### LEASE

AGREPMENT, made and entered into this day of July, 1980, by
the CITY OF PORTIAND, a municipal corporation of the State of
inafter called "Lessor," and COLUMBIA CEMENT CORPORATION, a
Delaware corporation duly authorized to transact business in the State of
Oregon, hereinafter called "Lessee"

### WITNESSETH:

That in consideration of the mutual promises herein contained and the performance thereof, the parties agree as follows:

- 1. <u>Lease</u>. Subject to the terms and conditions of this entire Lease Agreement, Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor the real property and appurtenances situate in Multnomah County, State of Oregon, more particularly described on Exhibit "1," attached hereto, made a part hereof, and by this reference incorporated herein as though set forth in its entirety at this point. The said real property and appurtenances hereinafter being referred to as the "Premises."
- 2. Term: The term of this lease shall be for the period of five (5) years commencing on the 15th day of July, 1980 up to and including the 14th day of July, 1985, during which time Lessee shall be obligated to pay rent to Lessor in the manner hereinafter provided, at the address hereinafter set forth for the giving of notices to Lessor.
- 3. Rent. As rental during the term hereof, Lessee shall pay to Lessor the sum of TWD THOUSAND EIGHT HUNDRED (\$2,800.00) DOLLARS, in advance, commencing on the first day of the term hereof and continuing on the fifteenth day of each month of the term hereof.

### LEASE

THIS LEASE AGREEMENT, made and entered into this day of July, 1980, by and between the CITY OF PORTLAND, a municipal corporation of the State of Oregon, hereinafter called "Lessor," and COLUMBIA CEMENT CORPORATION, a Delaware corporation duly authorized to transact business in the State of Oregon, hereinafter called "Lessee"

## WITNESSETH:

That in consideration of the mutual promises herein contained and the performance thereof, the parties agree as follows:

- 1. <u>Lease</u>. Subject to the terms and conditions of this entire Lease Agreement, Lessor does hereby lease to Lessee, and Lessee does hereby lease from Lessor the real property and appurtenances situate in Multnomah County, State of Oregon, more particularly described on Exhibit "1," attached hereto, made a part hereof, and by this reference incorporated herein as though set forth in its entirety at this point. The said real property and appurtenances hereinafter being referred to as the "Premises."
- 2. Term: The term of this lease shall be for the period of five (5) years commencing on the 15th day of July, 1980 up to and including the 14th day of July, 1985, during which time Lessee shall be obligated to pay rent to Lessor in the manner hereinafter provided, at the address hereinafter set forth for the giving of notices to Lessor.
- 3. Rent. As rental during the term hereof, Lessee shall pay to Lessor the sum of TWO THOUSAND EIGHT HUNDRED (\$2,800.00) DOLLARS, in advance, commencing on the first day of the term hereof and continuing on the fifteenth day of each month of the term hereof.

Lessee shall have the right at its option to prepay the said rent at any time and from time to time.

- 4. Option to Renew. Lessee is hereby given an option to renew the term of this Lease for an additional five-year period commencing upon the expiration of the original term herein granted, PROVIDED that Lessee is not then in default hereunder. Should Lessee elect to renew the term of this Lease, it shall give to Lessor its written notice of such election by not later than six (6) months prior to the expiration of the original term; the giving of such notice shall itself constitute the renewal of this Lease upon the terms and conditions herein provided, except where expressly inconsistent herewith, without the necessity of executing any further documents or re-executing the renewal Lease. In the said renewal Lease, Lessee shall have no further renewal option and the rent to be paid during the said renewal term shall based upon the value of the property as established by a property appraiser agreeable to both Lessor and Lessee who is a member of the American Institute of Real Estate Appraisers.
- 5. <u>Use of the Premises</u>. During the term of this Lease, Lessee shall use the premises for a distribution facility for dry cement with such improvements, structures, appurtenances, fixtures, equipment and other convenient appliances as may be appropriate for such use, hereinafter called the "Lessee's Improvements." It is expressly understood and agreed that such use shall include therein the right to operate such facility and to deal in the product handled therein.

In its use of the premises, Lessee shall comply with all the applicable laws, ordinances, codes and regulations and shall not permit or commit any nuisance thereon and shall not cause any pollution of the Willamette River or of the atmosphere, it being understood, however, that such prohibition of pollution of the atmosphere shall not prevent Lessee from operating the said dry cement distribution facility and conducting the business normally associated therewith.

At the expiration of the term of this lease or any renewal thereof or at its termination should such termination occur prior to such expiration, Lessee shall return the premises to Lessor in as good a condition as it existed at the commencement of the term of this lease, usual wear and tear, any damage or destruction by any unavoidable casualty, erosion, flood, or any other natural cause or cause beyond Lessee's reasonable control excepted. Lessee shall have the right to remove any or all of Lessee's improvements and shall remove any of such improvements which Lessor shall so request in writing. Such removal shall be done at the sole expense of Lessee and the premises shall then be returned to substantially the same condition as existed prior to the placing of any such improvements.

It is expressly understood and agreed as an express condition of this lease and Lessor does hereby so represent that the premises are so zoned as to enable Lessee to construct, maintain and operate the said dry cement distribution facility and to conduct its distribution business during the term of the said lease.

It is expressly understood and agreed that Lessee may conduct its said business and operate the said distribution facility under the name "Columbia Cement Company."

7. Taxes. Lessee shall promptly pay all taxes and assessments on all real and personal property and improvements, including real property and improvements belonging to City. In the event of cancelation of this lease by either party, Lessee agrees to pay all taxes assessed against the property for the tax year in which the cancelation occurs.

- 8. <u>Assignment</u>. Lessee shall not assign, sublet, mortgage or alienate any of its rights under this lease, or the premises, or any part thereof, except to a subsidiary or parent corporation of Lessee, without the prior written approval and consent of Lessor, which approval and consent shall not be unreasonably withheld.
- 9. <u>Insurance</u>. During the term of this lease, Lessee shall secure and maintain at its own cost and expense comprehensive liability insurance, including comprehensive motor vehicle insurance, with an insurance carrier reasonably satisfactory to Lessor and authorized to write such insurance in the State of Oregon, in not less than the following limits:

Bodily injury Property damage \$200,000/\$500,000 \$200,000

Lessee shall furnish to Lessor a certificate from its insurance carrier evidencing such coverage, which certificate shall be delivered prior to the commencement of the term of this lease. Such certificate shall provide that the insurance coverage therein evidenced shall not be decreased or terminated without a prior ten (10) day written notice being given to Lessor by the insurance carrier. Such certificate shall also name Lessor and its officers, agents and employees as additional assureds, as their interest may appear, but only with respect to the said premises.

10. <u>Notices</u>. Any notice given under the provisions of this lease shall be considered served when reduced to writing, enclosed in a sealed envelope, suffi-

cient postage affixed, certified or registered mail with return receipt requested, deposited in the United States mails and addressed, in case of notice to Lessor, to:

City Auditor
City Hall and
Portland, Oregon 97204

Property Manager Bureau of Facilities Management City Hall Portland, Oregon 97204

and in case of notices to Lessee:

Plant Manager Columbia Cement Company and P.O. Box 37 Bellingham Washington 98225

Filtrol Corporation Suite 918 5959 W. Century Blvd., Los Angeles, CA 90045

Either party may change the address for the giving of notices to it by written notice to the other party.

- 11. Lien for Rent. If Lessee fails to pay the rent reserved in this lease, Lessor shall have a lien upon the personal property of Lessee located on the premises for the unpaid rent, and may enter the premises and take possession of the personal property of Lessee thereon and shall sell such property at public or private sale with or without notice to Lessee and apply the proceeds of such sale upon the unpaid rent. Any surplus shall be held for the account of Lessee. The said right of entry of Lessor upon the premises to exercise its lien shall accrue only if there is a "default" on the part of Lessee in the payment of rent as that term is hereinafter defined.
- 12. Attorney's Fees. If either party hereto institutes any suit or action against the other based upon the provisions of this lease, the party to such suit or action not prevailing agrees to pay to the prevailing party such sum as the Court may adjudge a reasonable attorney's fee. The party not prevailing further agrees to pay to the prevailing party a reasonable attorney's fee as may be determined by the Court on account of any appeal from the decision of any lower Court.

- 13. <u>Utility Charges</u>. Lessee shall pay when due all utility charges included but not limited to water, heat, light, power, sewage, and other utilities and services used by the Lessee on the leased premises or in connection therewith.
- 14. Laws and Government Regulations. Lessee shall at its own expense comply with all applicable laws, rules and regulations of any public authority affecting the leased premises, and the use thereof, except for such requirements which would be imposed upon any landowner and not relating to Lessee's improvements or to Lessee's use of the leased premises or activities thereon.
- 15. Right of Inspection. Lessor shall have the right to go upon the leased premises at any reasonable time and in a reasonable manner for the purpose of inspecting the same to determine if the provisions of this lease are being complied with.
- 16. <u>Liens</u>. Lessee agrees that it will not allow liens of any type to be placed against the leased premises and Lessee will promptly, at its own cost and expense, satisfy and discharge any such lien that is placed against said premises by reason of any activity of Lessee thereon or against any interest of Lessee therein, but shall not include the obligation to discharge any lien placed against the premises because of Lessor's ownership thereof.
- 17. <u>Indemnification</u>. Lessee shall indemnify and defend Lessor from any claim, loss or liability arising out of or relating to any activity of Lessee on the leased premises or any condition of the leased premises in the possession or under the control of Lessee, excluding, however, any claim, loss or liability arising out of the sole negligence or intentional wrongdoing of Lessor, its officers, agents or employees.

- 18. <u>Default</u>. Failure of either party to perform its obligations under this lease, including Lessee's failure to pay rent or any other charge when due, which failure shall continue unremedied or uncorrected for a period of ten (10) days after the service of a written notice upon such party by the other party, specifying such failure, shall constitute a default hereunder, unless the default is of such a nature that it cannot be completely remedied within the said ten (10) day period, then, in such event, the default shall not occur if the party receiving such notice begins correction of the failure therein specified within the said ten (10) day period and thereafter proceeds with reasonable diligence and with good faith to effect the cure as soon as practical.
- 19. Termination for Default. In the event of a default, as hereinabove defined, the party not in default may terminate this lease by giving the other party its notice of termination before or within thirty (30) days after the running of the grace period for default, which notice of termination may be included in the notice of default given pursuant to the provisions of Paragraph 18 hereof.

Should Lessee be in default and then abandon the property, then, in such event, the termination shall be automatic and without further notice. As used herein, the term "abandonment" in connection with default shall mean the lack of presence of an officer, agent or employee of Lessee on the leased premises for more than thirty (30) days after the occurrence of the default.

It is expressly understood and agreed that any termination of this lease for default as hereinabvove provided shall not in any way affect the rights of the party terminating this lease to seek and recover damages suffered by reason of such default.

- 20. <u>Damages Without Termination</u>. If this lease is not terminated for default by election of the party not in default or otherwise, the party not in default shall be entitled to recover damages from the other party for the default.
- 21. Re-entry After Termination for Default by Lessor. If this lease is terminated by Lessor for Lessee's default, Lessee's liability to Lessor for damages shall survive such termination and the rights and obligations of the parties shall be as follows:
- (a) Lessee shall vacate the property immediately, remove any property of Lessee including any fixtures which Lessee is required to remove at the end of the lease term, perform any cleanup, alteration or other work required to leave the propertry in the condition required at the end of the term.
- (b) Lessor may re-enter, take possession of the premises, and remove any persons or property by legal action or by self-help with the use of reasonable force and without liability for damages.
- 22. <u>Re-letting</u>. Following re-entry by Lessor or abandonment by Lessee, Lessor may re-let the premises and in that connection may:
- (a) Make any suitable alterations or refurtish the premises or both, or change the character or use of the premises, but Lessor shall not be required to re-let for any use or purpose (other than that specified in this lease) which Lessor may reasonably consider injurious to the premises or to any Lessee which Lessor may reasonably consider objectionable.
- (b) Re-let all or part of the premises alone or in conjunction with other properties for a term longer or shorter than the term of this lease upon any reasonable terms or conditions including the granting of some rent-free occupancy or other rent concession.

- 23. <u>Damages</u>. In the event of Lessor's termination on Lessee's default, Lessor shall be entitled to recover immediately without waiting until the due date of any future rent or until the date fixed for expiration of the lease term, the following amounts as damages:
- (a) The reasonable costs of re-entry and re-letting, including without limitation the cost of any cleanup, refurbishing, removal of Lessee's property and fixtures or any other expense occasioned by Lessee's failure to put the premises upon termination and to leave them in the required condition, any remodeling costs, attorneys' fees, court costs, broker's commissions and advertising costs.
- (b) The loss of reasonable rental value from the date of default until a new lease has been or with the exercise of reasonable efforts could have been secured.
- 24. <u>Remedies Cumulative</u>. The foregoing remedies shall be in addition to and shall not exclude any other remedy available to Lessor under applicable law.
- 25. Termination. This lease agreement may be terminated by either party for any reason upon the giving of eighteen (18) months' written notification to the other party. In connection with such termination, Lessor covenants that it will use good faith and its best efforts to notify Lessee of its need for the property which is the subject of this lease and provide as much notice in addition to the eighteen (18) months requirement as is possible.
- 26. <u>Non-Waiver</u>. Waiver by either party of strict performance of any provision of this lease shall not be a waiver of or prejudice the party's right to require strict performance of the same provision in the future or of any other provision.

- 27. Acceptance of Premises. Lessee agrees to accept the premises in their present condition and, further, that there have been no agreements or promises by Lessor affecting the premises other than those specifically set forth in this lease agreement.
- 28. Damage by Casualty. In the event that the premises, as distinguished from the improvements and structures placed thereon by Lessee, are damaged by fire, flood, storm, earthquake, volcanic activity, or other unavoidable causes to such an extent as to make Lessee's operation of its business economically unfeasible, then, in such event, this lease shall terminate upon the occurrence of such damage upon Lessee giving to Lessor its notice of intention to terminate within thirty (30) days after the occurrence of such damage; PROVIDED, HOWEVER, that if Lessor shall advise Lessee, in writing, within fifteen (15) days after its receipt of Lessee's Notice of Termination, that Lessor shall proceed to repair such damage and to restore the premises to the condition in which they existed prior to the occurrence of such damage, then, in such event, the said lease shall not terminate, but shall continue in full force and effect; PRO-VIDED, FURTHER, HOWEVER, that should such damage be of such magnitude as not to permit the restoration of the premises to their pre-existing condition, as aforesaid, within one hundred twenty (120) days, then, in such event, Lessor shall not have the option to continue this lease in full force and effect. Should this lease be terminated as aforesaid, any rent prepaid by Lessee shall be pro-rated to the date of damage and any surplus shall be refunded to Lessee. Should Lessor elect to repair the damage and restore the premises, as aforesaid, then, in such event, the rent reserved hereunder shall be equitably abated from the date of such damage until such date that the premises are so restored by Lessor. In the event that there shall be such damage only of a portion of the

premises, then, in such event, unless Lessee gives its Notice of Termination to Lessor as aforesaid, Lessee shall have the option to reduce the area leased from and after date that such damage occurred by eliminating therefrom the area damaged. Lessee shall give to Lessor its said notice within thirty (30) days after the occurrence of such damage, and the notice shall specify in some detail the area which is damaged and which is to be removed from this lease. In such event, after the date of such damage only the reduced area shall be subject to this lease and the rent reserved hereunder shall be proportionately reduced to reflect such remaining area; PROVIDED, HOWEVER, that should Lessor be unwilling to have the area leased so reduced and so notifies Lessee within fifteen (15) days after its receipt of Lessee's notice specifying the reduction of the leased area, then, in such event, upon the giving of Lessor's said last mentioned notice, this lease shall terminate as of the date of such damage.

- 29. Condemnation. In the event that the premises shall be taken for public use by an entity having the power of eminent domain, then this lease shall terminate as of the date on which possession thereof shall be taken by such entity, or, at the option of Lessee, as of the date on which the premises shall become unsuitable for Lessee's regular operations thereon by reason of such taking; PROVIDED, HOWEVER, that if only a part of the premises shall be so taken, such termination shall be at the option of Lessee only. If such a taking of only a part of the premises occurred and Lessee elects not to terminate this lease there shall be a proportionate reduction of the rent reserved under this lease from and after the date such possession is so taken.
  - 30. Lessors' Access Across Leased Area. Lessor reserves the right to

vehicular access through the leased property into other property owned by Lessor to the Northwest. Such access may require the construction of a temporary road around the southeasterly end of Lessee's railroad spur track. Any disturbance to shrubs and seeded areas planted by Lessee shall be restored by Lessor. Lessee is hereby held harmless against all liability caused by Lessor's personnel or equipment or that of a city contractor during the construction or use of said access road. It is intended that the access road through the leased premises be only temporary, until such time as Lessor can negotiate an easement from the Union Pacific Railroad for access along the extension of N. River Avenue to the northerly property line of the other City property. The access road is depicted in Exhibit 2, attached hereto, and in no event shall the access road interfere with Lessee's existing improvements, EXCEPT that Lessee's existing railroad spur track must be moved approximately 10 feet to the Northwest. The movement of the spur track will be at Lessor's expense. The reservation of this right to access shall terminate upon Lessor securing and constructing alternate access from the Union Pacific Railroad. Upon termination Lessor agrees to remove the access road and restore the area as nearly as practicable to its original condition; EXCEPT that the railroad spur track will remain as modified during construction of the new access road.

THIS LEASE, subject to the limitation above stated as to the transfer of Lessee's interest, shall be binding upon and shall inure to the benefit of the parties, their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this lease agreement to be executed the day and year first above written.

	CITY OF PORTLAND (Lessor)
Approved as to form:	By
City Attorney	By
	COLUMBIA CEMENT CORPORATION (Lessee)  By Wand Manyow President
	ATTEST:
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STATE OF OREGON )	J~ .
) ss: County of Multnomah )	
Sancy of Patricipality	
HE IT REMEMBERED, that on this	be he ed to and
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year first in this my certificate written.	У
Notary Public for Oregon	
My commission expires	
On this	
the free act and deed of said corporation.	
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year in this my certificate first written.	
OFFICIAL SEAL EDITH J. BESSENBACHER NOTARY PUBLIC - CALIFORNIA LOS ANGELES COUNTY My comm. expires OCT 1, 1982  Column of Public for Los Angeles County, State of California	
My commission expires	

150132

# Parcel A

A parcel of land situated in Section 28, lN, lE of the W.M. in the City of Portland, Multnomah County, described as follows:

Commencing at the Harbor Monument as set by U.S. Engineers in the center line of N. Railroad Street (formerly Railroad Avenue) produced northwesterly in said city, distance N 52° 30' W 988.00 feet measured along the center line of said N. Railroad Street and center line produced northwesterly from the City Monument in center line N. Harding Avenue (formerly Harding Street) in said city; then N 89° 41' 35" W 918.97 feet to the corner of Dock Commission property TL(27); thence S 39° 24' E 100.00 feet to a point; thence S 52° 25' 54" E 90.42 feet to the TRUE PLACE OF BEGINNING: thence S 52° 25' 54" E 318.22 feet to a corner on City Paving Plant property; thence along north line of said (as of 1928 map) Paving Plant property S 50° 35' W 229.68 feet to a point on the Harbor line; thence N 39° 25' W along said Harbor line 75.00 feet; thence N 5° 30' 12" W 283.23 feet to the place of beginning, containing .95 acres.

Above described land being a parcel off the south end of Dock Commission property TL (27)

# Parcel B

A portion of Lot 1 of Albina River Lots as shown on the said Assessor's Map for 1968 as TL(3).

# Parcel C

A parcel of land situated in Section 28, lN, lE of the W.M. in the City of Portland, Multnomah County, described as follows:

Beginning at intersection of the east line of Section 28 with the southerly line of Shop grounds of O.W.R. & N Co., which point is 328.02 feet south of the one-quarter corner on the east line of Section 28; thence south 50° 35' 00" West on course at right angles to harbor line of Willamette River, 204.36 feet more or less to a point on the said harbor line; thence North 39° 25' West along said harbor line, 65 feet; thence North 50° 35' East at right angles to said harbor line, 258.85 feet more or less to the east line of said Section 28; thence south on said east line, 84.82 feet more or less to beginning.

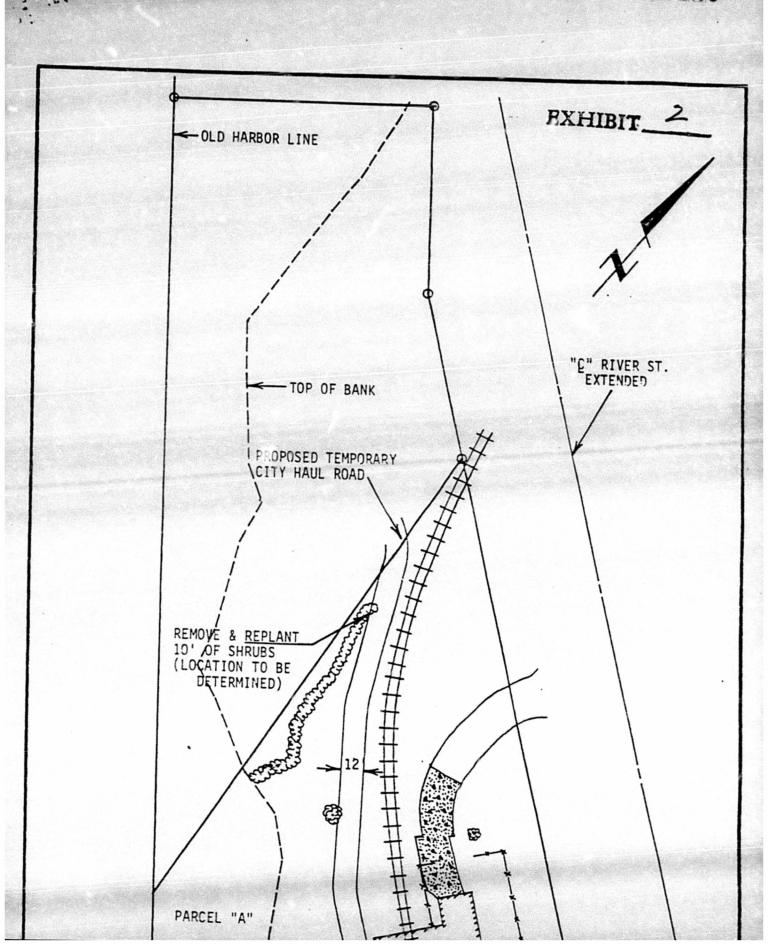
As shown on the said Assessor's Map for 1968 as TL(26).

# Parcel D

150132

A parcel of land situated in Section 28, 1N, 1E of the W.M. in the City of Portland, Multnomah County, described as follows:

Beginning at the most northerly corner of that certain tract conveyed to City by O.W.R. & N. Co. and N.P. Co. by deed (September 11, 1916), said corner being a point on east line of Section 28 a distance of 243.51 feet South measured along said east line from the east one-quarter corner thereof to a TRUE POINT OF BEGINNING: thence South 50° 35' West along Northwesterly line of said tract conveyed to City and at right angles to old harbor line of the Willamette River (1929) 258.85 feet to a point on said harbor line; thence North 39° 25' West along said harbor line 130.00 feet; thence North 50° 35' East 238.87 feet to a point that is 20.00 feet from and measured at right angles to the southwesterly line of North River Street extended; thence Southeasterly along a line parallel to and 20 feet Southwesterly from the Southwesterly line of North River Street extended to a point on the east line of Section 28; thence Southerly along the east line of Section 28 to the point of beginning.



