

## **Summary of Lafarge Lease Obligations/Impact on City Departments**

### A. Finance Department

1. Royalty Payments to City Lafarge is providing the City with certain economic benefits for the Initial Term and any Extended Term relating to the excavation, loading, hauling and storing of lime sludge from the Water Treatment Plant and in consideration of these commitments the City is waiving any rights to royalties from the Aggregates mined in the South Mine or in the Additional City Property, if applicable. Provided, however, that if the City does not receive the necessary Governmental Approvals and chooses not to build the UIC System, Lafarge shall pay the City royalties for all Aggregate extracted from the effective date of this Lease to the end of the Initial Term of such earlier date as all Aggregate is extracted
2. Real Estate Taxes  
Lafarge will be responsible for the payments of all taxes assessed on the South Mine but is not responsible for any real estate taxes assessed against any use at the surface of the Route 25 property that is not part of the operation of the South Mine.
3. Sales Tax  
Although Lafarge currently does not sell Aggregates from the South Mine except at wholesale prices, in the event that Lafarge offers retail sales of Aggregates, it will pay any applicable Illinois Retailers Occupation taxes.
4. Construction of the Storage Facility and Operational Considerations.
  - (a) The Parties shall act in good faith to secure and maintain the necessary Governmental Approvals. Each Party shall pay 1/2 the cost of any necessary Governmental Approvals, including all costs associated with the IEPA Permit acquisition. Within six (6) months of the issuance of the Governmental Approvals Lafarge shall, at its sole cost and expense, subject to the City's reimbursement obligations of \$550,000.00, construct, consistent with all Governmental Approvals, the Storage Facility

and complete the required improvements at the Conco Mine and shall begin to receive lime sludge from the City's Water Treatment Plant.

5. Costs of Operation.

(a) The City shall reimburse LAFARGE \$550,000 for the construction of the Storage Facility Improvements (the "City's Contribution"). Any costs incurred in the construction of the Storage Facility Improvements in excess of the City's Contribution shall be paid solely by Lafarge.

(b) Lafarge will charge \$19.00 per ton for each wet ton of lime sludge transported to the Storage Facility, with a minimum annual payment of \$570,000 per calendar year regardless of the actual tonnage based on an effective minimum wet tonnage of 30,000 tons. Provided however, that if 30,000 wet tons are not transported to the Storage Facility in any calendar year due to an Unavoidable Delay or some action or inaction on the part of Lafarge or its officers, employees, agents, successors, assigns, contractors, consultants and all other persons, firms and corporations acting on their behalf or with their authority, the City shall not be obligated to pay the minimum annual payment that calendar year but will pay \$19.00 per ton for each wet ton of lime sludge actually transported to the Storage Facility that year.

(c) The per wet ton charge will be adjusted annually for inflation using the Construction Cost Index ("CCI") for the Chicago Area as published in the Engineering-News-Record ("ENR") as compared to the same CCI of January 1st of the previous year.

6. Other Reimbursable Costs to LAFARGE for Storage Facility Operations.

(b) Except as hereinafter provided, all work set forth herein will be included in and is part of the per wet ton charge to the City by Lafarge; provided, however, that, the City shall reimburse Lafarge for the cost of performing various components of maintenance with respect to the Water Treatment Plant (including, without limitation, any lagoons adjacent thereto or forming a part thereof that are used as part of the water treatment process or dewatering lime sludge) in accordance the Applicable Rates set forth on the Pricing Chart found in **Exhibit J**. On January 1st of each calendar year during the duration of this Lease, the Applicable Rates will be adjusted according to the change in the CCI for the Chicago Area as published in the ENR as compared to

the same CCI of January 1st of the previous year. This adjustment can be either positive or negative and will not affect any other terms and conditions stated in this Lease

B. Risk Management

1. Lafarge Insurance – Lafarge or its contractors must provide:
  - a. Commercial General Liability Insurance;
  - b. Worker’s Compensation Insurance;
  - c. Public Liability/Pollution Liability Insurance;
  - d. **Note:** These insurance coverages must be reviewed every three (3) years and coverage limits increased as agreed to by the Parties;
  - e. Lafarge reserves the right to self-insure any of these risks, subject to establishing reasonable reserves.
  
2. City Insurance – The City agrees to furnish (or cause to be furnished) insurance, either by self-insurance with adequate reserves, participation in a municipal insurance pool, or through the purchase of primary and/or excess insurance, the following coverages:
  - a. General Liability Insurance. The City must furnish evidence that it carries General Liability Insurance containing broad form contractual liability providing for a limit of not less than Two Million Dollars (\$2,000,000.00) single limit, bodily injury and/or property damage combined, for damages arising out of bodily injuries to or death of any person or destruction of property resulting from the City’s or the City’s contractors’ negligence or willful misconduct, including the loss of use thereof, with an aggregate of no less than Twenty Million Dollars (\$20,000,000.00) for all damages occurring as a result of more than one occurrence. Coverage must include coverage for fire legal liability and products and completed operations.

