or bonds, in a sum equal to one (1) year's rental, issued by a surety company or companies acceptable to the Controller of City and in such forms as approved by the City Attorney of City, which surety bond or bonds shall be kept, at Lessee's own expense, in full force and effect until the sixtieth (60th) day after termination of this lease or any holding over thereof, or as it may be hereafter modified, renewed or extended, to insure faithful performance by Lessee of all the covenants, terms and conditions of this lease according to their true intent and meaning inclusive of, but not restricted to, provisions for payment of all rents, taxes, insurance and other charges, surrender and restoration of the premises and the payment by Lessee of all valid claims resulting from any breach of this lease. Said bond or bonds shall also provide that thirty (30) days' prior written notice of cancellation or material change of said bond or bonds shall be delivered to Manager.

In lieu of the bond hereinabove provided, Lessee may deposit with City cash, United States Government Bonds, an irrevocable letter of credit issued by a financial institution acceptable to Manager, or assign to City a financial institution (acceptable to Manager) passbook or certificate, in a sum equal to six (6) months of the yearly rental. Lessee agrees to increase forthwith the aforesaid bond amount if demanded in writing by Commission, but said increase must be reasonable and justifiable.

27. CONFLICT OF INTEREST

Lessee hereby states that he is familiar with the provisions of Section 8.105 and 8.106 of the San Francisco Charter and certifies that he knows of no facts which constitute a violation of said sections; he further certifies that he has made a complete disclosure to Commission of all facts bearing upon any possible interest, direct or indirect, which he believes any member of Commission, or other officer or employee of the City and County of San Francisco presently has or will have in this contract or in the performance thereof, or in any portion of the profits thereof. Willful failure to make such disclosure, if any, shall constitute grounds for termination of this lease by City.

28. CANCELLATION

City reserves the right to terminate this lease as to the entire premises or any part thereof, whenever City deems it necessary or useful for purposes related to the preservation, protection or enhancement of the water supply in City's service

area or of the area downstream from the premises, by giving Lessee six (6) months' written notice of intention to do so. In the event of an election by City to terminate this Lease, the City shall first, consistent with the provisions of the Sublease, offer to Mission Valley Rock Co. the right to obtain an assignment of Parcel B of the premises herein described.

Lessee reserves the right to terminate this lease as to the entire premises or any part thereof, if, in Lessee's determination, the discontinuance of the application of any or all of the agrichemicals or pesticides being applied by Lessee to the premises makes use of the premises for the row-crop purposes of Lessee impracticable or unprofitable. Lessee shall give six (6) months' written notice of intention to terminate.

In the event of any such termination, any claim for damages by Lessee shall be limited to a pro rata refund of rental paid in advance, but not earned; said refund to be in the same proportion to the entire rental paid in advance, but not earned, as the acreage as to which the lease is terminated bears to the acreage of the entire Premises up to the date of said termination.

If at the time of said termination, as to the entire Premises, or any part thereof, Lessee has a growing crop upon the Premises, Lessee shall have the right to harvest the same within six (6) months, subject to the provisions hereof as to the payment of cash rental.

None of the provisions of this section shall apply in the event of revocation because of a breach by the Lessee of any of the terms and conditions of this lease.

29. HOLDING OVER

Any holding over by Lessee of the term hereby created shall be a tenancy from month to month only, at a monthly rental equal to three times the rent then being charged, and otherwise on the same terms and conditions set forth in this agreement.

30. LITIGATION COSTS; ATTORNEYS FEES

If the Lessee or City shall bring any action for any relief against the other, declaratory or otherwise, arising out of this lease, including any suit by City for the recovery of rent or possession of the Premises, the losing party shall pay the successful party a reasonable sum for attorneys fees which shall be deemed to have accrued on the commencement of such action.

Should City, without fault on City's part be made a party to any litigation instituted by Lessee or by any third party against City and Lessee, or by or against any person holding under or using the Premises by license of Lessee or for the foreclosure of any lien for labor or materials furnished to or for Lessee or any such other person or otherwise arising out of or resulting from any act or transaction or of any such other person, Lessee covenants to save and hold City harmless from any judgment rendered against City or the Premises or any part thereof, and all costs and expenses, including reasonable attorneys fees, incurred by City in connection with such litigation.

31. NOTICES

All notices to be given to Lessee may be served personally in the manner provided by law or sent by first class mail, add-

ressed to Lessee at the Premises, whether or not Lessee has vacated or abandoned the same. A further copy of any notice to Lessee shall be sent by first class mail to Lessee at an address to be designated in writing by Lessee and delivered to Manager pursuant to this section.

