

## **RESOLUTION NO. 2005-578**

Adopted by the Sacramento City Council

AUGUST 2, 2005

### **AMENDING GRANITE PARK LEASE**

#### **BACKGROUND**

- A. In 1971, Granite Construction Company and the City of Sacramento entered into an agreement for the conveyance of land, a former aggregate mine, from Granite Construction to the City of Sacramento. This land is located between Power Inn Road to the west, Florin Perkins Road to the east, 14<sup>th</sup> Avenue to the south, and Folsom Boulevard to the north.
- B. The west portion of this property was deeded to the City in 1972 then leased back to Granite Construction, allowing Granite to continue its mining operation. The 1972 lease was cancelled and superseded by a new lease on March 7, 1975, which was approved by Resolution No. 75-093. This lease expired on March 30, 1996. Granite Construction has remained in possession of all or substantial portions of the original leased premises as a month-to-month, or at-will, tenant.
- C. On October 24, 2000 the City entered into the Granite Regional Park Development Agreement (City Agreement No. 2000-165) to promote the development of this property, which includes a regional park. In order for development to continue it is important to amend and reinstate the lease arrangement with Granite Construction. As the regional park is completed the park property will be transferred back to the City of Sacramento.

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The City Council authorizes the City Manager to execute the lease amendment to the March 7, 1975 lease with Granite Construction in order to:
- 1) Change the expiration date to March 30, 2010; and
  - 2) Amend the description of premises to account for the already developed sections of Granite Regional Park.

#### **Table of Contents:**

Exhibit A – Lease Amendment (4 pages)

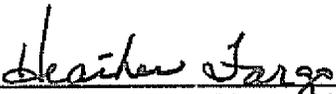
Adopted by the City of Sacramento City Council on August 2, 2005 by the following vote:

Ayes: Councilmembers Cohn, Hammond, McCarty, Pannell, Sheedy, Tretheway,  
Waters and Mayor Fargo.

Noes: None

Abstain: None

Absent: Fong

  
\_\_\_\_\_  
Mayor Heather Fargo

  
\_\_\_\_\_  
Shirley Concolino, City Clerk

DRAFT

Exhibit A

## AMENDMENT TO LEASE

THIS AMENDMENT TO LEASE (this "Amendment") is dated for reference purposes as of July \_\_\_\_, 2005, by and between CITY OF SACRAMENTO, a municipal corporation ("Lessor") and GRANITE CONSTRUCTION COMPANY, a California corporation ("Lessee"), with reference to the following facts:

### RECITALS

A. Lessor and Lessee entered into (1) that certain Lease dated as of March 24, 1972 (the "1972 Lease"), with regard to certain real property located in the County of Sacramento, State of California and described in the Lease (the "Original Premises"), which 1972 Lease was approved by Resolution No. 125 by the Council of the City of Sacramento certified March 28, 1972, and recorded in the Official Records of Sacramento County on April 5, 1972, in Book 72-04-05, Page 101, as Instrument No. 29395, and (2) that certain Lease dated as of March 7, 1975 (the "1975 Lease"), which 1975 Lease cancelled and superseded (but incorporated by reference) the 1972 Lease, and was approved by Resolution No. 75-093 adopted by the Sacramento City Council on March 6, 1975. The 1975 Lease (which incorporates the 1972 Lease) is sometimes referred to herein as the "Lease".

B. The 1972 Lease was for an original term of twenty-two (22) years, expiring March 30, 1994. Pursuant to the 1975 Lease, the term of the Lease was extended to March 30, 1996. Lessee has remained in possession of all or substantial portions of the Original Premises as a month-to-month or at-will tenant, subject to the terms of the Lease, from April 1, 1996, until the date hereof.

C. Lessor and Lessee desire to extend the term of the Lease and to modify the premises which is the subject of the Lease, all as set forth herein.

