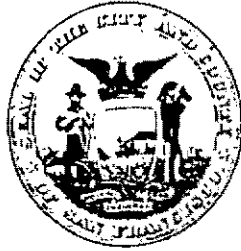


ORIGINAL

CITY AND COUNTY OF SAN FRANCISCO
A MUNICIPAL CORPORATION

DIANNE FEINSTEIN, MAYOR



MISSION VALLEY ROCK COMPANY

GRAVEL QUARRY LEASE

ALAMEDA COUNTY

SECOND SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE

PUBLIC UTILITIES COMMISSION

H. WELTON FLYNN PRESIDENT
ARTHUR V. TOUPIN VICE PRESIDENT
JOSEPH F. BARLETTA COMMISSIONER
JEFFREY LEE COMMISSIONER
CHARNA E. STATEN COMMISSIONER

RUDOLF NOTHENBERG
GENERAL MANAGER OF PUBLIC UTILITIES

SAN FRANCISCO WATER DEPARTMENT
JAMES D. COONEY
GENERAL MANAGER AND CHIEF ENGINEER

SECOND SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE

THIS SECOND SUPPLEMENTAL AGREEMENT, made and entered into this 28th day of OCTOBER, 1986, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation (hereinafter called "City"), acting by and through its Public Utilities Commission (hereinafter called "Commission"), Lessor, and MISSION VALLEY ROCK COMPANY, a California corporation (hereinafter called "Lessee"), Lessee,

W I T N E S S E T H :

WHEREAS, pursuant to Commission Resolution No. 78-0013, adopted January 10, 1978, City leased to Lessee 30 acres in Alameda County for the operation of gravel quarry; and

WHEREAS, pursuant to Commission Resolution No. 80-0455, adopted November 12, 1980, the aforementioned lease was amended to add additional land area to lease premises, and also to incorporate a reclamation plan into the lease provisions; and

WHEREAS, it is the intent of this Second Supplemental Agreement to formulate and adopt mutual covenants to provide for the modification of Section No. 7 - Operation of Quarry requirements which will allow the depth of gravel pit to be increased from 100 feet to 140 feet;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and other good and valuable consideration not herein recited, but herein receipted for, the parties hereto mutually agree as follows:

1. Section 7, OPERATION OF QUARRY, of said lease is hereby modified so as to read in full as follows:

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

Lessee 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. Lessee 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 the demised premises.

Lessee shall construct and maintain a dike of sufficient size and design to prevent the flooding of the quarry operations and 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 Lessee in such manner and to such extent as to meet all reasonable demands for sale of the quarry products. Lessee shall, at all times, maintain a stock of quarry products on hand in bunkers or stock piles available for sale and delivery to prospective buyers. Lessee 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 demised premises, which schedule of prices, while providing for a fair profit for Lessee, shall be in competition with other quarries.

C. Lessee shall conduct his quarrying operation within the demised premises and all gravel removed shall be processed thereon. There shall be no discharge of wash water to the creek.

D. Lessee's gravel pit shall not exceed a depth of 140 feet.

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

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

G. The side slopes of the four sides of the quarry shall not be graded steeper than 2 to 1.

Benches shall be placed at each 25' drop from surface elevation. Each bench shall have a minimum width of 13 feet. The side slopes above the benches shall be maintained at a constant slope and the Lessee shall make all repairs to the slope that might be caused by erosion or slide actions.

H. Lessee shall be solely responsible for any and all costs which may be incurred for the relocation of Pacific Gas and Electric Company's power transmission tower located on the demised premises, if relocation is necessary.

2. Except as hereinabove amended, all other covenants, terms and conditions set forth in the aforesaid lease dated January 10, 1978, and the Supplemental Agreements in Modification of Lease dated December 26, 1980, shall remain in full force and effect.

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

LESSOR

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

PUBLIC UTILITIES COMMISSION



RUDOLF NOTHENBERG
General Manager of Public Utilities

APPROVED AS TO FORM:

GEORGE AGOSTO, City Attorney
LOUISE RENNE

By 

GEORGE E. KRUEGER
Utilities General Counsel

Authorized by Public Utilities
Commission:

Resolution No. 86-0451

Adopted: October 28, 1986

Attest:



ROMAINE BOLDRIDGE
Secretary

LESSEE

MISSION VALLEY ROCK COMPANY

By 

VICE PRESIDENT

(SEAL)

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 20 1986

Gail Johnson
ACTING Secretary, Public Utilities Commission

ADDENDUM IN CLARIFICATION OF SUPPLEMENTAL
AGREEMENT IN MODIFICATION OF LEASE DATED
January 10, 1978


For purposes of clarification only, it is hereby understood and agreed that to the extent that the provisions of Section 7, subsection G of the Gravel Quarry Lease dated January 10, 1978, and the Drawing entitled "Reclamation Plan" attached as Exhibit "B" to this Supplemental Agreement are in conflict with one another, the provisions in said subsection G are to be superceded by the requirements of said "Reclamation Plan".

APPROVED AS TO FORM:

By 
MCMORRIS M. DOW
Utilities General Counsel

LESSOR:

CITY AND COUNTY OF SAN
FRANCISCO, PUC

By 
EUGENE KELLEHER
General Manager and Chief
Engineer, SFWD

Date: 2/11/81

LESSEE:

MISSION VALLEY ROCK COMPANY

By 
Title: ASST. VICE PRESIDENT

Date: 2-9-81

CITY AND COUNTY OF SAN FRANCISCO
DIANNE FEINSTEIN, MAYOR

ORIGINAL

MISSION VALLEY ROCK COMPANY

Gravel Quarry Lease

Alameda County

California

SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE

PUBLIC UTILITIES COMMISSION

Peter McCrea, President John M. Sanger, Vice President

H. Welton Flynn - Commissioner
Thomas Hsieh - Commissioner
Nancy C. Lenvin - Commissioner

Richard Sklar
General Manager of Public Utilities

1980

SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE

THIS FIRST SUPPLEMENTAL AGREEMENT, made and entered into this 26TH day of December, 1980, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, (hereinafter called "City"), acting by and through its Public Utilities Commission (hereinafter called "Commission"), Lessor, and MISSION VALLEY ROCK COMPANY, A Nevada corporation, (hereinafter called "Lessee"), Lessee,

W I T N E S S E T H:

WHEREAS, Pursuant to Commission Resolution No. 78-0013, adopted January 10, 1978, City leased to Lessee 30.00 acres in Alameda County for the operation of a gravel quarry until January 10, 1988; and

WHEREAS, It is the intent of this supplemental agreement to formulate and adopt covenants, in accordance with Section 8 of said lease, imposing certain specified land reclamation obligations upon Lessee to ensure that at the expiration of the lease term, the demised premises shall be suitable for water related activities, such as a water reservoir, and agricultural use;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and other good and valuable consideration not herein recited but herein receipted for, the parties hereto mutually agree as follows:

1. Section 1, PREMISES, of said Lease is hereby modified so as to read as follows:

REAL PROPERTY in the Township of Washington, County of Alameda, State of California, described as follows:

Parcel A:

Commencing at the Northerly Terminus of that course described as "South 23 degrees East 1543.7 feet" in Parcel No. 62, Alameda Creek Lands Deed from Spring Valley Water Company to City and County of San Francisco dated March 3, 1930, and recorded March 3, 1930, in Book 2350 at Page 1, Alameda County, thence from point of commencement along said course South 23 degrees East 1143.19 feet, thence leaving said course South 67 degrees West 1143.19 feet, thence North 23 degrees West 1143.19 ft. to the course described as "North 67 degrees, East 2196.5 feet" in said deed; thence along said course North 67 degrees East 1143.19 feet to the point of commencement. Containing 30 acres more or less.

Parcel B:

A PORTION of Plot 6, Rancho Valle de San Jose, described in the decree of Partition recorded April 12, 1869, in Book 40 Deeds page 315, Official Records of Alameda County described as follows: BEGINNING at a point on the general Eastern line of that parcel of land described in the deed to Berkeley Ready Mix Company and Mission Pass Aggregates recorded March 3, 1977 in Reel 4746, Image 200, Official Records of Alameda County, said point being the Southern terminus of that course described in said deed as "North 13° 05' 30" West, 792.25 feet", running thence along said general Eastern line the following courses and distances: North 13° 05' 30" West, 792.25 feet; North 19° 54' 10" East 330.64 to an intersection with the Southeastern line of that parcel of land described in the Final Order of Condemnation to the State of California, recorded June 27, 1967 in Reel 1988, Image 369, Official Records of Alameda County; thence along the direct North-easterly prolongation of said Southeastern line, North 56° 21' 30" East 560.00 feet; thence South 11° 08' 30" East 700.00 feet; thence South 1° 21' 30" West 220.00 feet; thence South 16° 21' 30" West 480.00 feet; thence South 12° 21' 30" West 310.00 feet; thence South 88° 34' 30" West 197.23 feet to said general Eastern line; thence along last said line North 24° 50' 30" West

311.02 feet to the point of beginning.

Containing 18.33 acres more or less.

All as shown on Water Department Drawing No. D-1529 attached hereto and made a part hereof.

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

In addition to the above-described demised premises to be utilized for gravel extraction purposes, City agrees to lease to Lessee, the contiguous City-owned land Westerly of the demised premises, as a site for necessary structures (weighmaster's station), improvement, and an area for stockpiling mined materials, overburden and fine; terms to be negotiated.

An access road to the demised premises from Andrade Road will be provided by City over adjacent land owned by City if necessary. Lessee shall assume all cost of constructing and maintaining said access road.

2. Section 8, RECLAMATION, of said Lease is hereby modified by adding the following clause to said section:

"In accordance with the foregoing provisions of this Section, the provisions of Surface Mining Permit SMP-5, including the Reclamation Plan provisions accompanying it, issued by Alameda County Planning Commission Resolution No. 80-38 to Lessee on May 5, 1980, are hereby incorporated into this lease as Exhibit "B", attached hereto and by reference made a part hereof.

3. All other covenants, terms and conditions set forth in said lease aforesaid shall remain in full force and effect.

IN WITNESS WHEREOF, The parties hereto have caused this First Supplemental Agreement in Modification of Lease to be executed in triplicate the day and year first herein above written.

LESSOR

CITY AND COUNTY OF SAN FRANCISCO

a municipal corporation

APPROVED AS TO FORM:

GEORGE AGOST
City Attorney

BY McMorris M. Dow
McMorris M. Dow
Utilities General Counsel

APPROVED:

PUBLIC UTILITIES COMMISSION:

Richard Sklar
Richard Sklar
General Manager of Public Utilities

Romaine A. Smith
Romaine A. Smith
Secretary

Resolution No. 80-0455

Adopted: November 12, 1980

Attest: _____

Clerk of the Board of Supervisors

Ordinance No. 597-80

Adopted: December 26, 1980

LESSEE

MISSION VALLEY ROCK COMPANY

By Robert C. Jones - Vice President
Robert C. Jones

PUBLIC UTILITIES COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 80-0455

WHEREAS, Pursuant to Resolution No. 78-0013 adopted on January 10, 1978, this Commission awarded to Mission Valley Rock Company, Lessee, a 20-year gravel quarrying lease on 30 acres of Water Department land in Alameda County; and,

WHEREAS, Circumstances now require that the lease be amended to add additional land area to lease premises, and also to incorporate a reclamation plan for quarry land approved by Alameda County into lease provision; now, therefore, be it

RESOLVED, That this Commission hereby approves and authorizes the execution of that Supplemental Agreement in Modification of Lease (copies of which agreement are on file with Commission's Secretary) so as to modify Section 1, Premises, and Section 8, Reclamation provisions of the present lease; and be it

FURTHER RESOLVED, That all other terms and conditions of the present lease dated January 10, 1978, are to remain in full force and effect, and be it

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

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission
at its meeting of NOVEMBER 12 1980


Secretary and Assistant General Manager

OFFICE OF THE CLERK OF
BOARD OF SUPERVISORS
 CITY HALL

To

of San Francisco:

Your attention is hereby directed to the following, passed by the Board of Supervisors of the City and County

FILE NO. 468-80-1

ORDINANCE NO. 597-80

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CONFIRMING THE APPROVAL OF A SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE TO THE PRESENT 20 YEAR GRAVEL QUARRY LEASE BETWEEN CITY AND COUNTY OF SAN FRANCISCO, LESSOR, AND MISSION VALLEY ROCK COMPANY, LESSEE, ON SAN FRANCISCO WATER DEPARTMENT LAND LOCATED IN ALAMEDA COUNTY:

Be It Ordained By The People of the City and County of San Francisco:

Pursuant to Section 7.402-1 of the Charter, the Supplemental Agreement in Modification of that certain 20 year Gravel Quarry Lease between City and County of San Francisco, Lessor, and Mission Valley Rock Company, Lessee, approved by Public Utilities Commission Resolution No. 80-0455 adopted on November 12, 1980 for land under the jurisdiction of San Francisco Water Department located in Alameda County, is hereby confirmed for approval.

Passed for Second Reading
 Board of Supervisors, San Francisco
 DEC 15 1980

Ayes: Supervisors Bardis, Britt, Horanzy, Hutch, Kopp, Lawson, Molinari, Renne, ~~Silver~~, Walker, Ward.

~~None~~

Absent: Supervisors SILVER

Read Second Time and Finally Passed
 Board of Supervisors, San Francisco
 DEC 22 1980

Ayes: Supervisors Bardis, Britt, Horanzy, ~~Hutch~~, Kopp, Lawson, Molinari, ~~Renne~~, Silver, Walker, ~~Ward~~

~~None~~

Absent: Supervisors HUTCH Renne WARD

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

STATE OF CALIF
 City and County of San

Gilbert H. Boreman Clerk

Gilbert H. Boreman Clerk

468-80-1 File No. 12/26/80 Approved

John H. Molinari Acting Mayor

the Board that the

annexed Ordinance No. 597-80 is a full, true and correct copy of the original thereof on file in this office.
 IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the official seal of the City and County this 12th day of January, 1981

Gilbert H. Boreman
 Clerk of the Board of Supervisors, City and County of San Francisco

By Mary Anne Bush

THE COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY
HAYWARD, CALIFORNIA

RESOLUTION NO. 80-38 - AT MEETING HELD MAY 5, 1980

Introduced by Commissioner Bernhardt

Seconded by Commissioner Cheng

WHEREAS the Alameda County Planning Commission did receive the application of Mission Valley Rock Company for approval of a Surface Mining Permit (SMP-5) and Reclamation Plan to permit continuation and expansion of mining on, and reclamation of, a [±]160 acre site, located on Athenour Way, near Andrade Road and I-680, Sunol area, Assessor's Parcel Numbers: Book 96, Page 1, Parcels 11-7, 11-8, and 10-4, and Book 96, Page 80, Parcels 1-3 (portion), 1-5, and 1-7; as shown on a map on file with the Alameda County Planning Commission, 399 Elmhurst Street, Hayward, California; and

WHEREAS this Planning Commission did hold a public hearing on said application on the 5th day of May, 1980, at its regular meeting in the Auditorium, Public Works Building, 399 Elmhurst Street, Hayward, California; and

WHEREAS this application has been reviewed in accordance with provisions of the California Environmental Quality Act and a Negative Declaration has been prepared with respect thereto; and

WHEREAS this Planning Commission does find that under conditions of approval contained herein, the public health, safety and welfare will be adequately protected; and

WHEREAS, under the conditions proscribed, the application conforms to requirements of:

- (a) the Alameda County Surface Mining Ordinance
- (b) the Alameda County General Plan
- (c) the public health, safety, and welfare;

NOW THEREFORE BE IT RESOLVED that this Planning Commission hereby approves the issuance of Surface Mining Permit SMP-5 and accompanying Reclamation Plan, for Mission Valley Rock Company, subject to the following conditions:

1. Surface mining operations, reclamation, and grades shall be in substantial conformance with the various maps, information, and recommendations labelled: (1) "Exhibit B, SMP-5," being the "Application for a Surface Mining Permit and Reclamation Plan" dated December 18, 1979, including Attachments A, B, C, and D thereto; and (2) "Exhibit C, SMP-5," being the two drawings titled "Plot Plan & Cross Sections for Surface Mining Permit, Mission Valley Rock Company, April, 1979," and "Reclamation Plan for Surface Mining Permit, Mission Valley Rock Company, July, 1979," unless otherwise modified under the procedures of Condition No. 21.
2. The surface mining operations and reclamation plan shall conform to the Alameda County Surface Mining Ordinance (ACSMO) except as hereinafter more specifically provided.
3. The permittee shall guarantee timely performance of reclamation requirements of the ACSMO and these conditions by creating an escrow account acceptable to the County of Alameda and depositing in said account by July 1 of the each year an amount totalling \$2.50 per 100 tons excavated during the period since the last deposit. The first deposit shall cover the period starting from the date the reclamation plan is approved. The amount shall be in April, 1980 dollars and shall be adjusted in accordance with the Construction Cost Index for San Francisco of Engineering News-Record to account for inflation at the time of the deposit. The permittee shall receive credit for final reclamation completed during the period as determined by the Building Official during

his periodic review pursuant to Condition #4. Said credit shall be deducted from the required deposit and/or refunded from the escrow account except that an accumulated minimum of \$10,000.00 shall be retained in the account until reclamation is completed. Upon revocation or expiration of the permit and completion of the reclamation plan, any funds remaining under said guarantee shall be released to the permittee upon the satisfactory determination by the Building Official that the conditions of the permit have been met and that the site has been reclaimed in accordance with the approved reclamation plan, or said guarantee shall be used by the County to bring the quarry into conformance and to reclaim the site.

4. The permittee shall furnish the Building Official with a report describing compliance with these conditions by February 1 of each year, beginning February 1, 1981. With each report, the permittee shall provide a map at the same scale as the approved reclamation plan, showing current progress of mining, and reclamation, drainage, erosion and sediment control facilities to be provided and those in place, and as-built landscaping including status of all prior landscaping.

The Building Official shall review the report and inspect the mining operations to determine and assure continuing compliance with the regulations of the ACSMO. The permittee shall pay to the County the actual cost of conducting the periodic inspection of operations and shall make available to the Building Official such information as necessary for determination of compliance. The Building Official shall state the findings of the inspection in a final report which shall be available to the public. One copy of said report shall be sent to the permittee within 30 days after the inspection. A copy shall be furnished to the Planning Commission.

5. The permittee and all lessors shall provide a written statement that they accept responsibility for reclaiming the site as indicated on the reclamation plan, as approved, and shall guarantee all reclamation to assure the permanency of physical reclamation features. Said responsibility shall run with the land under permit as a covenant thereon.
6. The existing fence around the perimeter of the property shall be repaired as necessary and maintained in good condition.
7. No explosives may be used.
8. Mining shall not occur within 100' of the banks of Alameda Creek.
9. No discharge of water or pollutants shall be permitted offsite or to the watercourse.
10. Changes in drainage and/or sedimentation control facilities shall be submitted in advance to Alameda County Flood Control and Water Conservation District for approval.
11. Within one year after the date of approval of this permit, (1) a landscape plan prepared by a Landscape Architect detailing location, timing, and type of plant material to be utilized in revegetating the site shall be submitted to the Planning Director for approval; and (2) a report by an agronomist and soils expert containing recommendations for returning reclaimed portions of the site to a condition suitable for agricultural use at the earliest time feasible. Upon approval said reports and recommendations shall become a part of these requirements.
12. A potable water supply shall be provided for employees.
13. Adequate toilet facilities shall be provided for employees according to the requirements of the Alameda County Health Care Services Agency.

14. All surface mining and processing operations emitting smoke, vapors, dust, and other airborne contaminants shall be provided with all necessary control measures and devices as required by the Alameda County Health Department and the Bay Area Air Quality Management District to prevent the occurrence of nuisance and undue pollution of the air.
15. The driver of a weighed vehicle, loaded beyond current State of California maximum legal weight limits, shall be notified and requested to reduce the load to the legal weight. If loaded material is subject to dust generation, drivers shall be requested to moisten loads at facilities to be conveniently located and maintained on site. All loaded vehicles shall be required to cross over a material shakedown area with berm, bumper, or ditches provided. The permittee shall request all vehicle operators to have noise attenuating mufflers as required by the State of California Vehicle Code. Signs notifying drivers of these requirements shall be posted at the scale location.
16. The main access road shall be paved with asphalt for a minimum width of 24' to within 100' of the loading point within the sand and gravel pit. All other haulage roads within the site shall be treated, oiled, paved or watered, and maintained in a dust-free condition.
17. There shall be no interference with the filter gallery operations of the City of San Francisco Water Department.
18. Dikes, levees or other barriers shall be maintained to prevent silting of creeks and drainage channels by any surface mining operation.
19. All operations involving harvesting of gravels and reclamation adjacent to Pacific Gas and Electric Company and San Francisco Water Department power lines and towers shall conform to applicable State laws and to regulations, requirements, and right of way agreements of PG&E and SFWD.
20. Within 5 years from the date of approval, and at approximate 5 year intervals thereafter, the Planning Commission shall review compliance with the Surface Mining Permit and progress in reclaiming the site, and consider any new or changed circumstances within the general area of the mining operations that should be accommodated by the permit or plan. The review shall include a public hearing. As a result of this process, the Planning Commission may modify the permit or reclamation plan or guarantees thereof to conform with the ACSMO, and such permit or plan shall be binding upon the operation.
21. This Surface Mining Permit shall terminate and end 40 years from the date of approval or upon completion of final reclamation, whichever occurs first, and final reclamation shall occur no later than two years after completion of surface mining. All stockpiles and equipment shall be removed from the site upon completion of reclamation. This permit shall be subject to revocation or suspension as specified in Section 8-121.2 of the ACSMO.
22. This Surface Mining Permit (SMP-5) and these conditions supersede requirements of Quarry Permit Q-60. With the exception of requirements specifically imposed through these conditions, all activities on site permitted by Q-60 and modifications thereto are hereby permitted through the life of SMP-5.