All notices required to be given to City shall be sent by registered or certified mail addressed to General Manager and Chief Engineer, San Francisco Water Department, 425 Mason Street, San Francisco, California, 94101, or at any other address to be designated in writing by City pursuant to this section.

32. LESSEE OBLIGATIONS: Lessee specially covenants and agrees to perform all terms, conditions and obligations on its part to be performed hereunder, whether or not phrased in terms of covenant.

If any obligation of Lessee which can be satisfied through the payment of money, including Lessee's obligation to pay taxes, insurance and other charges, is not promptly performed, City shall have the right (but not the obligation) to satisfy said obligation of Lessee, and City shall be entitled to be reimbursed by Lessee. All amounts so paid by City shall be due immediately from Lessee to City, and shall bear interest at the rate of the greater of sixteen percent (16%) per annum or the Bank of America Prime Rate plus three (3) percent from the date the sum is paid by City until City is reimbursed by Lessee. The amount together with said interest shall be additional rent.

The term "rent" shall be deemed to be the annual rental and all other sums required to be paid by Lessee pursuant to the terms of this lease.

33. APPLICATION OF PAYMENTS

Any payments made by Lessee to City shall be applied first to the oldest delinquent rents due, then to any other charges imposed upon Lessee under this Lease, and only thereafter to current rent due.

34. CHARTER PROVISIONS

All terms of this lease shall be governed by and be subject to the provisions of the Charter of the City and County of San Francisco.

35. AGREEMENT MADE IN CALIFORNIA

This agreement shall be deemed to be made in and shall be construed in accordance with the laws of the State of California.

36. SUCCESSORS AND ASSIGNS

Subject to the provisions hereof relating to assignment, this lease shall bind and inure to the successors and assigns of the parties hereto.

37. SECTION HEADINGS

The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provisions of this lease.

38. NON-DISCRIMINATION PROVISIONS

See entitled "Addendum to All City and County of San Francisco Contracts" attached hereto and by reference made a part hereof.

39. TIME

Time is of the essence of this lease.

IN WITNESS WHEREOF, the parties hereto have caused this lease to be executed in triplicate as of the day and year first hereinabove written.

THIS LEASE, AND ONLY THIS LEASE, SHALL BE VALID AND EFFECTIVE.

LESSOR
CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation
PUBLIC UTILITIES COMMISSION

BY [Signature] OF THE CITY AND COUNTY OF SAN FRANCISCO
General Manager of Public Utilities

Approved as to Form _____

[Signature]
George Agnost, City Attorney

By [Signature]
Utilities General Counsel
Deputy City Attorney

Authorized by Public Utilities Commission:

Resolution No. 85-0147

Adopted: April 23, 1985

Attest [Signature]
Secretary

LESSEE
G. ARMANINO & SON, INC.

By [Signature]

CHAPTER 12C OF THE SAN FRANCISCO ADMINISTRATIVE CODE

AMENDING THE SAN FRANCISCO ADMINISTRATIVE CODE BY ADDING CHAPTER 12C THERETO, PROHIBITING DISCRIMINATION IN REAL PROPERTY CONTRACTS ON THE GROUND OR BECAUSE OF RACE, COLOR, CREED, NATIONAL ORIGIN, ANCESTRY, AGE, SEX, SEXUAL ORIENTATION OR DISABILITY.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Chapter 12C is added to the San Francisco Administrative Code to read as follows:

CHAPTER 12C

NONDISCRIMINATION IN PROPERTY CONTRACTS

SEC. 12C.1. All Property Contracts to Include Nondiscrimination Provisions.

All contracting agencies of the City and County of San Francisco, or any department thereof, acting for or on behalf of the City and County, shall include in all contracts, franchises, leases, concessions or other agreements involving the lease, rental, or other use of real property and improvements thereon of the City and County of San Francisco, for a period exceeding twenty-nine (29) days in any calendar year, whether by singular or cumulative instrument, a provision obligating the contractor, franchisee, lessee, concessionaire, or other party of said agreement not to discriminate on the ground or because of race, color, creed, national origin, ancestry, age, sex, sexual orientation or disability against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, operating from or making use of said real property, and shall require such contractor, franchisee, lessee, or concessionaire to include a similar provision in all subcontracts, subleases, or other subordinate agreements for a period exceeding twenty-nine (29) days in any calendar year, whether by singular or cumulative instrument, let, awarded, negotiated or entered into thereunder.

SEC. 12C.2. Definitions.

As used in this chapter the term:

"Age" for the purpose of membership refers to and shall include any person who has attained the age of eighteen (18) years, except for bona fide senior citizen organizations.

"Contract" shall mean and include an agreement to operate from or make use of real property of the City and County of San Francisco in the operation of a business, social, or other establishment or organization.

