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RESOLUTION NUMBER R- 304296

DATE OF FINAL PASSAGE OCT 21 2008

A RESOLUTION OF THE COUNCIL OF THE CITY OF  
SAN DIEGO GRANTING CONDITIONAL USE PERMIT  
NO. 183194 AMENDMENT TO CONDITIONAL USE PERMIT  
NOS. 5073-PC AND 82-0315 FOR QUARRY FALLS PROJECT  
NO. 49068.

WHEREAS, Quarry Falls, LLC, a California Limited Liability Company, Owner, and  
Vulcan Materials Company – Western Division, Permittee filed an application with the City of  
San Diego for a conditional use permit, to phase a redevelopment of a mining, extraction and  
processing use to land uses and development consistent with the Quarry Falls Specific Plan  
known as the Quarry Falls project, located at on the north side of Friars Road, south of Phyllis  
place between I-805 and Mission Center Road, and legally described as being a portion of  
Pueblo Lots 1109, 1173, 1174, 1182, 1183, 1184 and 1186 of the Pueblo Lands of San Diego, in  
the City of San Diego, County of San Diego, State of California, according to the map thereof  
made by James Pascoe in 1870, a copy of which said map was filed in the office of the County  
Recorder of San Diego County on November 14, 1921 and is known as Miscellaneous Map  
No. 36; and

WHEREAS, on September 18, 2008, the Planning Commission of the City of San Diego  
considered Conditional Use Permit No. 183194, amendment to Conditional Use Permit  
Nos. 5073-PC and 82-0315 pursuant to Resolution No. 4447-PC voted to recommend City  
Council approval of the permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter required the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on OCT 21 2008, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 183194, amendment to Conditional Use Permit Nos. 5073-PC and 82-0315:

A. **CONDITIONAL USE PERMIT – SAN DIEGO MUNICIPAL CODE [SDMC] – SECTION 126.0305:**

**1. The proposed development will not adversely affect the applicable land use Plan.** The proposed project would redevelop an approximately 230.5-acre site from a mining and sand and gravel processing operation to a mixed use development over phases. Continued operation of the mining facility is consistent with the current land use plan and provides a needed service for the community, city and region. The Mission Valley Community Plan [MVCP] identifies the objectives for this site which identify continued sand and gravel operations and related mining activities until depletion of resources is reached. The revised reclamation plan is consistent with municipal, state and federal guidelines and will assure compatibility with adjacent land uses as new development progresses and mining operations cease. The addition of an expiration date for the batch plant operations, where no specific expiration date currently exists, will ensure the last mining and related activities in the area are phased out in an orderly manner to allow for the implementation of a multiple development use consistent with the MVCP. Therefore, the proposed development will not adversely affect the MVCP.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed project would redevelop an approximately 230.5-acre site from a mining and sand and gravel processing operation to a mixed use development over phases. The sand and gravel extraction and processing facility has been in operation for over 50 years and has implemented measures to ensure compatibility with the surrounding development in the area. The amended Conditional Use Permit includes additional conditions for air quality,

noise and dust abatement, and visual screening from adjacent land uses. New development that occurs prior to the termination of the mining operation and related activities has been conditioned to be sufficiently buffered to meet existing noise and air quality standards. The relocated batch plant operations in the southeast corner of the site, mitigates onsite noise by excavating and lowering the pad, using the material to create an earthen berm to surround the parcel. In addition, appropriate mitigation for potential impacts to future residential development from existing rock crushing and the batch plants is a condition of approval for future development. The site perimeter will be screened by a special landscape buffer that includes the elevated berm and large shade and evergreen trees.

The revised Reclamation Plan will retain approximately 2.4 million cubic yards of material that otherwise would have to be hauled off-site, resulting in less emissions than the current Reclamation Plan. Additional measures and best management practices will be implemented to control fugitive dust, including the application of water during grading operations, the use of sweepers and/or water trucks to control "track-out" of soil at all public street access points, the termination of grading should winds exceed 25 mph, the hydroseeding of graded lots, and the stabilization of stockpile areas. A phasing plan to relocate the existing batch plant operations and the addition of an expiration date in the year 2022 provides certainty to the orderly phase out of sand and gravel operations and the full implementation of the reclamation plan. A comprehensive set of development conditions have been applied to the project to ensure the safe implementation of the mining operation's reclamation plan. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

**3. The proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.** The proposed project would redevelop an approximately 230.5-acre site from a mining and sand and gravel processing operation to a mixed use development over phases. The sand and gravel extraction and processing facility has been in operation for over 50 years and is identified in the Land Development Code for requiring a Conditional Use Permit. The amended Conditional Use Permit has additional conditions placed to increase the operations compliance with all development regulations, standard policies and guidelines and State Law.