ADDENDUM IN CLARIFICATION OF SUPPLEMENTAL
AGREEMENT IN MODIFICATION OF LEASE DATED
January 10, 1978

For purposes of clarification only, it is hereby understood and agreed that to the extent that the provisions of Section 7, subsection G of the Gravel Quarry Lease dated January 10, 1978, and the Drawing entitled "Reclamation Plan" attached as Exhibit "B" to this Supplemental Agreement are in conflict with one another, the provisions in said subsection G are to be superceded by the requirements of said "Reclamation Plan".

APPROVED AS TO FORM:

By *Mc Morris M. Dow*
MCMORRIS M. DOW
Utilities General Counsel

LESSOR:

CITY AND COUNTY OF SAN
FRANCISCO, PUC

By *Eugene Kelleher*
EUGENE KELLEHER
General Manager and Chief
Engineer, SFWD

Date: 2/11/81

LESSEE:

MISSION VALLEY ROCK COMPANY

By *W. J. ...*
Title: ASSY. VICE PRESIDENT

Date: 2-9-81

CITY AND COUNTY OF SAN FRANCISCO
DIANNE FEINSTEIN, MAYOR

ORIGINAL

Lease # 3292
30-Ac

MISSION VALLEY ROCK COMPANY
Gravel Quarry Lease
Alameda County
California

SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE

PUBLIC UTILITIES COMMISSION

Peter McCrea, President John M. Sanger, Vice President

H. Welton Flynn - Commissioner
Thomas Hsieh - Commissioner
Nancy C. Lenvin - Commissioner

Richard Sklar
General Manager of Public Utilities

1980

THE COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY
HAYWARD, CALIFORNIA

RESOLUTION NO. 80-38 - AT MEETING HELD MAY 5, 1980

Introduced by Commissioner Bernhardt

Seconded by Commissioner Cheng

WHEREAS the Alameda County Planning Commission did receive the application of Mission Valley Rock Company for approval of a Surface Mining Permit (SMP-5) and Reclamation Plan to permit continuation and expansion of mining on, and reclamation of, a [±]160 acre site, located on Athenour Way, near Andrade Road and I-680, Sunol area, Assessor's Parcel Numbers: Book 96, Page 1, Parcels 11-7, 11-8, and 10-4, and Book 96, Page 80, Parcels 1-3 (portion), 1-5, and 1-7; as shown on a map on file with the Alameda County Planning Commission, 399 Elmhurst Street, Hayward, California; and

WHEREAS this Planning Commission did hold a public hearing on said application on the 5th day of May, 1980, at its regular meeting in the Auditorium, Public Works Building, 399 Elmhurst Street, Hayward, California; and

WHEREAS this application has been reviewed in accordance with provisions of the California Environmental Quality Act and a Negative Declaration has been prepared with respect thereto; and

WHEREAS this Planning Commission does find that under conditions of approval contained herein, the public health, safety and welfare will be adequately protected; and

WHEREAS, under the conditions proscribed, the application conforms to requirements of:

- (a) the Alameda County Surface Mining Ordinance
- (b) the Alameda County General Plan
- (c) the public health, safety, and welfare;

NOW THEREFORE BE IT RESOLVED that this Planning Commission hereby approves the issuance of Surface Mining Permit SMP-5 and accompanying Reclamation Plan, for Mission Valley Rock Company, subject to the following conditions:

1. Surface mining operations, reclamation, and grades shall be in substantial conformance with the various maps, information, and recommendations labelled: (1) "Exhibit B, SMP-5," being the "Application for a Surface Mining Permit and Reclamation Plan" dated December 18, 1979, including Attachments A, B, C, and D thereto; and (2) "Exhibit C, SMP-5," being the two drawings titled "Plot Plan & Cross Sections for Surface Mining Permit, Mission Valley Rock Company, April, 1979," and "Reclamation Plan for Surface Mining Permit, Mission Valley Rock Company, July, 1979," unless otherwise modified under the procedures of Condition No. 21.
2. The surface mining operations and reclamation plan shall conform to the Alameda County Surface Mining Ordinance (ACSMO) except as hereinafter more specifically provided.
3. The permittee shall guarantee timely performance of reclamation requirements of the ACSMO and these conditions by creating an escrow account acceptable to the County of Alameda and depositing in said account by July 1 of the each year an amount totalling \$2.50 per 100 tons excavated during the period since the last deposit. The first deposit shall cover the period starting from the date the reclamation plan is approved. The amount shall be in April, 1980 dollars and shall be adjusted in accordance with the Construction Cost Index for San Francisco of Engineering News-Record to account for inflation at the time of the deposit. The permittee shall receive credit for final reclamation completed during the period as determined by the Building Official during

his periodic review pursuant to Condition #4. Said credit shall be deducted from the required deposit and/or refunded from the escrow account except that an accumulated minimum of \$10,000.00 shall be retained in the account until reclamation is completed. Upon revocation or expiration of the permit and completion of the reclamation plan, any funds remaining under said guarantee shall be released to the permittee upon the satisfactory determination by the Building Official that the conditions of the permit have been met and that the site has been reclaimed in accordance with the approved reclamation plan, or said guarantee shall be used by the County to bring the quarry into conformance and to reclaim the site.

4. The permittee shall furnish the Building Official with a report describing compliance with these conditions by February 1 of each year, beginning February 1, 1981. With each report, the permittee shall provide a map at the same scale as the approved reclamation plan, showing current progress of mining, and reclamation, drainage, erosion and sediment control facilities to be provided and those in place, and as-built landscaping including status of all prior landscaping.

The Building Official shall review the report and inspect the mining operations to determine and assure continuing compliance with the regulations of the ACSMO. The permittee shall pay to the County the actual cost of conducting the periodic inspection of operations and shall make available to the Building Official such information as necessary for determination of compliance. The Building Official shall state the findings of the inspection in a final report which shall be available to the public. One copy of said report shall be sent to the permittee within 30 days after the inspection. A copy shall be furnished to the Planning Commission.

5. The permittee and all lessors shall provide a written statement that they accept responsibility for reclaiming the site as indicated on the reclamation plan, as approved, and shall guarantee all reclamation to assure the permanency of physical reclamation features. Said responsibility shall run with the land under permit as a covenant thereon.
6. The existing fence around the perimeter of the property shall be repaired as necessary and maintained in good condition.
7. No explosives may be used.
8. Mining shall not occur within 100' of the banks of Alameda Creek.
9. No discharge of water or pollutants shall be permitted offsite or to the watercourse.
10. Changes in drainage and/or sedimentation control facilities shall be submitted in advance to Alameda County Flood Control and Water Conservation District for approval.
11. Within one year after the date of approval of this permit, (1) a landscape plan prepared by a Landscape Architect detailing location, timing, and type of plant material to be utilized in revegetating the site shall be submitted to the Planning Director for approval; and (2) a report by an agronomist and soils expert containing recommendations for returning reclaimed portions of the site to a condition suitable for agricultural use at the earliest time feasible. Upon approval said reports and recommendations shall become a part of these requirements.
12. A potable water supply shall be provided for employees.
13. Adequate toilet facilities shall be provided for employees according to the requirements of the Alameda County Health Care Services Agency.

14. All surface mining and processing operations emitting smoke, vapors, dust, and other airborne contaminants shall be provided with all necessary control measures and devices as required by the Alameda County Health Department and the Bay Area Air Quality Management District to prevent the occurrence of nuisance and undue pollution of the air.
15. The driver of a weighed vehicle, loaded beyond current State of California maximum legal weight limits, shall be notified and requested to reduce the load to the legal weight. If loaded material is subject to dust generation, drivers shall be requested to moisten loads at facilities to be conveniently located and maintained on site. All loaded vehicles shall be required to cross over a material shakedown area with berm, bumper, or ditches provided. The permittee shall request all vehicle operators to have noise attenuating mufflers as required by the State of California Vehicle Code. Signs notifying drivers of these requirements shall be posted at the scale location.
16. The main access road shall be paved with asphalt for a minimum width of 24' to within 100' of the loading point within the sand and gravel pit. All other haulage roads within the site shall be treated, oiled, paved or watered, and maintained in a dust-free condition.
17. There shall be no interference with the filter gallery operations of the City of San Francisco Water Department.
18. Dikes, levees or other barriers shall be maintained to prevent silting of creeks and drainage channels by any surface mining operation.
19. All operations involving harvesting of gravels and reclamation adjacent to Pacific Gas and Electric Company and San Francisco Water Department power lines and towers shall conform to applicable State laws and to regulations, requirements, and right of way agreements of PG&E and SFWD.
20. Within 5 years from the date of approval, and at approximate 5 year intervals thereafter, the Planning Commission shall review compliance with the Surface Mining Permit and progress in reclaiming the site, and consider any new or changed circumstances within the general area of the mining operations that should be accommodated by the permit or plan. The review shall include a public hearing. As a result of this process, the Planning Commission may modify the permit or reclamation plan or guarantees thereof to conform with the ACSMO, and such permit or plan shall be binding upon the operation.
21. This Surface Mining Permit shall terminate and end 40 years from the date of approval or upon completion of final reclamation, whichever occurs first, and final reclamation shall occur no later than two years after completion of surface mining. All stockpiles and equipment shall be removed from the site upon completion of reclamation. This permit shall be subject to revocation or suspension as specified in Section 8-121.2 of the ACSMO.
22. This Surface Mining Permit (SMP-5) and these conditions supersede requirements of Quarry Permit Q-60. With the exception of requirements specifically imposed through these conditions, all activities on site permitted by Q-60 and modifications thereto are hereby permitted through the life of SMP-5.

1. Section 1, PREMISES, of said Lease is hereby modified so as to read as follows:

REAL PROPERTY in the Township of Washington, County of Alameda, State of California, described as follows:

Parcel A:

Commencing at the Northerly Terminus of that course described as "South 23 degrees East 1543.7 feet" in Parcel No. 62, Alameda Creek Lands Deed from Spring Valley Water Company to City and County of San Francisco dated March 3, 1930, and recorded March 3, 1930, in Book 2350 at Page 1, Alameda County, thence from point of commencement along said course South 23 degrees East 1143.19 feet, thence leaving said course South 67 degrees West 1143.19 feet, thence North 23 degrees West 1143.19 ft. to the course described as "North 67 degrees, East 2196.5 feet" in said deed; thence along said course North 67 degrees East 1143.19 feet to the point of commencement. Containing 30 acres more or less.

Parcel B:

A PORTION of Plot 6, Rancho Valle de San Jose, described in the decree of Partition recorded April 12, 1869, in Book 40 Deeds page 315, Official Records of Alameda County described as follows: BEGINNING at a point on the general Eastern line of that parcel of land described in the deed to Berkeley Ready Mix Company and Mission Pass Aggregates recorded March 3, 1977 in Reel 4746, Image 200, Official Records of Alameda County, said point being the Southern terminus of that course described in said deed as "North 13° 05' 30" West, 792.25 feet", running thence along said general Eastern line the following courses and distances: North 13° 05' 30" West, 792.25 feet; North 19° 54' 10" East 330.64 to an intersection with the Southeastern line of that parcel of land described in the Final Order of Condemnation to the State of California, recorded June 27, 1967 in Reel 1988, Image 369, Official Records of Alameda County; thence along the direct North-easterly prolongation of said Southeastern line, North 56° 21' 30" East 560.00 feet; thence South 11° 08' 30" East 700.00 feet; thence South 1° 21' 30" West 220.00 feet; thence South 16° 21' 30" West 480.00 feet; thence South 12° 21' 30" West 310.00 feet; thence South 88° 34' 30" West 197.23 feet to said general Eastern line; thence along last said line North 24° 50' 30" West

SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE

THIS FIRST SUPPLEMENTAL AGREEMENT, made and entered into this 26th day of December, 1980, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, (hereinafter called "City"), acting by and through its Public Utilities Commission (hereinafter called "Commission"), Lessor, and MISSION VALLEY ROCK COMPANY, A Nevada corporation, (hereinafter called "Lessee"), Lessee,

W I T N E S S E T H:

WHEREAS, Pursuant to Commission Resolution No. 78-0013, adopted January 10, 1978, City leased to Lessee 30.00 acres in Alameda County for the operation of a gravel quarry until January 10, 1988; and

WHEREAS, It is the intent of this supplemental agreement to formulate and adopt covenants, in accordance with Section 8 of said lease, imposing certain specified land reclamation obligations upon Lessee to ensure that at the expiration of the lease term, the demised premises shall be suitable for water related activities, such as a water reservoir, and agricultural use;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and other good and valuable consideration not herein recited but herein receipted for, the parties hereto mutually agree as follows:

311.02 feet to the point of beginning.

Containing 18.33 acres more or less.

All as shown on Water Department Drawing No. D-1529 attached hereto and made a part hereof.

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

In addition to the above-described demised premises to be utilized for gravel extraction purposes, City agrees to lease to Lessee, the contiguous City-owned land Westerly of the demised premises, as a site for necessary structures (weighmaster's station), improvement, and an area for stockpiling mined materials, overburden and fine; terms to be negotiated.

An access road to the demised premises from Andrade Road will be provided by City over adjacent land owned by City if necessary. Lessee shall assume all cost of constructing and maintaining said access road.

2. Section 8, RECLAMATION, of said Lease is hereby modified by adding the following clause to said section:

"In accordance with the foregoing provisions of this Section, the provisions of Surface Mining Permit SMP-5, including the Reclamation Plan provisions accompanying it, issued by Alameda County Planning Commission Resolution No. 80-38 to Lessee on May 5, 1980, are hereby incorporated into this lease as Exhibit "B", attached hereto and by reference made a part hereof.

3. All other covenants, terms and conditions set forth in said lease aforesaid shall remain in full force and effect.

IN WITNESS WHEREOF, The parties hereto have caused this First Supplemental Agreement in Modification of Lease to be executed in triplicate the day and year first herein above written.

OFFICE OF THE CLERK OF
BOARD OF SUPERVISORS
 CITY HALL

To

of San Francisco:

Your attention is hereby directed to the following, passed by the Board of Supervisors of the City and County

FILE NO. 468-80-1 ORDINANCE NO. 597-80

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CONFIRMING THE APPROVAL OF A SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE TO THE PRESENT 20 YEAR GRAVEL QUARRY LEASE BETWEEN CITY AND COUNTY OF SAN FRANCISCO, LESSOR, AND MISSION VALLEY ROCK COMPANY, LESSEE, ON SAN FRANCISCO WATER DEPARTMENT LAND LOCATED IN ALAMEDA COUNTY:

Be It Ordained By The People of the City and County of San Francisco:

Pursuant to Section 7.402-1 of the Charter, the Supplemental Agreement in Modification of that certain 20 year Gravel Quarry Lease between City and County of San Francisco, Lessor, and Mission Valley Rock Company, Lessee, approved by Public Utilities Commission Resolution No. 80-0455 adopted on November 12, 1980 for land under the jurisdiction of San Francisco Water Department located in Alameda County, is hereby confirmed for approval.

Passed for Second Reading
 Board of Supervisors, San Francisco
 DEC 15 1980

Ayes: Supervisors Bardin, Britt, Horanzy, Hutch, Kopp, Lawson, Molinari, Renne, ~~Silver~~, Walker, Ward.

~~None~~ Supervisors

Absent: Supervisor SILVER

Read Second Time and Finally Passed
 Board of Supervisors, San Francisco
 DEC 22 1980

Ayes: Supervisors Bardin, Britt, Horanzy, ~~Hutch~~, Kopp, Lawson, Molinari, ~~Renne~~, Silver, Walker, ~~Ward~~

~~None~~ Supervisors

Absent: Supervisors HUTCH Renne WARD

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

STATE OF CALIF
 City and County of San

Gilbert H. Boreman Clerk

Gilbert H. Boreman Clerk

468-80-1 File No. 12/24/80 Approved

John M. Molinari Mayor

the Board that the

annexed Ordinance No. 597-80 is a full, true and correct copy of the original thereof on file in this office.
 IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the official seal of the City and County this 12th day of January, 1981

Gilbert H. Boreman
 Clerk of the Board of Supervisors, City and County of San Francisco

By Mary Anne Bueh

PUBLIC UTILITIES COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 80-0455

WHEREAS, Pursuant to Resolution No. 78-0013 adopted on January 10, 1978, this Commission awarded to Mission Valley Rock Company, Lessee, a 20-year gravel quarrying lease on 30 acres of Water Department land in Alameda County; and,

WHEREAS, Circumstances now require that the lease be amended to add additional land area to lease premises, and also to incorporate a reclamation plan for quarry land approved by Alameda County into lease provision; now, therefore, be it

RESOLVED, That this Commission hereby approves and authorizes the execution of that Supplemental Agreement in Modification of Lease (copies of which agreement are on file with Commission's Secretary) so as to modify Section 1, Premises, and Section 8, Reclamation provisions of the present lease; and be it

FURTHER RESOLVED, That all other terms and conditions of the present lease dated January 10, 1978, are to remain in full force and effect, and be it

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

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission
at its meeting of NOVEMBER 12 1980


Secretary and Assistant General Manager

LESSOR

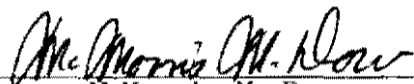
CITY AND COUNTY OF SAN FRANCISCO

a municipal corporation

APPROVED AS TO FORM:

GEORGE AGNOST
City Attorney

BY



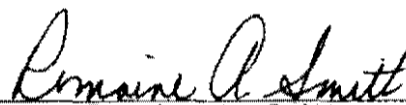
McMorris M. Dow
Utilities General Counsel

APPROVED:

PUBLIC UTILITIES COMMISSION:



Richard Sklar
General Manager of Public Utilities



Romaine A. Smith
Secretary

Resolution No. 80-0455

Adopted: November 12, 1980

Attest: _____

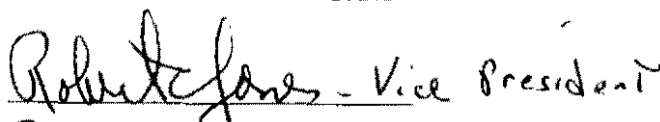
Clerk of the Board of Supervisors

Ordinance No. 597-80

Adopted: December 26, 1980

LESSEE

MISSION VALLEY ROCK COMPANY

By  - Vice President
Robert C. Jones

*MISSION VALLEY ROCK
COMPANY LEASE*

CITY AND COUNTY OF SAN FRANCISCO

GEORGE R. MOSCONE, MAYOR

LE A S E
F O R
G R A V E L Q U A R R Y

SAN FRANCISCO WATER DEPARTMENT

P U B L I C U T I L I T I E S C O M M I S S I O N

John F. Henning, Jr. President

Claire C. Pilcher, Vice President

H. Welton Flynn - Commissioner

Peter McCrea - Commissioner

John M. Sanger - Commissioner

John B. Wentz - General Manager
of Public Utilities

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SAN FRANCISCO WATER DEPARTMENTGRAVEL QUARRYL E A S E

This INDENTURE, made and entered into in the City and County of San Francisco, State of California, this 10th day of January, 1978, by and between CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, (hereinafter referred to as "City"), by and through City's Public Utilities Commission (hereinafter referred to as "Commission", LESSOR, and

MISSION VALLEY ROCK COMPANY (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; and

WHEREAS, it is the intent of this agreement to formulate and adopt mutual covenants under which a gravel quarry is to be operated by Lessee under the terms and conditions hereinafter set forth, and

WHEREAS, this lease is awarded to Lessee in response to City's published invitation for bids;

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. FREMISES

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

Commencing at the Northerly Terminus of that course described as "South 23 degrees East 1543.7 feet" in Parcel No. 62, Alameda Creek Lands Deed from Spring Valley Water Company to City and County of San Francisco dated March 3, 1930, and recorded March 3, 1930, in Book 2350 at Page 1, Alameda County, thence from point of commencement along said course South 67 degrees West 1143.19 feet, thence North 23 degrees West 1143.19 ft. to the course described as "North 67.00 feet, East 1296.5 feet" in said deed; thence along said course North 67 degrees East 1143.19 feet to the point of commencement. Containing 30 acres more or less.

All as shown on Water Department Drawing No. B - 4006 attached hereto and made a part hereof.

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

In addition to the above-described demised premises to be utilized for gravel extraction purposes, City agrees to lease to Lessee, the contiguous City-owned land Westerly of the demised premises, as a site for necessary structures (weighmaster's station), improvement, and an area for stockpiling mined materials, overburden and fine; terms to be negotiated.

An access road to the demised premises from Andrade Road will be provided by City over adjacent land owned by City if necessary. Lessee shall assume all cost of constructing and maintaining said access road.

2. PERMIT TO OPERATE

Prior to commencement of operation of the demised premises as a quarry, Lessee 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 Lessee in obtaining quarry permit, when requested.) The burden is upon Lessee to obtain such permit or any necessary renewal thereof. In the event Lessee fails to obtain the required initial permit or approvals from any of the public agencies, then this lease shall terminate and Lessee will vacate and surrender to City 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 lease, such permit, or any renewal thereof, ceases to be in force and effect, Lessee shall be responsible for payment of \$500,000 minimum royalty required for the full term of this lease, as provided in Section 4, "Rental Royalties", of this lease.

