

RESOLUTION 17-2004

WHEREAS, the City of Buffalo has in the past entered into a lease agreement with Lafarge North America to operate and maintain a park and recreational area within the city limits; and

WHEREAS, the current lease agreement will expire July 9, 2004; and

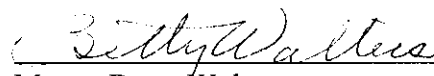
WHEREAS, Lafarge North America has submitted a new lease agreement to be approved by the City of Buffalo for the lease of certain land to operate and maintain a park and recreational area within the city limits, and a copy of this lease agreement is attached as Exhibit A; and

WHEREAS, the proposed lease agreement contains the same terms and conditions of the prior lease agreement and such terms and conditions are acceptable to the City;


NOW THEREFORE BE IT RESOLVED, that the lease agreement submitted by Lafarge North America between Lafarge North America and the City of Buffalo attached as Exhibit A be approved. The lease agreement shall be for a period of five (5) years beginning July 9, 2004.

Passed by the City Council of the City of Buffalo, Iowa, this 03 day of May, 2004.

Approved and signed by the Mayor of the City of Buffalo, Iowa, this ____ day of _____, 2004.



Mayor Betty Walters



Attest: Carol Bernauer
City Clerk

LEASE AGREEMENT

COPY

AGREEMENT made in duplicate this 10 day of May,

2004 by and between LAFARGE NORTH AMERICA hereinafter "Lessor"), and THE CITY OF BUFFALO, IOWA, (hereinafter "Lessee"), a municipal corporation, acting by and through its duly constituted officers, Lessee, and Lafarge North America ("Lessor") as follows:

WHEREAS, Lessee desires to operate and maintain a park and recreational area within its city limits, and

WHEREAS, Lessor owns certain land within the said city limits,

NOW, THEREFORE, in consideration of one dollar paid Lessor and the further consideration of the agreements hereinafter shown, the parties agree:

1. Lessor hereby leases for the use and purpose hereinafter stated and for the period of five years from July 9, 2004, the following described real estate:

That part of Lot 8 in Section 22, Township 77 North, Range 2 East of the Fifth P.M., beginning at the North East corner of the land conveyed in 1950 to Buffalo Independent District No 1; thence North 593.76 feet; Thence West 586.9 feet, thence South 593.76 feet; thence East 586.9 feet along the North line of said property Conveyed to the Buffalo Independent School District No. 1 to the point of beginning. Said boundary to enclose 8 acres more or less.

2. The lease is made upon the express consideration that the premises shall be used, operated and maintained as a public park and playground only.

3. Lessee may not erect, construct or permit the construction of any permanent structures on the premises except with the express written consent of Lessor. Such restriction shall not prevent Lessee from installing the usual and standard playground equipment, picnic shelters, washroom

facilities and maintenance shed. By giving its approval to the aforementioned structures or installations, the Lessor is not approving the design and does not warrant the safety of said items.

4. Lessee shall have full responsibility and agrees to maintain the premises, keeping it free of litter, debris, rubbish and weeds. Lessee shall further maintain the fence along the boundary of the Lessor as well as all equipment, structures or improvements on the premises.
5. On termination of this lease agreement, the Lessee may remove any equipment or improvements made by it during the term of the lease. Such removal shall be made within ninety days of termination or expiration of the term of the lease, failing which all such equipment and improvements shall become the property of Lessor without reservation or condition.
6. Lessor reserves the right to enter the premises at any time for the purpose of inspecting the same and for the special purpose of making core drillings, exploration, soil tests and seismic tests. After making such explorations or tests, Lessor shall restore condition of the premises to its approximate state before such tests.
7. Should Lessee want to renew the term of the lease for an additional period of five years, it shall notify Lessor of its said intention in writing within the period 90 to 120 days prior to termination of this agreement. From the date of receipt of such notice, Lessor shall have 60 days to notify lessee in writing of its rejection of the extension of the term, in which case this agreement shall expire in the ordinary course as provided above at

paragraph number one. If Lessor fails to so notify Lessee, the term shall be automatically extended for the additional period for 5 years and all the terms and conditions shown herein shall remain in effect during such extended term.

8. Lessee shall save and hold the Lessor and all wholly owned subsidiaries harmless from and against all liability, claims and demands on account of personal injuries, including death, or property loss or damage to others (including Lessee and employees of Lessee) resulting from or arising out of Lessee's use or occupancy of leased property, whether such injury, loss, or damage shall be caused by the negligence of Lessee, Lessor, or otherwise, and Lessee shall at his own expense defend any and all actions based thereon and shall pay all charges of attorneys and all costs and other expenses arising therefrom.

9. Lessee and Lessor agree not to assign or underlet the demised premises or any part thereof.

10. Lessee agrees to procure, carry and maintain at its own expense, comprehensive general liability insurance covering all operations, including workman's compensation at statutory levels if applicable. The comprehensive general liability insurance coverage should be no less than \$500,000 for injury to any person or for damage to property in any one occurrence. Lessee further agrees to include Lessor as additional insureds as their interest may appear. Lessee agrees to provide Lessor with certificate of such insurance, including provision to notify Lessor thirty (30) days in advance of insurance cancellation.

11. Lessee represents that the City Council of the City of Buffalo, Iowa, has by resolution approved all the terms of this agreement and has authorized it Mayor to execute the same on behalf of said city and its council and has further authorized the City Clerk attest such execution.

Executed in duplicate the day and year first above written.

ATTEST:

Carol Bernauer

City Clerk, Carol Bernauer

CITY OF BUFFALO, IOWA, Lessee

Betty Walters

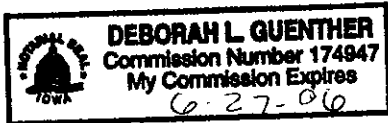
Mayor, on behalf of said, Betty O. Walters
City and the City Council

LAFARGE NORTH AMERICA, Lessor

Alain Pfaff, Plant Manager

STATE OF IOWA)
) SS.
SCOTT COUNTY)

On this 10 day of May, 2004 before me, the undersigned, Notary Public in and for said county and state, personally appeared Betty Walters and Carol Bernauer, to me personally known, who, being by me first duly sworn, on oath did state that the said Betty Walters, is Mayor and the said Carol Bernauer is City Clerk of the City of Buffalo, Iowa, the corporation on whose behalf they executed the foregoing instrument; (that the seal affixed to said instrument is the corporate seal of said corporation) (That no seal has been procured by the said corporation) and that said instrument was signed and sealed in behalf of said corporation by authority of its City Council, and the said Betty Walters, Mayor, and Carol Bernauer, City Clerk, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.



Deborah L. Guenther
Notary Public in and for
Scott County, Iowa

COMMISSION EXPIRES: 06-27-06

On this _____ day of _____, 200__, before me, the undersigned, a notary public in and for Scott County, Iowa personally appeared Alain Pfaff to me personally known, who, being by me first duly sworn, on oath did state that the said Alain Pfaff is Plant Manager, Davenport Plant, Lafarge North America, the corporation on whose behalf he executed the foregoing instrument; (that no seal has been procured by the said corporation) and that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and the said Alain Pfaff, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it voluntarily executed.

Notary Public in and for
Scott County, Iowa

COMMISSION EXPIRES: _____