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MTC - 5222

Vol. ^m₈₀ Page 3634LEASE AGREEMENT

THIS LEASE AGREEMENT, between

LESSORS: ~~WADE PITCHER and VELMA PITCHER, husband and wife,~~ *Jwa*
WARREN BROTHERTON and CHARLES BROTHERTON,

LESSEE: ALLTUCKER CORP.,

made this 28 day of January, 1980.

1. LEASED PREMISES: LESSEE agrees to lease from LESSORS the real property described on Exhibit "A" attached hereto and by this reference incorporated herein.

2. PURPOSE: LESSEE shall use and occupy the leased premises for the purpose of conducting and carrying on a contracting business.

3. TERM: This Lease shall commence as of the 28 day of January, 1980, and shall terminate on the 28 day of January, 1985.

4. RENT: LESSEE shall pay to the LESSORS an annual rental in the sum of TWO THOUSAND FOUR HUNDRED DOLLARS (\$2,400.00), payable on the 28 day of January of each year.

5. TAXES: As additional rent, LESSEE shall pay any and all real and personal property taxes attributable to the real property, together with any improvements and personal property used by LESSEE in connection with its business on the above-described real property. The real property taxes for the first and last year of the Lease shall be prorated as

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of the commencement and termination date of the Lease.

6. UTILITIES: LESSEE shall be solely responsible for and promptly pay all charges for all utility services used by LESSEE in or on the leased premises. LESSEE shall be solely responsible for and pay promptly, all charges to bring any utility service, including, but not limited to, water, gas, sewerage and electrical services upon the leased property, and for the repairs and maintenance thereof.

7. POSSESSION: LESSEE shall be entitled to possession on the 28 day of January, 1980.

8. COMPLIANCE WITH LAW: LESSEE agrees to conform with all applicable laws and regulations of any public authority affecting the premises and its use, and to correct, at LESSEE's own expense, any failure of compliance created by LESSEE's fault or by reason of LESSEE's use.

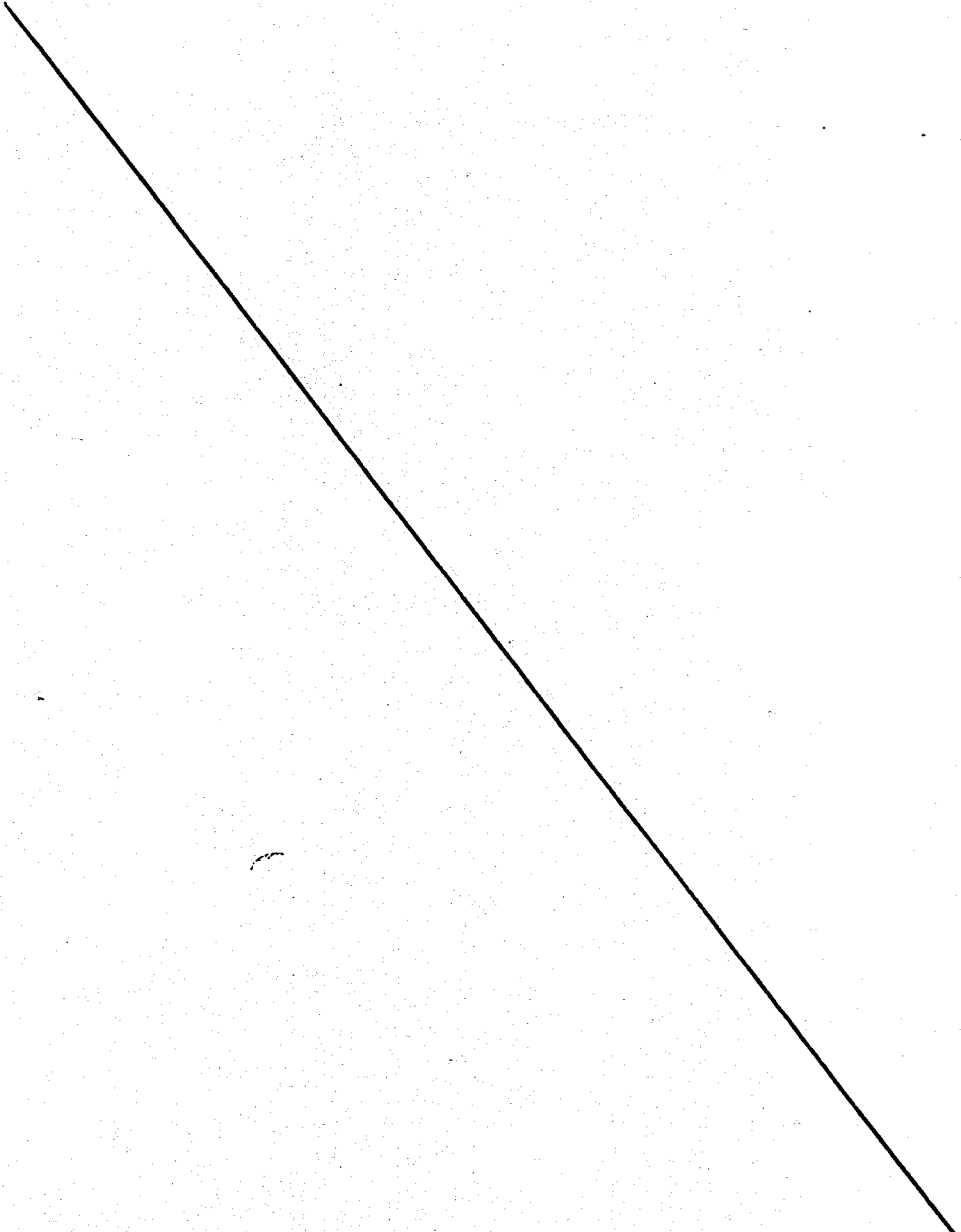
9. REPAIRS: LESSEE agrees to make all repairs and provide all maintenance necessary during the term of this Lease, in order that the leased premises shall remain and be kept in good repair and condition, which repairs and maintenance shall be at the full cost of LESSEE.