3. TERM

The term of this lease shall be twenty (20) years, commencing on the date of execution hereof. It is understood that all gravel harvest and the required reclamation of the demised premises, in accordance with the approved reclamation plan, shall be completed during the term of this lease.

4. RENTAL/ROYALTIES

Lessee shall pay to City during each year of the lease period, a royalty of \$0.50 cents per ton of quarry products, removed from the demised premises by Lessee or by its agents or customers; provided, however, that in no event shall the rental/royalty amount to less than \$500,000.00 for the full 20-year term.

City reserves the right to review and adjust royalty payment on per ton or cubic yard of quarry products removed from the demised premises at the end of the 10th and 15th year of this lease for each respective succeeding 5-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 lease term, Lessee 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 lease, if the amount of royalties paid to City for the entire term is less than \$500,000.00, Lessee shall within ten (10) days pay to City an amount equal to the difference between the amount of royalties actually paid during the lease term and \$500,000.00.

Lessee shall weigh all quarry products prior to removal from demised premises to the satisfaction of the General Manager of the San Francisco Water Department, (hereinafter referred to as "Manager").

Lessee shall keep accurate books and accounts showing in detail all gross revenues from quarry, as well as quantities, prices, date of deliveries and the names of the receivers of all quarry materials removed from the demised premises and disposed of by Lessee by sale or otherwise. City's Controller and other authorized representatives of City shall have the right to examine the books and records of Lessee 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 Lessee shall keep and maintain records which will enable City and Lessee to ascertain and determine, clearly and accurately, the quantity of quarry materials removed by Lessee, and that the form and method of Lessee's reporting of quarry materials removed will be adequate to provide a control and test check of all revenues derived by Lessee under

this lease. City shall have the right at least quarterly of each year to examine and inspect the books, records and accounts of Lessee with respect to said revenues. Lessee shall maintain on the demised 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 Lessee's books, Lessee 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 Lessee.

All rentals shall be paid in lawful money of the United States of America, free from all claims, demands, setoffs or counter-claims against City of any kind or character.

The \$35,000 payment referred to in the bid proposal is in addition to the \$500,000 minimum rental royalties provided for herein, and is not to be credited against rental/royalties.

5. TAXES, ASSESSMENTS AND LIENS

In addition to the rents and royalties herein reserved, all taxes and assessments paid by City on the demised premises shall be promptly reimbursed by Lessee to the Water Department upon notification by City of the amount due.

Lessee promises to pay promptly all lawful taxes, excises, licenses, permit fees and assessments of whatever nature applicable to the operation of its business. Should Lessee desire to contest the legality thereof, same may be paid under protest. Lessee agrees not to suffer any lien to be imposed upon the demised 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 legality of same.

Lessee recognizes and understands that this lease may create a possessory interest subject to property taxation and that the lessee may be subject to the payment of property taxes levied on such interest.

6. USE AND OPERATION OF PREMISES

The demised premises shall be used by Lessee only for the purpose of quarrying and removal of gravel and rock products therefrom. Lessee agrees that overburden, fine and silt material shall be stock piled, and not removed from the demised premises. Said materials are to be utilized for reclamation development in accordance with Section 8, "RECLAMATION", of this lease.

The operations of Lessee 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 Lessee on the demised premises for the purpose of removal and processing of gravel and rock products, shall remain the property of Lessee and shall be removed by Lessee 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 Lessee of any of the terms and conditions of said lease; and if not so removed, City shall have the option to remove all buildings, structures, improvements and debris at Lessee's expense; or such structures, buildings and improvements as selected by City shall become and remain the sole property of City. If Lessee should damage said

land in removing its buildings, structures or improvements therefrom, then Lessee shall repair such damage to Manager's satisfaction. Fences constructed by Lessee shall be left in good condition on the property.

Additional Site: As provided for in Section 1, "PREMISES", of this lease, Lessee may request lease of additional land for certain purposes other than extraction of gravel, if necessary.

Access Road: Lessee will be permitted to construct an access road connecting with the Andrade Road, if required. The design, grades and location of said road shall be subject to the approval of Manager; and all traffic to and from the quarry shall be confined to this road.

7. OPERATION OF QUARRY

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

Lessee 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. Lessee 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 the demised premises.

Lessee shall construct and maintain a dike of sufficient size and design to prevent the flooding of the quarry operations and 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 Lessee in such manner and to such extent as to meet all reasonable demands for sale of the quarry products. Lessee shall, at all times, maintain a stock of quarry products on hand in bunkers or stock piles available for sale and delivery to prospective buyers. Lessee 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 demised premises, which schedule of prices, while providing for a fair profit for Lessee, shall be in competition with other quarries.

C. Lessee shall conduct his quarrying operation within the demised premises and all gravel removed shall be processed thereon. There shall be no discharge of wash water to the creek.

D. Lessee'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 demised premises to inspect operations and for other reasonable purposes.

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

G. The side slopes of the four sides of the quarry shall not be graded steeper than 2 to 1. Benches shall be placed at each 25' drop from surface elevation. Each bench shall have a minimum width of 13 feet. The side slopes above the benches shall be maintained at a constant slope and the Lessee shall make all repairs to the slope that might be caused by erosion or slide actions.

H. Lessee shall be solely responsible for any and all costs which may be incurred for the relocation of Pacific Gas and Electric Company's power transmission tower located on the demised premises, if relocation is necessary.

8. RECLAMATION

When the quarry permit is obtained by Lessee from the Alameda County Planning Commission, if the reclamation provisions of the permit are satisfactory to Lessor, an amendment of this lease shall be executed by Lessor and Lessee and the provisions of said permit, including the reclamation provisions thereof, shall be incorporated into said amendment and become a part of this lease. Lessee shall be obligated to Lessor to perform the reclamation obligations imposed by the permit.

If the reclamation provisions of the permit are not satisfactory to Lessor, then by an amendment to this lease, Lessor and Lessee shall prescribe reclamation obligations of Lease which are satisfactory to Lessor.

It is mutually agreed that the letting hereunder is upon and subject to the terms, covenants and conditions hereof, and Lessee covenants, as a material part of the consideration for this lease, to keep and perform each and all of said terms, covenants and conditions by it to be kept or performed, and that this lease is made upon the condition of such performance. Unless otherwise specifically provided herein, performance of all terms, covenants and conditions of this lease shall be at Lessee's expense.

10. DELIVERY BY CITY OF POSSESSION

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

11. MAINTENANCE AND REPAIRS

Lessee 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 lease. Lessee shall maintain the 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. Lessee 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 Lessor as provided in Section 1942 of that Code.

12. DISPOSAL OF WASTE

Overburden and other waste materials not suitable for use as rock products and not required for the purposes set forth in section 6 hereof shall be stock-piled within the demised premises and, unless otherwise permitted by Manager, shall be disposed of within the leased area in a manner subject to the approval of Manager at the termination of this lease.

13. SANITATION

The demised premises are situated in a watershed which produces water for municipal and domestic purposes. Sanitation of the leased area shall therefore be in accordance with the directions of and to the satisfaction of Manager. Lessee shall, at all times, prevent any deed, act or thing to be done on the demised premises which may pollute or contaminate the waters of said watershed. No person or persons shall be allowed to dwell thereon, except with the written approval of Manager; and no livestock shall be permitted on the demised premises.

14. NO HUNTING, TRAPPING OR SHOOTING

Lessee shall not permit any hunting, trapping or use of firearms on the demised premises.

15. TITLE TO IMPROVEMENTS

All buildings, structures, and improvements, except fences, constructed or placed by Lessee on the demised premises shall remain the property of Lessee and shall be removed by Lessee 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 Lessee of any of the terms and conditions of this lease; and if not so removed, City shall have the option to remove all buildings, structures, improvements, and debris at Lessee's expense, or such structures, buildings and improvements as selected by City shall become and remain the sole

property of City. If Lessee should damage said land in removing its buildings, structures or improvements therefrom, then Lessee shall repair such damage to Manager's satisfaction. Fences constructed by Lessee shall be left in good condition on the property.

16. UTILITIES

Lessee 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 Lessee and its tenants in, on or about the premises, in addition to the royalties herein reserved.

Lessee 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 Lessee will pond and recycle water for washing operations. Water service shall be provided in accordance with the Rules and Regulations governing water service to consumers as adopted by Commission.

17. NOTICES 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 improvements by Lessee upon the demised premises.

In the event Lessee makes any improvements upon the demised premises, it shall, not later than ten (10) days prior to the commencement of work upon any such improvements, notify Manager, in writing, so that City may install and maintain upon the demised premises notices of nonresponsibility.

18. COMPLIANCE WITH LAWS AND REGULATIONS

Lessee agrees to keep the premises herein demised, and all fixtures and equipment clean, neat, safe, sanitary, and in good order at all times.

Lessee agrees that the operations conducted under this agreement will be operated in strict compliance with all laws

of the United States, the State of California, applicable laws of Santa Clara County, or any legal authority having jurisdiction over same, and all rules and regulations issued pursuant to the laws of the sovereignties or agencies hereinabove mentioned. Lessee further agrees to submit a report or reports or convey such information regarding its operations as Manager may require at any time.

19. WASTE

Lessee shall not commit any waste on the demised premises nor suffer any waste to be committed thereon.

20. LABOR AND MATERIALS

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

21. WORKMEN'S COMPENSATION INSURANCE AND SOCIAL SECURITY

Lessee will, upon request, furnish to City adequate evidence of its provision for Workmen's Compensation Insurance, Social Security and Unemployment Compensation.

22. INDEMNITY

Lessee agrees to defend, indemnify and hold harmless City, the members of Commission, and all of City's officers, agents and employees from and against all liability or loss for injury to or death of any person or damage to property caused by any act or omission of act of Lessee, its agents, servants, and employees of any kind or nature arising directly

or indirectly out of the use of, occupancy of, or operations of Lessee on the demised premises. Each party hereto shall give to the other prompt and timely notice of any claim made or suit instituted coming to its knowledge which in any way, directly or indirectly, contingently or otherwise, affects or might affect either, and both shall have the right to participate in the defense of same to the extent of its own interest.

23. WAIVER OF DAMAGE

Lessee hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency, failure or impairment of any services to or in the demised premises, including, but not limited to, the water supply system, wires leading to or inside the demised premises, gas, electric or telephone services, which may occur from time to time from any cause, or from any loss resulting from gas, gasoline, oil, water or other fluid, or from any other source whatsoever. Lessee hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of the operation of the Water Department's water supply system, including, but not limited to, the release of water, overflow, or failure to release water from Calaveras or Upper Alameda Creek Dams; removal of water or failure to remove water through operation of the Sunol filter galleries; and all other acts that may occur in the operation of Water Department's water supply system, lands and appurtenances to either. Lessee hereby expressly releases and discharges City, Commission and its members, and the officers, servants, agents and employees of City from any liability arising from any of the causes aforesaid.

A. Lessee's Default

The occurrence of any of the following shall constitute a default by Lessee:

1. Failure to pay rent when due.
2. Abandonment and vacation of the premises.
3. Failure to perform any other provision of this lease.

B. Remedies

City shall have the following remedies if Lessee commits a default. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law:

City can terminate Lessee's right to possession of the premises at any time. No act by City other than giving notice to Lessee shall terminate this lease. Acts of maintenance, efforts to relet the premises, or the appointment of a receiver on City's initiative to protect City's interest under this lease shall not constitute a termination of Lessee's right to possession. On termination, City has the right to recover from Lessee:

1. The worth, at the time of the award of the unpaid rent that had been earned at the time of termination of this lease;
2. The worth, at the time of the award of the amount by which the unpaid rent that would have been earned after the date of termination of this lease until the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided;
3. The worth, at the time of the award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided; and

4. Any other amount and court costs, necessary to compensate City for all detriment proximately caused by Lessee's default.

"The worth, at the time of the award," as used in 1 and 2 of this paragraph, is to be computed by allowing interest at the rate of 10 percent per annum. "The worth, at the time of the award," as referred to in 3 of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1 percent.

City, at any time after Lessee commits a default, can cure the default at Lessee's cost. If City at any time, by reason of Lessee's default, pays any sum or does any act that requires the payment of any sum, the sum paid by City shall be due immediately from Lessee to City at the time the sum is paid, and if paid at a later date shall bear interest at the rate of 10 percent per annum from the date the sum is paid by City until City is reimbursed by Lessee. The sum, together with interest on it, shall be additional rent.

Rent not paid when due shall bear interest at the rate of 10 percent per annum from the date due until paid.

25. NO WAIVER OF BREACH BY CITY

The failure of City at any time to insist upon a strict performance of any terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

The subsequent acceptance of rent hereunder by City shall not be deemed 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.

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 Workmen's Compensation Act of the State of California. Lessee shall indemnify and hold City and Commission, and all of their officers, representatives and employees, free and harmless against all claims of whatsoever nature, whether liens of mechanics or others, or claims under the Workmen's Compensation Act of the State of California, or damage of any kind to individuals or property due directly or indirectly to Lessee's use of the demised premises.

27. ASSIGNMENT OR SUBLETTING

Lessee shall not assign this lease or any interest therein and shall not sublet the demised 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 the 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, and 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.

If Lessee is a corporation, any dissolution, merger, consolidation, or other reorganization of Lessee, or the sale or other transfer of a controlling percentage of the capital

stock of Lessee, or the sale of 51 percent 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 percent 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.

28. SURRENDER OF POSSESSION

Lessee agrees to yield and deliver to City possession of the demised 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.

29. INSOLVENCY: RECEIVER

No interest of Lessee in this lease shall be 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 the leasehold be levied or under execution. Should any of the

above listed acts or events occur, the City shall 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 demised premises or to any of the privileges herein conferred.

30. 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' Rights 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 commences 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 percent 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 days after the nature and the 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 days nor later than ninety days after it has notified the other party of its election to terminate; except that this lease shall terminate on a date before the date of termination as designated by such notice. If neither party terminates this lease within the sixty-day period, this lease shall continue in full force and effect, except that minimum monthly rent shall be reduced pursuant to subparagraph F.

E. Effect on Rent

If any portion of the premises is taken by condemnation and this lease remaining 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.

31. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

Lessee shall, throughout the period of this lease, or any extension 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, indemnifying said parties against loss or liability for damages for bodily injury, death or property damage occasioned by reason of the operations of Lessee upon the demised premises, including operation of motor vehicles on or off the premises within minimum liability limits of \$2,000,000 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. 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 Commission at the date of execution of this lease. Lessee agrees to increase forthwith the aforesaid liability limits and amounts to those determined and if demanded in writing by Commission, but said increases must be reasonable and justifiable by Commission.

32. SURETY BONDS

A. \$500,000 Rental/Royalty Bond

Lessee agrees that, as soon as he obtains the quarry permit referred to in Section 2, "Permit for Quarry Operation" hereof, he will obtain and deliver to Manager a valid surety bond in the sum of \$500,000, 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 \$500,000 rental/royalty referred to in Section 4, "Rental/Royalties" hereof.

Every three (3) years after the delivery of such bond, the amount thereof shall be reduced by the amount of rental/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.

33. 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.

34. NON-DISCRIMINATION PROVISIONS

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

35. NOTICES

All notices to be given to Lessee may be served personally in the manner provided by law or sent by registered or certified mail, addressed to Lessee at the demised premises, whether or not Lessee has vacated or abandoned the same. A further copy of any notice to Lessee shall be mailed to him at an address to be designated in writing by Lessee.

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

36. 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.

37. 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.

38. 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.

39. SECTION HEADING

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.

40. TIME

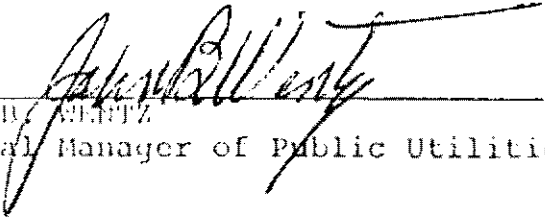
Time is of the essence in this lease.

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

L E S S O R


CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

PUBLIC UTILITIES COMMISSION



JOHN W. SLETTZ
General Manager of Public Utilities

APPROVED AS TO FORM:

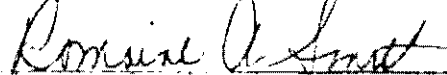

~~THOMAS H. O'CONNOR~~
City Attorney

Authorized by Public Utilities Commission:

Resolution No. 78-0013

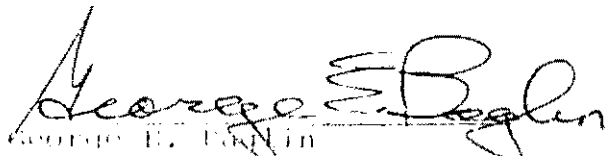
Adopted: January 10, 1978

Attest:



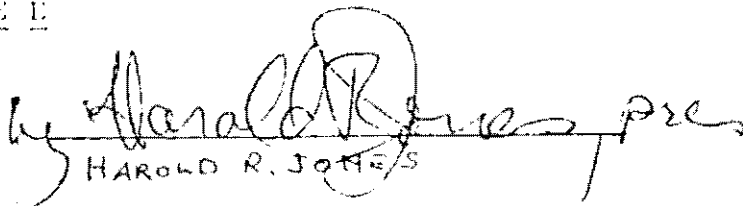
Romaine A. Smith
Secretary

By:

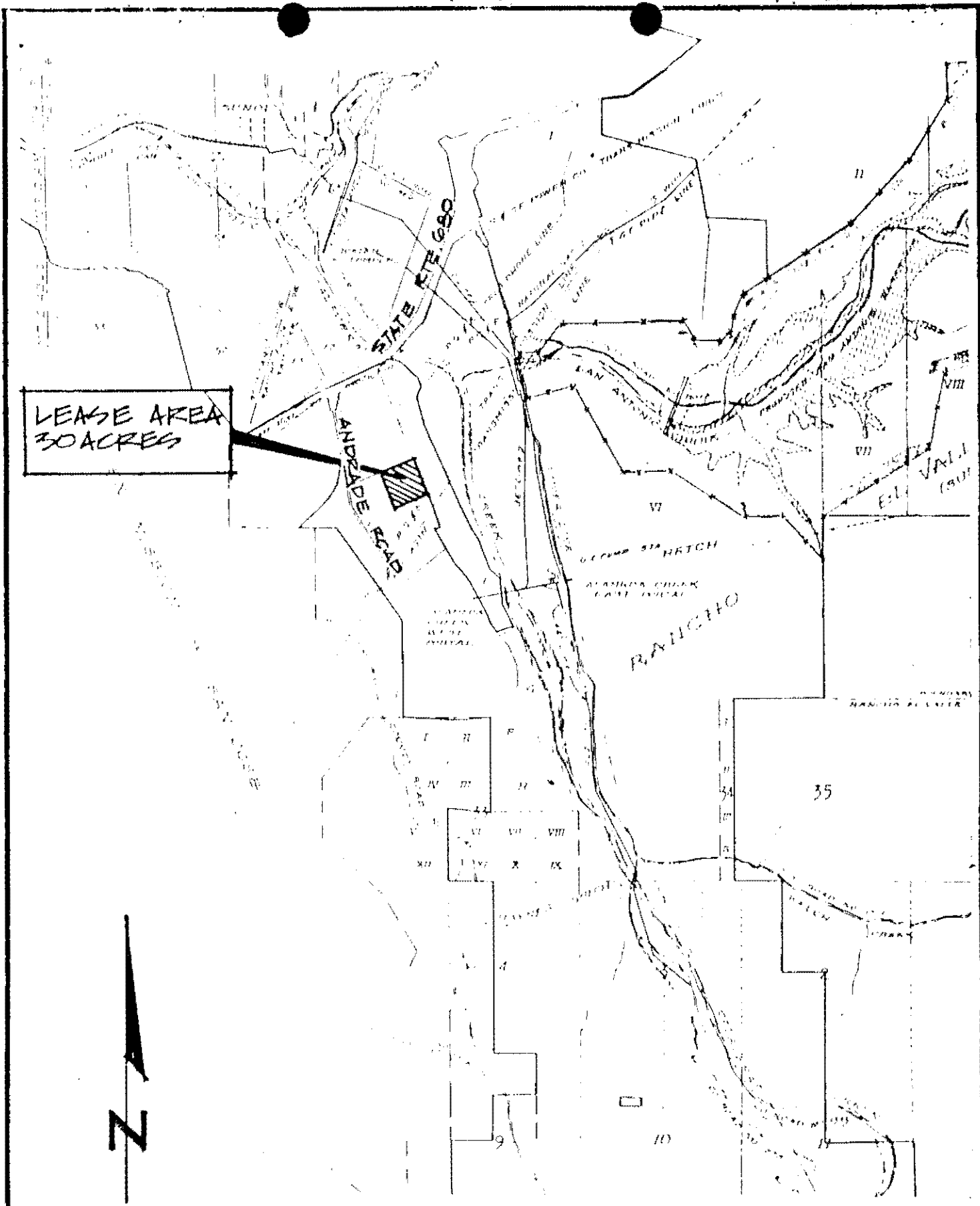

George E. Beglin
Utilities General Counsel

L E S S E E

MISSION VALLEY ROCK CO.



HAROLD R. JONES



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

AREA TO BE LEASED
 FOR QUARRY

PORTION OF PAR. 65

ALAMEDA CO.

APPROVED	SCALE NO SCALE	BY	DR.	DRAWING NO.
APPROVED		IR.	CH. D Mac P.	B-4006
GENERAL MANAGER AND CHIEF ENGINEER		DATE 8.3.77	REVISED	

PUBLIC UTILITIES COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 78-0013

WHEREAS, The City and County of San Francisco owns certain lands in Alameda County under the jurisdiction of the San Francisco Water Department; and

WHEREAS, A sealed bid lease auction was conducted on December 23, 1977, for award of a 30-acre gravel quarry lease on said land; and

WHEREAS, The highest responsible bid was submitted by Mission Valley Rock Co., a Nevada Corporation; now, therefore, be it

RESOLVED, That this Commission accepts the hereinabove mentioned bid and authorizes the General Manager of Public Utilities to execute a lease for approximately 30 acres of land in Alameda County, as described in San Francisco Water Department Drawing No. B-4006, copies of which lease are on file with Commission's Secretary, to Mission Valley Rock Co., A Nevada Corporation, for gravel quarry purposes, for a term of twenty (20) years, at a rental royalty of \$.50 cents per ton of 2,000 pounds of quarry product removed from the demised premises with a minimum rent royalty payment of no less than \$500,000 for the full 20-year term; said rental royalty, per ton, shall be subject to review by City at the end of the 10th and 15th year of said lease; plus reimbursement to City of all taxes and assessments levied on the demised premises; and further shall be subject to all other terms, conditions and covenants contained in the hereinabove mentioned lease; and, be it further

RESOLVED, That this Commission rejects all other bids submitted therefor.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission

at its meeting of

JAN 10 1978

Secretary and Assistant General Manager

CHAPTER 12B
of the
San Francisco Administrative Code
Nondiscrimination in Contracts

- Sec. 12B.1 All contracts to include Nondiscrimination Provisions; Definitions.
- Sec. 12B.2 Nondiscrimination Provisions of Contract.
- Sec. 12B.3 Human Rights Commission Empowered.
- Sec. 12B.4 Affirmative Action Guidelines.
- Sec. 12B.5 Chapter Applies Only to Discriminatory Employment Practices.
- Sec. 12B.6 Severability.

Sec. 12B.1 All Contracts to include Nondiscrimination Provisions; Definitions.

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, franchise, leases, concessions or other agreements involving real or personal property, hereafter negotiated, let awarded, granted, renegotiated, extended or renewed, in any manner or as to any portion thereof, 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 employee of, or applicant for employment with, such contractor, franchisee, lessee or concessionaire to include a similar provision in all subcontractor, sublessee or other subordinate agreements let, awarded, negotiated or entered into thereafter.

(a) Definitions. As used in this chapter the term, "Age" refers to and shall include any employee or applicant for employment who has attained the age of forty (40) years and has not attained the age of sixty-five (65) years. For the purpose of this section, discrimination because of age shall mean dismissal from employment of, or refusal to employ or rehire any person because of his/her age. If such person has attained the age of forty (40) years and has not attained the age of sixty-five (65) years, if the person is physically able and mentally competent to perform the services required. Age limitations of apprenticeship programs in which the State or its political subdivisions participate shall not be considered discriminatory within the meaning of this section.

"Contract" shall mean and include an agreement to provide labor, materials, supplies or services in the performance of a contract, franchise, concession or lease awarded, let or awarded for and on behalf of the City and County of San Francisco.

"Contractor" means any person or persons, firm, partnership, corporation, or combination thereof, who submits a bid and/or enters into a contract with department heads and officers empowered by law to enter into contract on the part of the City and County for public works or improvements to be performed, or for a franchise, concession or lease of property, or for goods, services or supplies to be purchased, at the expense of the City and County or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City and County.

"Subcontractor" means any person or persons, firm, partnership, corporation or any combination thereof, who enters into a contract or agreement with the contractor to perform a substantial specified portion of the contract for public works, improvements, supplies, goods or services, or for a lease, franchise or concession, let, granted or awarded for or on behalf of the City and County in accordance with the plans and specifications of such contractor. Such term shall include any contractor who enters into a contract with any subcontractor for the performance of 10 per cent or more of the subcontract.

"Subcontract" shall mean and include an agreement or contract under or subordinate to a prime contract, franchise lease or concession granted, let or awarded for or on behalf of the City and County of San Francisco.

"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.

"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 or engage in such 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.

"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.

"Lease" shall mean and include a person or tenant taking possession of property under a lease as herein provided, and further includes a bailee under a bailment agreement providing a rental for personal property.

"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 property for a shorter term and under which said lessee or tenant retains some right or interest under the original lease.

"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 adequately performing his or her duties with a reasonable accommodation to his or her disability, and does not make the person incapable of performing such duties in a manner which would not endanger his or her health and safety or the health and safety of others.

"Supplier" means any person or persons, firm, partnership, corporation, or any combination thereof, who submits a bid or enters into a contract with the awarding agency of the City and County or who submits a bid or enters into a contract with any contractor, sub-contractor, lessee, sublessee, franchisee or concessionaire engaged in the performance of a contract let, awarded or renewed by or on behalf of the City and County, for the supplying of goods, materials, services, equipment or furnishings.

Every contract or subcontract for or on behalf of the City and County of San Francisco, as provided in Sec. 12B.1 hereof, shall contain the provisions following, which shall be known as the nondiscrimination provisions of such contract. In the performance of this contract, the contractor, subcontractor or supplier agrees as follows:

(a) Whenever the work is performed or supplies are manufactured in the United States, the contractor, subcontractor or supplier will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age, sex, sexual orientation or disability. The contractor, subcontractor or supplier will take affirmative action to ensure that applicants are employed, and that employees are treated equally during employment, without regard to their race, color, religion, ancestry, national origin, age, sex, sexual orientation or disability. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Nothing in this ordinance shall require or prohibit the establishment of new classifications of employees in any given craft. The provisions of this section with respect to age shall not apply to the termination of employment because of the terms or conditions of any bona fide retirement or pension plan, /2/ operation of the terms or conditions of any bona fide retirement or pension plan which has the effect of a minimum service requirement. /3/ operation of the terms or conditions of any bona fide group or insurance plan. The contractor, subcontractor or supplier agrees to post in conspicuous places, available to employees and applicants or employees and applicants for employment, notices in such form and content as shall be furnished or approved by the awarding authority setting forth the provisions of this section.

(b) Except as in this section provided or in cases where the law compels or provides for such action as in this section provided in any contract agreement or undertaking entered into on or after the effective date of this chapter which prevent or tend to prevent the employment of any person solely by reason of his/her age, who has attained the age of forty (40) years and has not attained the age of sixty-five (65) years shall be null and void.

(c) The contractor, subcontractor or supplier will in all solicitations or advertisements for employees placed by or on his/her behalf, state that qualified applicants will receive consideration for employment without regard to race, creed, color, ancestry, national origin, age, sex, sexual orientation or disability. Any solicitations or advertisements that satisfy stated requirements under Federal law, subject to the approval of the awarding authority, will also satisfy this requirement.

(d) The contractor, subcontractor or supplier will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice, in such form and content as shall be furnished or approved by the awarding authority, advising the said labor union of workers representative of the contractor's, subcontractor's or supplier's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The contractor, subcontractor or supplier will permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the awarding authority, the Fair Employment Practices Commission, or the San Francisco Human Rights Commission, for the purposes of investigation to ascertain compliance.

pliance with the nondiscrimination provisions of this contract and on request provide evidence that he/she has or will comply with the nondiscrimination provisions of this contract.

(4) That contractor, subcontractor or supplier 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 contractor, subcontractor, or supplier has willfully violated such nondiscrimination provisions; or

(2) A finding by the Fair Employment Practices Commission of the State of California that contractor, subcontractor or supplier has violated any provision of the Fair Employment Practice Act of California or the nondiscrimination provisions of this contract, provided that the Fair Employment Practices Commission has issued a final order pursuant to Section 1476 of the Labor Code or has obtained a final injunction pursuant to Section 1479 of the Labor Code, provided further, that for the purposes of this provision, an order of injunction shall not be considered final during the period within which /1/ appeal may be taken, or /2/ the same has been stayed by order of court, or /3/ further proceedings for vacation, reversal or modification are in progress before a competent administrative or judicial tribunal.

(3) Upon such finding by the Director of the Human Rights Commission, or other official designated by the Human Rights Commission, or the Fair Employment Practices Commission, the awarding authority shall notify contractor, subcontractor or supplier that unless he/she 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 (B) and (h) hereof.

(A) 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.

(5) 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 Sec. 128.2 (f) (1) of this contract, that Commissioner may not participate in an appeal under this section except as a witness.

(6) The presiding officer of the Commission shall have the power to administer oath to witnesses in appeals before the Commission under this section. In the event that any person shall fail or refuse to appear as a witness in any such proceeding after being requested to do so, and if it shall appear to the Commission that his/her testimony, or books, records, documents or other things under his/her control are material and relevant as evidence in the matter under consideration by the Commission in the proceedings, the presiding officer of the Commission may subpoena such person, requiring his/her presence at the proceeding, and requiring him/her to bring such books, records, documents or other things under his/her control.

(7) All appeals to the Human Rights Commission shall be open to the public. Records and minutes shall be kept of such proceedings and shall be open to public inspection. Upon reaching a decision in any appeal, the Commission shall give written notice thereof to the Director of the Human Rights Commission, or other official designated by the Human Rights Commission, and the appellant or appellants. The decision of the Commission shall be final unless within 15 days of the filing and service of written notice thereof appropriate legal proceedings are filed in a court of competent jurisdiction by any party to this contract.

(8) If any contractor, subcontractor or supplier under contract to the City and County of San Francisco shall fail to appear at an appeal proceeding of the Commission after having been given written notice to appear, such failure to appear shall be grounds for cancellation of the contract or subcontract and such contractor, subcontractor or supplier shall be deemed to have forfeited all rights, benefits and privileges thereunder.

(9) The Human Rights Commission of San Francisco shall promulgate rules and regulations for the implementation of the nondiscrimination provisions of this contract, and such rules and regulations shall, so far as practicable, be similar to those adopted in applicable Federal executive orders.

(B) There may be deducted from the amount payable to the contractor, subcontractor or supplier by the City and County of San Francisco under this contract a penalty of fifty dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this contract. In addition, to any other penalties herein provided for the violation of the nondiscrimination provisions of this contract or for the failure of any contractor, subcontractor or supplier to abide by the rules and regulations herein contained, this contract may be forthwith cancelled, terminated or suspended, in whole or in part, by the contracting agency upon the basis of a finding as set forth in Sec. 128.2 (1) that the contractor, subcontractor or supplier has discriminated contrary to the provisions of this contract, and all money due or to become due hereunder may be forfeited for, and retained by, the City and County of San Francisco.

(h) A breach of the nondiscrimination provisions in the performance of this contract shall be deemed by the City and County of San Francisco to be a material breach of contract and basis for determination by the officer, board or awarding authority responsible for the awarding or letting of such contract that the contractor, subcontractor or supplier is an irresponsible bidder as to all future contracts for which such contractor, subcontractor or supplier may submit bids. Such person, firm or corporation shall not for a period of two (2) years thereafter, or until he shall establish and carry out a program in conformity with the nondiscrimination provisions of this contract, be allowed to act as a contractor, subcontractor or supplier under any contract for public work, goods or services for or on behalf of the City and County of San Francisco.

(1) Nothing contained in this contract shall be construed in any manner so as to prevent the City and County of San Francisco from pursuing any other remedies that may be available at law.

(j) Nothing contained in this contract shall be construed in any manner so as to require or permit the hiring of aliens on public works as prohibited by law.

(k) The contractor, subcontractor or supplier will meet the following standards for affirmative compliance:

(1) If the contractor, subcontractor or supplier has been held to be an irresponsible bidder under Sec. 128.2(h) hereof, he/she shall furnish evidence that he/she has established and is carrying out a program in conformity with the nondiscrimination provisions of this contract.

(2) The contractor, subcontractor or supplier may be required to file with the Human Rights Commission a basic compliance report, which may be a copy of the Federal EEO-1, or a more detailed report as determined by the Commission. All false statements made in such reports shall be punishable as provided by law. No contractor, subcontractor or supplier shall be held in noncompliance for not filing such a report with the Human Rights Commission unless he/she has been specifically required to do so in writing by the Human Rights Commission.

(3) Personally, or through his/her representatives, the contractor, subcontractor or supplier shall, through negotiations with the unions with whom he/she has collective bargaining or other agreements requiring him/her to obtain or clear his/her employees through the union, or when he/she otherwise uses a union as an employment resource, attempt to develop an agreement which will:

(a) Define and outline responsibilities for nondiscrimination in hiring, referral, upgrading and training.

(b) Otherwise implement an affirmative anti-discrimination program in terms of the union's specific areas of skill and geography, such as an apprenticeship program, to the end that minority workers will be trainable and given an equal opportunity for employment.

(4) The contractor, subcontractor or supplier or trade association shall notify the contracting agency of opposition to the nondiscrimination provisions of this contract by individuals, firms or organizations during the term of this contract.

Sec. 128.3 Human Rights Commission Designated.
The San Francisco Human Rights Commission, its presiding officer and its Director are hereby granted the power to do all acts and exercise all powers referred to in Section 128.2 hereof.

Sec. 128.4 Affirmative Action Guidelines.
The following affirmative action guidelines shall apply to all contracts for or on behalf of the City and County of San Francisco, as provided in Sec. 128.1 hereof:

In order to be eligible to bid or to have a bid considered by the awarding agency, the contractor in all contracts shall submit an affirmative action program which shall meet the requirements of the Human Rights Commission.
The Human Rights Commission may also require contractor's, subcontractors and suppliers to take part in a prebid or preaward conference in order to develop, improve or implement a qualifying affirmative action program.

(a) affirmative action nondiscrimination programs developed pursuant to this section shall be effective for a period of twelve months next succeeding the date of approval by the Human Rights Commission. Contractors, subcontractors and suppliers who are members in good standing of a trade association which has negotiated an affirmative action nondiscrimination program with the Human Rights Commission may make this association program their commitment for the specific contract upon approval of the Human Rights Commission without the process of a separate prebid or preaward conference. Such an association agreement shall be effective for a period of twelve months next succeeding the date of approval by the Human Rights Commission. Trade associations shall provide the Human Rights Commission with a list of members in good standing in such association. The Human Rights Commission shall annually supply contracting agencies of the City and County with a list of contractors, subcontractors and suppliers who have developed approved affirmative action nondiscrimination programs.

(b) The awarding agency shall be responsible for notifying all prospective bidders of the requirements of this Section and also when requested by the Human Rights Commission, for notifying the Human Rights Commission of each contract which is being proposed to be put to public bid.

(c) The proposed affirmative action program required to be submitted under Sec. 128.4 hereof, and the prebid or preaward conference which may be required by Human Rights Commission, shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

- (1) Apprenticeship where approved programs are functioning, and other on-the-job training for nonapprenticeable occupations;
- (2) Classroom preparation for the job when not apprenticeable;
- (3) Preapprenticeship education and preparation;
- (4) Upgrading training and opportunities;
- (5) Encouraging the use of contractors, subcontractors and suppliers of all ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions, and practices generally observed in private industries in the City and County of San Francisco for such work; and

(b) The entry of qualified minority journeymen into the industry.

(d) affirmative action nondiscrimination agreements resulting from the proposed affirmative action program or the prebid or preaward conferences shall not be confidential and may be publicized by the Human Rights Commission at its discretion. In addition, the Human Rights Commission may report to the Board of Supervisors, either on request of the Board or on its own initiative, on the progress or the problems which attend the implementation of these agreements or any other aspect of enforcement of this ordinance.

(e) Any job training or education program using the funds, facilities, or staff of the City and County of San Francisco which, in the judgement of the Board of Supervisors of the Human Rights Commission, can make a contribution to the implementation of this ordinance shall submit reports to the Human Rights Commission as requested and shall be required to cooperate with the contractors, subcontractors, suppliers and unions and with the Human Rights Commission for the effectuation of the affirmative action nondiscrimination programs developed under this ordinance.

Sec. 128.5. Chapter Applies Only to Discriminatory Employment Practices.

This chapter shall not confer upon the City and County of San Francisco or any agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by contractors, subcontractors or suppliers engaged in the performance of City contracts.

(a) The Board of Supervisors shall appropriate such funds from the general fund of the City and County of San Francisco, subject to budgetary and fiscal provisions of the charter, as it may deem necessary for the enforcement of this ordinance.

Sec. 128.6. Severability.

If any clause, sentence, paragraph or part of this title or the application thereof to any person or circumstances, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgement shall not effect, impair or invalidate the remainder of this title.

Final Passage - October 17, 1966. Approved by Mayor - October, 1966.

Amendments:
December, 1966.
February, 1974.
December, 1975.
January, 1976.
January, 1977.

February 1979.

SUPPLEMENTAL AGREEMENT IN MODIFICATION OF LEASE

THIS FIRST SUPPLEMENTAL AGREEMENT, made and entered into this 26TH day of December, 1980, by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, (hereinafter called "City"), acting by and through its Public Utilities Commission (hereinafter called "Commission"), Lessor, and MISSION VALLEY ROCK COMPANY, A Nevada corporation, (hereinafter called "Lessee"), Lessee,

W I T N E S S E T H:

WHEREAS, Pursuant to Commission Resolution No. 78-0013, adopted January 10, 1978, City leased to Lessee 30.00 acres in Alameda County for the operation of a gravel quarry until January 10, 1988; and

WHEREAS, It is the intent of this supplemental agreement to formulate and adopt covenants, in accordance with Section 8 of said lease, imposing certain specified land reclamation obligations upon Lessee to ensure that at the expiration of the lease term, the demised premises shall be suitable for water related activities, such as a water reservoir, and agricultural use;

NOW, THEREFORE, in consideration of the covenants and agreements herein contained and other good and valuable consideration not herein recited but herein receipted for, the parties hereto mutually agree as follows:

1. Section 1, PREMISES, of said Lease is hereby modified so as to read as follows:

REAL PROPERTY in the Township of Washington, County of Alameda, State of California, described as follows:

Parcel A:

Commencing at the Northerly Terminus of that course described as "South 23 degrees East 1543.7 feet" in Parcel No. 62, Alameda Creek Lands Deed from Spring Valley Water Company to City and County of San Francisco dated March 3, 1930, and recorded March 3, 1930, in Book 2350 at Page 1, Alameda County, thence from point of commencement along said course South 23 degrees East 1143.19 feet, thence leaving said course South 67 degrees West 1143.19 feet, thence North 23 degrees West 1143.19 ft. to the course described as "North 67 degrees, East 2196.5 feet" in said deed; thence along said course North 67 degrees East 1143.19 feet to the point of commencement. Containing 30 acres more or less.

Parcel B:

A PORTION of Plot 6, Rancho Valle de San Jose, described in the decree of Partition recorded April 12, 1869, in Book 40 Deeds page 315, Official Records of Alameda County described as follows: BEGINNING at a point on the general Eastern line of that parcel of land described in the deed to Berkeley Ready Mix Company and Mission Pass Aggregates recorded March 3, 1977 in Reel 4746, Image 200, Official Records of Alameda County, said point being the Southern terminus of that course described in said deed as "North 13° 05' 30" West, 792.25 feet", running thence along said general Eastern line the following courses and distances: North 13° 05' 30" West, 792.25 feet; North 19° 54' 10" East 330.64 to an intersection with the Southeastern line of that parcel of land described in the Final Order of Condemnation to the State of California, recorded June 27, 1967 in Reel 1988, Image 369, Official Records of Alameda County; thence along the direct North-easterly prolongation of said Southeastern line, North 56° 21' 30" East 560.00 feet; thence South 11° 08' 30" East 700.00 feet; thence South 1° 21' 30" West 220.00 feet; thence South 16° 21' 30" West 480.00 feet; thence South 12° 21' 30" West 310.00 feet; thence South 88° 34' 30" West 197.23 feet to said general Eastern line; thence along last said line North 24° 50' 30" West

311.02 feet to the point of beginning.

Containing 18.33 acres more or less.

All as shown on Water Department Drawing No. D-1529 attached hereto and made a part hereof.

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

In addition to the above-described demised premises to be utilized for gravel extraction purposes, City agrees to lease to Lessee, the contiguous City-owned land Westerly of the demised premises, as a site for necessary structures (weighmaster's station), improvement, and an area for stockpiling mined materials, overburden and fine; terms to be negotiated.

An access road to the demised premises from Andrade Road will be provided by City over adjacent land owned by City if necessary. Lessee shall assume all cost of constructing and maintaining said access road.

2. Section 8, RECLAMATION, of said Lease is hereby modified by adding the following clause to said section:

"In accordance with the foregoing provisions of this Section, the provisions of Surface Mining Permit SMP-5, including the Reclamation Plan provisions accompanying it, issued by Alameda County Planning Commission Resolution No. 80-38 to Lessee on May 5, 1980, are hereby incorporated into this lease as Exhibit "B", attached hereto and by reference made a part hereof.

3. All other covenants, terms and conditions set forth in said lease aforesaid shall remain in full force and effect.

IN WITNESS WHEREOF, The parties hereto have caused this First Supplemental Agreement in Modification of Lease to be executed in triplicate the day and year first herein above written.

LESSOR

CITY AND COUNTY OF SAN FRANCISCO

a municipal corporation

APPROVED AS TO FORM:

GEORGE AGNOST
City Attorney

BY McMorris M. Dow
McMorris M. Dow
Utilities General Counsel

APPROVED:

PUBLIC UTILITIES COMMISSION:

Richard Sklar
Richard Sklar
General Manager of Public Utilities

Romaine A. Smith
Romaine A. Smith
Secretary

Resolution No. 80-0455

Adopted: November 12, 1980

Attest: _____

Clerk of the Board of Supervisors

Ordinance No. 597-80

Adopted: December 26, 1980

LESSEE

MISSION VALLEY ROCK COMPANY

By Robert C. Jones Vice President
Robert C. Jones

THE COUNTY PLANNING COMMISSION OF ALAMEDA COUNTY
HAYWARD, CALIFORNIA

RESOLUTION NO. 80-38 - AT MEETING HELD MAY 5, 1980

Introduced by Commissioner Bernhardt

Seconded by Commissioner Cheng

WHEREAS the Alameda County Planning Commission did receive the application of Mission Valley Rock Company for approval of a Surface Mining Permit (SMP-5) and Reclamation Plan to permit continuation and expansion of mining on, and reclamation of, a ⁺160 acre site, located on Athenour Way, near Andrade Road and I-680, Sunol area, Assessor's Parcel Numbers: Book 96, Page 1, Parcels 11-7, 11-8, and 10-4, and Book 96, Page 80, Parcels 1-3 (portion), 1-5, and 1-7; as shown on a map on file with the Alameda County Planning Commission, 399 Elmhurst Street, Hayward, California; and

WHEREAS this Planning Commission did hold a public hearing on said application on the 5th day of May, 1980, at its regular meeting in the Auditorium, Public Works Building, 399 Elmhurst Street, Hayward, California; and

WHEREAS this application has been reviewed in accordance with provisions of the California Environmental Quality Act and a Negative Declaration has been prepared with respect thereto; and

WHEREAS this Planning Commission does find that under conditions of approval contained herein, the public health, safety and welfare will be adequately protected; and

WHEREAS, under the conditions proscribed, the application conforms to requirements of:

- (a) the Alameda County Surface Mining Ordinance
- (b) the Alameda County General Plan
- (c) the public health, safety, and welfare;

NOW THEREFORE BE IT RESOLVED that this Planning Commission hereby approves the issuance of Surface Mining Permit SMP-5 and accompanying Reclamation Plan, for Mission Valley Rock Company, subject to the following conditions:

1. Surface mining operations, reclamation, and grades shall be in substantial conformance with the various maps, information, and recommendations labelled: (1) "Exhibit B, SMP-5," being the "Application for a Surface Mining Permit and Reclamation Plan" dated December 18, 1979, including Attachments A, B, C, and D thereto; and (2) "Exhibit C, SMP-5," being the two drawings titled "Plot Plan & Cross Sections for Surface Mining Permit, Mission Valley Rock Company, April, 1979," and "Reclamation Plan for Surface Mining Permit, Mission Valley Rock Company, July, 1979," unless otherwise modified under the procedures of Condition No. 21.
2. The surface mining operations and reclamation plan shall conform to the Alameda County Surface Mining Ordinance (ACSMO) except as hereinafter more specifically provided.
3. The permittee shall guarantee timely performance of reclamation requirements of the ACSMO and these conditions by creating an escrow account acceptable to the County of Alameda and depositing in said account by July 1 of the each year an amount totalling \$2.50 per 100 tons excavated during the period since the last deposit. The first deposit shall cover the period starting from the date the reclamation plan is approved. The amount shall be in April, 1980 dollars and shall be adjusted in accordance with the Construction Cost Index for San Francisco of Engineering News-Record to account for inflation at the time of the deposit. The permittee shall receive credit for final reclamation completed during the period as determined by the Building Official during

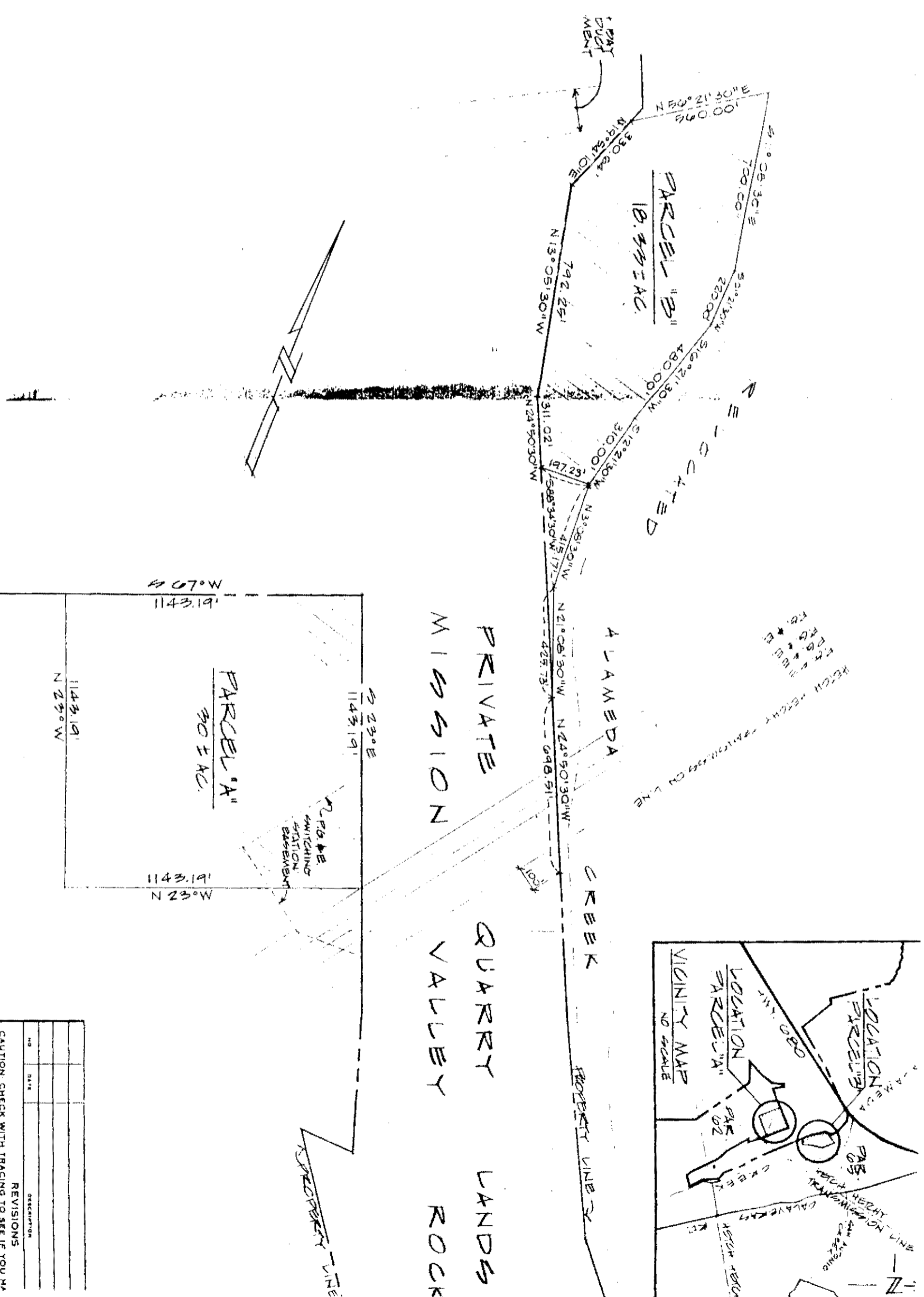
his periodic review pursuant to Condition #4. Said credit shall be deducted from the required deposit and/or refunded from the escrow account except that an accumulated minimum of \$10,000.00 shall be retained in the account until reclamation is completed. Upon revocation or expiration of the permit and completion of the reclamation plan, any funds remaining under said guarantee shall be released to the permittee upon the satisfactory determination by the Building Official that the conditions of the permit have been met and that the site has been reclaimed in accordance with the approved reclamation plan, or said guarantee shall be used by the County to bring the quarry into conformance and to reclaim the site.

4. The permittee shall furnish the Building Official with a report describing compliance with these conditions by February 1 of each year, beginning February 1, 1981. With each report, the permittee shall provide a map at the same scale as the approved reclamation plan, showing current progress of mining, and reclamation, drainage, erosion and sediment control facilities to be provided and those in place, and as-built landscaping including status of all prior landscaping.

The Building Official shall review the report and inspect the mining operations to determine and assure continuing compliance with the regulations of the ACSMO. The permittee shall pay to the County the actual cost of conducting the periodic inspection of operations and shall make available to the Building Official such information as necessary for determination of compliance. The Building Official shall state the findings of the inspection in a final report which shall be available to the public. One copy of said report shall be sent to the permittee within 30 days after the inspection. A copy shall be furnished to the Planning Commission.

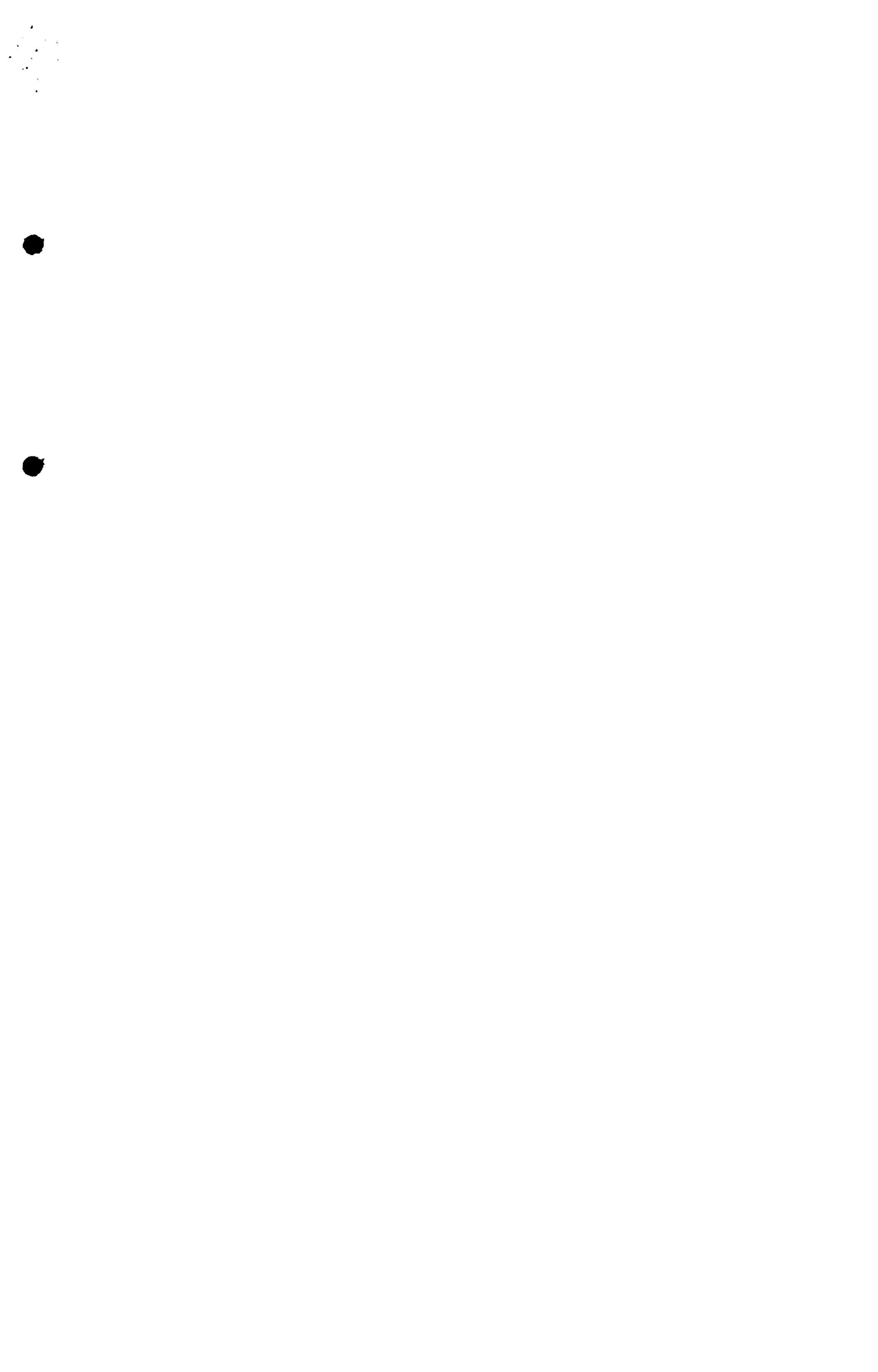
5. The permittee and all lessors shall provide a written statement that they accept responsibility for reclaiming the site as indicated on the reclamation plan, as approved, and shall guarantee all reclamation to assure the permanency of physical reclamation features. Said responsibility shall run with the land under permit as a covenant thereon.
6. The existing fence around the perimeter of the property shall be repaired as necessary and maintained in good condition.
7. No explosives may be used.
8. Mining shall not occur within 100' of the banks of Alameda Creek.
9. No discharge of water or pollutants shall be permitted offsite or to the watercourse.
10. Changes in drainage and/or sedimentation control facilities shall be submitted in advance to Alameda County Flood Control and Water Conservation District for approval.
11. Within one year after the date of approval of this permit, (1) a landscape plan prepared by a Landscape Architect detailing location, timing, and type of plant material to be utilized in revegetating the site shall be submitted to the Planning Director for approval; and (2) a report by an agronomist and soils expert containing recommendations for returning reclaimed portions of the site to a condition suitable for agricultural use at the earliest time feasible. Upon approval said reports and recommendations shall become a part of these requirements.
12. A potable water supply shall be provided for employees.
13. Adequate toilet facilities shall be provided for employees according to the requirements of the Alameda County Health Care Services Agency.

14. All surface mining and processing operations emitting smoke, vapors, dust, and other airborne contaminants shall be provided with all necessary control measures and devices as required by the Alameda County Health Department and the Bay Area Air Quality Management District to prevent the occurrence of nuisance and undue pollution of the air.
15. The driver of a weighed vehicle, loaded beyond current State of California maximum legal weight limits, shall be notified and requested to reduce the load to the legal weight. If loaded material is subject to dust generation, drivers shall be requested to moisten loads at facilities to be conveniently located and maintained on site. All loaded vehicles shall be required to cross over a material shakedown area with berm, bumper, or ditches provided. The permittee shall request all vehicle operators to have noise attenuating mufflers as required by the State of California Vehicle Code. Signs notifying drivers of these requirements shall be posted at the scale location.
16. The main access road shall be paved with asphalt for a minimum width of 24' to within 100' of the loading point within the sand and gravel pit. All other haulage roads within the site shall be treated, oiled, paved or watered, and maintained in a dust-free condition.
17. There shall be no interference with the filter gallery operations of the City of San Francisco Water Department.
18. Dikes, levees or other barriers shall be maintained to prevent silting of creeks and drainage channels by any surface mining operation.
19. All operations involving harvesting of gravels and reclamation adjacent to Pacific Gas and Electric Company and San Francisco Water Department power lines and towers shall conform to applicable State laws and to regulations, requirements, and right of way agreements of PG&E and SFWD.
20. Within 5 years from the date of approval, and at approximate 5 year intervals thereafter, the Planning Commission shall review compliance with the Surface Mining Permit and progress in reclaiming the site, and consider any new or changed circumstances within the general area of the mining operations that should be accommodated by the permit or plan. The review shall include a public hearing. As a result of this process, the Planning Commission may modify the permit or reclamation plan or guarantees thereof to conform with the ACSMO, and such permit or plan shall be binding upon the operation.
21. This Surface Mining Permit shall terminate and end 40 years from the date of approval or upon completion of final reclamation, whichever occurs first, and final reclamation shall occur no later than two years after completion of surface mining. All stockpiles and equipment shall be removed from the site upon completion of reclamation. This permit shall be subject to revocation or suspension as specified in Section 8-121.2 of the ACSMO.
22. This Surface Mining Permit (SMP-5) and these conditions supersede requirements of Quarry Permit Q-60. With the exception of requirements specifically imposed through these conditions, all activities on site permitted by Q-60 and modifications thereto are hereby permitted through the life of SMP-5.



NO	DATE	DESCRIPTION

REVISIONS
 CAUTION CHECK WITH TRACING TO SEE IF YOU HA



ORIGINAL

L-3292

CITY AND COUNTY OF SAN FRANCISCO

GEORGE R. MOSCONE, MAYOR

LEASE
FOR
GRAVEL QUARRY

SAN FRANCISCO WATER DEPARTMENT

PUBLIC UTILITIES COMMISSION

John F. Henning, Jr. President

Claire C. Pilcher, Vice President

H. Welton Flynn - Commissioner
Peter McCrea - Commissioner
John M. Sanger - Commissioner

John B. Wentz - General Manager
of Public Utilities

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SAN FRANCISCO WATER DEPARTMENT

GRAVEL QUARRY

L E A S E

This INDENTURE, made and entered into in the City and County of San Francisco, State of California, this 10th day of January, 1978, by and between CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, (hereinafter referred to as "City"), by and through City's Public Utilities Commission (hereinafter referred to as "Commission", LESSOR, and

MISSION VALLEY ROCK COMPANY (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; and

WHEREAS, it is the intent of this agreement to formulate and adopt mutual covenants under which a gravel quarry is to be operated by Lessee under the terms and conditions hereinafter set forth, and

WHEREAS, this lease is awarded to Lessee in response to City's published invitation for bids;

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 the purposes herein enumerated, the following described real property situated in the County of Alameda, State of California (hereinafter referred to as "demised premises"):

Commencing at the Northerly Terminus of that course described as "South 23 degrees East 1543.7 feet" in Parcel No. 62, Alameda Creek Lands Deed from Spring Valley Water Company to City and County of San Francisco dated March 3, 1930, and recorded March 3, 1930, in Book 2350 at Page 1, Alameda County, thence from point of commencement along said course South 67 degrees West 1143.19 feet, thence North 23 degrees West 1143.19 ft. to the course described as "North 67.00 feet, East 1296.5 feet" in said deed; thence along said course North 67 degrees East 1143.19 feet to the point of commencement. Containing 30 acres more or less.

All as shown on Water Department Drawing No. B - 4006 attached hereto and made a part hereof.

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

In addition to the above-described demised premises to be utilized for gravel extraction purposes, City agrees to lease to Lessee, the contiguous City-owned land Westerly of the demised premises, as a site for necessary structures (weighmaster's station), improvement, and an area for stockpiling mined materials, overburden and fine; terms to be negotiated.

An access road to the demised premises from Andrade Road will be provided by City over adjacent land owned by City if necessary. Lessee shall assume all cost of constructing and maintaining said access road.

2. PERMIT TO OPERATE

Prior to commencement of operation of the demised premises as a quarry, Lessee 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 Lessee in obtaining quarry permit, when requested.) The burden is upon Lessee to obtain such permit or any necessary renewal thereof. In the event Lessee fails to obtain the required initial permit or approvals from any of the public agencies, then this lease shall terminate and Lessee will vacate and surrender to City 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 lease, such permit, or any renewal thereof, ceases to be in force and effect, Lessee shall be responsible for payment of \$500,000 minimum royalty required for the full term of this lease, as provided in Section 4, "Rental Royalties", of this lease.

3. TERM

The term of this lease shall be twenty (20) years, commencing on the date of execution hereof. It is understood that all gravel harvest and the required reclamation of the demised premises, in accordance with the approved reclamation plan, shall be completed during the term of this lease.

4. RENTAL/ROYALTIES

Lessee shall pay to City during each year of the lease period, a royalty of \$0.50 cents per ton of quarry products, removed from the demised premises by Lessee or by its agents or customers; provided, however, that in no event shall the rental/royalty amount to less than \$500,000.00 for the full 20-year term.

City reserves the right to review and adjust royalty payment on per ton or cubic yard of quarry products removed from the demised premises at the end of the 10th and 15th year of this lease for each respective succeeding 5-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 lease term, Lessee 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 lease, if the amount of royalties paid to City for the entire term is less than \$500,000.00, Lessee shall within ten (10) days pay to City an amount equal to the difference between the amount of royalties actually paid during the lease term and \$500,000.00.

Lessee shall weigh all quarry products prior to removal from demised premises to the satisfaction of the General Manager of the San Francisco Water Department, (hereinafter referred to as "Manager").

Lessee shall keep accurate books and accounts showing in detail all gross revenues from quarry, as well as quantities, prices, date of deliveries and the names of the receivers of all quarry materials removed from the demised premises and disposed of by Lessee by sale or otherwise. City's Controller and other authorized representatives of City shall have the right to examine the books and records of Lessee 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 Lessee shall keep and maintain records which will enable City and Lessee to ascertain and determine, clearly and accurately, the quantity of quarry materials removed by Lessee, and that the form and method of Lessee's reporting of quarry materials removed will be adequate to provide a control and test check of all revenues derived by Lessee under

this lease. City shall have the right at least quarterly of each year to examine and inspect the books, records and accounts of Lessee with respect to said revenues. Lessee shall maintain on the demised 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 Lessee's books, Lessee 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 Lessee.

All rentals shall be paid in lawful money of the United States of America, free from all claims, demands, setoffs or counter-claims against City of any kind or character.

The \$35,000 payment referred to in the bid proposal is in addition to the \$500,000 minimum rental royalties provided for herein, and is not to be credited against rental/royalties.

5. TAXES, ASSESSMENTS AND LIENS

In addition to the rents and royalties herein reserved, all taxes and assessments paid by City on the demised premises shall be promptly reimbursed by Lessee to the Water Department upon notification by City of the amount due.

Lessee promises to pay promptly all lawful taxes, excises, licenses, permit fees and assessments of whatever nature applicable to the operation of its business. Should Lessee desire to contest the legality thereof, same may be paid under protest. Lessee agrees not to suffer any lien to be imposed upon the demised 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 legality of same.

Lessee recognizes and understands that this lease may create a possessory interest subject to property taxation and that the lessee may be subject to the payment of property taxes levied on such interest.

6. USE AND OPERATION OF PREMISES

The demised premises shall be used by Lessee only for the purpose of quarrying and removal of gravel and rock products therefrom. Lessee agrees that overburden, fine and silt material shall be stock piled, and not removed from the demised premises. Said materials are to be utilized for reclamation development in accordance with Section 8, "RECLAMATION", of this lease.

The operations of Lessee 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 Lessee on the demised premises for the purpose of removal and processing of gravel and rock products, shall remain the property of Lessee and shall be removed by Lessee 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 Lessee of any of the terms and conditions of said lease; and if not so removed, City shall have the option to remove all buildings, structures, improvements and debris at Lessee's expense, or such structures, buildings and improvements as selected by City shall become and remain the sole property of City. If Lessee should damage said

land in removing its buildings, structures or improvements therefrom, then Lessee shall repair such damage to Manager's satisfaction. Fences constructed by Lessee shall be left in good condition on the property.

Additional Site: As provided for in Section 1, "PREMISES", of this lease, Lessee may request lease of additional land for certain purposes other than extraction of gravel, if necessary.

Access Road: Lessee will be permitted to construct an access road connecting with the Andrade Road, if required. The design, grades and location of said road shall be subject to the approval of Manager; and all traffic to and from the quarry shall be confined to this road.

7. OPERATION OF QUARRY

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

Lessee 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. Lessee 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 the demised premises.

Lessee shall construct and maintain a dike of sufficient size and design to prevent the flooding of the quarry operations and 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 Lessee in such manner and to such extent as to meet all reasonable demands for sale of the quarry products. Lessee shall, at all times, maintain a stock of quarry products on hand in bunkers or stock piles available for sale and delivery to prospective buyers. Lessee 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 demised premises, which schedule of prices, while providing for a fair profit for Lessee, shall be in competition with other quarries.

C. Lessee shall conduct his quarrying operation within the demised premises and all gravel removed shall be processed thereon. There shall be no discharge of wash water to the creek.

D. Lessee'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 demised premises to inspect operations and for other reasonable purposes.

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

G. The side slopes of the four sides of the quarry shall not be graded steeper than 2 to 1. Benches shall be placed at each 25' drop from surface elevation. Each bench shall have a minimum width of 13 feet. The side slopes above the benches shall be maintained at a constant slope and the Lessee shall make all repairs to the slope that might be caused by erosion or slide actions.

H. Lessee shall be solely responsible for any and all costs which may be incurred for the relocation of Pacific Gas and Electric Company's power transmission tower located on the demised premises, if relocation is necessary.

8. RECLAMATION

When the quarry permit is obtained by Lessee from the Alameda County Planning Commission, if the reclamation provisions of the permit are satisfactory to Lessor, an amendment of this lease shall be executed by Lessor and Lessee and the provisions of said permit, including the reclamation provisions thereof, shall be incorporated into said amendment and become a part of this lease. Lessee shall be obligated to Lessor to perform the reclamation obligations imposed by the permit.

If the reclamation provisions of the permit are not satisfactory to Lessor, then by an amendment to this lease, Lessor and Lessee shall prescribe reclamation obligations of Lease which are satisfactory to Lessor.

10. COVENANTS BY LESSEE AS CONDITIONS PRECEDENT

It is mutually agreed that the letting hereunder is upon and subject to the terms, covenants and conditions hereof, and Lessee covenants, as a material part of the consideration for this lease, to keep and perform each and all of said terms, covenants and conditions by it to be kept or performed, and that this lease is made upon the condition of such performance. Unless otherwise specifically provided herein, performance of all terms, covenants and conditions of this lease shall be at Lessee's expense.

10. DELIVERY BY CITY OF POSSESSION

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

11. MAINTENANCE AND REPAIRS

Lessee 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 lease. Lessee shall maintain the 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. Lessee 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 Lessor as provided in Section 1942 of that Code.

12. DISPOSAL OF WASTE

Overburden and other waste materials not suitable for use as rock products and not required for the purposes set forth in section 6 hereof shall be stock-piled within the demised premises and, unless otherwise permitted by Manager, shall be disposed of within the leased area in a manner subject to the approval of Manager at the termination of this lease.

13. SANITATION

The demised premises are situated in a watershed which produces water for municipal and domestic purposes. Sanitation of the leased area shall therefore be in accordance with the directions of and to the satisfaction of Manager. Lessee shall, at all times, prevent any deed, act or thing to be done on the demised premises which may pollute or contaminate the waters of said watershed. No person or persons shall be allowed to dwell thereon, except with the written approval of Manager; and no livestock shall be permitted on the demised premises.

14. NO HUNTING, TRAPPING OR SHOOTING

Lessee shall not permit any hunting, trapping or use of firearms on the demised premises.

15. TITLE TO IMPROVEMENTS

All buildings, structures, and improvements, except fences, constructed or placed by Lessee on the demised premises shall remain the property of Lessee and shall be removed by Lessee 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 Lessee of any of the terms and conditions of this lease; and if not so removed, City shall have the option to remove all buildings, structures, improvements, and debris at Lessee's expense, or such structures, buildings and improvements as selected by City shall become and remain the sole

property of City. If Lessee should damage said land in removing its buildings, structures or improvements therefrom, then Lessee shall repair such damage to Manager's satisfaction. Fences constructed by Lessee shall be left in good condition on the property.

16. UTILITIES

Lessee 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 Lessee and its tenants in, on or about the premises, in addition to the royalties herein reserved.

Lessee 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 Lessee will pond and recycle water for washing operations. Water service shall be provided in accordance with the Rules and Regulations governing water service to consumers as adopted by Commission.

17. NOTICES 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 improvements by Lessee upon the demised premises.

In the event Lessee makes any improvements upon the demised premises, it shall, not later than ten (10) days prior to the commencement of work upon any such improvements, notify Manager, in writing, so that City may install and maintain upon the demised premises notices of nonresponsibility.

18. COMPLIANCE WITH LAWS AND REGULATIONS

Lessee agrees to keep the premises herein demised, and all fixtures and equipment clean, neat, safe, sanitary, and in good order at all times.

Lessee agrees that the operations conducted under this agreement will be operated in strict compliance with all laws

of the United States, the State of California, applicable laws of Santa Clara County, or any legal authority having jurisdiction over same, and all rules and regulations issued pursuant to the laws of the sovereignties or agencies hereinabove mentioned. Lessee further agrees to submit a report or reports or convey such information regarding its operations as Manager may require at any time.

19. WASTE

Lessee shall not commit any waste on the demised premises nor suffer any waste to be committed thereon.

20. LABOR AND MATERIALS

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

21. WORKMEN'S COMPENSATION INSURANCE AND SOCIAL SECURITY

Lessee will, upon request, furnish to City adequate evidence of its provision for Workmen's Compensation Insurance, Social Security and Unemployment Compensation.

22. INDEMNITY

Lessee agrees to defend, indemnify and hold harmless City, the members of Commission, and all of City's officers, agents and employees from and against all liability or loss for injury to or death of any person or damage to property caused by any act or omission of act of Lessee, its agents, servants, and employees of any kind or nature arising directly

or indirectly out of the use of, occupancy of, or operations of Lessee on the demised premises. Each party hereto shall give to the other prompt and timely notice of any claim made or suit instituted coming to its knowledge which in any way, directly or indirectly, contingently or otherwise, affects or might affect either, and both shall have the right to participate in the defense of same to the extent of its own interest.

23. WAIVER OF DAMAGE

Lessee hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency, failure or impairment of any services to or in the demised premises, including, but not limited to, the water supply system, wires leading to or inside the demised premises, gas, electric or telephone services, which may occur from time to time from any cause, or from any loss resulting from gas, gasoline, oil, water or other fluid, or from any other source whatsoever. Lessee hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of the operation of the Water Department's water supply system, including, but not limited to, the release of water, overflow, or failure to release water from Calaveras or Upper Alameda Creek Dams; removal of water or failure to remove water through operation of the Sunol filter galleries; and all other acts that may occur in the operation of Water Department's water supply system, lands and appurtenances to either. Lessee hereby expressly releases and discharges City, Commission and its members, and the officers, servants, agents and employees of City from any liability arising from any of the causes aforesaid.

4. DEFAULT BY LESSEE; REMEDIES OF CITY ON DEFAULT

A. Lessee's Default

The occurrence of any of the following shall constitute a default by Lessee:

1. Failure to pay rent when due.
2. Abandonment and vacation of the premises.
3. Failure to perform any other provision of this lease.

B. Remedies

City shall have the following remedies if Lessee commits a default. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law:

City can terminate Lessee's right to possession of the premises at any time. No act by City other than giving notice to Lessee shall terminate this lease. Acts of maintenance, efforts to relet the premises, or the appointment of a receiver on City's initiative to protect City's interest under this lease shall not constitute a termination of Lessee's right to possession. On termination, City has the right to recover from Lessee:

1. The worth, at the time of the award of the unpaid rent that had been earned at the time of termination of this lease;
2. The worth, at the time of the award of the amount by which the unpaid rent that would have been earned after the date of termination of this lease until the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided;
3. The worth, at the time of the award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided; and

4. Any other amount and court costs, necessary to compensate City for all detriment proximately caused by Lessee's default.

"The worth, at the time of the award," as used in 1 and 2 of this paragraph, is to be computed by allowing interest at the rate of 10 percent per annum. "The worth, at the time of the award," as referred to in 3 of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1 percent.

City, at any time after Lessee commits a default, can cure the default at Lessee's cost. If City at any time, by reason of Lessee's default, pays any sum or does any act that requires the payment of any sum, the sum paid by City shall be due immediately from Lessee to City at the time the sum is paid, and if paid at a later date shall bear interest at the rate of 10 percent per annum from the date the sum is paid by City until City is reimbursed by Lessee. The sum, together with interest on it, shall be additional rent.

Rent not paid when due shall bear interest at the rate of 10 percent per annum from the date due until paid.

25. NO WAIVER OF BREACH BY CITY

The failure of City at any time to insist upon a strict performance of any terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

The subsequent acceptance of rent hereunder by City shall not be deemed 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.

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 Workmen's Compensation Act of the State of California. Lessee shall indemnify and hold City and Commission, and all of their officers, representatives and employees, free and harmless against all claims of whatsoever nature, whether liens of mechanics or others, or claims under the Workmen's Compensation Act of the State of California, or damage of any kind to individuals or property due directly or indirectly to Lessee's use of the demised premises.

27. ASSIGNMENT OR SUBLETTING

Lessee shall not assign this lease or any interest therein and shall not sublet the demised 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 the 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, and 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.

If Lessee is a corporation, any dissolution, merger, consolidation, or other reorganization of Lessee, or the sale or other transfer of a controlling percentage of the capital

stock of Lessee, or the sale of 51 percent 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 percent 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.

28. SURRENDER OF POSSESSION

Lessee agrees to yield and deliver to City possession of the demised 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.

29. INSOLVENCY: RECEIVER

No interest of Lessee in this lease shall be 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 the leasehold be levied or under execution. Should any of the

above listed acts or events occur, the City shall 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 demised premises or to any of the privileges herein conferred.

30. 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' Rights 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 commences 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 percent 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 days after the nature and the 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 days nor later than ninety days after it has notified the other party of its election to terminate; except that this lease shall terminate on a date before the date of termination as designated by such notice. If neither party terminates this lease within the sixty-day period, this lease shall continue in full force and effect, except that minimum monthly rent shall be reduced pursuant to subparagraph E.

E. Effect on Rent

If any portion of the premises is taken by condemnation and this lease remaining 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.

31. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

Lessee shall, throughout the period of this lease, or any extension 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, indemnifying said parties against loss or liability for damages for bodily injury, death or property damage occasioned by reason of the operations of Lessee upon the demised premises, including operation of motor vehicles on or off the premises within minimum liability limits of \$2,000,000 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. 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 Commission at the date of execution of this lease. Lessee agrees to increase forthwith the aforesaid liability limits and amounts to those determined and if demanded in writing by Commission, but said increases must be reasonable and justifiable by Commission.

32. SURETY BONDS

A. \$500,000 Rental/Royalty Bond

Lessee agrees that, as soon as he obtains the quarry permit referred to in Section 2, "Permit for Quarry Operation" hereof, he will obtain and deliver to Manager a valid surety bond in the sum of \$500,000, 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 \$500,000 rental/royalty referred to in Section 4, "Rental/Royalties" hereof.

Every three (3) years after the delivery of such bond, the amount thereof shall be reduced by the amount of rental/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.

33. 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.

34. NON-DISCRIMINATION PROVISIONS

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

35. NOTICES

All notices to be given to Lessee may be served personally in the manner provided by law or sent by registered or certified mail, addressed to Lessee at the demised premises, whether or not Lessee has vacated or abandoned the same. A further copy of any notice to Lessee shall be mailed to him at an address to be designated in writing by Lessee.

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

36. 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.

37. 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.

38. 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.

39. SECTION HEADING

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.

40. TIME

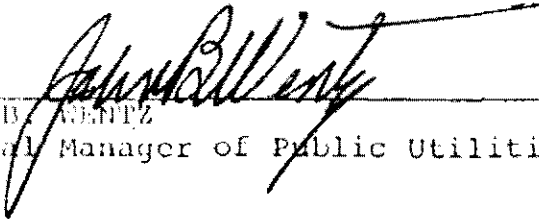
Time is of the essence in this lease.

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

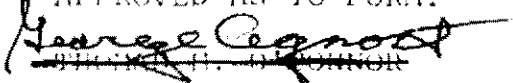
L E S S O R

CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

PUBLIC UTILITIES COMMISSION



JOHN W. VENEZ
General Manager of Public Utilities

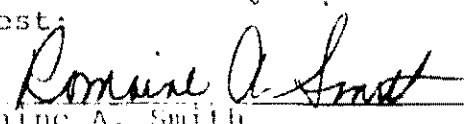
APPROVED AS TO FORM:


George E. Cognost
City Attorney

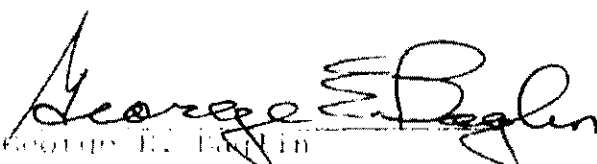
Authorized by Public Utilities
Commission:

Resolution No. 78-0013

Adopted: January 10, 1978

Attest:


Romaine A. Smith
Secretary

By: 

George E. Beglin
Utilities General Counsel

L E S S E E

MISSION VALLEY ROCK CO.



HAROLD R. JONES

PUBLIC UTILITIES COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 78-1013

WHEREAS, The City and County of San Francisco owns certain lands in Alameda County under the jurisdiction of the San Francisco Water Department; and

WHEREAS, A sealed bid lease auction was conducted on December 23, 1977, for award of a 30-acre gravel quarry lease on said land; and

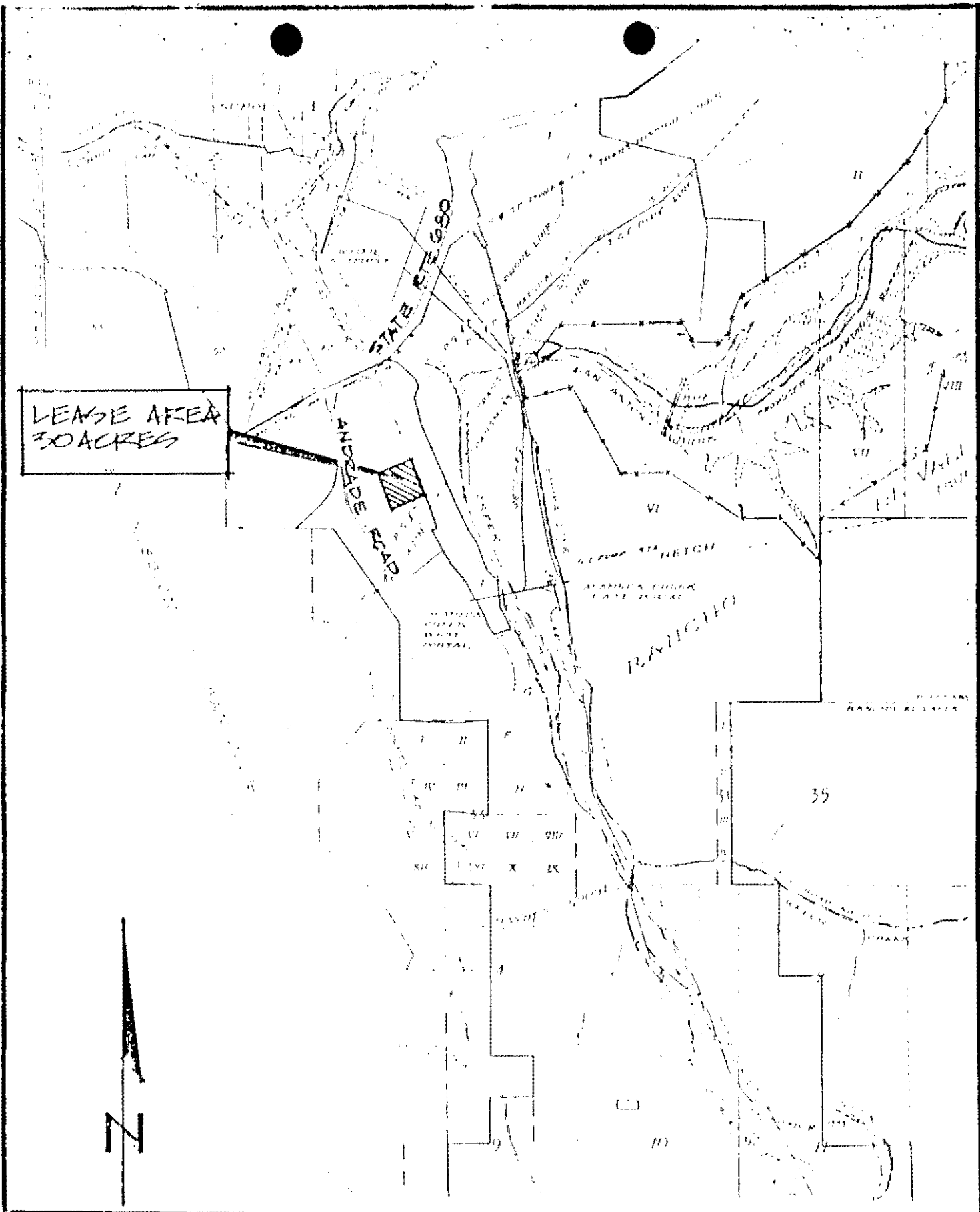
WHEREAS, The highest responsible bid was submitted by Mission Valley Rock Co., a Nevada Corporation; now, therefore, be it

RESOLVED, That this Commission accepts the hereinabove mentioned bid and authorizes the General Manager of Public Utilities to execute a lease for approximately 30 acres of land in Alameda County, as described in San Francisco Water Department Drawing No. B-4006, copies of which lease are on file with Commission's Secretary, to Mission Valley Rock Co., A Nevada Corporation, for gravel quarry purposes, for a term of twenty (20) years, at a rental royalty of \$.50 cents per ton of 2,000 pounds of quarry product removed from the demised premises with a minimum rent royalty payment of no less than \$500,000 for the full 20-year term; said rental royalty, per ton, shall be subject to review by City at the end of the 10th and 15th year of said lease; plus reimbursement to City of all taxes and assessments levied on the demised premises; and further shall be subject to all other terms, conditions and covenants contained in the hereinabove mentioned lease; and, be it further

RESOLVED, That this Commission rejects all other bids submitted therefor.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission
at its meeting of JAN 10 1978

Secretary and Assistant General Manager



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

AREA TO BE LEASED
 FOR QUARRY

PORTION OF PAR. 65

ALAMEDA CO.

APPROVED	SCALE NO SCALE	BY	DR.	DRAWING NO.
APPROVED		TR.	CH. <i>D. Mac P.</i>	<i>B-4006</i>
GENERAL MANAGER AND CHIEF ENGINEER		DATE <i>8-3-77</i>	REVISED	

EXHIBIT A

AMENDING THE SAN FRANCISCO ADMINISTRATIVE CODE BY AMENDING SECTIONS 12B.1, 12B.2 AND 12B.4 THEREOF, DEFINING LEASES, FRANCHISES, CONCESSIONS AND SUBORDINATE AGREEMENTS THEREUNDER AS CONTRACTS, AND PROHIBITING EMPLOYMENT DISCRIMINATION BECAUSE OF AGE

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

Section 1. The San Francisco Administrative Code is hereby amended by amending Sections 12B.1, 12B.2 and 12B.4 thereof, to read as follows:

SEC. 12B.1

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 real or personal property, hereafter negotiated, let, awarded, granted, renegotiated, extended or renewed, in any manner or as to any portion thereof a provision obligating the contractor, franchisee, lessee, concessionaire, or other party to said agreement not to discriminate on the ground or because of race, color, creed, national origin, ancestry, age, sex or sexual orientation, against any employee of, or applicant for employment with, such contractor, franchisee, lessee, or concessionaire, and shall require such contractor, franchisee, lessee or concessionaire to include a similar provision in all subcontracts, subleases or other subordinate agreements let, awarded, negotiated or entered into thereunder.

