STATE OF COLORADO

DIVISION OF RECLAMATION, MINING AND SAFETY
Department of Natural Resources

1313 Sherman St., Room 215
Denver, Colorado 80203
Phone: (303) 866-3567
FAX: (303) 832-8106

COLORADO DIVISION OF RECLAMATION MINING & SAFETY

REQUEST FOR TRANSFER OF MINERAL PERMIT AND SUCCESSION OF OPERATORS APPLICATION PACKET

The Mined Land Reclamation Board ("Board") has approved this Transfer of a Mineral Permit and Succession of Operators Application Packet pursuant to the Mined Land Reclamation Act (C.R.S. § 34-32-101 et. seq.) ("Hard Rock Act") and associated Rules (2 C.C.R. 407-1) ("Hard Rock Rules") and the Land Reclamation Act for the Extraction of Construction Materials (C.R.S. § 34-32.5-101 et. seq.) ("Construction Materials Act") and associated Rules (2 C.C.R. 407-4) ("Construction Materials Rules"). This Application Packet cannot be altered without the consent of the Board.

Applicability

This Transfer of a Mineral Permit and Succession of Operators Application Packet applies to mining operations where the current permitted mine operator ("Permittee") wishes to transfer the Reclamation Permit ("Permit"), along with all associated reclamation responsibilities and liabilities, to a Successor Operator ("Successor"). This process is referred to as a Succession of Operators ("SO").

Filing Requirements for SO Application

An SO Application is not complete until the Division of Reclamation, Mining and Safety ("Division") has received each of the six items listed below. The Board has authorized the Division to review SO Applications and to issue approvals and denials based on its review. The Division will not review incomplete Applications.

1) **Application Form**: An Application Form is included in this Application Packet. Please note that the Application Form must be fully completed, and must bear the original notarized signature of an authorized representative of BOTH the Permittee and the Prospective Successor.

2) **Application Fee**: If an Application concerns a Hard Rock or Designated Mining Operation, then a filing fee of $115.00 must be submitted to the Division. *See* C.R.S. § 34-32-127(2)(a)(I)(L). If an Application concerns a Construction Materials operation, then a filing fee of $144.00 must be submitted to the Division. *See* C.R.S. § 34-32.5-125(1)(a)(X). Make all checks payable to the "Colorado Division of Reclamation, Mining and Safety."

3) **Performance Warranty Form**: The party wishing to become Successor ("Prospective Successor") must agree to assume all liability for the reclamation of affected land, and must provide a Performance Warranty covering the same. *See* C.R.S. §§ 34-32-119 and 34-32.5-119. A Performance Warranty Form is included in this Application Packet. The Performance Warranty Form must bear the original notarized signature of an authorized representative of the Prospective Successor.

4) **Financial Warranty**: The Prospective Successor must provide Financial Warranties sufficient to cover the cost of completing reclamation in compliance with the Permit, the applicable Act and Rules. *See* C.R.S. §§ 34-32-119 and 34-32.5-119. In order to ensure the adequacy of the Financial Warranties, the Division must recalculate the required Financial Warranty whenever it receives an SO Application. Depending upon the state of the operation and the outstanding reclamation work, the Successor may be required to post a higher (sometimes significantly) or lower Financial Warranty than the Permittee currently has in place.

The Division must act on all SO Applications within 30 days. *See* Hard Rock and Construction Materials Rule 1.12.1(2)(a). Since the Division cannot typically review the amount of the required Financial Warranty within this 30-day period, applicants have the following two options:

Applicants may waive their right to receive a decision within 30 days. If the applicants waive their right to a decision within 30 days, the Division will recalculate the required Financial Warranty ***before*** issuing its decision on the Application. As a result, the Prospective Successor will know, prior to becoming Successor, whether the current Financial Warranty is adequate to cover the reclamation liability, or if the Financial Warranty must be increased. In this case, the Prospective Successor must submit the full Financial Warranty as part of the Application.

Applicants may decide not to waive their right to a decision within 30 days. If the applicants choose not to waive their right to a 30-day review, the Division will review the Financial Warranty ***after*** issuing its decision on the Application. In this case, the Prospective Successor must submit a conditional replacement Financial Warranty in the amount of the Permittee's current Financial Warranty as part of the Application.

