



FIRST AMENDMENT TO COMPLIANCE AGREEMENT AND STIPULATED ORDER TO COMPLY

The Compliance Agreement and Stipulated Order to Comply, issued pursuant to Public Resources Code section 2774.1 (Agreement), and effective May 16, 2018 by and between the County of Santa Clara (County) and Stevens Creek Quarry, Inc. (Property Owner; collectively, Parties), regarding property located at the address 12100 Stevens Canyon Road, Cupertino, CA 95014, Assessor's Parcel Numbers 351-10-017, -019, -039, -040, -044, and 351-18-048 (Subject Property) is amended as set forth below, effective ~~[insert date]~~ **September 3, 2020**.

1. Section 9 (Time Limits to Cure the Violations) is amended as follows:
 - a. **By September 21, 2020**, Property Owner shall submit a complete Use Permit and Reclamation Plan Amendment application including all required supporting documentation as provided in the County's Use Permit submittal checklist and the pre-application letter dated October 23, 2019. The Reclamation Plan Amendment shall include the elements necessary to correct the violations as listed and described in Exhibit A of the Compliance Agreement.
 - b. **By October 14, 2020**, Property Owner shall submit a revised Financial Assurance Cost Estimate which addresses the comments from California Department of Mine Reclamation staff as provided in correspondence dated February 2, 2020.
 - c. **By January 11, 2021**, Property Owner shall obtain a complete application determination for the Use Permit and Reclamation Plan Amendment application. This date shall be modified only by mutual agreement of the Parties.
 - d. **By April 23, 2023**, Property Owner shall obtain a decision from the Planning Commission on the Use Permit and Reclamation Plan Amendment. The Property Owner may appeal the Planning Commission's decision, including a decision of denial, to the Board of Supervisors in accordance with appeal procedures set forth in Zoning Ordinance, Chapter 5.30. Property Owner may also simultaneously request a determination from the Board of Supervisors on the Property Owner's vested right to continue to conduct mining activities. Mining activities may continue to operate pending the Board of Supervisors' consideration of the appeal and/or vested rights determination. If the Board of Supervisors denies Property Owner's appeal and/or determines no vested right exists to lawfully conduct mining activities, Property Owner shall immediately cease all mining activities and commence reclamation as required by the approved Reclamation Plan, unless Property Owner appeals those determinations to a court of competent jurisdiction and they are stayed pending that appeal.

e. **By April 23, 2024**, Property Owner shall complete all Use Permit and amended Reclamation Plan Amendment requirements and demonstrate compliance with all County and State laws, unless otherwise allowed by the approved Conditions of Approval. This date shall be modified only by mutual agreement of the Parties.

f. During the term of this Agreement, Property Owner shall respond in writing to County requests for information regarding Environmental Impact Report preparation within 10 calendar days of that request. That written response shall include the information requested by the County for preparation of the Environmental Impact Report, or shall provide an estimate of when the requested information will be submitted along with an explanation as to why 10 calendar days is insufficient to prepare or provide the requested information.

2. Section 11 (Failure to Cure Violations) is amended as follows:

If Property Owner fails to cure the use permit violations as set forth in this Agreement and within the prescribed time limits or extended time limits approved by the Director:

- A. The Director shall notify the Property Owner in writing that Stevens Creek Quarry is operating without a valid use permit and in violation of this Agreement. Within 30 calendar days of the Director's notice, Property Owner shall immediately cease all mining activities and commence reclamation as required by the approved Reclamation Plan, unless within 30 calendar days of the Director's notice Property Owner requests a determination from the Board of Supervisors on the Property Owner's vested right to conduct mining activities in which case the Property Owner agrees to stay all mining activities and the commencement of reclamation activities pending the outcome of the Board's vested right determination. If the Board of Supervisors determines no vested right exists to lawfully conduct mining activities, Property Owner may appeal that determination to a court of competent jurisdiction and Property Owner agrees to stay all mining activities and the commencement of reclamation activities pending the appeal;
- B. The County may pursue all legal and administrative remedies against Property Owners under County and State law to cure the violations;
- C. Property Owner stipulates to the entry of judgment in favor of the County for all fines, staff costs, attorneys' fees, and abatement costs associated with the violations, including the fines and fees set forth above;
- D. Property Owner stipulates to an order finding that the above-described violations of law continue to exist on the Subject Property and authorizing summary abatement of those conditions and/or the Superior Court's appointment of a receiver pursuant to Code of Civil Procedure section 564 and/or Health and Safety Code section 17980, *et seq.*, and/or Business and Professions Code section 17200, *et seq.*

3. Section 24 (Governing Law and Forum) is added as follows:

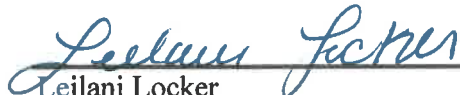
This Agreement was entered in Santa Clara County, California, and all questions of validity, interpretation, or performance of any of its terms or of any rights or obligations of the Parties shall be governed by California law. The Parties agree that any action or proceeding arising out of or in connection with this Agreement shall be brought only in Santa Clara Superior Court and each consent to submit to the exclusive jurisdiction of Santa Clara Superior Court for purposes of such action or proceeding.