- b. Workers' Compensation Insurance. The City and City's contractors shall furnish evidence that, with respect to the operations it performs, it carries workers' compensation insurance complying with the statutes of the State of Illinois covering all employees of the City or the City's contractors, as applicable.
  
- c. City Contractors. In addition to requiring its contractors and consultants to have the minimum coverage described in the Right of Entry Agreement, the City will insure the acts of its contractors and consultants and will require its contractors and consultants to name Lafarge as an additional named insured under their insurance policies.

**Note:** The City should make sure this requirement is in any bid and/or contractors' documents for those who work on this project.

C. Engineering/Public Works

- 1. Sale of Limestone to City. During the Lease Term, Lafarge agrees to sell to the City any limestone required for the City's own use that is available at the South or North Mines at the following prices per ton, weighed at the North Mine scale, FOB Lafarge at the North Mine, as adjusted from year to year based on the cost of living formula.
  - a. City Contractors Get Favorable Pricing: The City agrees that it will not resell or otherwise act as a distributor or broker of limestone purchased from Lafarge, but solely use such limestone as part of the City's operations, services, projects and jobs either undertaken by the City with its own employees or contracted by the City with another person or entity.

- b. Amount of Stone: The City can buy an unlimited amount of stone at these prices for its own use, except for CA11, which will have a cap of 25,000 tons given the limited supply available in the North and South Mines.

D. Engineering

LAFARGE'S Mining Activities. Pursuant to the terms of the Second Lease, Lafarge has conducted Mining Activities in the South Mine using the room and pillar method of mining. Such Mining Activities involve the use of drill and blast methods in Ordovician-aged limestone and dolomite of the Galena-Platteville Groups. Currently, the South Mine consists of Level 1 and Level 2 mining horizons, of which the bottoms of the bench cuts are at least 75 feet apart. The levels are separated by an approximately 25-foot thick sill. Final room heights are approximately 50 feet and are constructed in a two-cut operation (the upper breast cut and the lower bench cut). Mine geometry is relatively uniform with 50-foot square pillars (95-foot on center) and 45-foot room spans, resulting in an extraction ratio of about 72 percent. Geologic structures include at least two prominent sub-vertical joint sets that are generally oriented NE-SW and NW-SE and spaced at an average distance of approximately 110 to 120 feet.

- Seismograph. Lafarge will continue seismograph monitoring so as to meet federal vibration standards. The seismograph will be located in an area identified by the City and may be relocated in the future at the request of the City.
- Mine Safety. Lafarge shall exercise reasonable care in engaging in mining activities in the South Mine and take the necessary safety precautions to adequately secure the South Mine
- Right to Inspect. The City shall have the right to inspect, or have its agents or contractors inspect, the mining activities in the South Mine and Storage Facility Operations from time to time to ensure reasonable compliance with the terms of the Lease. Any such inspection shall be coordinated with Lafarge on not less than two

(2) business days prior written notice to Lafarge (unless in an emergency situation in which case reasonable notice shall be required to allow Lafarge to provide access), and said agent or contractor shall be accompanied by a representative of Lafarge during any such inspection. All persons entering the North Mine and South Mine shall meet the site specific safety requirements established by Lafarge.

- Supervised Access to South Mine. Lafarge will provide emergency supervised access to the City upon request and normal supervised access will be limited to normal hours of operation of the North Mine and as otherwise provided for in the Lease.
- Additional Safety Restrictions. Lafarge may adopt such restrictions as are reasonable to insurance safety for all persons in both mines.
- Kennedy Stoppings Construction.

In the event that the City does not get the Storage Facility Operations Permit the City can construct the UIC System. In order to operate the UIC System, the City needs to construct four (4) isolation bulkheads, barriers or stoppings commonly known as “Kennedy Stoppings” to seal the drifts on Levels 1 and 2 near the South Mine boundary adjacent to the I-88 access as depicted in **Exhibits N and O**. These Kennedy Stoppings are necessary to isolate the City’s lime sludge storage activities on Levels 1 and 2 in the South Mine from LAFARGE’S Mining Activities in the Conco Mine.