If the Application is approved, the Division will conduct an inspection within 60 days to assess the amount of the reclamation liability. If the inspection reveals that the reclamation liability exceeds the amount of the conditional replacement Financial Warranty, the Successor must submit the difference within sixty days. Failure to meet this deadline may result in an enforcement action. If the inspection reveals that the reclamation liability is less than the conditional replacement Financial Warranty, the Successor may request a Financial Warranty reduction for release of the difference.

It is the applicants' right to receive a decision on their complete Application within 30 days. The applicants are free to choose whichever option they decide is best. Permittee and Prospective Successor must designate their decision on the attached Application Form.

5) **Demonstration of Legal Right to Enter**: All Permittees must provide a description of the basis for legal right of entry to the site and to conduct mining and reclamation. *See* Hard Rock and Construction Materials Rules 6.3.7 and 6.4.14. To comply with this requirement, the Prospective Successor must demonstrate that he/she/it has obtained a legal right of entry from any and all surface and mineral rights owners in the affected lands, independent of the current Permittee. *See* Hard Rock and Construction Materials Rules 6.3.7, 6.4.14, and 1.6.2(1)(e)(i). This may be a copy of an access lease, deed, abstract of title, current tax receipt, or a signed and notarized statement by the property owners stating that the Prospective Successor has a legal right to enter. *See* Hard Rock and Construction Materials Rule 6.3.7.

6) **Structure Agreements**: In many cases, operators must provide the Division copies of agreements to compensate the owners of any significant, valuable, and permanent man-made structures and utilities within 200 feet of the affected land ("Structure Agreements"). *See* Hard Rock Rules 6.3.12 and 6.4.20; Construction Materials Rules 6.3.12 and 6.4.19. If the Permittee was required to provide Structure Agreements, the Prospective Successor must obtain *new* Structure Agreements from each owner and provide copies of the same to the Division with the Application.

Application Review Process

The Division will grant an Application if it finds that all required information has been submitted, that the Prospective Successor is capable of assuming all responsibility for original permit by virtue of acceptable performance and Financial Warranties, and that the Prospective Successor has no outstanding violations. *See* C.R.S. §§ 34-32-119 and 34-32.5-119. If the Division does not act within 30 days from the date that a complete Application has been filed, the Application will be considered automatically approved. *See* Hard Rock and Construction Materials Rule 1.12.1(2). If an Application is denied, the Division will notify the Permittee and Prospective Successor no later than 10 days from the date it renders its decision. Both the Permittee and Prospective Successor may appeal a denial of an Application to the Board by submitting a written request for an administrative appeal hearing to the Board within 30 days of final decision date. *See* Hard Rock and Construction Materials Rule 1.4.11.

Application Checklist

- ☐ **Application Form**: Complete the form located on page 5.
- ☐ **Application Fee**: Include check payable to Colorado Division of Reclamation, Mining and Safety.
- ☐ **Performance Warranty**: Complete the form located on page 11.
- ☐ **Financial Warranty**: Submit the appropriate Financial Warranties or conditional replacement Financial Warranties using the forms posted on the Division's website (available online at http://mining.state.co.us/Mineral%20Forms.htm).
- ☐ **Demonstration of Legal Right to Enter**: Identify the owners of all surface and mineral rights, obtain the documentation described above, and submit to the Division.
- ☐ **Structure Agreements**: Obtain new Structure Agreements if Permittee had been required to do so.

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COLORADO DIVISION OF RECLAMATION MINING & SAFETY

APPLICATION FORM FOR TRANSFER OF MINERAL PERMIT AND SUCCESSION OF OPERATORS

ADMINISTRATIVE INFORMATION

Permit Information

Permit Number: M-77-210

Operation Name: Snyder Quarry

Permittee Information

Contact Person: Jerald Schnabel

Company Name: Continental Materials Corporation

Street Address: 549 East Cucharras Street

City: Colorado Springs

State: Colorado Zip: 80903

Phone: (719) 491-0114

Email (optional): jerald_schnabel@castleaggregate.com

Prospective Successor Information

Contact Person: Britt Haley TOPS Program Manager

Company Name: City of Colorado Springs

Street Address: 1401 Recreation Way

City: Colorado Springs

State: Colorado Zip: 80905-1024

Phone: (719) 385-6530

Email (optional): britt.haley@coloradosprings.gov

Other Reclamation Permits held by Prospective Successor (if applicable):

City of Colorado Springs M-1989-116 and M-1992-074

DESIGNATION OF REVIEW TIMELINE

As explained above, the Permittee and Prospective Successor may waive their right to receive a decision on an Application within 30 days in order to allow the Division to calculate the required Financial Warranty before issuing its decision. Permittee and Prospective Successor must initial one of the following two options to designate their choice. If Permittee and Prospective Successor cannot agree, the Division will render its decision within 30 days.

