

THIS INSTRUMENT PREPARED BY:  
Wayne R. Kramer, Attorney  
Kramer, Rayson, Leake, Rodgers  
& Morgan  
P. O. Box 629  
Knoxville, Tennessee 37901

State of Tennessee, County of COCKE  
Received for record the 03 day of  
JULY 2001 at 11:00 AM. (REC# 18486)  
Recorded in official records  
Book 1068 pages 415- 428  
State Tax \$ .00 Clerks Fee \$ .00,  
Recording \$ 72.00, Total \$ 72.00,  
Register of Deeds LINDA H. BENSON  
Deputy Register LINDA H BENSON REGIST

BK 1068 PG 415

A G R E E M E N T

THIS AGREEMENT, made and entered into this 1st day of September, 1992, by and between SMOKY MOUNTAIN COUNTRY CLUB, INC., a not for profit corporation organized and existing under and by virtue of the laws of the State of Tennessee, with offices in Cocke County, Tennessee (hereinafter referred to as "First Party"), and VULCAN MATERIALS COMPANY, MIDSOUTH DIVISION, a corporation organized and existing under and by virtue of the laws of the State of New Jersey, and having an office at Knoxville, Tennessee (hereinafter referred to as "Second Party").

W I T N E S S E T H:

THAT WHEREAS, First Party warrants and covenants that it is the owner in fee simple of, and has good and merchantable title to, a certain tract of land located in the Sixth (6th) Civil District of Cocke County, Tennessee, said land being more particularly described on Exhibit A attached hereto and made a part hereof; and

WHEREAS, the parties hereto are desirous of providing for their future rights and responsibilities in relation to said property;

NOW, THEREFORE, for and in consideration of the sum of Three Thousand Dollars (\$3,000.00), in hand paid to First Party by Second Party, the receipt of which is hereby acknowledged, and other good and valuable considerations, including the examination of the premises by Second Party, and including the mutual execution of this instrument and the covenants and conditions contained herein, the parties hereto do hereby agree and intend to be legally bound as follows:

## OPTION TO LEASE

1. First Party does, for itself and for its successors and assigns, hereby grants to Second Party, its successors and assigns, an exclusive and irrevocable option to lease a tract of land containing approximately Twenty-Nine (29) acres and as more particularly described on Exhibit A. It is further agreed that Second Party may, at its option and at its expense, survey said acreage and in such event and in the event this Option to Lease is exercised, a more specific description of the property to be leased shall be attached hereto as Exhibit B, to this agreement. This Option to Lease shall be upon the terms and conditions hereinafter set forth. *QMM* *RM*

2. Said Option shall commence on ~~August~~ <sup>*SEPTEMBER*</sup> 1, 1992 and shall extend for a period of one (1) year therefrom (i.e. to and including the 31st day ~~July~~ <sup>*AUGUST*</sup>, 1993). Provided further, however, that the option period may be extended for an additional year upon Second Party giving written notice to First Party of its desire to extend the option period and by payment of an additional three thousand dollars (\$3,000.00). Said notice and payment shall be given and made by Second Party to First Party at least thirty (30) days prior to the expiration of the initial option term. The notice required hereunder shall be given to First Party at the address set forth in Paragraph 14 in Section II below.

3. During the existence of this Option, and without any obligation on the part of Second Party to exercise such option, First Party hereby expressly grants to Second Party the right to conduct at Second Party's expense, all studies, tests, surveys, examinations and other explorations deemed necessary by Second Party, including, but not limited to, the right to explore, core drill upon, and to remove samples of stone and other aggregates from the above-described property, together with

the right to use any equipment necessary for such purposes and the right of ingress and egress to and from said property in order to carry out such purposes. Provided, however, that such rights shall be exercised in a manner designed to minimize any inconvenience and damages to First Party. It is agreed that Second Party shall repair any damage caused by its core drilling and shall restore the ground to its general prior condition upon the expiration of this Option, if not exercised by Second Party.

4. First Party hereby represents and warrants that there are no hazardous or toxic substances or materials, no waste or trash dumps, no underground storage tanks, nor any condition constituting a violation of any Federal, State or Local laws regarding the environmental condition of property or which would be subject to redress or corrective action under any such laws, in or upon the above-described premises. In the event Second Party exercises the Option herein granted, absent written notice to the contrary actually received by Second Party prior to the exercise of the Option, the foregoing representation and warranty shall be deemed to have been made at the time of the commencement of the lease and to constitute a part of the lease agreement, regardless of any independent investigation made by Second Party prior to the commencement of the lease.