- Equipment to be Left in South Mine. Lafarge agrees to leave the following equipment currently located in the South Mine in place for the City’s use as part of the UIC Facility, all such equipment being in its “as is, where is” condition without any warranty of fitness for any particular purpose and subject to the City’s prior inspection and acceptance:

1. The 600-volt electrical power feed from the surface into Level 2 of the South Mine through the existing vent shaft;
  2. The surface concrete pad and metal collar over the existing vent shaft;
  3. The electric power poles and cables at the surface level;
  4. The 6- to 8-inch steel cased pilot hole +/- 25 feet to the northeast of the existing vent shaft shall be exposed;
  5. The security fence that surrounds the vent shaft; and
  6. The ladder within the vent shaft.
- Berms. The City shall inspect the berms as constructed and advise Lafarge of any changes that need to be made.
  - Repairs. The City is not obligated to make any repairs or do any work on or about the South Mine or any part of it, except as such activities may relate to the construction and operation of the UIC Facility.
  - Work Hours. Lafarge's work hours (except for blasting) is permitted around the clock.
  - Permits. Lafarge will be responsible for obtaining and maintaining all required approvals, permits and licenses relating to its mining activities and Storage Facility Operations.
  - Environmental Restrictions. Lafarge mining operations are subject to hazardous substance and use restrictions.

- Water/Lime Sludge on Level 3. In the event that Lafarge, in conducting mining activities on Level 3, encounters water or lime sludge, Lafarge may continue its mining activities on Level 3 or choose to vacate the South Mine.
  
- Surface.
  1. Ventilation Shaft. Lafarge will not interfere with any use of the surface of the City Property, except as may be necessary to permit the repair, replacement, maintenance, and inspection of the current ventilation shaft.
  
  2. City Shall Maintain Fence. To minimize the potential for damage to the fans, ductwork vent shafts or South Mine, or injury to Lafarge’s employees, the City shall maintain the existing fence around the fans and vent shaft and keep the fence locked.
  
- City’s Construction/Operation of the UIC Facility. The City accepts the condition of Levels 1 and 2 in their as is/where is condition, and will construct the UIC Facility in accordance with the UIC Permit. The City will operate the UIC Facility in conformance with best management practices as the City deems appropriate but in compliance with any permits regulating the UIC Facility.
  
- Air to Levels 1, 2 and 3. Lafarge provides outside air to Levels 1 and 2 of the South Mine, and Lafarge will be solely responsible for supplying sufficient air to the future Level 3 mining operations in the South Mine.
  
- Lafarge Cooperation. Lafarge’s cooperation and assistance in the construction of the UIC Facility will include, but not be limited to:
  - a. Lafarge providing access to the City and its consultants and contractors through the North Mine to the South Mine.



- b. Lafarge sharing any available information regarding the North Mine and South Mine, including previously collected data, geology, etc.
- c. Lafarge supplying technical and professional support needed as it pertains to governmental approvals and UIC Facility construction, operation, and health and safety training/protocols and occupancy supervision, to the extent Lafarge has any expertise or knowledge based on its operation of the South Mine.
- d. Lafarge providing and maintaining infrastructure on Levels 1 and 2 of the South Mine and continuation for the existing lighting, both before and during construction of the UIC Facility.
- e. Lafarge continuing to provide ventilation to Levels 1 and 2 of the South Mine until such time as the fourth Kennedy Stopping has been constructed for the UIC Facility. Lafarge reserves the right to remove the existing air circulation fans on the City Property and replace them with a single fan that has sufficient capacity to adequately provide ventilation to Levels 1 and 2 of the South Mine, provided such replacement does not interfere with the City's goal.

E. Legal Department.

1. Adverse Effect.

City has the obligation to provide notice to Lafarge in the event of any “Adverse Effect” by Lafarge. If the City concludes that any of Lafarge’s activities have an Adverse Effect, the City has the right to seek injunctive relief from the court to order Lafarge to cease all mining activities in the South Mine or obligate Lafarge to take any necessary corrective action in order to eliminate the Adverse Effect.

3. Quitclaim Deed.

- The City will get a quitclaim deed for all right, title and interest of Lafarge to the vent shaft in the South Mine.
- Upon termination of the Lease, Lafarge will quitclaim all right, title and interest of Lafarge to any and all spaces or Aggregates remaining in the South Mine to the City, and City will have the right to full use and occupancy of the South Mine.

4. Cooperation in Governmental Appraisal Process.

- a. Lafarge Cooperates with City. Lafarge agrees to cooperate with the City and assist in the City's attempt to obtain all necessary approvals and permits from any Governmental Authority.
- b. General Cooperation. The City and Lafarge each covenant and agree that each will do, execute, acknowledge and deliver or cause to be done, executed and delivered, such agreements, instruments and documents supplemental to the Lease and such further acts, instruments, pledges and transfers as may be reasonably required for the better clarifying, assuring, mortgaging, conveying, transferring, pledging, assigning and confirming unto the City or Lafarge or other appropriate persons all and singular the rights, property and revenues covenanted, agreed, conveyed, assigned, transferred and pledged under or in respect of the Lease.
- c. Consent. Each Party agrees to act reasonably and in good faith in all matters affecting or pertaining to any obligations stated in the Lease, notwithstanding the failure of any provision to explicitly require it. Unless

otherwise provided in the Lease, any consent required shall not be unreasonably withheld.