Permittee

Prospective Successor

I have reviewed the information provided in this Application Packet, as well as the applicable Act and Rules. Having been fully informed, I wish to WAIVE MY RIGHT TO A DECISION ON MY APPLICATION WITHIN 30 DAYS.

Permittee

Prospective Successor

I have reviewed the information provided in this Application Packet, as well as the applicable Act and Rules. Having been fully informed, I wish to MAINTAIN MY RIGHT TO A DECISION ON MY APPLICATION WITHIN 30 DAYS.

The Prospective Successor must provide an adequate Financial Warranty or *conditional* replacement Financial Warranty, consistent with the designation above. Hard Rock and Construction Materials Rule 4.3 describes the various acceptable types of Financial Warranties. Each Financial Warranty must be submitted on the Board's approved forms (available online at http://mining.state.co.us/Mineral%20Forms.htm).

DUE DILIGENCE CERTIFICATION

The Board wishes to ensure that Prospective Successors are fully informed of their duties and obligations should they become Successor to the Permit. Accordingly, the Prospective Successor must carefully review the items below and must initial indicating its agreement and understanding.

BH If the Application is approved, the Prospective Successor will assume all liability for the reclamation of the affected land, and for compliance with the Hard Rock Act and Rules or the Construction Materials Act and Rules, as applicable (available online at http://mining.state.co.us/Rules%20and%20Regs.htm). Successor will be liable for any pre-existing conditions or violations, whether known or unknown at the time of the SO. It is the Prospective Successor's sole responsibility to investigate the operation prior to filing an Application.

BH If the Application is approved, the Successor will be solely responsible for maintaining the mining and reclamation operations in compliance with the Reclamation Permit. The Permit includes the original approved Application, along with any and all subsequent revisions, amendments, and conversions thereto. It is not uncommon for a Permit to include dozens of documents that span many years. It is the Successor's sole responsibility to obtain a full and complete copy of the Permit and to understand the extent of his/her/its obligations thereunder. Permit documents may be purchased from the Division of Reclamation, Mining and Safety (the "Division") upon request or viewed on the Division's website at http://drmsweblink.state.co.us/drmsweblink/search.aspx?dbid=0

BH If the Application is approved, the Successor must submit Annual Fees and Annual Reports to the Division on the anniversary date of the Reclamation Permit. For hard rock and designated mining operations, consult C.R.S. § 34-32-127(2) for the amount of the Annual Fee. For construction materials operations, consult the C.R.S. § 34-32.5-125 for the amount of the Annual Fee. Required annual reporting information is described in Hard Rock and Construction Materials Rule 1.15 and in the Annual Report Form provided by the Division. Failure to submit Annual Fees or Annual Reports may result in enforcement action.

APPLICANTS' AGREEMENT TO REQUEST TRANSFER OF MINERAL PERMIT AND SUCCESSION OF OPERATORS

WHEREAS, on 9-17-1977 , _____ Permit Number M-77-210 ("Permit") was granted to Castle Concrete ("Permittee"), pursuant to which Permit, Permittee has engaged in a mining operation located in El Paso County, Colorado.

WHEREAS, The Permit includes and incorporates any and all subsequent Amendments, Technical Revisions and/or Conversions.

WHEREAS, Permittee wishes to assign the entire Permit, along with all associated rights and responsibilities to City of Colorado Springs ("Prospective Successor"), and Prospective Successor wishes to become Successor Permittee under the Permit.

WHEREAS, Prospective Successor has inspected the mining and reclamation operations and is fully aware of the conditions thereof.

WHEREAS, Prospective Successor understands that the Reclamation Plan (the "Plan") is an integral part of the Permit and is required by law. Prospective Successor has had an opportunity to thoroughly review the Plan, understands that the Plan has not been completed and that, if Prospective Successor becomes Successor, he/she/it will assume full responsibility for the completion of the Plan.

NOW THEREFORE, Permittee and Prospective Successor hereby agree, for their own benefit and for the benefit of the State, as follows:

Prospective Successor agrees to accept all of the conditions of the Permit, including the condition that the operation remains in compliance with all applicable laws and regulations, and to perform all of the obligations of the Permittee under the Permit.

Prospective Successor agrees to complete the Plan, and to assume all liability for the same, as to all areas presently disturbed, as well as to all areas hereafter disturbed.

Prospective Successor agrees to submit to the Division of Reclamation, Mining and Safety ("Division"), Performance and Financial Warranties, as required by applicable law and regulations, which will be substituted for the Performance and Financial Warranties previously filed by the Permittee, if and when the Division approves a Transfer of Mineral Permit and Succession of Operators ("SO") and releases the latter Warranties.

Prospective Successor represents to the State that, to the best of its knowledge, information and belief, it is not in violation of any of the provisions of the Mined Land Reclamation Act (C.R.S. § 34-32-101 *et. seq.*) ("Hard Rock Act") and associated Rules (2 C.C.R. 407-1) ("Hard Rock Rules") or the Land Reclamation Act for the Extraction of

Construction Materials (C.R.S. § 34-32.5-101 *et. seq.*) ("Construction Materials Act") and associated Rules (2 C.C.R. 407-4) ("Construction Materials Rules"), with respect to any other operation conducted by the Prospective Successor in the State of Colorado.

Permittee and Prospective Successor hereby request that the Mined Land Reclamation Board ("Board") approves their SO Application, recognizes the Prospective Successor as Successor Operator under the Permit, accepts the Prospective Successor's Performance and Financial Warranties, and releases the current Permittee's Performance and Financial Warranties.

SIGNED, SEALED AND DATED this 9th day of Dec, 2020.

PERMITTEE

Gerald Schnabel
Name of Permittee

By Gerald Schnabel
Signature of Officer

President
Title of Officer

PROSPECTIVE SUCCESSOR

BRITT I. HALEY
Name of Prospective Successor

By Britt I. Haley
Signature of Officer

TOPs PROGRAM MGR.
Title of Officer

NOTARY FOR PERMITTEE

STATE OF Colorado)
) ss.:
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 9th day of December, 2020, by Gerald Schnabel as President of Castle Aggregates.

Notary Public Deanna Sue Pung

My Commission Expires 1/27/2024

DEANNA SUE PUNG
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19954020256
My Commission Expires 01-27-2024

NOTARY FOR PROSPECTIVE SUCCESSOR

STATE OF COLORADO)
) ss.:
COUNTY OF EL PASO)

DESIRAE N TUCKER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20204018931
MY COMMISSION EXPIRES JUNE 01, 2024

The foregoing instrument was acknowledged before me this 8 day of DECEMBER, 2020, by BRITT I. HALEY as TOPS PROGRAM MANAGER of COS PARKS, RECREATION & CULTURAL SERVICES.

Notary Public

My Commission Expires 6/1/2024

STATE APPROVAL
[for completion by Division]

(a) The Board hereby approves the transfer of permit number _____ from _____ to _____.

(b) The Board hereby recognizes _____ as Successor Operator under such Permit.

(c) The Board hereby accepts the Performance and Financial Warranties submitted by Successor and hereby releases _____, as former Permittee from all obligations under its Performance and Financial Warranties. The Board further releases all affected financial warrantors from obligations under Financial Warranties associated with the former Permittee.

STATE OF COLORADO
DEPARTMENT OF NATURAL RESOURCES
MINED LAND RECLAMATION BOARD
DIVISION OF RECLAMATION, MINING AND SAFETY

By: _____
Division Director

Date Executed: _____

STATE OF COLORADO

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Department of Natural Resources

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COLORADO DIVISION OF RECLAMATION MINING & SAFETY

PERFORMANCE WARRANTY

Operator: City of Colorado Springs

Operation: Snyder Quarry

Permit Number: M-77-210

This form has been approved by the Mined Land Reclamation Board ("Board") pursuant to the Mined Land Reclamation Act (C.R.S. § 34-32-101 et. seq.) ("Hard Rock Act") and associated Rules (2 C.C.R. 407-1) ("Hard Rock Rules") and the Land Reclamation Act for the Extraction of Construction Materials (C.R.S. § 34-32.5-101 et. seq.) ("Construction Materials Act") and associated Rules (2 C.C.R. 407-4) ("Construction Materials Rules"). Any alteration or modification of this form, without approval by the Board shall result in the performance warranty being invalid and result in the voiding of any permit issued in conjunction with such invalid performance warranty and subject the operator to cease and desist orders and civil penalties for operating without a permit pursuant to sections 34-32-123, C.R.S. of the Hard Rock Act and 34-32.5-123, C.R.S. of Construction Materials Act.

KNOW ALL MEN BY THESE PRESENTS, THAT:

WHEREAS, the Colorado Mined Land Reclamation Act, C.R.S. § 34-32-101 et seq. (the "Hardrock Act"), as amended, and the Colorado Land Reclamation Act for the Extraction of Construction Materials, C.R.S. § 34-32.5-101 et seq. (the "Construction Materials Act"), as amended (collectively the "Acts"), provide that no permit may be issued until the Mined Land Reclamation Board (the "Board") receives a performance warranty consisting of the Operator's written promise to comply with the requirements of the Hardrock or Construction Materials Act, whichever is applicable.

WHEREAS, City of Colorado Springs (the "Operator"), has applied for a permit to conduct a mining operation known as Snyder Quarry (the "Operation") on certain lands in El Paso County, Colorado. These lands are described in the permit application, as amended and supplemented, and are referred to herein as the "Affected Lands."

WHEREAS, in its application for the permit, the Operator has agreed to be bound by all requirements of the Hardrock or Construction Materials Act and all applicable rules and regulations of the Board, as amended from time to time.

WHEREAS, the Operator hereby gives the Board this performance warranty pursuant to C.R.S. §§ 34-32-117(2) or 34-32.5-117(2), and herein promises the Board that it will comply with all applicable requirements of the Hardrock or Construction Materials Act.

NOW, THEREFORE, The Operator hereby promises the Board that it will comply with all applicable requirements of the Hard Rock or Construction Materials Act and applicable rules and regulations of the Board.

The Operator hereby promises the Board that it will comply with all of the terms of the application for a permit, as amended and supplemented, as well as any conditions attached to the permit by the Board.

The Operator promises the Board, pursuant to C.R.S. §§ 34-32-112(1)(d) or 34-32.5-112(1)(b)(IV), that it has the lawful authority to enter upon the Affected Lands to conduct mining operations, including, but not limited to, reclamation. The Operator further recognizes the right of the Board to enter to reclaim lands affected by the Operation.

The description of lands herein is for convenience of reference only, and no error in such description, revision of the permitted mining area, or disturbance by the Operator of lands outside of the permitted mining area shall alter or diminish the Operator's obligation hereunder, which shall extend to the reclamation of all such lands disturbed.

The obligation of the Operator hereunder is such that, if the Operator shall successfully comply with the requirements of the Hardrock or Construction Materials Act, applicable rules and regulations, and the permit, then the Board, upon a finding that the Operator has so complied, shall release this performance warranty, and the Operator from its obligation hereunder. The obligation of the Operator hereunder shall continue until released by the Board in accordance with applicable law.

The Operator promises to be responsible for the cost of reclamation up to the amount established by the Board and has attached hereto its financial warranty, in accordance with C.R.S. §§ 34-32-117(3) or 34-32.5-117(3). The Operator agrees that it will maintain a financial warranty (or warranties) covering the Board's estimated costs of reclamation in good standing for the entire life of the permit. If the Operator is a unit of County or Municipal government, or is a department or division of State government, the Operator is not required to submit or post any other instrument of financial responsibility but hereby promises to be responsible for the cost of reclamation up to the amount specified by the Board.

If the Board determines that the Operator is in default under this performance warranty and has failed to cure such default, although written notice of such default and ample time to cure such default have been given, the Operator's financial warranty shall be subject to forfeiture.

This performance warranty may be executed in multiple copies, each of which shall be treated as an original, but together they constitute only one agreement, the validity and interpretation of which shall be governed by the laws of the State of Colorado. The provisions hereof shall bind and inure to the benefit of the parties hereto and their successors and assigns.

SIGNED, SEALED AND DATED this 7th day of January, 2021.

CITY OF COLORADO SPRINGS
Operator (SEAL)

By: Britt d. Haley

Title: PARKS TOPS PROGRAM MGR
CITY OF COLORADO SPRINGS

NOTARIZATION OF OPERATOR'S ACKNOWLEDGEMENT

STATE OF COLORADO)
) ss.:
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 7 day of JANUARY, 2021, by BRITT I HALEY as TOPS PROGRAM MANAGER of PRCS.

DESIRAE N TUCKER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20204018931
MY COMMISSION EXPIRES JUNE 01, 2024

Notary Public Tucker

My Commission Expires 6/1/2024

STATE OF COLORADO
DEPARTMENT OF NATURAL RESOURCES
MINED LAND RECLAMATION BOARD
DIVISION OF RECLAMATION, MINING AND SAFETY

By: _____
Division Director

Date Executed: _____

Rev. 05/12