5. First Party hereby agrees that it will not, during the term of the Option to Lease, during the term of the Lease itself and any extension thereof, operate, or allow any other person, firm or corporation to operate, on the leased premises and/or on any premises owned by First Party which adjoin the leased premises, any mining or quarrying business or other operations which are identical with or similar to the type of work or operations permitted under the lease hereinafter set forth.

6. Second Party may exercise the Option at any time during the period of the Option herein granted. In the event said Option is exercised, the only act required by the Second

Party to exercise its Option to Lease, is written notice to First Party of Second Party's desire to exercise said Option. Such notice may be given by mail or may be delivered in person; provided, however, that if such notice is given by mail it shall be deemed to be complete upon Second Party depositing such notice in the United States Mail, registered or certified, postage prepaid on or before the expiration of said Option, and addressed to First Party at the address given in Paragraph 14 in Section II below unless and until said address is changed by written notice from First Party to Second Parties.

7. In the event Second Party exercises its Option to Lease as provided hereinabove, the parties hereto will automatically, and without further action on the part of either party, be bound by the provisions of the Lease Agreement hereinafter set forth in Section II of this Agreement.

8. If the Option is not exercised and subject to the provisions of Paragraph 9 in Section I herein, the Option fee paid to First Party hereunder shall be retained by First Party.

9. If during the option period granted hereunder, First Party receives another bona fide written offer to purchase the above-described property from a third party, it is understood and agreed that First Party shall immediately notify Second Party of such offer and the terms and conditions thereof. Second Party shall have the absolute right to purchase said property upon the same terms and conditions. If Second Party desires to so purchase the property upon such terms and conditions, it shall notify First Party of that intent within thirty (30) days of receiving the notice from First Party of the offer. If Second Party fails to notify First Party of its desire to so purchase or notifies First Party that it does not wish to purchase the property, then in either event, the Option granted hereunder shall terminate. Provided, however, that should this Option terminate for such reasons, then in that event, First Party shall

refund to Second Party the Option Fee paid herewith on a pro rata basis (i.e.,  $\frac{\text{number of days Option has been in effect}}{365} \times \$3,000 =$  amount to be refunded).

## II

### LEASE AGREEMENT

1. First Party does, for itself and for its successors and assigns, hereby lease, demise and let unto the Second Party, its successors and assigns, the property described above and hereinafter referred to as the "leased premises."

2. Subject to the other terms and provisions herein contained, the term of this lease shall be for a period of three (3) years beginning on the date the Option is exercised. Provided, however, that Second Party shall have the right to renew this lease on the same terms and conditions for nine (9) additional periods of three (3) years each with said renewals to occur automatically unless Second Party gives to First Party written notice, not less than sixty (60) days prior to the expiration of the term in effect, that Second Party will not renew the lease for an additional term.

3. During the initial term of this Lease, Second Party does hereby agree to pay to First Party, as consideration for this lease, a rental of five hundred fifty dollars (\$500.00) per month. For each renewal term thereafter, said monthly rent shall be increased by ten per cent (10%) over the amount of monthly rental payable during the immediately preceding term (i.e.,  $\$500 \times 10\% = \$50$ ;  $\$500 + \$50 = \$550 =$  monthly rent for the first renewal term).

4. All rental and royalty payments shall be made by Second Party by the 20th day of the month for all royalties and/or rentals due First Party for the preceding calendar month.

5. Payment shall be made by Second Party to First Party at the following address until First Party notify Second Party, in writing, of a different address:

FIRST PARTY: Smoky Mountain Country Club  
P.O. Box 575  
Newport, Tenn. 37821

6. Second party shall not have the right to actually mine, strip mine or quarry stone, rock, soil or gravel from the leased premises. However, Second Party shall have the sole and exclusive use and possession of the leased premises and First Party hereby expressly grants to Second Party the following rights during the term of this lease, including any renewal terms:

(a) The exclusive right to crush, process, stockpile, sell, trade and market on the leased premises any stone, rock, soil, gravel or other construction material; and the right to use such portions of the premises as may be necessary or convenient for the crushing, processing, stockpiling, selling, recovering and removing any of the materials referred to above and for the installation of equipment, machinery, utilities, tools, vehicles, rigs and plants in connection therewith; and the right to dump dirt, overburden and other waste materials upon the leased premises but Second Party shall not be required to backfill mined or quarried property and shall have no responsibility for such backfilling except as may be required by law.