The Land Development Code [LDC] and Surface Mining and Reclamation Act [SMARA] provide guidance for the requirements of the Conditional Use Permit and reclamation plan. The project includes conditions to address noise, air quality, visual impact, water quality, and operations to maximize compatibility with surrounding land uses. Water quality is maintained by the implementation of an approved Storm Water Pollution Prevention Plan [SWPPP] that addresses short-term water pollution impacts related to sediment discharges, including the inspection and maintenance of catch basins, repair and replacement of erosion control devices, and street sweeping adjacent to the site. The project is required to annually update a master grading plan and performance bond based upon the existing site condition and proposed future operations. Revegetation of slopes will be in materials native to the area capable of providing deep rooting characteristics for added slope stability, erosion control, and compatibility with the surrounding landscape. Drought resistant plant species have been selected that are common in the region, require a minimum of irrigation and care, and are suited to

flourish in the intended locations. Therefore, the proposed development will comply to the maximum extent feasible with the regulations of the Land Development Code.

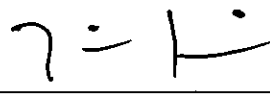
**4. The proposed use is appropriate at the proposed location.** The sand and gravel operation and related activities are existing facilities in operation for over 50 years and are identified in the MVCP for this use. The location of the facility is central to the city and well served by Friars Road, Interstates 8 and 805, and Highway 163 to allow convenient access to project sites in the region. Due to the limited future capacity of active Portland cement concrete processing facilities to provide materials over the next 10 to 20 years, continued operation of the facility is critical to the construction needs of the city and the region.

The above findings are supported by the minutes, maps and exhibits, all of which are herein incorporated by reference.

BE IT FURTHER RESOLVED, that Conditional Use Permit No. 183194 is granted to Quarry Falls, LLC., Owner/Vulcan Materials Company – Western Division, Permittee, under the terms and conditions set forth in the permit attached hereto and made a part hereof.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
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Nina M. Fain  
Deputy City Attorney

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R-304396

**RECORDING  
REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT  
SERVICES  
PERMIT INTAKE,  
MAIL STATION 501**

**WHEN RECORDED  
MAIL TO  
CITY CLERK  
MAIL STATION 2A**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-3334

**CONDITIONAL USE PERMIT NO. 183194  
QUARRY FALLS – PROJECT NO. 49068 (MMRP)  
AMENDMENT TO CONDITIONAL USE PERMIT NOS. 5073-PC, AND 82-0315  
CITY COUNCIL**

This Conditional Use Permit No. 183194, Amendment to Conditional Use Permit Nos. 5073-PC and 82-0315 is granted by the City Council of the City of San Diego to Quarry Falls, LLC a California Limited Liability Company, Owner/Vulcan Materials Company – Western Division, Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0305 et seq. The 209-acre site is located on the north side of Friars Road between I-805 and Mission Center Road, in the proposed OP-2-1, RM-1-1, RM-2-4, RM-3-7, RM-3-8, RM-3-9, RM-4-10, CC-3-5, and IL-3-1 zones within the Mission Valley Community Plan area. The project site is legally described as being a portion of Pueblo Lots 1109, 1173, 1174, 1182, 1183, 1184 and 1186 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California according to the map thereof made by James Pascoe in 1870, a copy of which said map was filed in the office of the County Recorder of San Diego County on November 14, 1921 and is known as Miscellaneous Map No. 36.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate a sand and gravel extraction facility, concrete batch plants and asphaltic concrete batch plants, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated OCT 21 2008, on file in the Development Services Department.

The project shall include:

- a. The extraction, processing, selling and distributing of sand, rock and gravel;
- b. The construction and operation of facilities for:
  - (1) Sand, rock and gravel processing.
  - (2) The manufacture of concrete, concrete products and precast concrete products.
  - (3) Concrete mixing and batching.
  - (4) Asphaltic concrete mixing and batching.
- c. The selling and distributing of concrete, concrete products and precast concrete products;
- d. Off-street parking, storage and stockpiling;
- e. The construction and/or installation of necessary and usual buildings and/or equipment to be used in connection with the ongoing.
- f. Landscaping (planting, brush management, irrigation and landscape related improvements); and
- g. Accessory improvements determined by the Development Services Department to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on June 30, 2022. Upon expiration of this Permit, the facilities and all improvements, buildings, and appurtenances associated with the mining operation and related activities shall be removed and

the site reclaimed or grading completed in accordance with Vesting Tentative Map 183196 or a subsequently approved final map or grading permit.

3. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:

- a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
- b. The Permit is recorded in the Office of the San Diego County Recorder.

4. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the Development Services Department.

5. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.

6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.

7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

8. In accordance with authorization granted to the City of San Diego from the United States Fish and Wildlife Service [USFWS] pursuant to Section 10(a) of the ESA and by the California Department of Fish and Game [CDFG] pursuant to Fish and Game Code section 2835 as part of the Multiple Species Conservation Program [MSCP], the City of San Diego through the issuance of this Permit hereby confers upon Owner/Permittee the status of Third Party Beneficiary as provided for in Section 17 of the City of San Diego Implementing Agreement [IA], executed on July 16, 1997, and on file in the Office of the City Clerk as Document No. OO-18394. Third Party Beneficiary status is conferred upon Owner/Permittee by the City: (1) to grant Owner/Permittee the legal standing and legal right to utilize the take authorizations granted to the City pursuant to the MSCP within the context of those limitations imposed under this Permit and the IA, and (2) to assure Owner/Permittee that no existing mitigation obligation imposed by the City of San Diego pursuant to this Permit shall be altered in the future by the City of San Diego, USFWS, or CDFG, except in the limited circumstances described in Sections 9.6 and 9.7 of the IA. If mitigation lands are identified but not yet dedicated or preserved in perpetuity, maintenance and continued recognition of Third Party Beneficiary status by the City is contingent upon Owner/Permittee maintaining the biological values of any and all lands committed for

mitigation pursuant to this Permit and of full satisfaction by Owner/Permittee of mitigation obligations required by this Permit, as described in accordance with Section 17.1D of the IA.

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.

10. Construction plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

12. In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

13. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.



14. With the exception of parcels 43, 44, 45, 46 and/or 47, upon issuance of a grading permit other than the master grading permit for mining operations or upon recordation of a Final Map for individual parcels, Conditional Use Permit No.183194 shall be extinguished as to those individual parcels and no longer be in force.

15. Existing Concrete Batch Plant and Asphalt Hot Plant operations shall cease within ninety days of commencement of operations of the Plants located on parcels 43, 44, 45, 46 and/or 47; or no later than December 31, 2011; or no later than two years after the issuance of the first residential building permit.

16. Recordation of final maps on parcels 43, 44, 45, 46 and/or 47 shall be allowed prior to the expiration date of Conditional Use Permit No.183194.

17. The issuance of a grading permit, except for the master grading permit for mining operations, for any portion of the site covered by the reclamation plan shall be deemed to satisfy the completion and close-out of reclamation requirements on that portion of the site.

**ENVIRONMENTAL/MITIGATION REQUIREMENTS:**

18. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project

19. The mitigation measures specified in the MMRP, and outlined in Environmental Impact Report No. 49068 shall be noted on the construction plans and specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

20. The Owner/Permittee shall comply with the MMRP as specified in Environmental Impact Report No. 49068, satisfactory to the City Manager and the City Engineer. All mitigation measures associated with mining operations as specifically outlined in the MMRP shall be implemented for the following issue areas:

- Land Use
- Transportation/Traffic Circulation/Parking
- Air Quality
- Noise
- Biological Resources
- Health and Safety
- Historical Resources
- Paleontological Resources
- Public Utilities

21. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

22. The mining operator shall be responsible for implementation of the MMRP for mitigation of impacts from mining and related activities as identified in Environmental Impact Report No. 49068, State Clearing House No. 2005081018.

**ENGINEERING REQUIREMENTS:**

23. Excavation and all other grading operations performed in conjunction with the mining and reclamation activities shall:

- a. Conform to said Reclamation Plan, City standard specifications and standard drawings pertaining to land development, including, but not limited to, the following: 1) Brow ditches installed where needed; 2) Chain-link fence installed at the top and bottom of slopes where required; and 3) All finished slopes planted with erosion control planting shall be consistent with Exhibit "A," Landscape Development Plan.
- b. Make suitable provision as required by the City Engineer to take care of storm drainage and proper drainage shall be maintained throughout the site as required by the City Engineer.
- c. Not divert storm drainage from its natural channel nor concentrate it within said channel without the approval of the City Engineer.
- d. Where natural drainage channels are interrupted, make provision, satisfactory to the City Engineer, to take care of storm drainage, including construction of adequate hydraulic structures where required.