4. Section 25 (Additional Acts) is added as follows:

The Parties hereto agree to do such acts and to execute such documents necessary to carry out the provisions and purposes of this Agreement.

5. Except as provided herein, all other provisions of the Agreement (including without limitation Paragraphs A and B of Section 6) shall remain in full force and effect.

County:

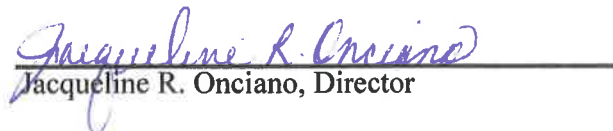


Leilani Locker
Acting Code Enforcement Manager
Department of Planning and Development

Property Owners:




Richard Voss,
Stevens Creek Quarry, Inc.



Jacqueline R. Onciano, Director

Approved as to form and legality.



Michael L. Rossi
Lead Deputy County Counsel

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)
On 9-3-2020 before me, Jodi Silva, notary public
Date Here Insert Name and Title of the Officer
personally appeared Richard Voss
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature Jodi Silva
Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though this section is optional, completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____ Document Date: _____
Number of Pages: _____ Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

Signer's Name: _____
 Corporate Officer — Title(s): _____
 Partner — Limited General
 Individual Attorney in Fact
 Trustee Guardian or Conservator
 Other: _____
Signer Is Representing: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

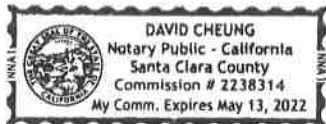
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)
On Sept 23, 2020 before me, David Cheung, Notary Public,
Date Here Insert Name and Title of the Officer
personally appeared Leilani Locker
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

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Description of Attached Document First Amendment to Compliance Agreement and
Title or Type of Document: Stipulated Order to Comply Document Date: Sept 23, 2020
Number of Pages: 4 Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer(s)
Signer's Name: Leilani Locker
[] Corporate Officer - Title(s):
[] Partner - [] Limited [] General
[] Individual [] Attorney in Fact
[] Trustee [] Guardian or Conservator
[X] Other: Acting Code Enforcement Manager
Signer Is Representing: Department of Planning and Development

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

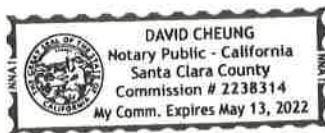
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)
On Sept 23, 2020 before me, David Cheung, Notary Public
Date Here Insert Name and Title of the Officer
personally appeared Jacqueline R. Ociens Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature [Handwritten Signature]
Signature of Notary Public

Place Notary Seal Above

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Capacity(ies) Claimed by Signer(s)

Signer's Name: Jacqueline R. Ociens
[] Corporate Officer - Title(s):
[] Partner - [] Limited [] General
[] Individual [] Attorney in Fact
[] Trustee [] Guardian or Conservator

Signer's Name:
[] Corporate Officer - Title(s):
[] Partner - [] Limited [] General
[] Individual [] Attorney in Fact
[] Trustee [] Guardian or Conservator

[X] Other: Director
Signer Is Representing: Department of Planning and Development

Other:
Signer Is Representing:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

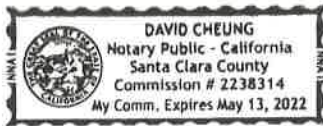
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Santa Clara)
On Sept 23, 2020 before me, David J. Cheung, Notary Public.
Date Here Insert Name and Title of the Officer
personally appeared Michael Louis Rossi
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature David J. Cheung
Signature of Notary Public

Place Notary Seal Above

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Number of Pages: 4 Signer(s) Other Than Named Above: None

Capacity(ies) Claimed by Signer(s)

Signer's Name: Michael Louis Rossi
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other: Lead Deputy County Counsel
Signer Is Representing:

Signer's Name:
Corporate Officer - Title(s):
Partner - Limited General
Individual Attorney in Fact
Trustee Guardian or Conservator
Other:
Signer Is Representing: