

LEASE AGREEMENT

This Lease Agreement (the “*Agreement*”), is entered into this 18th day of July, 2013 (the “*Effective Date*”), by and between Hills Materials Company, a South Dakota corporation (“*Lessee*”) of 3975 Sturgis Road, Rapid City, SD 57702 and the City of Rapid City, South Dakota, a South Dakota municipality (“*Lessor*”) of 300 Sixth Street, Rapid City, SD 57701.

RECITALS

A. Lessor and Lessee entered into a real estate purchase agreement (the “*REPA*”) bearing a date of July _____, 2013, the subject of which is real property situated in Rapid City, Pennington County, South Dakota, more particularly described in Exhibit A attached hereto and made a part hereof (the “*Property*”).

B. Lessee has operated a ready-mixed concrete plant on the property, and will continue to operate, and subsequently dismantle, said ready-mixed concrete plant from the Property during the Term of this Agreement.

C. The REPA requires that Lessor and Lessee enter into this Agreement on the Closing Date, as that term is defined in the REPA.

D. To effectuate the terms of the REPA, Lessor and Lessee hereby enter into this Agreement.

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

AGREEMENT

1. Term: This Agreement shall commence on the Effective Date, and expire on March 31, 2014.

2. Rental: Lessee shall pay \$10.00 to Lessor as rent. Said rental payment has been delivered to Lessor on the Closing Date, as defined in the REPA.

3. Use: Lessee shall use the Premises, consistent with its past use, for the conduct of its ready-mixed batch plant and related construction materials business, including but not limited to the operation of the ready-mixed plant currently located on the Property.

4. Maintenance: All maintenance of the leased premises shall be provided by Lessee, including but not limited to keeping all grounds, sidewalks, fences, landscaping, buildings, and all other structures in a safe and repaired condition. Lessee shall be responsible for all infrastructure maintenance and upkeep while the Ready-Mix Plant is operational. During the

removal of the Ready-Mix Plant, Lessee shall be responsible for safeguarding its employees, agents, contractors, and the general public from harm due to conditions present on the property.

5. Utilities: Lessee shall be responsible for all utilities.

6. Return of the Leased Premises: Upon expiration of the Term of this Agreement, Lessee shall remove the Reserved Ready-Mix Plant from the Property, as that term is defined and depicted in the REPA. In removing the Reserved Ready-Mix Plant, Landlord and Tenant agree that Tenant shall disconnect all underground utilities servicing the Reserved Ready-Mix Plant, but the utilities may remain buried or as they were as of the Effective Date, and do not need to be trenched out or otherwise removed from the Property. Landlord and Tenant further agree that all building and plant foundations for the Reserved Ready-Mix Plant will be removed to ground level, but concrete floors will remain in place. The washout pit will be filled in and leveled off to grade. All fencing and gates shall remain. To the extent that any concrete pavement is broken during the process of removing the Reserved Ready-Mix Plant, Landlord agrees to accept the same back in its then condition, and broken concrete pavement shall not need to be repaired based upon the Landlord's indicated future desired use for the Property.

7. Taxes: Lessor shall pay all real estate taxes and assessments levied against the Premises from and after the Effective Date. Lessee shall pay all taxes and assessments levied against its operations, including any taxes related to its equipment or materials.

8. Warranties: Lessor warrants that during the Term of this Agreement and any renewal thereof, that it owns the Premises in fee, has full authority to enter into this Agreement and that it will not lease the Premises to any other person or entity. Lessor also warrants the terms and conditions of this Agreement shall remain effective until expiration of the Term and any renewal thereof if the Premises are sold to a third party. .

9. Liability and Insurance: Lessee agrees to defend, hold harmless, and indemnify the Lessor from any and all claims, demands, actions, suits, and liability, including reasonable attorney fees, in respect to bodily injury, death, and property damage arising from the use by Lessee of the leased premises by its officers, directors, agents and/or employees. Lessee agrees to purchase and maintain liability insurance for each occurrence of injury or property damage in the minimum amount of Two Million Dollars (\$2,000,000) with participant's injury liability of at least One Million Dollars (\$1,000,000) per occurrence. The City of Rapid City shall be named an additional insured in said policy or policies, and Lessee shall annually furnish to the Lessor evidence of insurance by a certificate of insurance of required coverage.

10. Condition of Premises; No Warranties; Release: Lessee acknowledges that it has had sole possession of the leased premises prior to this Lease Agreement. As such, **THE PREMISES ARE BEING LEASED HEREUNDER "AS IS" WITHOUT ANY REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, BY THE CITY OF RAPID CITY**, excepting only those express warranties or representations set forth in this Lease Agreement to the contrary. Lessee's taking of possession of the leased premises shall be

conclusive evidence that the Lessee (i) accepts the premises as suitable for the purposes for which same are leased; (ii) accepts the premises and each and every part and appurtenance thereof as being in a good and satisfactory condition, and (iii) waives any defects in the premises and its appurtenances. Lessor shall not be liable, and Lessee hereby releases the Lessor, for injury or damage which may be sustained by Lessee, or any invitee or their property, caused by or resulting from the state of repair of the premises.

11. Assignment and Subletting: This Lease Agreement shall not be assigned nor shall the leased premises be sublet by Lessee except upon written consent and approval of the Lessor, which consent shall not be unreasonably withheld.

12. Heirs and Assigns: This Agreement shall inure to the benefit of the heirs, successors and assigns of either party.

13. Applicable Law: This Agreement is to be construed and enforced in accordance with the laws of the State of South Dakota.

14. No Presumption Against Drafter: Lessor and Lessee understand, agree, and acknowledge that this Lease has been freely negotiated by both parties, and that in any controversy, dispute, or contest over the meaning, interpretation, validity, or enforceability of this Lease or any of its terms or conditions, there shall be no inference, presumption or conclusion drawn whatsoever against either party by virtue of that party having drafted the Lease or any portion thereof.

[signatures commence on the following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first herein set forth.

LESSEE:

HILLS MATERIALS COMPANY,
a South Dakota corporation

By: _____(SEAL)
Name:
Title:

LESSOR:

CITY OF RAPID CITY, SOUTH DAKOTA,
a South Dakota municipality

By: _____(SEAL)
Name:
Title:

EXHIBIT A

Legal Description of Leased Property

Tract 30B Revised in Block Twelve (12) of Simmons Addition to the City of Rapid City, as Shown by the Plat Recorded in Book 18 of Plats on Page 128 in the Office of the Register of Deeds, Pennington County, South Dakota.