5. Notice of Indemnity Claims.

- Lafarge’s indemnity obligations to the City are found in paragraph 34 of the Lease.
- The City agrees to notify Lafarge in writing within a reasonable time of any claims of which it becomes aware which may fall within the indemnity provisions of the agreement.

6. City’s Defense of Lafarge.

- a. Scope of Indemnity for the North Mine. To the fullest extent permitted by law, the City agrees to defend and indemnify Lafarge and its officers, employees, agents, successors, assigns and all other persons, firms and corporations acting on their behalf or with their authority (collectively, the “Lafarge Indemnified Parties” or each a “Lafarge Indemnified Party”) from and against any and all claims, demands or liabilities imposed upon them by law or otherwise of every kind, nature and character on account of personal injuries, including death at any time resulting therefrom, and on account of damage to or destruction of property arising out of or occurring as a direct result of the City’s negligent or willful actions and resulting solely from the City’s or its contractors use of its access through the North Mine to the South Mine or the Storage Facility.
- b. Scope of Indemnity for the South Mine. To the fullest extent permitted by law, the City agrees to defend and indemnify Lafarge and its officers, employees, agents, successors, assigns and all other persons, firms and

corporations acting on their behalf or with their authority (collectively, the “Lafarge Indemnified Parties” or each a “Lafarge Indemnified Party”) from and against any and all claims, demands or liabilities imposed upon them by law or otherwise of every kind, nature and character on account of personal injuries, including death at any time resulting therefrom, and on account of damage to or destruction of property arising out of or occurring as a direct result of the City’s or its contractor’s negligent or willful actions and resulting solely from the City or its contractors being present at the South Mine and the Water Treatment Plant. The use of the term “contractor” includes contractors, subcontractors, consultants, and any other Parties that work on the UIC Facility or are engaged to inspect Lafarge’s mining activities on behalf of the City.

- c. Notice of Indemnity Claim. Lafarge agrees to notify the City in writing within a reasonable time of any claim of which it becomes aware which may fall within this indemnity provision.
  - d. Compromise of Claim. The City shall not enter into any compromise or settlement of any such claims, suits, actions or proceedings without the consent of the Lafarge Indemnified Parties, which consent shall not be unreasonably withheld or delayed.
7. Right of Entry Agreement. We need to get all of the City’s consultants and contractors to sign the Right of Entry Agreement in order for them to be allowed in the mine.
8. Damage to City Property. In the event that Lafarge’s activities cause damage to the City Property, Lafarge shall be responsible for repairing such damage.
9. Public Health Restrictions. The City reserves the right to impose additional conditions, terms, restrictions or other requirements reasonably determined to be

necessary by it for the public health, safety and welfare of its citizens with respect to the mining provided that such conditions, terms or restrictions shall not be in contravention with the intent and purpose of the Lease.

10. Default. Either Party must provide notice of default to the other Party (if necessary) and an opportunity to cure.
  11. Assignment. City must consider/agree to an assignment of the Lease (if necessary).
  12. No Recording of Lease. The Lease shall not be recorded without the consent of both Parties. At the request of either Party, the Parties shall enter into a memorandum of the Lease, in recordable form, which memorandum shall be on terms and conditions reasonably acceptable to both Parties, but in no event will include business terms of the Lease.
- F. Mayor's Office/General.
1. Complaints. Lafarge agrees to report to the City's designated representative (which we should name) any complaint received from any occupant of property in the vicinity of the South Mine or any governmental entity within 48 hours of receipt of said complaint. Lafarge further agrees to meet with the City's designated representative at that representative's request on a quarterly basis or more frequently as is reasonably necessary. Lafarge agrees to use its best efforts to investigate and resolve said complaints in consultation with the City's representative.
  2. Government Notices. Lafarge shall provide the City with copies of all governmental notices, reports, complaints, inspection reports or other documents that relate to compliance with any or all governmental regulations within fourteen (14) days of receipt of same by Lafarge.

4. Limitation of Liability Regarding Governmental Officials. No covenant or agreement contained in the Lease shall be deemed to be the covenant or agreement of the corporate authorities, any elected official, officer, partner, member, director, agent, employee or attorney of the City, in his or her individual capacity, and no elected official, officer, partner, member, director, agent, employee or attorney of the City shall be liable personally under the Lease or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of the Lease, or any failure in that connection.