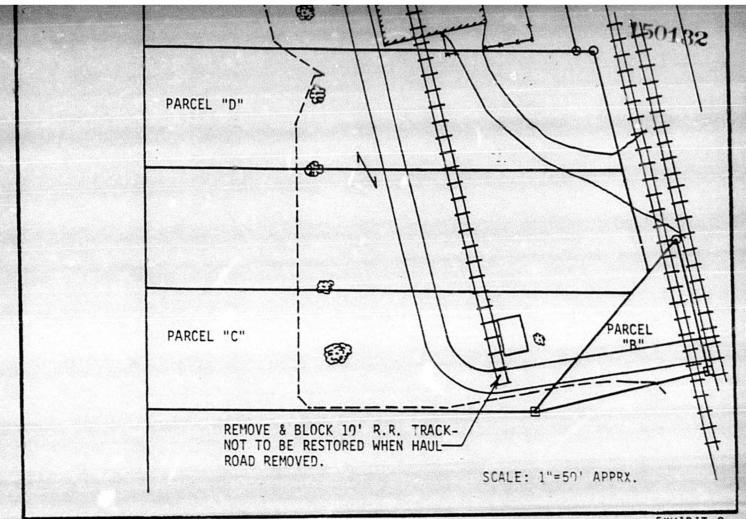


EXHIBIT 2

ORDINANCE NO. 150132

An Ordinance authorizing the Commissioner of Public Works to execute a lease agreement with Columbia Cement Corporation providing for the lease of City property on North River Street to Columbia Cement, and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

- That in 1969, the City entered into a lease with PPG Industries providing for the lease of City property located on North River Street for a period of ten years to PPG Industries, with Ordinance No. 128320 authorizing the execution of that agreement;
- That in January of 1979, the lease with PPG expired and its successor in interest, Columbia Cement Corporation, desires to continue the lease of the property from the City;
- 3. That it is in the best interests of the City to execute a lease agreement with Columbia Cement Corporation providing for the lease of said property for a period of five years, with an additional five-year renewal option, with said lease agreement being attached to the original only of this Ordinance, marked Exhibit "A" and by this reference made a part hereof;

# NOW, THEREFORE, the Council directs:

a. The Commissioner of Public Works is authorized to execute a lease agreement substantially in accordance with the form of lease agreement attached to the original only hereof which provides for the lease of City real property located on North River Street to Columbia Cement Corporation. Calendar No. 2757 ORDINANCE No. 150132

An ordinance authorizing the Commissioner of Public Works to Commissioner of Public Works to execute a lear agreement with Columbia Cament Corporation proyectly on North River Street to Columbia Cament, and declaring an emergency.

Audition of the CITY OF PORTLAND

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	2	REMOIRE			Page			7-22-80		Auditor o	of the City	of Po	rtland		

Calendar No. 2752

# ORDINANCE No. 150132

THE COMMISSIONERS VOTED

AS FOLLOWS:

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Title

An Ordinance authorizing the Commissioner of Public Works to execute a lease agreement with Columbia Cement Corporation providing for the lease of City property on North River Street to Columbia Cement, and declaring an emergency.

McCready

Schwab

Lindberg

Jordan

FOUR-FIFTHS CALENDAR

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GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

Deputy

INTRODUCED BY	omer Lindberg	NOTED BY THE COMMISSIONER	an:	NER Alr 1980	MIM	P I	e Lindberg   M.S.			Date:	Irelandt 7-22-80	Review:	d Not required		NOTED BY	Less of Post	puer 2222	
	Commissioner	NOTED	Affairs	Finance and Administration	Safety	Utilities	Works Mike	U B	Bureau:	Prepared By:	Robert D	Budget Impact Review:	Completed	Bureau Head:		City Attorney	City Auditor	City Engineer