(b) The right to go in and out freely from the leased premises, including the right to widen and improve existing roads, and construct new roads, through and over said leased premises in a manner that is most convenient for the operations of Second Party, or its associated parties, and in a manner designed to minimize, to the extent practicable, any inconvenience and damage to First Party.

(c) The right to erect, operate and maintain on the leased premises crushing plants, bins, bituminous mixing plants, railroad spur tracks, concrete batching plants, and any other plants, buildings, fixtures and/or attachments necessary or convenient to the operations carried on by Second Party or its associated parties. Provided however, that Second Party shall not operate a rock crushing plant on the leased premises without first obtaining the written consent of First Party, which consent shall not be unreasonably withheld.

(d) The right to install, operate and maintain on the leased premises power lines, telephone lines, poles, guy wires and any other attachments, water and sewer lines, railroad spur tracks and other similar installations or utilities necessary or convenient to the operations carried on by Second Party or its associated parties, which installation, operation and maintenance shall be in a manner designed, to the extent practicable, to minimize any inconvenience and damage to First Party.

(e) The right to use, at no cost, water ~~in~~ <sup>on</sup> ~~the~~ <sup>the</sup> ~~leased~~ <sup>leased</sup> ~~premises~~ <sup>premises</sup> and the right, at Second Party's expense, to construct on the leased premises such suitable dams for impounding water and to drill and operate such water wells as are necessary or convenient to the operations of Second Party hereunder, so long as such activity does not unreasonably interfere with First Party's use of water located on the leased premises to maintain First Party's golf course situated on property in the vicinity of the leased premises, which right and use of First Party is specifically reserved in Paragraph 18 hereinbelow.

(f) The right and option to remove all or any of said plants, buildings, spur tracks, installations, or other fixtures or attachments placed on said leased premises by Second Party or its associated parties.

(g) The right and option to go in and upon the leased premises after this lease has terminated and remove any of the items mentioned in (c) and (d) above, or any stone or other materials which have been stockpiled upon the premises; said right to go in and remove any of said items shall extend for a period of at six (6) months from the expiration date of the lease and for such longer time as may be reasonably necessary for the removal of said items. The title to any such items not so removed within such period shall, at the end of such period, vest in First Party with no liability on the part of Second Party and no obligation by Second Party to remove the same.

7. Second Party shall not be liable for or on account of any damage or injury to the leased premises and shall be under no duty during the term of this lease or thereafter to restore the premises to the state thereof which existed prior to the effective date of this lease or to render the premises suitable for farming, habitation or any other purpose; provided, however, that Second Party shall be responsible for compliance with all applicable Land Reclamation Statutes and provided that Second Party shall not leave waste materials such as trash, old equipment, or similar items on the leased premises; it being understood that materials generated as a result of Second Party's operation as more fully described in Paragraph 6 above shall not be deemed "waste materials" for purposes of this section. Second Party shall be under no duty during the term of this lease, or any renewal term, to commence operations of any plant, it being agreed that the payment of minimum rent is made in lieu of any such obligations.

8. If Second Party, or its associated parties, are prevented from operating a crushing plant or from otherwise carrying out its activity upon the leased premises, because of the fact that title to, or the right to temporary use of all or part of the leased premises is taken through the exercise of the Power of Eminent Domain by any Governmental authority, or person, firm or corporation acting under governmental authority, or because of fire, flood, labor dispute, strike, act of God, or order or ruling of any Court, administrative or governmental body or agency or because zoning restrictions, or because of any other reason beyond the control of Second Party, then Second Party shall be relieved, during the period it is so prevented from operating, from making any payments hereunder to First Party, including minimum rent.

9. First Party for itself and its successors and assigns, hereby agrees that it will not, during the term of this lease, or any renewal term, operate, or allow any other person, firm or corporation to operate, on the leased premises and/or on any premises owned by First Party which adjoin the leased premises, any mining or quarrying or other business which is identical with or similar to the type of work or operations permitted under this lease.

10. Second Party does hereby agree to indemnify and hold harmless First Party from all losses, damages and expenses resulting from any and all claims, demands or rights of action that may be asserted at any time against First Party for injury or loss which occurs during the term of this lease, or any renewal term, and to the extent caused by the negligence of Second Party in its operations on said leased premises.

11. First Party does hereby agree to indemnify and hold harmless Second Party from all losses, damages and expenses resulting from any claim, demand or right of action that is asserted against Second Party for damage to property or injury to or death of any person occurring on the leased premises after the



expiration of this lease, or any extension thereof and after complete surrender by Second Party of possession of the leased premises.

12. The parties agree that Second Party will pay any ad valorem taxes on the leased premises. Second Party shall also pay any taxes arising out of its operations on the leased premises.

13. First Party hereby acknowledges and agrees that the minimum royalty and/or rental payments made hereunder are substantial and reasonable, and First Party hereby expressly waives any rights it may have to require Second Party to operate a plant on said leased premises.

14. Except as otherwise provided, all notices authorized or required under this lease shall be in writing and shall be considered given only when delivered in person or when mailed, postage pre-paid, by registered or certified mail, return receipt requested, to First Party or to Second Party at their respective addresses as set forth below (or at such other address as may hereafter be designated in writing):

## FIRST PARTY:

Smoky Mountain Country Club  
P.O. Box 575  
Newport, Tenn. 37821

## SECOND PARTY:

VULCAN MATERIALS COMPANY  
 MIDSOUTH DIVISION

ATTN: Lloyd Sentell  
 P.O. Box 7  
 Knoxville, TN 37901-6007

15. First Party covenants with Second Party that it is lawfully seized in fee simple of the leased premises, including oil, gas, sand, gravel, stone, clay, shale and all other mineral rights; and that the premises are free from all encumbrances; and that it will not mortgage or otherwise encumber the leased premises during the term of this lease without the prior written consent of Second Party. First Party further warrants that it

has all right and authority to lease the above-described premises.

16. So long as Second Party fulfills its obligations hereunder, Second Party shall at all times during the term hereof, including any renewal term, peaceably and quietly enjoy the leased premises without any interruption or disturbance from First Party or otherwise.

17. This lease is conditional on the leased premises being properly zoned for Second Party to conduct its operations and receiving all necessary permits from applicable Local, State and Federal Government agencies and regulatory bodies. First Party agrees to fully cooperate with Second Party in its applications for, and hearings relating to, any zoning or rezoning or other governmental approval or authority necessary to permit the operations of Second Party and related activities on the leased premises.

18. It is further recognized by the parties that First Party maintains a golf course situated on property in the vicinity of the leased premises. In order to maintain that golf course, First Party has in the past and continues to utilize water in an old quarry site located on the leased premises. It is agreed by the parties that First Party retains and shall continue to have the right to use said water for such purposes and in a manner consistent with such use in the past. Furthermore, Second Party shall not allow any other person or entity use of the water in said old quarry without the prior written consent of First Party.

19. All the terms and provisions of this lease that are applicable to the leased premises shall also apply to any additional lands of First Party which the parties hereto may agree, in writing, are to be subject to such terms and provisions.

20. The parties hereto agree that all the terms and provisions of this agreement shall be binding upon and shall

inure to the benefit of the parties hereto, their successors and assigns. This lease may be assigned by Second Party freely without consent of First Party.

21. This lease is not intended to be and shall not create a partnership or joint venture relationship between the parties. It is intended that the sole relationship shall be that of lessor and lessee. If permitted under applicable law, in lieu of recording this lease, the parties agree to execute and record a memorandum of lease setting out the identities of the parties, a description of the premises and the term hereof.

22. This lease represents the complete understanding between the parties hereto and supersedes all prior negotiations, representations or agreements, whether written or oral, as to the matters described herein. This lease may be amended only by written instrument signed by both parties. No requirements, obligations, remedy or provision of this lease shall be deemed to have been waived, unless so waived expressly in writing, and any such waiver of any such provision shall not be considered a waiver of any right to enforce such provision thereafter.

