

WHEN RECORDED RETURN TO:



**201902190131**

02/19/2019 02:20 PM Pages: 1 of 12 Fees: \$110.00  
Skagit County Auditor

**DOCUMENT TITLE(S):**  
Gravel Mine Lease Agreement

GUARDIAN NORTHWEST TITLE CO.

19-1412

**REFERENCE NUMBER(S) OF DOCUMENTS ASSIGNED OR RELEASED:**

**SELLER:** ~~LESSEE!~~  
Sierra Pacific Land & Timber Company INDUSTRIES

**BUYER:** ~~LESSOR!~~  
Kiewit Infrastructure Co.

**ABBREVIATED LEGAL DESCRIPTION:**  
Portions of Section 24, Township 35 North, Range 10 East, W.M.

**TAX PARCEL NUMBER(S):**  
P45548 & 351024-2-003-0002 & P45541 & 351024-1-001-0006

**GRAVEL MINE LEASE AGREEMENT**

This **GRAVEL MINE LEASE AGREEMENT** (the "Lease") is made and entered into as of this 19<sup>th</sup> day of February, 2019 by and between **KIEWIT INFRASTRUCTURE COMPANY** ("KIC" or "Lessor"), a \_\_\_\_\_, and **SIERRA PACIFIC INDUSTRIES** ("SPI" or "Lessee"), a California corporation (collectively, KIC and SPI are referred to herein as the "Parties").

**WHEREAS**, pursuant to that certain Purchase Agreement between KIC and Sierra Pacific Land & Timber Company ("SPL&T") dated February 4, 2019 (the "Agreement") related to the transfer of ownership of certain real property, legally described in Exhibit "A", attached hereto (the "Property"), comprising of Skagit County tax parcel numbers P45541 and P45548, and as a condition and consideration thereof, KIC agrees to lease to and for the exclusive use of SPI, SPL&T's wholly-owned subsidiary, the property legally described in Exhibit "B", attached hereto (the "Lease Area"), and SPI agreed to lease the Lease Area from KIC, subject to the terms of this Lease.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Lease.** Lessor leases to Lessee the real property, including but not limited to any improvements, pre-merchantable timber or merchantable timber, located on the Lease Area.
  - 1.1 Lessee, its heirs, successors or assigns, shall use the Lease Area solely as a gravel mining and extraction operation, sale of gravel, and related or accessory uses thereto, which may include a landfill/backfill, scales, equipment, employee parking, material stockpile, and other lawful activities pertaining to the aforementioned uses ("Use of the Lease Area").
2. **Access to Lease Area.** In a separate and companion Easement Agreement between the Parties dated the same day as this Lease and recorded under Skagit County Auditor's File Number \_\_\_\_\_, the Lessor has granted to Lessee an Easement to access the Lease Area and other properties. The Easement, Easement Agreement, Easement Area, and other terms are defined in the aforementioned Easement Agreement, and are incorporated herein as if fully set forth herein.
3. **Term.** The term of this Lease shall be between the Closing of the Initial Transaction and the Closing of the Return Conveyance, as those terms are defined in the Agreement, incorporated by reference herein. If the Closing of the Return Conveyance does not timely occur pursuant to the terms of the Agreement, then the term of this lease shall be perpetual or until such time that the Lessee notifies Lessor of its intent to terminate this Lease.

SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

FEB 19 2019

GRAVEL MINE LEASE AGREEMENT

-1-

Amount Paid \$  
Skagit Co. Treasurer  
By nam Deputy

4. **Rent and Consideration.** No rent shall be due in relation to this Lease and consideration to the Lessor for this Agreement has been received as consideration as part of the consideration for the Agreement.
5. **Taxes and Assessments.** Lessee agrees to pay the annual taxes assessed against the Lease Area in relation to the gravel operation, and any other taxes, levies, assessments, fees, or similar charges in relation to the Use of the Lease Area by any governmental body including any taxes on equipment or improvements, but shall not be obligated to pay any general property taxes or assessment on the land within the Lease Area.
6. **Insurance.** Lessee shall provide and obtain and maintain in full force during the term of this Lease, for the benefit of both Parties hereto, as their respective interests may appear, liability insurance in a company satisfactory to Lessor, commercial general liability insurance with limits of One Million Dollars (\$1,000,000.00) each occurrence with a Two Million Dollars (\$2,000,000.00) aggregate; and One Million Dollars (\$1,000,000.00) automobile liability. The Lessor shall be named as an additional insured on all such insurance policies. The policies shall cover any and all incidents within the Lease Area or the Easement Area.
7. **Indemnification.** Lessee shall indemnify, defend and hold harmless the Lessor from any claim or loss by reason of the Lessee's use or misuse of the Lease Area and/or the Easement Area and from any claim or loss by reason of any accident or damage to any person or property happening on said Lease Area as a result of Lessee's negligence or willful misconduct.
8. **Waiver.** As long as their respective insurers so permit, Lessee and Lessor hereby mutually waive their respective rights of recovery against each other for any loss insured by fire, extended coverage, and other property insurance policies existing for the benefit of the respective Parties. Each party shall obtain any special endorsements, if required by their insurer, to evidence compliance with the aforementioned waiver.
9. **Care of Lease Area.** Lessee shall, at all times, keep the Lease Area neat, clean, and in a sanitary condition, except for reasonable wear and tear and damage by fire or other unavoidable casualty, and shall, at all times, preserve said Lease Area in as good a repair as it now is, or may hereafter be put to. All repairs and restoration of the Lease Area and/or the Easement Area to substantially the same condition as prior to Lessee's Use of the Lease Area, including any restoration required by any permit for mining operations issued by any governmental agency or any reclamation of any mining or extraction areas within the Lease Area, shall be at Lessee's sole cost and expense. Lessee covenants and agrees that, upon the expiration or other termination of this Lease, the Lease Area will be surrendered to Lessor in as good condition as it was received, reasonable wear and tear from reasonable use and loss from casualties and unavoidable causes alone excepted.
10. **Lessee Responsibilities and Acknowledgements.** The Lessee agrees to and acknowledges the following:

- a. Lessee acknowledges that the Lessor has made no representations or warranties, either oral or written, regarding the Lease Area or the Easement Area or the ability for the Lessee to Use the Lease Area as intended by the Lessee, and that the Lessee takes and occupies the Lease Area and Easement Area in an "as is, "where is" condition.
  - b. Lessee shall obtain and keep current all necessary licenses and permits, as deemed necessary by any local, state, or federal agency related to its Use of the Lease Area and when within and upon the Easement Area.
  - c. Lessee shall at all times comply with any and all local, state, and federal laws and regulations related to its Use of the Lease Area and the Easement Area, and Lessee shall indemnify, defend, and hold Lessor harmless from any claims of damages or liability by reason thereof.
  - d. Lessee shall not make or suffer any unlawful, improper, or offensive use of the Lease Area or the Easement Area, or any use or occupancy contrary to any law of the state or other governmental body now or hereafter made, or which shall be injurious to any person or property, or which shall liable to endanger or effect any insurance on the said Lease Area and/or the Easement Area, or increase the premium thereof.
  - e. All property of any kind that may be on the Lease Area or the Easement Area during the term of this Lease shall be at the sole risk of the Lessee and Lessor shall not be liable to the Lessee, or any other person, for any injury, loss, or damage to the property caused by Lessee.
  - f. No assent, express or implied, by the Lessor to any breach of any of the Lessee's covenants, shall be deemed to be a waiver of any succeeding breach of the same covenant.
  - g. Lessee shall keep the Lease Area free from any liens or claims of liens.
  - h. Lessee shall assume all and full responsibility in case of any accident to Lessee, its employees, agents, contractors, subcontractors, or any person employed on the Lease Area and/or the Easement Area and agrees to indemnify, defend, and hold Lessor harmless from any suit for injury or accident arising out of such employments except to the extent caused by Lessors actions. Lessee shall maintain, at all times, worker's compensation insurance pursuant to the laws for the State of Washington and shall comply with any and all local, state, and federal regulations pursuant to the employment of person in the Use of the Lease Area and the Easement Area.
  - i. Lessee shall pay, when due, all, if any, gas, light, heat, power, plumbing, water, and any other operating or occupancy expenses and shall pay all property taxes on equipment and improvements on the Lease Area
11. **Post Return Conveyance.** In the unlikely event that KIC does not timely exercise its Return Conveyance Option, as that term is defined in the Agreement, this Lease shall remain in perpetuity or until such time that Lessee terminates this Lease at which point

Lessee shall remove its equipment from the Lease Area and restore the Lease Area to its required reclaimed condition.

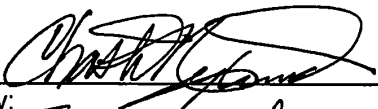
## 12. General Terms.

- a. **Incorporation of the Agreement.** The terms and conditions of the Agreement, including Section C, General Terms, are incorporated herein as if fully set forth herein.
- b. **Not a Subdivision.** This Lease is not a subdivision and shall not be interpreted to create any right to subdivide or partition the Property. Rather, this Lease is the grant of a temporary possessory right to the Lease Area and the grant of the right to extract, and thereafter own, any gravel extracted in accordance with this Lease.
- c. **Exhibits.** All exhibits attached hereto are incorporated by reference as if fully set forth herein.
- d. **Entire Lease.** The entire agreement between the Parties hereto relating to the Lease of the Lease Area and Easement Area is contained in this Lease and the Easement Agreement. This Lease and the Easement Agreement supersede all of the Parties' previous understandings and agreements, written and oral, with respect to this Lease. Neither SPI nor KIC shall be liable to the other for any representations made by any person concerning the Lease Area or regarding the terms of this Lease or the Agreement, except to the extent that the same are expressed in this Lease or the Agreement. This Lease may be amended only by written instrument executed by SPI and KIC subsequent to the date hereof. The terms used in this Lease are defined herein, in the Easement Agreement, and/or in the Agreement.