24. The proposed new asphaltic concrete batch plant shall comply with all Air Pollution Control District [APCD] rules and regulations applicable to a new emission source. Additionally, prior to construction and operation of the asphaltic concrete batch plant, all necessary APCD permits shall be obtained. During construction and operation of the plant, all conditions of the APCD permits shall be met.

25. The Permittee must annually renew all required APCD permits to operate for any existing equipment and must obtain required APCD permits for any additions of new emission sources or modifications of existing sources at this site that are subject to APCD rules and regulations.

26. A review of the conditional use permit for compliance with all applicable APCD regulations shall be required after one year from the date of issuance of the permit.

27. All air contaminant emissions from the operation and use of the plant must meet all the emission standards of the San Diego County Air Pollution Control District.

28. Access roads and yards in the general area of this equipment shall be watered or otherwise treated to prevent dust generated by plant mobile traffic from exceeding the emission standards of Rule 50.

29. All dust or other air pollution emissions at any screens, at material transfer points or at any equipment during any phase of the operation shall be controlled by water sprays or by such other or additional methods as may be required by the Air Pollution Control District to control any excessive dust or air pollutant production.

30. The mining operator shall implement best management practices to reduce the amount of fugitive dust generated from mining operations:

- a. Multiple applications of water during grading between dozer/scrapper passes.
- b. Watering or chemical stabilization of unpaved internal roadways after completion of grading.
- c. Use of sweepers or water trucks to remove "track-out" at any point of public street access.
- d. Termination of grading if winds exceed 25 mph.
- e. Stabilization of dirt storage piles by chemical binders, tarps, fencing or other erosion control measures.
- f. Hydroseeding of graded, unreclaimed lots per Exhibit "A" Landscape Development Plan.

31. Subject to the approval of the City Engineer, all final grading and earthwork performed in support of existing mining operations shall be designed and constructed consistent with the approved Quarry Falls Project entitlements, Vesting Tentative Map 183196, the City's Technical Guidelines for Geotechnical Reports and the approved design geotechnical reports.

32. All existing earthwork must be documented and certified as suitable for the proposed development by the geotechnical engineer of record for the Quarry Falls project prior to acceptance by the City.

33. A reclamation plan shall be submitted in a format specified by the Development Services Director that includes all information and documentation set forth in Public Resources Code sections 2772 (c) and 2773(a).

34. The mining operator shall file an annual surface mining report on forms provided by the State Mining and Geology Board with the California Department of Conservation and the Development Services Director no later than the anniversary date established by the Director of

the California Department of Conservation, or as otherwise required by the Conditional Use Permit.

35. Reclamation plans, reports, applications, and other documents submitted in accordance with SDMC Section 141.1004 are public records unless it can be demonstrated to the satisfaction of the City Attorney that the release of this information would reveal production, reserves, or rate of depletion that is entitled to protection as proprietary information. The City Attorney shall identify the proprietary information as a separate part of each application. A copy of all permits, reclamation plans, reports, applications, and other documents submitted in accordance with SDMC Section 141.1004, including proprietary information, shall be furnished to the Director of the California Department of Conservation by the Development Services Director. Proprietary information shall be made available to persons other than the Director of Department of Conservation only when authorized by the surface mining owner in accordance with Public Resources Code section 2778.

36. As a condition of approval for the Conditional Use Permit or the reclamation plan, or both, the Owner/Permittee shall agree to allow the City, upon notice of inspection, to enter the site to inspect and evaluate continuing compliance with the Conditional Use Permit and the reclamation plan. The inspections shall occur no less frequently than once in any calendar year, in accordance with Public Resources Code section 2774(b). The inspection shall be conducted by a state-registered geologist, state registered civil engineer, state licensed landscape architect or state registered forester, who is experienced in land reclamation and who has not been employed by the surface mining operation in any capacity during the twelve month prior to the inspection. The inspection shall be conducted using a form provided by the California Department of Conservation and subject to review and approval by the Development Services Director. The completed inspection form and an inspection report shall be submitted to the Development Services Director within fifteen days of the inspection. All costs related to the inspections and report shall be borne solely by the operator. The Development Services Director shall notify the California Department of Conservation within thirty days of completion of the inspection that the inspection has been conducted; the Development Services Director shall also forward a copy of the notice, the completed inspection form and any necessary supporting documentation, to the Owner/Permittee.

37. As a result of the annual inspection, if the Development Services Director finds that the surface mining operator is not following the provisions of the reclamation plan, the surface mining operator shall be given notice to comply within a given time not to exceed ninety calendar days. A copy of the notice shall be given to owner of the land upon which the surface mining operations are located. If at the end of the stated time the operator is not in compliance, the Development Services Director may revoke or suspend the Conditional Use Permit or the reclamation plan or both until the surface mining operator complies or obtains approval of a revised reclamation plan.

38. In accordance with the provisions of SDMC Section 141.1004, Public Resources Code section 2773.1 and as a condition of approval of the Condition Use Permit or the reclamation plan or both, the surface mining operator shall submit financial assurances to ensure compliance

with the surface mining operation's reclamation plan, including revegetation and landscaping requirements, restoration of aquatic or wildlife habitat, restoration of water bodies and water quality, slope stability and erosion and drainage control, disposal of hazardous materials, annual adjustments for disturbance to new lands and those anticipated for the upcoming calendar year, inflation and other measures, as necessary.

- a. Cost estimates shall be prepared in accordance with the procedures outlined in the most recent edition of the State Mining and Geology Board's "Financial Assurance Guidelines" and shall be submitted to the City Manager for review and approval prior to the surface mining operator securing financial assurances.
- b. A copy of the cost estimates will be forwarded to the State California Department of Conservation for review.
- c. Revisions to financial assurances shall be submitted to the Development Services Director each year prior to the anniversary date for approval of the financial assurances. The annual adjustments shall take into account new lands disturbed by surface mining operations, changes with respect to environmental conditions affected by mining operations, new information concerning mining reclamation or the reclamation of subject mined lands, modifications of the reclamation plan, changes in the laws and regulations affecting surface mining, inflation and reclamation of lands accomplished in accordance with the reclamation plan.
- d. The financial assurances shall be made payable to the City of San Diego and the California Department of Conservation and may be any of those listed below. The financial assurances shall be released, upon written notification from the Development Services Director to the surface mining operator and the California Department of Conservation, that the surface mining operator is in compliance with the provisions of the Conditional Use Permit and has completed the work in accordance with the approved reclamation plan. Financial assurances may be any of the following:
  - i. A bond or bonds by one or more duly authorized corporate securities;
  - ii. A deposit of money or negotiable bonds of the kind approved for securing deposits of public moneys;
  - iii. An instrument of credit from one or more financial institutions subject to regulation by the state or federal government and pledging that the funds necessary to carry out the plan are on deposit and guaranteed for payment; or
  - iv. Other security which the State Mining and Geology Board determines is reasonably available and adequate to ensure reclamation in accordance with the California Surface Mining and Reclamation Act of 1975.

b. Default of financial assurances shall comply with the procedures established by the Development Services Director, as amended from time to time.

39. Whenever any surface mining operation or portion of a surface mining operation that is subject to SDMC Section 141.1004 is sold, assigned, conveyed, exchanged, or otherwise transferred, the successor in interest shall be bound by the provisions of the Conditional Use Permit, reclamation plan, the provisions of SDMC Section 141.1004 and the California Surface Mining and Reclamation Act of 1975.

40. In accordance with Public Resources Code section 2770, and as further provided in SDMC Section 141.1004, whenever any surface mining operation becomes idle, the surface mining operator shall submit a proposed interim management plan [IMP] to the Development Services Director for review and approval. The IMP shall be submitted within ninety days of the operation becoming idle on forms provided by the Development Services Director. Review and approval of the IMP shall be carried out in accordance with Public Resources Code section 2770(h). Upon receipt of a complete proposed IMP, the Development Services Director shall forward it to the California Department of Conservation for review.

41. Deviations from the approved reclamation plan, including an IMP, are not permitted unless amendments to the reclamation plan, financial assurances and the Conditional Use Permit have been approved by the decision maker in accordance with Process Four, or the Substantial Conformance Review process where applicable.

42. Within thirty days of approval of the conditional use permit, the Owner/Permittee and/or mining operator shall submit a complete application for processing a master grading permit and performance bond for the work described in the approved Reclamation Plan for the existing mining operation. The master grading permit and performance bond shall cover the work anticipated for one year and shall be updated annually.

43. Concurrent with the annual update of financial assurances for the Reclamation Plan, the Owner/Permittee shall update the scope of work and the performance bond associated with the master grading permit only for the upcoming year for that area still subject to the Conditional Use Permit. The financial assurance shall be the greater of that required for the Reclamation Plan or the master grading permit.

44. Subject to the approval of the City Engineer, public improvements installed in support of the existing mining operation may be designed and constructed consistent with the approved Quarry Falls Project entitlements, Vesting Tentative Map No. 183196 and the City of San Diego Standard Drawings so as to be accepted by the City at a later date.

**LANDSCAPE REQUIREMENTS:**

45. Landscape screening along Friars Road from the eastern project boundary to Qualcomm Way and the northern terminus of Qualcomm Way, consisting of earthen berms, trees, understory

planting and scrubs, shall be installed prior to operation of the relocated Batch Plants per Exhibit "A," Landscape Development Plan.

46. Prior to issuance of any building permits, landscape construction documents for the revegetation and hydroseeding of all disturbed land not otherwise covered by the revegetation requirements of the Reclamation Plan shall be submitted in accordance with the Land Development Code Landscape Regulations and Land Development Manual Landscape Standards and to the satisfaction of the Development Services Department. All plans shall be in substantial conformance to this permit (including Environmental conditions) and Exhibit "A," Landscape Development Plan.

47. Construction plans shall take into account a 40 square foot area around each tree which is unencumbered by hardscape and utilities as set forth under Land Development Code [LDC] Section 142.0403(b)5.

48. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Owner/Permittee to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.

49. After twenty-five months from the date of hydroseeding, all slopes over 15 feet in height shall be considered permanent and shall be revegetated consistent with the revegetation requirements of this reclamation plan which calls for a minimum 75 percent coverage with no unvegetated area greater than 100 square feet. The maturity of previously hydroseeded plant material on these slopes shall be evaluated to determine the composition and quantity of additional plant material, if needed. Such erosion control/slope planting and the associated irrigation systems and appurtenances shall be installed in accordance with the approved plans, Land Development Code Landscape Regulations, and the Land Development Manual Landscape Standards.

50. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or Certificate of Occupancy or a Final Landscape Inspection.

51. Prior to any grading permit the Landscape Architect of Record shall demonstrate to the satisfaction of the Landscape Section that the soil cut or back fill shall sustain long-term plant growth. The soil of the cut and fill slope shall be amended and specification shall be submitted based on the soil type and plant material selected.

52. Any required planting that dies within 3 years of installation shall be replaced within thirty calendar days of plant death with the same size and species of plant material shown on the approved plan. Required shrubs or trees that die three years or more after installation shall be replaced with 15 gallon size or 60-inch box size material, respectively. Development Services

may authorize adjustment of the size and quantity of replacement material where material replacement would occur in inaccessible areas or where the existing plant being replaced is larger than a 15 gallon shrub or 60-inch box tree.

53. Upon termination of mining and existing batch plant activities all disturbed areas within the reclamation plan boundaries, except as noted for the batch plant site, shall be revegetated.

54. The permittee shall prepare an annual monitoring report for a three year period to ensure revegetation occurs to the satisfaction of the Development Services Department. This report shall be prepared by a qualified biologist selected by and under contract to the permittee. Said report shall also be used in consideration of annual financial assurance estimates.

55. Revegetation shall be to rehabilitate slopes to a natural condition with native plants. Vegetation coverage shall achieve a minimum 75 percent coverage with no unvegetated area greater than 100 square feet after the termination of irrigation. Revegetation activities shall occur in the following sequence:

- a. Tack walk slopes if feasible
- b. Test Soils
- c. Install irrigation system
- d. Remove any weed growth
- e. Hydroseed slopes
- f. Begin maintenance period

56. Where feasible, the slopes shall be "track walked, " vertically, using a tracked vehicle to provide a rough surface suitable for planting seeds.

57. Soil Tests shall be performed to ensure no conditions are present that would limit plant growth. The number of tests shall be determined by visual observation of slope soil conditions.

58. The irrigation system shall consist of main lines installed in a trench at the top of the slope and will be sufficient in size so as to accommodate future slope areas. Lateral lines, using "brown line" (UV-resistant) pipes, shall be placed above ground. Spray heads shall be placed to ensure 100 percent coverage of the seeded slope areas. The system shall be sufficient to provide water daily or more often if needed for adequate germination of the seeded species. The Landscape Architect shall provide the final irrigation system design and installation, including the use of an automatic timer and rain sensor device.

59. Prior to seeding, any weed growth present on the slopes shall be removed.

60. Hydroseeding shall consist of the approved hydroseed mix, 2,200 pounds wood fiber, 60 pounds of soil stabilizer, and 5 gallons kelp soil conditioner (per acre).



61. Maintenance and monitoring for weed growth/removal and checking soil moisture levels/irrigation system operation shall occur twice per month during the first spring and summer after planting.

**BRUSH MANAGEMENT PROGRAM REQUIREMENTS:**

62. The Permittee shall implement landscape requirements in accordance with the Brush Management Program shown on Exhibit "A," Brush Management Plan.

63. Prior to issuance of any engineering permits for grading, landscape construction documents required for the engineering permit shall be submitted showing the brush management zones on the property in substantial conformance with Exhibit "A."

64. Prior to issuance of any construction permits, a complete set of Brush Management Construction Documents shall be submitted for approval to the City Manager and the Fire Marshall. The construction documents shall be in substantial conformance with Exhibit "A" and shall comply with the Uniform Fire Code, M.C. 55.0101, the Landscape Standards, and the Land Development Code Section 142.0412 (Ordinance 19413).

65. The Brush Management Program shall consist of Zone Two consistent with the Brush Management Regulations of the Land Development Code section 142.0412 as follows: slopes adjacent to existing residential shall have a standard Zone Two of 65 feet.

66. The following note shall be provided on the Brush Management Construction Documents: "It shall be the responsibility of the Permittee to schedule a pre-construction meeting on site with the contractor and the Development Services Department to discuss and outline the implementation of the Brush Management Program."

67. All new Zone Two planting shall be temporarily irrigated with an above-ground irrigation system until established. Zone Two shall be maintained on a regular basis by pruning and thinning plants, removing weeds, and maintaining the temporary irrigation system. Only native vegetation shall be planted or hydroseeded. If Zone Two is being revegetated, 50 percent of the planting area shall be seeded with material that does not grow taller than 24 inches.

68. Prior to final inspection and issuance of any Certificate of Occupancy, the approved Brush Management Program shall be implemented.

69. The Brush Management Program shall be maintained at all times in accordance with the City of San Diego's Landscape Standards.

**PLANNING/DESIGN REQUIREMENTS:**

70. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under

construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

71. All operations shall be maintained in a safe and sanitary condition so as not to damage any adjacent private or public property, at the full cost, risk and responsibility of the Permittee and successors in interest. In case of damage to public improvements of the City caused by these operations, the Permittee shall immediately repair the same or reimburse the City for doing so.

72. Grading, excavating and hauling operations within 500 feet of any existing residence shall be limited to the hours between 7 A.M. to 7 P.M., Monday through Saturday.

73. Grading, excavating and hauling operations within 500 feet of a school shall be coordinated with the school administrator to avoid conflicts during outdoor learning activities.

74. The mining operations (rock crushing and grading) shall be limited to 7 AM to 7 PM upon occupancy of the first new residential unit for Quarry Falls Vesting Tentative Map No. 183196.

75. Prior to issuance of building permits for new residential development within 2,000 feet of existing mining (rock crushing and grading activities), a noise mitigation plan shall be required that identifies modifications to limit noise levels to 65 db Leq at the property line between 7AM and 7PM. A letter, verifying compliance with the 65 db Leq shall be prepared by a qualified acoustician and sent to the Mitigation, Monitoring and Coordination Section for review and approval prior to the occupancy of the residential units.

76. Prior to issuance of building permits for new residential development within 1,580 feet of existing concrete and asphalt batch plant activities, a noise mitigation plan shall be required that identifies modifications to limit noise levels to 65 db Leq (presumed nuisance protection standard) between 7AM and 7PM. A letter, verifying compliance with the 65 db Leq shall be prepared by a qualified acoustician and sent to the Mitigation, Monitoring and Coordination Section for review and approval prior to the occupancy of the residential units.

77. Prior to issuance of building permits for new residential development within 1,580 feet of existing concrete and asphalt batch plant activities, a noise mitigation plan shall be required that identifies modifications to limit noise levels to 50 db Leq (presumed nuisance protection standard) between 7PM and 7AM. A letter, verifying compliance with the 50 db Leq shall be prepared by a qualified acoustician and sent to the Mitigation, Monitoring and Coordination Section for review and approval prior to the occupancy of the residential units.

78. Existing mining, rock crushing, and concrete and asphalt plant activities shall cease operation no later than December 31, 2011 or no later than two years after the issuance of the first residential building permit.

79. The hours of operation of the relocated concrete and asphalt plants shall be from 4 AM to 7 PM. Queuing of trucks shall be prohibited between the hours of 7 PM and 4 AM.

80. The construction of the relocated concrete and asphalt plants shall incorporate earthen, landscape berms and other noise attenuation features to interrupt the line of sight from future residential development.