### AGREEMENT

NOW THEREFORE, for valuable consideration, Lessor and Lessee agree to amend the Lease as follows:

1. Defined Terms; Incorporation of Recitals. All terms used with initial capitalization and not otherwise defined in this Amendment shall have the meanings given to them in the Lease. The parties acknowledge and agree upon the accuracy of the Recitals hereto and incorporate them herein by this reference.

2. Lease Term. Notwithstanding anything to the contrary in the Lease, the Lease is hereby ratified and confirmed by the parties hereto as valid, existing and in full force and effect, and the fixed term of the Lease is hereby extended to March 30, 2010 (the "Extension Term").

3. Premises. The parties acknowledge that portions of the Original Premises described in the 1972 Lease have heretofore been reconveyed or dedicated

to Lessor in connection with the development of Cucamonga Avenue, the development of certain paved parking areas, and the development of Ramona Avenue. Therefore, the demised premises that shall be the subject of the Lease as amended hereby shall be as follows (the "Premises"): (a) as of the date of this Amendment, the areas shown with single cross-hatched markings depicted on Exhibit A attached hereto shall continue to be and remain a part of and included in the Premises; and (b) as of the date of this Amendment, the area with double cross-hatch markings as shown on Exhibit A attached hereto (currently a dog park) shall be excluded from the Premises, but shall be added to and shall become a part of the Premises on the date that Lessor tenders possession of the area to Lessee and Lessee has the right to exclude the public therefrom. The parties acknowledge and agree that areas currently a part of the Premises may from time to time during the Extension Term be removed from the Lease as they are dedicated to Lessor as public improvements or deeded to Regional Park General, a California general partnership ("RPG"), pursuant to the terms of certain agreements between RPG and the City of Sacramento.

4. Rent. Pursuant to the terms of the Lease, Lessee shall continue to pay to Lessor as rent for the Premises during the Extension Term an annual rental of Ten Dollars (\$10.00) per year payable on or before the fifteenth (15<sup>th</sup>) day of January of each calendar year.

5. Notices. Section 19 of the Lease is amended to provide that all notices to the parties to the Lease as amended hereby shall be sent to the following addresses:

To Lessor: City Clerk  
City of Sacramento  
915 I Street  
Sacramento, CA 95814

with a mandatory  
copy to: City Attorney  
City of Sacramento  
980 Ninth Street, Tenth Floor  
Sacramento, CA 95814

To Lessee: Granite Construction Company  
c/o Granite Land Company  
8950 Cal Center Drive, #201  
Sacramento, CA 95826  
Attention: Scott Wolcott, President

with a mandatory  
copy to: Granite Construction Incorporated  
P. O. Box 50085  
Watsonville, CA 95077-5085  
Attention: General Counsel

6. Confirmation of Lease. Except as amended hereby, the Lease shall remain in full force and effect. If the provisions of this Amendment and the provisions of the Lease shall conflict, then the provisions of this Amendment shall control. Lessor and Lessee each represents and warrants to the other that it has full right and authority to enter into this Amendment, that as of the date of this Amendment the Lease is in full force and effect, and that to the best of such party's knowledge there is no current breach or default under the Lease by any party thereto nor has any claim been made for any such breach or default.

7. General. This Amendment may be executed in one or more counterparts with the same effect as if the parties executing several counterparts had executed one counterpart and all such executed counterparts shall together constitute one and the same instrument. Facsimile signatures on this Amendment shall be binding as if original.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first noted above.

**"Lessor"**

THE CITY OF SACRAMENTO, a  
municipal corporation

By: \_\_\_\_\_  
Robert P. Thomas  
City Manager  
(or authorized designee)