THIS LEASE AGREEMENT executed this 19<sup>th</sup> day of February, 2019.

KIEWIT INFRASTRUCTURE CO.

SIERRA PACIFIC INDUSTRIES

By:   
Its: ESTIMATING DIRECTOR

By: M D Emmerson  
Its: Chairman and CFO

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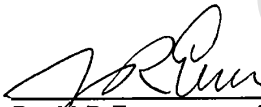
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KIEWIT INFRASTRUCTURE CO.

SIERRA PACIFIC INDUSTRIES

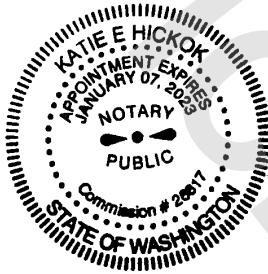
By: \_\_\_\_\_  
Its: \_\_\_\_\_

  
By: ~~M-D Emmerson~~ George E. Emmerson  
Its: ~~Chairman and CFO~~ President

STATE OF WASHINGTON )  
 ) ss.  
 COUNTY OF Snohomish )

On this day before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared, Charles Nylund, to me known to be the Managing Director of KIEWIT INFRASTRUCTURE COMPANY, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument on behalf of the corporation.

GIVEN under my hand and official seal this 15<sup>th</sup> day of February, 2019.



Katie E. Hickok  
 Print Name: Katie E. Hickok  
 NOTARY PUBLIC in and for the  
 State of Washington, residing at Mt Vernon  
 My commission expires: 1-7-23

STATE OF WASHINGTON )  
 ) ss.  
 COUNTY OF \_\_\_\_\_ )

On this day before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared, \_\_\_\_\_, to me known to be the \_\_\_\_\_ of SIERRA PACIFIC INDUSTRIES, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute the said instrument on behalf of the corporation.

GIVEN under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_.

\_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 NOTARY PUBLIC in and for the  
 State of Washington, residing at \_\_\_\_\_  
 My commission expires: \_\_\_\_\_

\\Chm\k\Local\DFS\Shared\_Docs\CLIENTS I-G\Kiewit Infrastructure West Co\Marblemount Mine\Sierra Pacific Transaction (subfile)\Draft Transaction Docs\Gravel Mine Lease\Gravel Lease Agmt.Draft.12312018 (krm edit).v2JS.doc

## ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

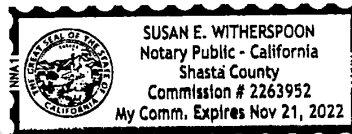
County of Shasta

On February 15, 2019 before me, Susan E. Witherspoon, Notary Public  
(insert name and title of the officer)

personally appeared George.R. Emmerson,  
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in  
his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing  
paragraph is true and correct.

WITNESS my hand and official seal.



Signature Susan E. Witherspoon (Seal)



**EXHIBIT A**

**LEGAL DESCRIPTION OF PROPERTY**

**EXHIBIT B**

**LEASE AREA**



**Pacific Surveying & Engineering, Inc**  
land surveying • civil engineering • consulting • environmental  
909 Squallcum Way #111, Bellingham, WA 98225  
Phone 360.671.7387 Facsimile 360.671.4685 Email [info@pse-survey.com](mailto:info@pse-survey.com)

**EXHIBIT 'A'**

**GRAVEL MINE LEASE  
"THE PROPERTY"**

**TRACT 1**

THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 35 NORTH,  
RANGE 10 EAST, W.M.

EXCEPT ROAD RIGHTS OF WAY.

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

**TRACT 2**

THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, THE SOUTH HALF OF THE  
SOUTHWEST QUARTER, AND THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION  
24, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.

EXCEPT ROAD RIGHTS OF WAY.

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

**TRACT 3**

GOVERNMENT LOTS 1, 2, 3, AND 4 AND THE WEST HALF OF THE NORTHEAST QUARTER  
ALL IN SECTION 24, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M.

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.





**Pacific Surveying & Engineering, Inc**  
land surveying • civil engineering • consulting • environmental  
909 Squaticum Way #111, Bellingham, WA 98225  
Phone 360.671.7387 Facsimile 360.671.4685 Email [info@psurvey.com](mailto:info@psurvey.com)

**EXHIBIT 'B'**

**GRAVEL MINE LEASE AREA DESCRIPTION**

THAT PORTION OF THE WEST ONE-HALF OF THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 35 NORTH, RANGE 10 EAST, W.M., SKAGIT COUNTY, WASHINGTON, LYING SOUTHEASTERLY OF THE SOUTHEASTERLY MARGIN OF ROCKPORT CASCADE ROAD DESCRIBED AS FOLLOWS:

THE SOUTH 500 FEET OF THE WEST 450 FEET THEREOF AS MEASURED PARALLEL TO AND PERPENDICULAR WITH THE SOUTH LINE OF SAID NORTHWEST QUARTER AND THE SOUTHEASTERLY MARGIN OF ROCKPORT CASCADE ROAD, RESPECTIVELY.

SITUATE IN SKAGIT COUNTY, STATE OF WASHINGTON.