81. Prior to issuance of building permits for construction of the relocated concrete and asphalt batch plants, a noise mitigation plan shall be required that reduces/attenuates noise levels at the property line to 65 db  $L_{eq}$  between the hours of 7 AM and 7 PM by incorporating any of the following: limits on noise generating concrete and asphalt plant activities; noise attenuation screening of equipment; and state-of-the-art equipment (such as rock-handling noise reduction features). A letter, verifying compliance with the 65 db  $L_{eq}$  shall be prepared by a qualified acoustician and sent to the Mitigation, Monitoring and Coordination Section for review and approval.

82. Prior to issuance of building permits for construction of the relocated concrete and asphalt batch plants, a noise mitigation plan shall be required that reduces/attenuates noise levels at the property line of all future residentially zoned parcels to 50 db  $L_{eq}$  (presumed nuisance protection standard) between the hours of 4 AM and 7 AM by incorporating any of the following: limits on hours of operation; limits on noise generating concrete and asphalt plant activities; earthen, landscaped berms; noise attenuation screening of equipment; and state-of-the-art equipment (such as rock-handling noise reduction features). A letter, verifying compliance with the 50 db  $L_{eq}$  shall be prepared by a qualified acoustician and sent to the Mitigation, Monitoring and Coordination Section for review and approval.

83. The phasing of the mining and batch plant uses shall be consistent with all phasing requirements and conditions associated with the Quarry Falls development project.

84. The northern entrance to the Friars Road under crossing shall be gated, fenced or otherwise protected to prevent public access and entry.

85. All storage, service and repair areas shall be located on the site so that they are not visible, or shall be screened from adjacent development and public rights of way.

86. All drill holes, monitoring wells and water wells shall be maintained or abandoned in accordance with local and State regulations.

87. All contaminants, mine waste and tailings, and other hazardous materials shall be disposed of in accordance with local and State regulations.

88. All interior roadways, parking areas and operating areas (except areas of excavation) shall be paved or otherwise dustproofed, and so maintained as required by the Air Pollution Control Officer of San Diego County.

89. Control methods shall be applied to any dust or smog producing condition which may develop into a nuisance from this operation, as may be determined and required by the Air Pollution Control Officer. In general, these control methods shall consist of:

- a. Dust covers to prevent cement dust emissions on dry cement delivery trucks when unloading into storage bins.
- b. Dust-tight cement ducts and elevators.
- c. Dustproof air vents on cement silos and hoppers.
- d. Dust covers where dry material drops from weighing hoppers onto conveyors or gathering chutes to concrete mixers, if this transfer point is not enclosed.
- e. A cleaning area for concrete trucks and pouring hoppers to prevent accumulation of cement residue on the ground where the trucks' tires might grind it into dust.
- f. An adequate water spray to prevent dust emissions where cement, aggregate and water are combined and charged into the concrete mixer if this transfer point is not enclosed.

90. The subject property shall be maintained at all times in a neat, orderly manner, free of all junk, litter and debris.

91. Off street parking shall be provided at a level sufficient to serve the facility without impacting adjacent or nearby property.

92. An exception to any hours of operation restriction may be made when an emergency exists for federal, state or local governmental contracts. Emergency extensions are limited and shall require review and approval by Development Services. Any restrictions to hours of operation would not include real emergencies (natural disasters) as defined in CEQA, which require these uses to operate beyond the specified hours of operation.

93. All signs associated with this development shall be consistent with sign criteria established by the City-wide sign regulations.

94. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

#### **TRANSPORTATION REQUIREMENTS**

95. Upon recordation of the first Final Map for the Quarry Falls Vesting Tentative Map No. 183196 all vehicular and truck traffic associated with Conditional Use Permit No. 183194 shall take ingress and egress at Qualcomm Way.

**WATER REQUIREMENTS:**

96. An adequate water supply shall be provided at the site to effect all dust control methods herein enumerated or as required by the Air Pollution Control Officer. Also, a potable water supply and sanitary facilities for employees shall be provided as required by the Health Department.

**INFORMATION ONLY:**

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code §66020.
- This development may be subject to impact fees at the time of construction permit issuance

APPROVED by the City Council of the City of San Diego on OCT 21 2008 by Resolution No. RR- 304296.

AUTHENTICATED BY THE CITY MANAGER

By \_\_\_\_\_

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

**QUARRY FALLS, LLC, a**  
California Limited Liability Company

BY \_\_\_\_\_  
Marco A. Sessa  
Vice President

**VULCAN MATERIALS COMPANY -**  
**WESTERN DIVISION**

BY \_\_\_\_\_  
Patrick Coughlin  
Operator, Vulcan Materials Company -  
Western Division

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1180 et seq.**