"Contractor" means any person or persons, firm, partnership, corporation, or combination thereof, who enters into a contract to operate from or make use of real property of the City and County of San Francisco in the operation of a business, social, or other establishment or organization.

"Subcontract" shall mean and include an agreement or contract under or subordinate to a prime contract, franchise, lease, or concession to operate from or make use of real property of the City and County of San Francisco in the operation of a business, social or other establishment or organization.

"Concession" includes a grant of land or other property by or on behalf of the City and County of San Francisco to a person for the purpose or use specified in said grant.

"Concessionaire" shall mean and include a person who is the grantee or beneficiary of a concession as herein defined.

"Franchise" shall mean and include a right or privilege conferred by grant from the City and County of San Francisco, or any contracting agency thereof, and vested in and authorizing a person to conduct such business, social, or other activity as is specified in said grant.

"Franchisee" shall mean and include a person who is the grantee or beneficiary of a franchise as herein defined.

"Instrument" shall mean and include a contract, franchise, lease, concession or other agreement to operate from or make use of real property of the City and County of San Francisco in the operation of a business, social or other establishment or organization.

"Lease" shall mean and include a contract by which the City and County of San Francisco, or any contracting agency thereof, grants to a person the temporary possession and use of property, for reward, and the latter agrees to return the same to the former at a future time.

"Lessee" shall mean and include a person or tenant taking possession of real property under a lease as herein provided.

"Sublease" shall mean and include a lease by which a lessee or tenant grants or lets to another person part or all of the leased real property for a shorter term and under which said lessee or tenant retains some right or interest under the original lease.

"Real Property" shall mean and include land in which the City and County of San Francisco holds a legal interest and improvements to said real property.

"Sex" shall mean the character of being male or female.

"Sexual Orientation" shall mean the choice of human adult sexual partner according to gender.

"Disability" is a physical or mental impairment which does not make the person incapable of making use of the accommodations, advantages, facilities, privileges, services or membership in business, social or other establishments or organizations with a reasonable accommodation to his or her disability, and does not make the person incapable of making such use in a manner which would not endanger his or her health and safety or the health and safety of others.

"Tenant" shall mean the person or persons, firm, partnership, corporation or combination thereof who enter into a contract, franchise, lease, concession or other agreement involving the lease, rental or other use of real property and improvements thereon of the City and County of San Francisco.

SEC. 12C.3. Nondiscrimination Provisions of Property Contracts.

Every contract, franchise, lease, concession or other agreement entered into by any agency of the City and County of San Francisco, or any department thereof, involving the lease, rental, or other use of real property and improvements thereon of the City and County of San Francisco for a period exceeding twenty-nine (29) days in any calendar year, whether by singular or cumulative instrument, shall contain the provisions following, which shall be known as the nondiscrimination provisions of such property contract.

In the performance of this contract, the tenant agrees as follows:

(a) The tenant or subtenant will not discriminate against any person seeking accommodations, advantages, facilities, privileges, services, or membership in the business, social or other establishment or organization operated by the tenant or subtenant on the real property of the City and County of San Francisco, on the ground or because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, or disability.

(b) Should the tenant or subtenant operate as a membership organization, the tenant will permit access to his membership records, rules, regulations and other pertinent data, by the awarding authority, or the San Francisco Human Rights Commission, for the purpose of investigating to ascertain compliance with the nondiscrimination provisions of this contract, and on request provide evidence that has or will comply with the nondiscrimination provisions of this contract.