(a) DEFINITIONS. As used in this chapter the term

"Age" refers to and shall include any employee or applicant for employment who has attained the age of forty (40) years and has not attained the age of sixty-five (65) years. For the purposes of this section, discrimination because of age shall mean dismissal from employment of, or refusal to employ or rehire any person because of his age, if such person has attained the age of forty (40) years and has not attained the age of sixty-five (65) years, if the person is physically able and mentally competent to perform the services required. Age limitations of apprenticeship programs in which the State or its political subdivisions participate shall not be considered discriminatory within the meaning of this section.

"Contract" shall mean and include an agreement to provide labor, materials, supplies or services in the performance of a contract, franchise, concession or lease granted, let or awarded for and on behalf of the City and County of San Francisco.

"Contractor" means any person or persons, firm, partnership, corporation, or combination thereof, who submits a bid and or enters into a contract with department heads and officers empowered by law to enter into contracts on the part of the City and County for public works or improvements to be performed, or for a franchise, concession or lease of property, or for goods, services or supplies to be purchased, at the expense of the City and County or to be paid out of moneys deposited in the treasury or out of trust moneys under the control or collected by the City and County.

"Subcontractor" means any person or persons, firm, partnership, corporation or any combination thereof, who enters into a contract or agreement with the contractor to perform a substantial specified portion of the Contract for public works, improvements, supplies, goods or services, or for a lease, franchise or concession, let, granted or awarded for or on behalf of the City and County in accordance with the plans and specifications of such contract. Such term shall include any contractor who enters into a contract with any subcontractor for the performance of 10 per cent or more of the subcontract.

"Subcontract" shall mean and include an agreement or contract under or subordinate to a prime contract, franchise, lease or concession granted, let or awarded for or on behalf of the City and County of San Francisco.

"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 or engage in such 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.

"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 property under a lease as herein provided, and further includes a bailee under a bailment agreement providing a rental for personal property.

"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 property for a shorter term and under which said lessee or tenant retains some right or interest under the original lease.

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

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

"Supplier" means any person or persons, firm, partnership, corporation, or any combination thereof, who submits a bid or enters into a contract with the awarding agency of the City and County, or who submits a bid or enters into a contract with any contractor, subcontractor, lessee, sublessee, franchisee or concessionaire engaged in the performance of a contract let, awarded or granted by or on behalf of the city and county, for the supplying of goods, materials, services, equipment or furnishings.

SEC. 12B.2. NONDISCRIMINATION PROVISIONS OF CONTRACT

Every contract or subcontract for or on behalf of the City and County of San Francisco for public works or for the purchase of goods or services, as provided in Sec. 12B.1 hereof, shall contain the provisions following, which shall be known as the nondiscrimination provisions of such contract.

In the performance of this contract, the contractor, subcontractor or supplier agrees as follows:

(a) Wherever the work is performed or supplies are manufactured in the United States, the contractor, subcontractor or supplier will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age, sex, or sexual orientation. The contractor, subcontractor or supplier will take affirmative action to insure that applicants are employed, and that employees are treated equally during employment, without regard to their race, color, religion, ancestry, national origin, age, sex, or sexual orientation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Nothing in this ordinance shall require or prohibit the establishment of new classifications of employees in any given craft. The provisions of this section with respect to age shall not apply to (1) termination of employment because of the terms or conditions of any bona fide retirement or pension plan, (2) operation of the terms or conditions of any bona fide retirement or pension plan which has the effect of a minimum service requirement, (3) operation of the terms or conditions of any bona fide group or insurance plan. The contractor, subcontractor or supplier agrees to post in conspicuous places, available to employees and applicants or employees and applicants for employment, notices in such form and content as shall be furnished or approved by the awarding authority setting forth the provisions of this section.

(b) Except as in this section provided, or in cases where the law compels or provides for such action, any provisions in any contract agreement or undertaking entered into on or after the effective date of this chapter which prevent or tend to prevent the employment of any person solely by reason of his age, who has attained the age of forty (40) years and has not attained the age of sixty-five (65) years shall be null and void.

(c) The contractor, subcontractor or supplier will, in all solicitations or advertisements for employees placed by or on his behalf, state that qualified applicants will receive consideration for employment without regard to race, creed, color, ancestry, national origin, age, sex, or sexual orientation. Any solicitations or advertisements that satisfy similar requirements under Federal law, subject to the approval of the awarding authority, will also satisfy this requirement.

(d) The contractor, subcontractor or supplier will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, in such form and content as shall be furnished or approved by the awarding authority, advising the said labor union or workers' representative of the contractor's, subcontractor's or supplier's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(e) The contractor, subcontractor or supplier with permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the awarding authority, the Fair Employment Practices Commission, or the San Francisco Human Rights Commission, for the purposes of investigation to ascertain compliance with the nondiscrimination provisions of this contract, and on request provide evidence that he has or will comply with the nondiscrimination provisions of this contract.

(f) That contractor, subcontractor or supplier shall be deemed to have breached the nondiscrimination provision 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 contractor, subcontractor or supplier has willfully violated such nondiscrimination provisions; or

(2) A finding by the Fair Employment Practices Commission of the State of California that contractor, subcontractor or supplier has violated any provision of the Fair Employment Practices Act of California or the nondiscrimination provisions of this contract, provided that the Fair Employment Practices Commission has issued a final order pursuant to Section 1426 of the Labor Code, or has obtained a final injunction pursuant to Section 1429 of the Labor Code, provided further that for the purposes of this provision, an order or injunction shall not be considered final during the period within which (1) appeal may be taken, or (2) the same has been stayed by order of court, or (3) further proceedings for vacation, reversal or modification are in progress before a competent administrative or judicial tribunal.

(3) Upon such finding by the Director of the Human Rights Commission, or other official design-

nated by the Human Rights Commission, or the Fair Employment Practices Commission, the awarding authority shall notify contractor, subcontractor or supplier 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 subparagraphs (g) and (h) hereof.

(4) The Human Rights Commission shall, within ten (10) 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.

(5) 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 Sec. 12B.2(f)(1) of this contract, that Commissioner may not participate in an appeal under this section except as a witness.

(6) The presiding officer of the Commission shall have the power to administer oaths to witnesses in appeals before the Commission under this section. In the event that any person shall fail or refuse to appear as a witness in any such proceeding after being requested to do so, and if it shall appear to the Commission that his testimony, or books, records, documents or other things under his control are material and relevant as evidence in the matter under consideration by the Commission in the proceeding, the presiding officer of the Commission may subpoena such person, requiring his presence at the proceeding, and requiring him to bring such books, records, documents or other things under his control.

(7) All appeals to the Human Rights Commission shall be open to the public. Records and minutes shall be kept of such proceedings and shall be open to public inspection. Upon reaching a decision in any appeal, the Commission shall give written notice thereof to the Director of the Human Rights Commission, or other official designated by the Human Rights Commission, and to the appellant or appellants. The decision of the Commission shall be final unless within 15 days of the filing and service of written notice thereof appropriate legal proceedings are filed in a court of competent jurisdiction by any party to this contract.

(8) If any contractor, subcontractor or supplier under contract to the City and County of San Francisco shall fail to appear at an appeal proceeding of the Commission after having been given written notice to appear, such failure to appear shall be grounds for cancellation of the contract or subcontract and such contractor, subcontractor or supplier shall be deemed to have forfeited all rights, benefits and privileges thereunder.

(9) The Human Rights Commission of San Francisco shall promulgate rules and regulations for the implementation of the nondiscrimination provisions of this contract, and such rules and regulations shall, so far as practicable, be similar to those adopted in applicable Federal executive orders.

(g) There may be deducted from the amount payable to the contractor, subcontractor or supplier by the City and County of San Francisco under this contract a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against in violation of the provisions of this contract. In addition to any other penalties herein provided for the violation of the nondiscrimination provisions of this contract or for the failure of any contractor, subcontractor or supplier to abide by the rules and regulations herein contained, this contract may be forthwith canceled, terminated or suspended, in whole or in part, by the contracting agency upon the basis of a finding as set forth in Sec. 12B.2(f) that the contractor, subcontractor or supplier has discriminated contrary to the provisions of this contract, and all moneys due or to become due hereunder may be forfeited to, and retained by, the City and County of San Francisco.

(h) A breach of the nondiscrimination provisions in the performance of this contract shall be deemed by the City and County of San Francisco to be a material breach of contract and basis for determination by the officer, board or awarding authority responsible for the awarding or letting of such contract that the contractor, subcontractor or supplier is an irresponsible bidder as to all future contracts for which such contractor, subcontractor or supplier may submit bids. Such person, firm or corporation shall not for a period of two (2) years thereafter, or until he shall establish and carry out a program in conformity with the nondiscrimination provisions of this contract, be allowed to act as a contractor, subcontractor or supplier under any contract for public works, goods or services for or on behalf of the City and County of San Francisco.

(i) Nothing contained in this contract shall be construed in any manner so as to prevent the City and County of San Francisco from pursuing any other remedies that may be available at law.

(j) Nothing contained in this contract shall be construed in any manner so as to require or permit the hiring of aliens on public works as prohibited by law.

(k) The contractor, subcontractor or supplier will meet the following standards for affirmative compliance:

(1) If the contractor, subcontractor or supplier has been held to be an irresponsible bidder under Sec. 12B.2(h) hereof, he shall furnish evidence that he has established and is carrying out a program in conformity with the nondiscrimination provisions of this contract.

(2) The contractor, subcontractor or supplier may be required to file with the Human Rights Commission a basic compliance report, which may be a copy of the federal EEO-1, or a more detailed report as determined by the Commission. Wilful false statements made in such reports shall be punishable as provided by law. No contractor, subcontractor or supplier shall be held in nonconformance for not filing such a report with Human Rights Commission unless he has been specifically required to do so in writing by the Human Rights Commission.

(3) Personally, or through his representatives, the contractor, subcontractor or supplier shall, through negotiations with the unions with whom he has collective bargaining or other agreements requiring him to obtain or clear his employees through the union, or when he otherwise uses a union as an employment resource, attempt to develop an agreement which will:

(a) Define and outline responsibilities for nondiscrimination in hiring, referral, upgrading and training.

(b) Otherwise implement an affirmative antidiscrimination program in terms of the unions' specific areas of skill and geography, such as an apprenticeship program, to the end that minority workers will be available and given an equal opportunity for employment.

(4) The contractor, subcontractor, supplier or trade association shall notify the contracting agency of opposition to the nondiscrimination provisions of this contract by individuals, firms or organizations during the term of this contract.

SEC. 12B.4 AFFIRMATIVE ACTION GUIDELINES.

In order to be eligible to bid or to have a bid considered by the awarding agency, the contractor in all public works contracts shall submit an affirmative action program which shall meet the requirements of the Human Rights Commission.

The Human Rights Commission may also require contractors, subcontractors and suppliers to take part in a prebid or preaward conference in order to develop, improve or implement a qualifying affirmative action program.

(a) Affirmative action nondiscrimination programs developed pursuant to this section shall be effective for a period of twelve months next succeeding the date of approval by the Human Rights Commission. Contractors, subcontractors and suppliers who are members in good standing of a trade association which has negotiated an affirmative action nondiscrimination program with the Human Rights Commission may make this association program their commitment for the specific contract upon approval of the Human Rights Commission without the process of a separate prebid or preaward conference. Such an association agreement shall be effective for a period of twelve months next succeeding the date of approval by the Human Rights Commission. Trade associations shall provide the Human Rights Commission with a list of members in good standing in such association. The Human Rights Commission shall annually supply contracting agencies of the City and County with a list of contractors, subcontractors and suppliers who have developed approved affirmative action nondiscrimination programs.

(b) The awarding agency shall be responsible for notifying all prospective bidders of the requirements of this section and also, when requested by Human Rights Commission, for notifying the Human Rights Commission of each contract which is being proposed to be put to public bid.

(c) The proposed affirmative action program required to be submitted under Sec. 12B.4 hereof, and the prebid or preaward conference which may be required by Human Rights Commission, shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

(1) Apprenticeship where approved programs are functioning, and other on-the-job training for nonapprenticeable occupations;

(2) Classroom preparation for the job when not apprenticeable;

(3) Preapprenticeship education and preparation;

(4) Upgrading training and opportunities;

(5) Encouraging the use of contractors, subcontractors and suppliers of all ethnic groups, provided, however, that any contract subject to this ordinance shall require the contractor, subcontractor or supplier to provide not less than the prevailing wage, working conditions, and practices generally observed in private industries in the City and County of San Francisco for such work; and

(6) The entry of qualified minority journeymen into the industry.

(d) Affirmative action nondiscrimination agreements resulting from the proposed affirmative action programs or the prebid or preaward conferences shall not be confidential and may be publicized by the Human Rights Commission at its discretion. In addition, the Human Rights Commission may report to the Board of Supervisors, either on request of the Board or on its own initiative, on the progress or the problems which attend the implementation of these agreements or any other aspect of enforcement of this ordinance.

(e) Any job training or education program using the funds, facilities, or staff of the City and County of San Francisco which, in the judgment of the Board of Supervisors or the Human Rights Commission can make a contribution to the implementation of this ordinance shall submit reports to the Human Rights Commission as requested and shall be required to cooperate with the contractors, subcontractors, suppliers and unions and with Human Rights Commission for the effectuation of the affirmative action nondiscrimination programs developed under this ordinance.

(5) The presiding officer of the Commission shall have the power to administer oaths to witnesses in appeals before the Commission under this section. In the event that any person shall fail or refuse to appear as a witness in any such proceeding after being requested to do so, and if it shall appear to the Commission that his testimony, or books, records, documents or other things under his control are material and relevant as evidence in the matter under consideration by the Commission in the proceeding, the presiding officer of the Commission may subpoena such person, requiring his presence at the proceeding and requiring him to bring such books, records, documents or other things under his control.

(6) All appeals to the Human Rights Commission shall be open to public inspection. Upon reaching a decision in any appeal, the Commission shall give written notice thereof to the Director of the Human Rights Commission, or other official designated by the Human Rights Commission, and the appellant or appellants. The decision of the Commission shall be final unless within 15 days of the filing and service of written notice thereof appropriate legal proceedings are filed in a court of competent jurisdiction by any party to this contract.

(7) If any tenant or subtenant under contract to the City and County of San Francisco shall fail to appear at an appeal proceeding of the Commission after having been given written notice to appear, such failure to appear shall be grounds for cancellation of the contract or subcontract and such tenant or subtenant shall be deemed to have forfeited all rights, benefits and privileges thereunder.

(8) The Human Rights Commission of San Francisco shall promulgate rules and regulations for the implementation of the nondiscrimination provisions of this contract, and such rules and regulations shall, so far as practicable, be similar to those adopted in applicable federal executive orders.

(d) A breach of the nondiscrimination provisions in the performance of this contract shall be deemed by the City and County of San Francisco to be a material breach of contract and basis for determination by the officer, board or awarding authority responsible for the awarding or letting of such contract that the tenant or subtenant is an irresponsible tenant, lessee, franchisee or concessionaire as to all future contracts for the use of real property. Such person, firm or corporation shall not, for a period of two (2) years thereafter, or until he shall establish and carry out a program in conformity with the nondiscrimination provisions of this contract, be allowed to act as a tenant or subtenant under any contract involving the lease, rental or other use of real property and improvements thereon of the City and County of San Francisco.

(e) Nothing contained in this contract shall be construed in any manner so as to prevent the City and County of San Francisco from pursuing any other remedies that may be available at law.

Sec. 12C.4. Human Rights Commission Empowered.

The San Francisco Human Rights Commission, its presiding officer and its director are hereby granted the power to do all acts and exercise all powers referred to in Section 12C.2 hereof.

Sec. 12C.5. Funding.

The Board of Supervisors shall appropriate such funds from the general fund of the City and County of San Francisco, subject to budgetary and fiscal provisions of the charter, as it may deem necessary for enforcement of this ordinance.

Sec. 12C.6 Severability.

If any clause, sentence, paragraph or part of this title or the application thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such jurisdiction shall not affect, impair or invalidate the remainder of this chapter.

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

Section 1. The San Francisco Administrative Code is hereby amended by adding Chapter 12C thereto, reading 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, 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 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 citizens 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 of the City and County of San Francisco, or any contracting agency thereof, and shall include authorizing a person to conduct such business, social, or other activity as specified in said grant.

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

"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 property 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 to a third person part or all of the leased real property for a shorter term and under which said lessee or tenant remains liable to the lessor.

"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 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 con-

L 3292
ORIGINAL

CITY AND COUNTY OF SAN FRANCISCO

GEORGE R. MOSCONE, MAYOR

LEA SE
FOR
GRAVEL QUARRY

SAN FRANCISCO WATER DEPARTMENT

PUBLIC UTILITIES COMMISSION

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SAN FRANCISCO WATER DEPARTMENTGRAVEL QUARRYL E A S E

This INDENTURE, made and entered into in the City and County of San Francisco, State of California, this 10th day of January, 1978, by and between CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation, (hereinafter referred to as "City"), by and through City's Public Utilities Commission (hereinafter referred to as "Commission", LESSOR, and

MISSION VALLEY ROCK COMPANY (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; and

WHEREAS, it is the intent of this agreement to formulate and adopt mutual covenants under which a gravel quarry is to be operated by Lessee under the terms and conditions hereinafter set forth, and

WHEREAS, this lease is awarded to Lessee in response to City's published invitation for bids;

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 the purposes herein enumerated, the following described real property situated in the County of Alameda, State of California (hereinafter referred to as "demised premises"):

Commencing at the Northerly Terminus of that course described as "South 23 degrees East 1543.7 feet" in Parcel No. 62, Alameda Creek Lands Deed from Spring Valley Water Company to City and County of San Francisco dated March 3, 1930, and recorded March 3, 1930, in Book 2350 at Page 1, Alameda County, thence from point of commencement along said course South 67 degrees West 1143.19 feet, thence North 23 degrees West 1143.19 ft. to the course described as "North 67.00 feet, East 1296.5 feet" in said deed; thence along said course North 67 degrees East 1143.19 feet to the point of commencement. Containing 30 acres more or less.

All as shown on Water Department Drawing No. B - 4006 attached hereto and made a part hereof.

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

In addition to the above-described demised premises to be utilized for gravel extraction purposes, City agrees to lease to Lessee, the contiguous City-owned land Westerly of the demised premises, as a site for necessary structures (weighmaster's station), improvement, and an area for stockpiling mined materials, overburden and fine; terms to be negotiated.

An access road to the demised premises from Andrade Road will be provided by City over adjacent land owned by City if necessary. Lessee shall assume all cost of constructing and maintaining said access road.

2. PERMIT TO OPERATE

Prior to commencement of operation of the demised premises as a quarry, Lessee 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 Lessee in obtaining quarry permit, when requested.) The burden is upon Lessee to obtain such permit or any necessary renewal thereof. In the event Lessee fails to obtain the required initial permit or approvals from any of the public agencies, then this lease shall terminate and Lessee will vacate and surrender to City 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 lease, such permit, or any renewal thereof, ceases to be in force and effect, Lessee shall be responsible for payment of \$500,000 minimum royalty required for the full term of this lease, as provided in Section 4, "Rental Royalties", of this lease.

3. TERM

The term of this lease shall be twenty (20) years, commencing on the date of execution hereof. It is understood that all gravel harvest and the required reclamation of the demised premises, in accordance with the approved reclamation plan, shall be completed during the term of this lease.

4. RENTAL/ROYALTIES

Lessee shall pay to City during each year of the lease period, a royalty of \$0.50 cents per ton of quarry products, removed from the demised premises by Lessee or by its agents or customers; provided, however, that in no event shall the rental/royalty amount to less than \$500,000.00 for the full 20-year term.

City reserves the right to review and adjust royalty payment on per ton or cubic yard of quarry products removed from the demised premises at the end of the 10th and 15th year of this lease for each respective succeeding 5-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 lease term, Lessee 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 lease, if the amount of royalties paid to City for the entire term is less than \$500,000.00, Lessee shall within ten (10) days pay to City an amount equal to the difference between the amount of royalties actually paid during the lease term and \$500,000.00.

Lessee shall weigh all quarry products prior to removal from demised premises to the satisfaction of the General Manager of the San Francisco Water Department, (hereinafter referred to as "Manager").

Lessee shall keep accurate books and accounts showing in detail all gross revenues from quarry, as well as quantities, prices, date of deliveries and the names of the receivers of all quarry materials removed from the demised premises and disposed of by Lessee by sale or otherwise. City's Controller and other authorized representatives of City shall have the right to examine the books and records of Lessee 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 Lessee shall keep and maintain records which will enable City and Lessee to ascertain and determine, clearly and accurately, the quantity of quarry materials removed by Lessee, and that the form and method of Lessee's reporting of quarry materials removed will be adequate to provide a control and test check of all revenues derived by Lessee under

this lease. City shall have the right at least quarterly of each year to examine and inspect the books, records and accounts of Lessee with respect to said revenues. Lessee shall maintain on the demised 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 Lessee's books, Lessee 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 Lessee.

All rentals shall be paid in lawful money of the United States of America, free from all claims, demands, setoffs or counter-claims against City of any kind or character.

The \$35,000 payment referred to in the bid proposal is in addition to the \$500,000 minimum rental royalties provided for herein, and is not to be credited against rental/royalties.