10. ASSIGNMENT AND SUBLEASE: LESSEE may not assign or sublease its rights under this Agreement without the written consent of LESSORS. In the event LESSORS refuse to give their written consent to an assignment or a sublease, then LESSEE shall have the option of terminating the Lease. In the event LESSEE exercises its option to terminate the Lease, then LESSEE shall have a period of one hundred twenty (120) days from the date of the exercise of its option within which to

remove its personal property from the leased premises.

11. INSURANCE:

A. LESSEE shall pay the costs of all fire insurance premiums, together with extended coverage, on all buildings and improvements located on the above-described real



property, and said insurance shall be in an amount equal to the replacement value of the buildings and improvements.

B. LESSEE agrees to indemnify, defend and hold LESSORS harmless against all expenses, liability and claims for damages to property or injury to or death of persons caused by any act or omission of LESSEE or its employees of any sublessee upon or in the vicinity of the leased premises. LESSEE further agrees to carry sufficient insurance to save LESSORS harmless from and to indemnify LESSORS for any loss or damages resulting from LESSEE's use of the leased premises or for any use in connection therewith. Such insurance coverage shall not be less than \$ 500,000.00 for each person, \$ 750,000.00 for each occurrence, and \$ 250,000.00 for damage to property.

C. Certificates evidencing such insurance and bearing endorsements requiring ten (10) days written notice to LESSORS prior to any change or cancellation shall be furnished to LESSORS prior to LESSEE's occupancy of the property.

12. DAMAGE OR DESTRUCTION OF IMPROVEMENTS:

A. If the building or improvements on the leased premises are partly damaged (less than fifty percent (50%) of the replacement value thereof at the time of such damage), LESSEE shall make the necessary repairs to the improvements thereon at LESSEE's expense.

B. If the improvements or buildings on the leased premises are destroyed or damaged by fire or other casualty to the extent of fifty percent (50%) or more of the replacement value thereof at the time of such loss, LESSEE

may terminate this Lease by thirty (30) days written notice to LESSORS. If the Lease is terminated, the insurance proceeds shall be paid to LESSORS. LESSEE shall remove all rubble and other materials, including remnants of buildings, walls and foundations, and the rent shall continue until LESSEE has complied with this requirement.

C. If LESSEE elects not to terminate this Lease, LESSEE shall repair and reconstruct the buildings and improvements on the premises with due diligence, and this Lease shall continue in full force and effect.

13. DEFAULT: If the rent reserved by this Lease, or any part thereof, shall be in default thirty (30) days, or if LESSEE shall fail to perform any other obligations created hereunder, then, and in each and every such case, LESSORS may, at any subsequent time, after notifying LESSEE in writing of such default and if such default shall continue for thirty (30) days after written notice thereof by LESSORS to LESSEE (unless within thirty (30) days after such notice LESSEE commences and diligently prosecutes the curing of any default), declare the Lease terminated, re-enter the premises, or any part thereof, with or without legal process, remove LESSEE or any other occupant, and repossess the leased premises. LESSORS shall have the right to collect, by summary proceedings, or otherwise, any overdue rent.