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

**"Lessee"**

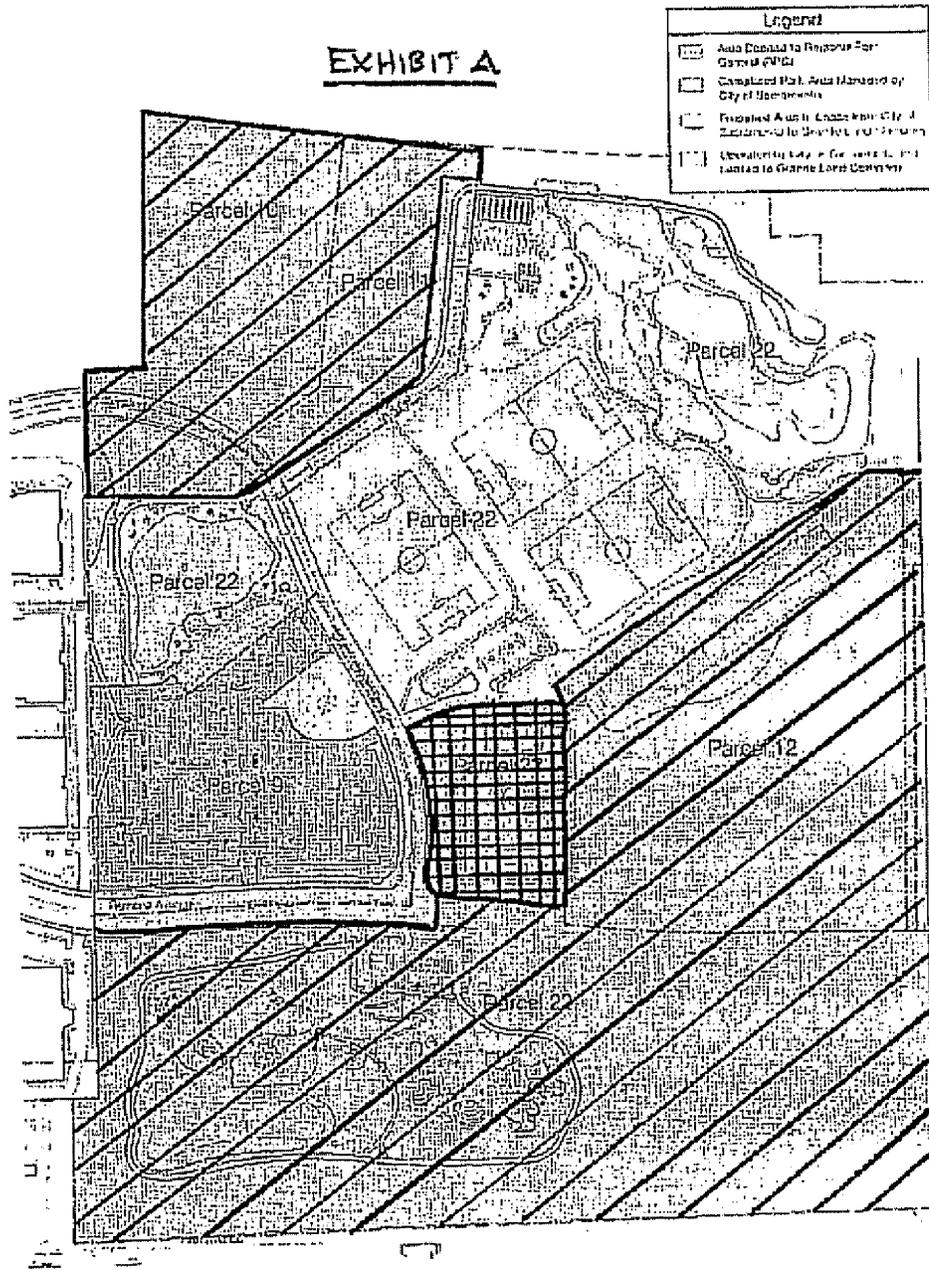
GRANITE CONSTRUCTION  
COMPANY, a California corporation

By: \_\_\_\_\_  
William E. Barton  
Sr. Vice President/CFO

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney For Lessee

EXHIBIT A  
DESCRIPTION OF PREMISES



Granite Regional Park  
Lease Exhibit Between Granite  
Land Co. & City of Sacramento

 Granite Regional Park Authority  
2000 Granite Regional Park Authority  
1000 Granite Regional Park Authority

 May 11, 2008