5. TAXES, ASSESSMENTS AND LIENS

In addition to the rents and royalties herein reserved, all taxes and assessments paid by City on the demised premises shall be promptly reimbursed by Lessee to the Water Department upon notification by City of the amount due.

Lessee promises to pay promptly all lawful taxes, excises, licenses, permit fees and assessments of whatever nature applicable to the operation of its business. Should Lessee desire to contest the legality thereof, same may be paid under protest. Lessee agrees not to suffer any lien to be imposed upon the demised 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 legality of same.

Lessee recognizes and understands that this lease may create a possessory interest subject to property taxation and that the lessee may be subject to the payment of property taxes levied on such interest.

6. USE AND OPERATION OF PREMISES

The demised premises shall be used by Lessee only for the purpose of quarrying and removal of gravel and rock products therefrom. Lessee agrees that overburden, fine and silt material shall be stock piled, and not removed from the demised premises. Said materials are to be utilized for reclamation development in accordance with Section 8, "RECLAMATION", of this lease.

The operations of Lessee 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 Lessee on the demised premises for the purpose of removal and processing of gravel and rock products, shall remain the property of Lessee and shall be removed by Lessee 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 Lessee of any of the terms and conditions of said lease; and if not so removed, City shall have the option to remove all buildings, structures, improvements and debris at Lessee's expense, or such structures, buildings and improvements as selected by City shall become and remain the sole property of City. If Lessee should damage said

land in removing its buildings, structures or improvements therefrom, then Lessee shall repair such damage to Manager's satisfaction. Fences constructed by Lessee shall be left in good condition on the property.

Additional Site: As provided for in Section 1, "PREMISES", of this lease, Lessee may request lease of additional land for certain purposes other than extraction of gravel, if necessary.

Access Road: Lessee will be permitted to construct an access road connecting with the Andrade Road, if required. The design, grades and location of said road shall be subject to the approval of Manager; and all traffic to and from the quarry shall be confined to this road.

7. OPERATION OF QUARRY

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

Lessee 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. Lessee 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 the demised premises.

Lessee shall construct and maintain a dike of sufficient size and design to prevent the flooding of the quarry operations and 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 Lessee in such manner and to such extent as to meet all reasonable demands for sale of the quarry products. Lessee shall, at all times, maintain a stock of quarry products on hand in bunkers or stock piles available for sale and delivery to prospective buyers. Lessee 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 demised premises, which schedule of prices, while providing for a fair profit for Lessee, shall be in competition with other quarries.

C. Lessee shall conduct his quarrying operation within the demised premises and all gravel removed shall be processed thereon. There shall be no discharge of wash water to the creek.

D. Lessee'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 demised premises to inspect operations and for other reasonable purposes.

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

G. The side slopes of the four sides of the quarry shall not be graded steeper than 2 to 1. Benches shall be placed at each 25' drop from surface elevation. Each bench shall have a minimum width of 13 feet. The side slopes above the benches shall be maintained at a constant slope and the Lessee shall make all repairs to the slope that might be caused by erosion or slide actions.

H. Lessee shall be solely responsible for any and all costs which may be incurred for the relocation of Pacific Gas and Electric Company's power transmission tower located on the demised premises, if relocation is necessary.

B: RECLAMATION

When the quarry permit is obtained by Lessee from the Alameda County Planning Commission, if the reclamation provisions of the permit are satisfactory to Lessor, an amendment of this lease shall be executed by Lessor and Lessee and the provisions of said permit, including the reclamation provisions thereof, shall be incorporated into said amendment and become a part of this lease. Lessee shall be obligated to Lessor to perform the reclamation obligations imposed by the permit.

If the reclamation provisions of the permit are not satisfactory to Lessor, then by an amendment to this lease, Lessor and Lessee shall prescribe reclamation obligations of Lease which are satisfactory to Lessor.

It is mutually agreed that the letting hereunder is upon and subject to the terms, covenants and conditions hereof, and Lessee covenants, as a material part of the consideration for this lease, to keep and perform each and all of said terms, covenants and conditions by it to be kept or performed, and that this lease is made upon the condition of such performance. Unless otherwise specifically provided herein, performance of all terms, covenants and conditions of this lease shall be at Lessee's expense.

10. DELIVERY BY CITY OF POSSESSION

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

11. MAINTENANCE AND REPAIRS

Lessee 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 lease. Lessee shall maintain the 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. Lessee 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 Lessor as provided in Section 1942 of that Code.

12. DISPOSAL OF WASTE

Overburden and other waste materials not suitable for use as rock products and not required for the purposes set forth in section 6 hereof shall be stock-piled within the demised premises and, unless otherwise permitted by Manager, shall be disposed of within the leased area in a manner subject to the approval of Manager at the termination of this lease.

13. SANITATION

The demised premises are situated in a watershed which produces water for municipal and domestic purposes. Sanitation of the leased area shall therefore be in accordance with the directions of and to the satisfaction of Manager. Lessee shall, at all times, prevent any deed, act or thing to be done on the demised premises which may pollute or contaminate the waters of said watershed. No person or persons shall be allowed to dwell thereon, except with the written approval of Manager; and no livestock shall be permitted on the demised premises.

14. NO HUNTING, TRAPPING OR SHOOTING

Lessee shall not permit any hunting, trapping or use of firearms on the demised premises.

15. TITLE TO IMPROVEMENTS

All buildings, structures, and improvements, except fences, constructed or placed by Lessee on the demised premises shall remain the property of Lessee and shall be removed by Lessee 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 Lessee of any of the terms and conditions of this lease; and if not so removed, City shall have the option to remove all buildings, structures, improvements, and debris at Lessee's expense, or such structures, buildings and improvements as selected by City shall become and remain the sole

property of City. If Lessee should damage said land in removing its buildings, structures or improvements therefrom, then Lessee shall repair such damage to Manager's satisfaction. Fences constructed by Lessee shall be left in good condition on the property.

16. UTILITIES

Lessee 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 Lessee and its tenants in, on or about the premises, in addition to the royalties herein reserved.

Lessee 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 Lessee will pond and recycle water for washing operations. Water service shall be provided in accordance with the Rules and Regulations governing water service to consumers as adopted by Commission.

17. NOTICES 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 improvements by Lessee upon the demised premises.

In the event Lessee makes any improvements upon the demised premises, it shall, not later than ten (10) days prior to the commencement of work upon any such improvements, notify Manager, in writing, so that City may install and maintain upon the demised premises notices of nonresponsibility.

18. COMPLIANCE WITH LAWS AND REGULATIONS

Lessee agrees to keep the premises herein demised, and all fixtures and equipment clean, neat, safe, sanitary, and in good order at all times.

Lessee agrees that the operations conducted under this agreement will be operated in strict compliance with all laws

of the United States, the State of California, applicable laws of Santa Clara County, or any legal authority having jurisdiction over same, and all rules and regulations issued pursuant to the laws of the sovereignties or agencies hereinabove mentioned. Lessee further agrees to submit a report or reports or convey such information regarding its operations as Manager may require at any time.

19. WASTE

Lessee shall not commit any waste on the demised premises nor suffer any waste to be committed thereon.

20. LABOR AND MATERIALS

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

21. WORKMEN'S COMPENSATION INSURANCE AND SOCIAL SECURITY

Lessee will, upon request, furnish to City adequate evidence of its provision for Workmen's Compensation Insurance, Social Security and Unemployment Compensation.

22. INDEMNITY

Lessee agrees to defend, indemnify and hold harmless City, the members of Commission, and all of City's officers, agents and employees from and against all liability or loss for injury to or death of any person or damage to property caused by any act or omission of act of Lessee, its agents, servants, and employees of any kind or nature arising directly

or indirectly out of the use of, occupancy of, or operation of Lessee on the demised premises. Each party hereto shall give to the other prompt and timely notice of any claim made or suit instituted coming to its knowledge which in any way, directly or indirectly, contingently or otherwise, affects or might affect either, and both shall have the right to participate in the defense of same to the extent of its own interest.

23. WAIVER OF DAMAGE

Lessee hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of any defect, deficiency, failure or impairment of any services to or in the demised premises, including, but not limited to, the water supply system, wires leading to or inside the demised premises, gas, electric or telephone services, which may occur from time to time from any cause, or from any loss resulting from gas, gasoline, oil, water or other fluid, or from any other source whatsoever. Lessee hereby expressly waives any and all claims for compensation for any and all loss or damage sustained by reason of the operation of the Water Department's water supply system, including, but not limited to, the release of water, overflow, or failure to release water from Calaveras or Upper Alameda Creek Dams; removal of water or failure to remove water through operation of the Sunol filter galleries; and all other acts that may occur in the operation of Water Department's water supply system, lands and appurtenances to either. Lessee hereby expressly releases and discharges City, Commission and its members, and the officers, servants, agents and employees of City from any liability arising from any of the causes aforesaid.

11. DEFAULT BY LESSEE; REMEDIES OF CITY ON DEFAULT

A. Lessee's Default

The occurrence of any of the following shall constitute a default by Lessee:

1. Failure to pay rent when due.
2. Abandonment and vacation of the premises.
3. Failure to perform any other provision of this lease.

B. Remedies

City shall have the following remedies if Lessee commits a default. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law:

City can terminate Lessee's right to possession of the premises at any time. No act by City other than giving notice to Lessee shall terminate this lease. Acts of maintenance, efforts to relet the premises, or the appointment of a receiver on City's initiative to protect City's interest under this lease shall not constitute a termination of Lessee's right to possession. On termination, City has the right to recover from Lessee:

1. The worth, at the time of the award of the unpaid rent that had been earned at the time of termination of this lease;
2. The worth, at the time of the award of the amount by which the unpaid rent that would have been earned after the date of termination of this lease until the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided;
3. The worth, at the time of the award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of the loss of rent that Lessee proves could have been reasonably avoided; and

4. Any other amount and court costs, necessary to compensate City for all detriment proximately caused by Lessee's default,

"The worth, at the time of the award," as used in 1 and 2 of this paragraph, is to be computed by allowing interest at the rate of 10 percent per annum. "The worth, at the time of the award," as referred to in 3 of this paragraph, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus 1 percent.

City, at any time after Lessee commits a default, can cure the default at Lessee's cost. If City at any time, by reason of Lessee's default, pays any sum or does any act that requires the payment of any sum, the sum paid by City shall be due immediately from Lessee to City at the time the sum is paid, and if paid at a later date shall bear interest at the rate of 10 percent per annum from the date the sum is paid by City until City is reimbursed by Lessee. The sum, together with interest on it, shall be additional rent.

Rent not paid when due shall bear interest at the rate of 10 percent per annum from the date due until paid.

25. NO WAIVER OF BREACH BY CITY

The failure of City at any time to insist upon a strict performance of any terms, conditions and covenants herein shall not be deemed a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained.

The subsequent acceptance of rent hereunder by City shall not be deemed 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.

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 Workmen's Compensation Act of the State of California. Lessee shall indemnify and hold City and Commission, and all of their officers, representatives and employees, free and harmless against all claims of whatsoever nature, whether liens of mechanics or others, or claims under the Workmen's Compensation Act of the State of California, or damage of any kind to individuals or property due directly or indirectly to Lessee's use of the demised premises.

27. ASSIGNMENT OR SUBLETTING

Lessee shall not assign this lease or any interest therein and shall not sublet the demised 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 the 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, and 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.

If Lessee is a corporation, any dissolution, merger, consolidation, or other reorganization of Lessee, or the sale or other transfer of a controlling percentage of the capital

stock of Lessee or the sale of 51 percent 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 percent 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.

28. SURRENDER OF POSSESSION

Lessee agrees to yield and deliver to City possession of the demised 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.

29. INSOLVENCY: RECEIVER

No interest of Lessee in this lease shall be 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 the leasehold be levied or under execution. Should any of the

above listed acts or events occur, the City shall 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 demised premises or to any of the privileges herein conferred.

30. 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' Rights 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 commences 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 percent 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 days after the nature and the 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 days nor later than ninety days after it has notified the other party of its election to terminate; except that this lease shall terminate on a date before the date of termination as designated by such notice. If neither party terminates this lease within the sixty-day period, this lease shall continue in full force and effect, except that minimum monthly rent shall be reduced pursuant to subparagraph E.

E. Effect on Rent

If any portion of the premises is taken by condemnation and this lease remaining 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.

31. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

Lessee shall, throughout the period of this lease, or any extension 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, indemnifying said parties against loss or liability for damages for bodily injury, death or property damage occasioned by reason of the operations of Lessee upon the demised premises, including operation of motor vehicles on or off the premises within minimum liability limits of \$2,000,000 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. 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 Commission at the date of execution of this lease. Lessee agrees to increase forthwith the aforesaid liability limits and amounts to those determined and if demanded in writing by Commission, but said increases must be reasonable and justifiable by Commission.

32. SURETY BONDS

A. \$500,000 Rental/Royalty Bond

Lessee agrees that, as soon as he obtains the quarry permit referred to in Section 2, "Permit for Quarry Operation" hereof, he will obtain and deliver to Manager a valid surety bond in the sum of \$500,000, 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 \$500,000 rental/royalty referred to in Section 4, "Rental/Royalties" hereof.

Every three (3) years after the delivery of such bond, the amount thereof shall be reduced by the amount of rental/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.

33. 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.

34. NON-DISCRIMINATION PROVISIONS

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

35. NOTICES

All notices to be given to Lessee may be served personally in the manner provided by law or sent by registered or certified mail, addressed to Lessee at the demised premises, whether or not Lessee has vacated or abandoned the same. A further copy of any notice to Lessee shall be mailed to him at an address to be designated in writing by Lessee.

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

36. 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.

37. 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.

38. 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.

39. SECTION HEADING

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.

40. TIME

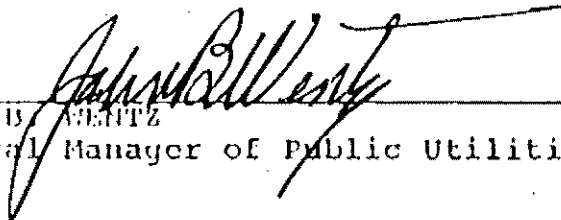
Time is of the essence in this lease.

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

L E S S O R

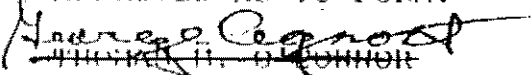
CITY AND COUNTY OF SAN FRANCISCO
a municipal corporation

PUBLIC UTILITIES COMMISSION



JOHN B. WENTZ
General Manager of Public Utilities

APPROVED AS TO FORM:



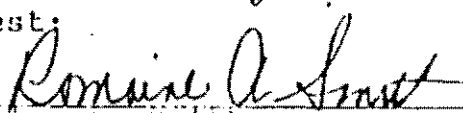
THERESA H. O'CONNOR
City Attorney

Authorized by Public Utilities
Commission:

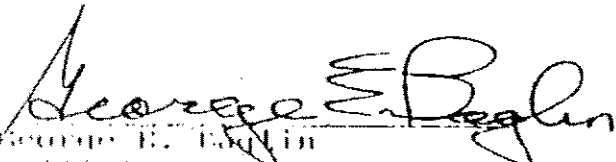
Resolution No. 78-0013

Adopted: January 10, 1978

Attest:



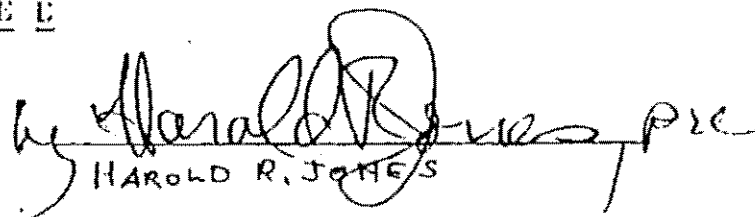
Romaine A. Smith
Secretary

By: 

George E. Egan
Utilities General Counsel

L E S S E E

MISSION VALLEY ROCK CO.



HAROLD R. JONES

PUBLIC UTILITIES COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION No. 78-0013

WHEREAS, The City and County of San Francisco owns certain lands in Alameda County under the jurisdiction of the San Francisco Water Department; and

WHEREAS, A sealed bid lease auction was conducted on December 23, 1977, for award of a 30-acre gravel quarry lease on said land; and

WHEREAS, The highest responsible bid was submitted by Mission Valley Rock Co., a Nevada Corporation; now, therefore, be it

RESOLVED, That this Commission accepts the hereinabove mentioned bid and authorizes the General Manager of Public Utilities to execute a lease for approximately 30 acres of land in Alameda County, as described in San Francisco Water Department Drawing No. B-4006, copies of which lease are on file with Commission's Secretary, to Mission Valley Rock Co., A Nevada Corporation, for gravel quarry purposes, for a term of twenty (20) years, at a rental royalty of \$.50 cents per ton of 2,000 pounds of quarry product removed from the demised premises with a minimum rent royalty payment of no less than \$500,000 for the full 20-year term; said rental royalty, per ton, shall be subject to review by City at the end of the 10th and 15th year of said lease; plus reimbursement to City of all taxes and assessments levied on the demised premises; and further shall be subject to all other terms, conditions and covenants contained in the hereinabove mentioned lease; and, be it further

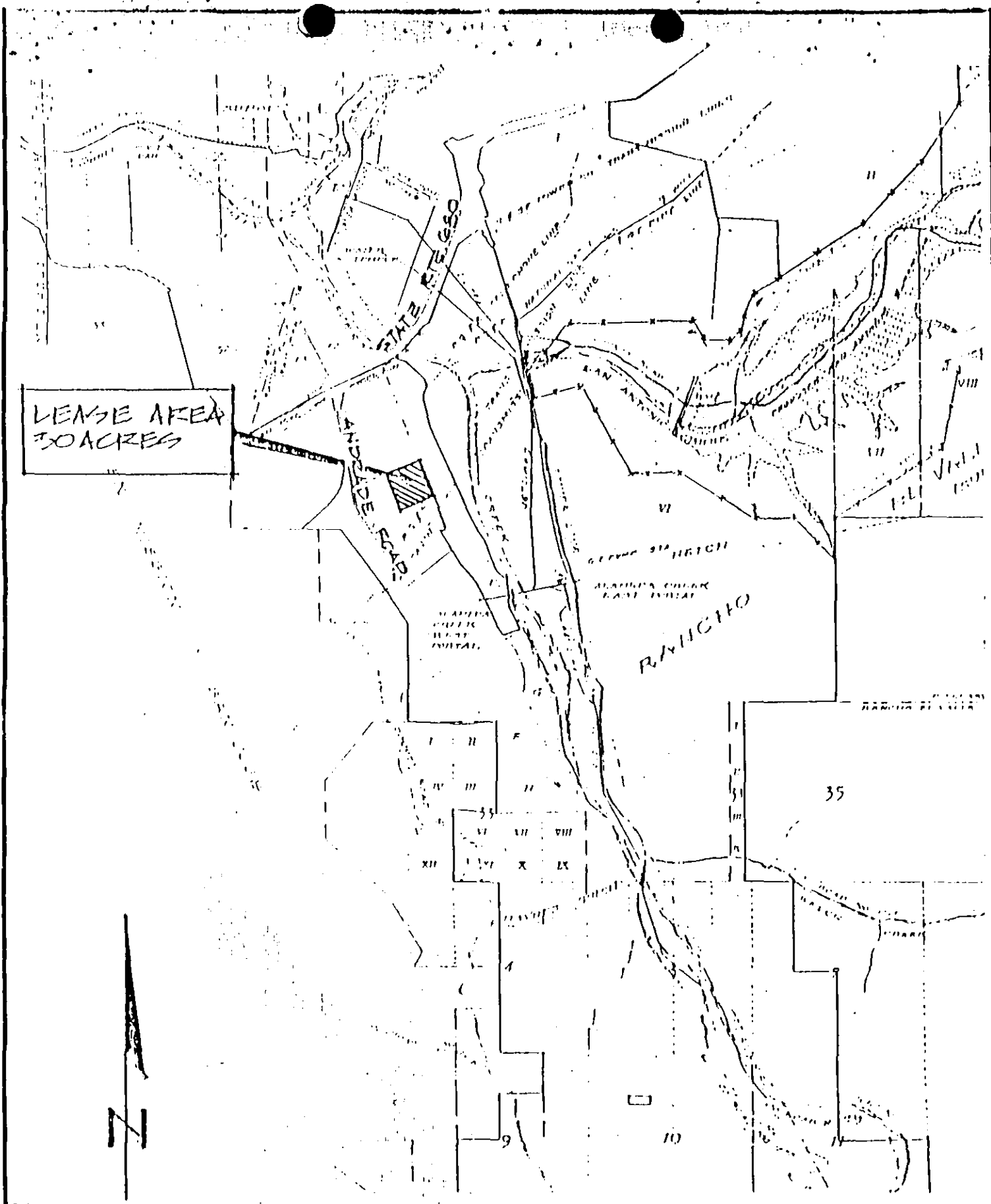
RESOLVED, That this Commission rejects all other bids submitted therefor.

I hereby certify that the foregoing resolution was adopted by the Public Utilities Commission

at its meeting of

JAN 10 1978


Secretary and Assistant General Manager



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

AREA TO BE LEASED
 FOR QUARRY

PORTION OF FAIRVIEW

ALAMEDA CO.

APPROVED	SCALE: NO SCALE	BY	DIT.	DRAWING NO.
APPROVED		TH.	CH. D. M. P.	B-4006
GENERAL MANAGER AND CHIEF ENGINEER		DATE 8-3-77	REVIEWED	