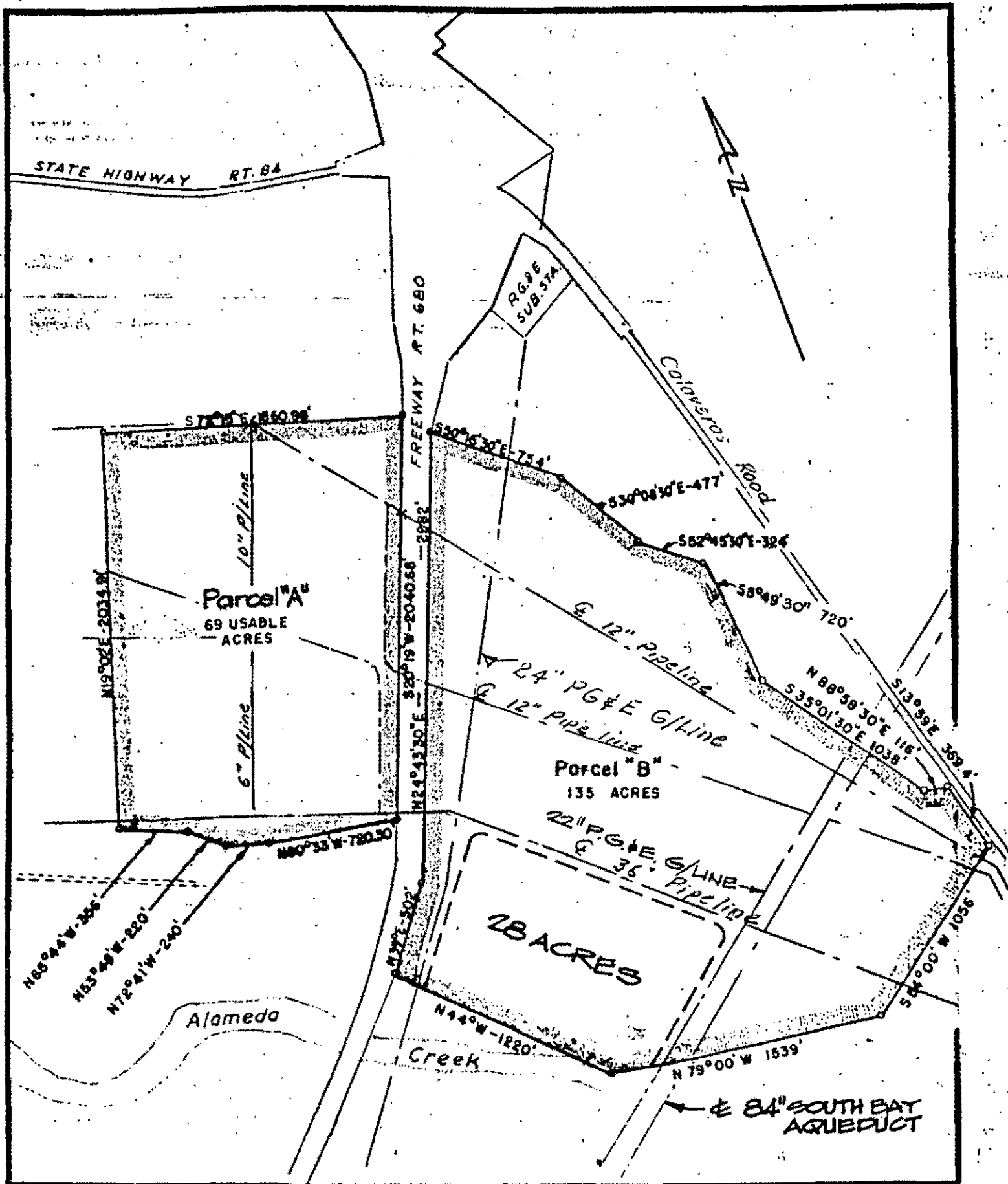
(c) That tenant or subtenant shall be deemed to have breached the nondiscrimination provisions of this contract upon:

(1) A finding by the Director of the San Francisco Human Rights Commission or such other official who may be designated by the Human Rights Commission, that tenant has willfully violated such nondiscrimination provisions.

(2) Upon such finding by the Director of the Human Rights Commission, or other official designated by the Human Rights Commission, the awarding authority shall notify tenant, or subtenant that unless he demonstrates to the satisfaction of the Director of the San Francisco Human Rights Commission or other official designated by the Human Rights Commission within such reasonable period as the Human Rights Commission shall determine, that the violation has been corrected, action will be taken as set forth in subparagraph (d).

(3) The Human Rights Commission shall, within ten days of the date of issuance of any finding by the Director of the Human Rights Commission or other official designated by the Commission in the enforcement of this chapter, mail to any person or persons affected by said finding, a copy of said finding, together with written notice of his right to appeal. Notice of appeal must be filed in writing with the Chairman of the Commission within 20 days of the date of mailing said copy and notice.

(4) For purposes of appeal proceedings under this section, a quorum shall consist of eight members of the Commission. The vote of the majority of the full Commission shall be necessary to affirm, reverse or modify such decisions, order or other action rendered hereunder. Should a member of the Human Rights Commission be designated under Section 12B.2 (c) (1) of this contract, that commissioner may not participate in an appeal under this section except as a witness.



CITY AND COUNTY OF SAN FRANCISCO
 PUBLIC UTILITIES COMMISSION
 SAN FRANCISCO WATER DEPARTMENT

AREA TO BE LEASED TO ARMANINO FARMS

PORTION OF PARCEL 65

ALAMEDA COUNTY

APPROVED	SCALE 1" = 660'	BY A.C.	DR.	DRAWING NO.
APPROVED		REVIEWED	CH. A.C.	B-4374
GENERAL MANAGER AND CHIEF ENGINEER		DATE 2-14-85	REVISED	