If the property is abandoned for a period of thirty (30) days by LESSEE, termination shall be automatic and without notice. If the Lease is terminated by default by LESSEE pursuant to the terms of this paragraph, LESSEE's liability

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to LESSORS for damages shall survive such termination. Upon termination of this Lease (unless such termination is permitted by the terms of this Lease), LESSORS may recover:

(1) The reasonable costs of re-entry and reletting, including without limitation, the costs of any clean up, removal of LESSEE's property and fixtures, or any other expense occasioned by LESSEE's failure to quit the premises upon termination and to leave them in the required condition, attorney's fees, court costs, broker commissions and advertising costs.

(2) The loss of reasonable rental value from the date of default until a new tenant has been secured.

(3) The foregoing remedies shall be in addition to and shall not exclude any other remedy available to LESSORS under applicable law.

14. REMOVAL OR PROPERTY BY LESSEE: Upon termination of this Lease, for any cause, LESSEE shall remove its trade fixtures, furniture, equipment and other personal property from the building located on the leased premises, and leave the building in good order.

15. WAIVER: Waiver by LESSORS of strict performance of any provision of this Lease shall not be a waiver of or prejudice to the LESSORS' right to require strict performance of the same provision in the future or of any other provision.

16. ATTORNEY'S FEES: If suit or action is instituted in connection with any controversy arising out of this Lease, the prevailing party shall be entitled to recover, in addition to costs, such sum as the court may adjudge reasonable

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as attorney's fees, including attorney's fees for any appeals herein.

17. SUCCESSOR INTERESTS: All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors and assigns of the parties. No rights, however, shall inure to the benefit of any assignee or sublessee of LESSEE unless the assignment to such assignee or subletting to such sublessee has been approved by LESSORS in writing as required by the terms hereof.

18. QUIET ENJOYMENT: Upon payment by LESSEE of the rents herein provided and upon the observance and performance of all the other terms and conditions on LESSEE's part to be observed and performed, LESSEE shall peaceably and quietly hold and enjoy the leased premises for the term of this Lease without hindrance or interruption by LESSORS or any other person or persons.

19. OPTION TO PURCHASE: At any time during the term of this Lease, LESSEE shall have the option of purchasing the leased property. The option shall be exercised by LESSEE giving LESSORS written notice, at the addresses shown below, of its exercise of this option. Within ten (10) days of the date of LESSEE's exercise of the option, the LESSORS and LESSEE shall meet to agree on a purchase price. If the parties are unable to agree on a purchase price within thirty (30) days from the date of the exercise of the option, then the LESSORS shall select an appraiser, and the LESSEE shall

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select an appraiser. The two (2) appraisers so selected shall select a third appraiser. The three (3) appraisers shall each independently appraise the real property, and the purchase price shall be the average of the three (3) appraisals. The cost of the appraisals shall be paid fifty percent (50%) by LESSORS, and fifty percent (50%) by LESSEE. The purchase price shall be paid upon the terms agreed upon by the parties. In the event the parties cannot agree upon payment terms, then LESSEE shall pay the entire purchase price in cash to LESSORS within thirty (30) days from the date the value is determined. LESSORS shall convey the real property to LESSEE by Warranty Deed free and clear of all encumbrances, except zoning ordinances, and building and use restrictions.

LESSORS reserve the right, after January 14, 1981, to sell the leased premises to any other party; provided, however, that in the event the LESSORS receive an offer of purchase, they must first offer to sell the leased premises to the LESSEE for the offered price, and upon the offered terms. The LESSEE shall then have a period of thirty (30) days from the date the LESSORS present LESSEE with such offer to purchase the leased premises for the price and upon the terms offered by the third party. In the event LESSEE does not exercise its first right of refusal, LESSORS shall be free to sell the leased premises to the third party for the offered price and upon the offered terms, and the option to purchase rights of LESSEE under this Lease shall be null and void and of no further effect. In addition, if LESSEE does not exercise its first right of refusal, then the Lease

shall be terminated within one hundred twenty (120) days
from the expiration of the thirty (30) day period referred
to herein.

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IN WITNESS WHEREOF, the parties have executed this
Lease Agreement the day and year first above written.

Address: _____

WADE PITCHER

Address: _____

VELMA PITCHER

Address: _____

1 Frontage Rd.
Gold Hill Or. 97525

Warren R. Brotherton
WARREN BROTHERTON

Address: _____

404 Marie St
Medford Oregon

Charles Brotherton
CHARLES BROTHERTON

LESSORS

Address: _____

P. O. Box 1067
Eugene, Oregon 97440

ALLTUCKER CORP.

By _____

Mike Alltucker
President

By _____

John W. Alltucker

LESSEE

STATE OF OREGON)

) ss.

County of Lane)

_____, 1980

Personally appeared the above-named WADE PITCHER
and acknowledged the foregoing instrument to be his voluntary
act and deed.

Before me:

Notary Public for Oregon
My Commission Expires: _____

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STATE OF OREGON)
) ss.
 County of Lane)

_____, 1980

Personally appeared the above-named VELMA PITCHER
 and acknowledged the foregoing instrument to be her voluntary
 act and deed.

Before me:

 Notary Public for Oregon
 My Commission Expires: _____

STATE OF OREGON)
) ss.
 County of ~~Lane~~ JACKSON

Feb 5, 1980

Personally appeared the above-named WARREN BROTHERTON
 and acknowledged the foregoing instrument to be his voluntary
 act and deed.

Before me:

Edith A. Thames
 Notary Public for Oregon
 My Commission Expires: 6-30-81

STATE OF OREGON)
) ss.
 County of ~~Lane~~ JACKSON

Feb 5, 1980

Personally appeared the above-named CHARLES
 BROTHERTON and acknowledged the foregoing instrument to be
 his voluntary act and deed.

Before me:

Edith A. Thames
 Notary Public for Oregon
 My Commission Expires: 6-30-81

STATE OF OREGON)
) ss.
 County of Lane)

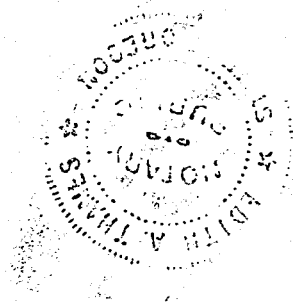
February 5, 1980

Personally appeared Mike Alltucker and

John W. Alltucker, who, being duly sworn, did say that the former is the President and the latter is the Secretary of ALLTUCKER CORP., an Oregon corporation, that the foregoing instrument was executed by authority of its Board of Directors, and that the foregoing instrument was its voluntary act and deed.

Before me:

Edith A. Thomas
Notary Public for Oregon
My Commission Expires: 6-30-81



GUARANTEE

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Lessee and Eugene Sand and Gravel, the majority shareholder of Lessee's capital stock, hereby acknowledge that this agreement is entered into by Lessors based upon the understanding that Eugene Sand and Gravel would personally guarantee all of the obligations of Lessee pursuant to this agreement.

EUGENE SAND & GRAVEL, INC.

By

John W. Alltucker

By

Guarantor

EXHIBIT "A"

Tract 16 of KIELSMEIER ACRE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, EXCEPTING THEREFROM the following:

Beginning at the Southeast corner of said Tract 16, KIELSMEIER ACRE TRACTS; thence North $0^{\circ} 05'$ East along the West boundary of Kane Street, a distance of 54.0 feet; thence North $89^{\circ} 52'$ West parallel with the South line of said Tract 16, a distance of 150.0 feet; thence South $0^{\circ} 05'$ West parallel with Kane Street, a distance of 54.0 feet to the South line of said Tract 16; thence South $89^{\circ} 52'$ East along the South line of said Tract 16 a distance of 150.0 feet, more or less to the point of beginning.

ALSO, that portion of Tract 15 of KIELSMEIER ACRE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, described as follows:

That portion of said Tract 15 more particularly described as follows:
Beginning at the Southeast corner of said Tract 15; thence North $89^{\circ} 52' 00''$ West 166.37 feet; thence North $00^{\circ} 12' 15''$ West 17.75 feet; thence South $89^{\circ} 52' 00''$ East 166.37 feet; thence South $00^{\circ} 12' 15''$ East 17.75 feet to the point of beginning.

ATER RECORDING RETURN TO:
MOUNTAIN TITLE COMPANY, 25 NORTH IVY
MEDFORD, OREGON 97501

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of Mountain Title Co.

this 25th day of February A. D. 1980 at 11:35 o'clock A.M., and

fully recorded in Vol. 180, of Deeds on Page 3634

Wm D. MILNE, County Clerk
By Bernetha Hetsch