23. Whenever used herein, the singular shall include the plural and the plural the singular, and the use of either gender shall include both. It is understood that this agreement is to be construed under the laws of the State of Tennessee.

IN WITNESS WHEREOF, First Party and Second Party have caused this instrument, to be signed and delivered in its name by their duly authorized agents, on the day and year first above written.

FIRST PARTY:

SMOKY MOUNTAIN COUNTRY  
CLUB, INC.

By: Albert M. Mullen Jr.  
Its: President S.M.C.C.

SECOND PARTY:

VULCAN MATERIALS  
MIDSOUTH DIVISION

By: B. G. Mabe  
Its: Vice-President

STATE OF TENNESSEE )  
COUNTY OF COCKE )

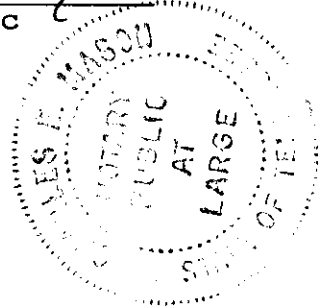
BK 1068 PG 426

Before me, the undersigned authority, a Notary Public  
in and for said County and State, personally appeared,  
ALBERT M. MULLEN JR., with whom I am personally acquainted  
or proved to me on the basis of satisfactory evidence, and who  
upon oath acknowledged himself to be the PRESIDENT  
of SMOKY MOUNTAIN COUNTRY CLUB, INC., the within named bargainor,  
a corporation, and that he as such PRESIDENT,  
being authorized so to do, executed the foregoing instrument for  
the purpose therein contained by signing the name of the corpora-  
tion by himself as PRESIDENT.

Witness my hand and official seal at office in COCKE  
County, this 3 day of SEPT., 1992.

Charles E. Mason  
Notary Public

My Commission Expires: 7-18-95

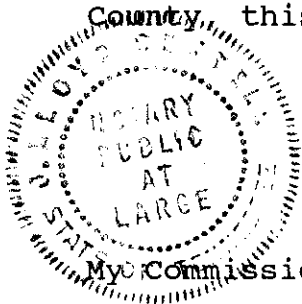


STATE OF Tennessee  
COUNTY OF At Large )

BK 1068 PG 427

Before me, the undersigned authority, a Notary Public  
in and for said County and State, personally appeared,  
R. G. McAbee, with whom I am personally  
acquainted or proved to me on the basis of satisfactory evidence,  
and who upon oath acknowledged himself to be the  
Vice President of VULCAN MATERIALS COMPANY, MIDSOUTH  
DIVISION, the within named bargainor, a corporation, and that he  
as such Vice President, being authorized so to do,  
executed the foregoing instrument for the purpose therein  
contained by signing the name of the corporation by himself as  
Vice President.

Witness my hand and official seal at office in Knox  
County, this 30th day of July, 1992.



J. Lloyd Sentell  
Notary Public

Situated in District No. SIX (6) of Cocke County, Tennessee, being Tracts Nos. Two (2) and Three (3) of the Allene Smith Subdivision, Section Three, as shown by Plat of Gerald G. Wilde, RLS, dated April 12, 1979, to-wit:

Beginning at an iron pin in the northern margin of Rebecca Drive, corner to Tract No. 1; thence with Tract No. 1, north 5 deg. 50 min. east 650.0 feet to an iron pin; thence north 28 deg. 36 min. east 179.8 feet to an iron pin; thence north 43 deg. 12 min. east 189.7 feet to an iron pin; thence north 70 deg. 00 min. east 166.0 feet to an iron pin; thence 19 deg. 42 min. east 823.0 feet to an iron pin; thence leaving the line of Tract No. 1, south 43 deg. 00 min. east 762.00 feet to an iron pin, corner to Tract No. 5; thence with Tract No. 4, south 22 deg. 30 min. west 1,450.0 feet to an iron pin in the northern margin of Rebecca Drive; thence north 89 deg. 12 min. west 219.50 feet to an iron pin; thence south 83 deg. 09 min. west 105.82 feet to an iron pin; thence with a curve to the right with a radius 290.0 feet an arc distance of 170.66 feet to an iron pin; thence north 63 deg. 08 min. west 210.83 feet to the beginning, containing 29.29 acres, more or less.