

**AGREEMENT BETWEEN THE CITY OF HIGHLAND AND THE CITY OF REDLANDS FOR
RECLAMATION PLAN LEAD AGENCY SERVICES**

This agreement for the designation of Lead Agency status relating to reclamation plan preparation for certain approved surface mining operations is made this 21st day of April, 2009 ("Effective Date"), by and between the City of Highland ("Highland") and the City of Redlands ("Redlands") Highland and Redlands are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

RECITALS

WHEREAS, the California Department of Conservation's Office of Mine Reclamation ("OMR") by letter dated July 25, 2007, notified Highland of the need for proposed mining and reclamation plans to be incorporated as an element of the Upper Santa Ana River Wash Land Management and Habitat Conservation Plan ("Wash Plan"); and

WHEREAS, to implement the Wash Plan, the Parties have required two mining operators, Cemex, Inc. and Robertson's Ready Mix, to submit conditional use permit applications for their respective planned quarries and the sharing of haul roads, silt ponds and other common areas; and

WHEREAS, Cemex, Inc. has identified its proposed mining and reclamation plans for the Alabama Street Quarry, West Quarry and East Quarry North in aggregate lands located in the cities; and

WHEREAS, Robertson's Ready Mix has identified its proposed mining and reclamation plans for Plunge Creek Quarry, Silt Pond Quarry and East Quarry South in aggregate lands located in the cities; and

WHEREAS, under applicable provisions of the Public Resources Code including, without limitation, Sections 2771 and 2774, when a proposed or existing surface mining operation is (1) located within the jurisdiction of two public entities and (2), is a permitted use within the entities and is not separated by a natural or manmade barrier coinciding with the boundaries of the entities, one of those two public entities must be designated the "lead agency" for the purpose of conducting the review and preparation of documents required under the Surface Mining and Reclamation Act of 1975 ("SMARA") and applicable regulations; and

WHEREAS, it is the desire of the Parties to designate Redlands as the lead agency for the review and processing of reclamation plans associated with mining operations in this Wash Plan, and Redlands willing to accept such status; and

WHEREAS, the Parties desire to enter into this agreement for the designation of a lead agency and for the provision of lead agency services as described in SMARA;

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Parties agree as follows:

AGREEMENT

1. Term. The term of this Agreement shall commence on its Effective Date and shall continue for five (5) years unless terminated by either Party by giving thirty (30) days' prior written notice to the other Party. The respective City Managers of the Parties, by mutual written consent, may extend this Agreement for subsequent increments of time.

2. Lead Agency.

A. Redlands is hereby designated as the lead agency for the reclamation plans, as defined and specified in Sections 2770-2774, inclusive, of the California Public Resources Code and applicable regulations, submitted in connection with the Wash Plan. Redlands and Highland acknowledge and agree that Redlands shall have no obligation to perform any reclamation plan services pursuant to Section 4 of this Agreement, and shall have no liability whatsoever to Highland for the performance of such services, unless compensation for the services has been paid in advance to Redlands by the owners of the mining operations.

B. Redlands shall coordinate with and incorporate input, comments and conditions of approval from Highland for reclamation plans for mining operations located in Highland.

C. Within thirty (30) days of the Effective Date of this Agreement, the Parties shall terminate existing agreements with outside consultants providing SMARA related services for mining operations in the Wash Plan and Redlands shall solicit proposals to select a new SMARA consultant to be approved by the respective City Councils of the Parties.

D. Each Party, in its operations pursuant hereto, is acting as an independent contractor and shall indemnify and hold the other Party harmless from and against all claims, losses, damages and expenses, including attorneys' fees, on account of bodily injury to or death of any person, or for property damage arising out of the negligent or intentional wrongful acts or omissions of such Party's performance of services described in this Agreement, unless caused by the negligence of the other Party.

E. Each Party shall defend, indemnify and hold harmless the other Party from and against any and all liability or expense, including any claim of liability, and any and all losses or costs (including reasonable legal expenses and costs of expert witnesses and consultants) that may be imposed upon the other Party solely by virtue of the provisions of Section 895.2 of the California Government Code.

3. Operational Information. Within seven (7) business days of the Effective Date of this Agreement, the Parties' respective Community Development Directors, or their designees, shall meet to discuss implementation of this Agreement. Subsequent to such meeting, representatives of the Parties shall meet not less than once annually, at alternating City Hall locations.

4. Service To Be Performed. Redlands shall, in a timely and professional manner draft, edit and complete the above-referenced evaluation of the reclamation plan for surface mining operations that have been approved by Highland, in accordance with the rules and policies applicable to such review under the Public Resources Code. Redlands' staff shall handle all necessary communication with the applicant (if any), OMR and other responsible agencies. All conditions of approval established by Highland in its consideration of a proposed surface mining operation shall be incorporated into any reclamation plan proposed to be approved.

5. No Monetary Claims.

Neither Party shall have any claims against or liabilities to the other Party on account of expenses incurred or revenues received or lost as a result of this Agreement.

6. Notification.

All notices shall be given in writing by personal delivery or by mail. Notices, sent by mail should be addressed as follows: All correspondence is to be sent to the following address:

City Manager
City of Highland
27215 Base Line
Highland, CA 92346

City Manager
City of Redlands
P. O. Box 3005
Redlands, CA 92373

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. Changes may be made in the names and addresses of the person to who notices and payments are to be given by giving notice pursuant to this section.

7. Entire Agreement. This Agreement constitutes the entire understanding of the Parties with respect to the subject matter hereof, and there are no other representations, promises, warranties, covenants or undertakings with respect thereto. This Agreement shall be interpreted according to the local laws of the State of California. Proper venue shall be in the Superior Court in San Bernardino County, California.

8. Attorneys' Fees. In the event either Party commences any action to enforce or interpret the terms or conditions of this Agreement the prevailing Party in any such action shall be entitled to recover its costs and fees of same, including reasonable attorneys' fees, and including fees for use of in-house counsel by a Party.

9. No Third Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their successors and assigns. No other person shall have any right of action based upon any provision of this Agreement.

By: Remy Kilbuck
Mayor, City of Highland

By: Pat Gilheath
Mayor, City of Redlands
Pro Tem

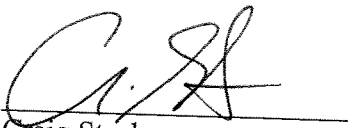
Attest:

Attest:

Betty Hughes
City Clerk
City of Highland

Joan Pugh
City Clerk
City of Redlands

APPROVED AS TO FORM:
RICHARDS, WATSON & GERSHON, A P.C.

By: 
Craig Steele
City Attorney