

AMENDMENT TO CONTRACT

#3

The County of San Benito ("COUNTY") and BENCHMARK RESOURCES ("CONTRACTOR") enter into this agreement on the date stated next to the signatures below. In consideration of the mutual promises set forth herein, the parties agree as follows:

1. Existing Contract.

a. Initial Contract.

COUNTY and CONTRACTOR acknowledge that the parties entered into a contract, dated July 29, 2009.

b. Prior Amendments. (Check one.)

The initial contract previously has not been amended.

The initial contract previously has been amended. The date(s) of prior amendments are as follows: May 1, 2012 and June 2, 2015

c. Incorporation of Original Contract.

The initial contract and any prior amendments to the initial contract (hereafter collectively referred to as the "original contract") are attached to this amendment as Exhibit 1 and made a part of this amended contract.

2. Purpose of this Amendment.

The purpose of this amendment is to change the agreement between the parties in the following particulars:

a. Term of the Contract. (Check one.)

The term of the original contract, as previously extended, is not further modified.

The term of the original contract (Exhibit 1) is extended from the current expiration date of _____, to a new expiration date of _____.

b. Scope of Services. (Check one.)

The services specified in the original contract (Exhibit 1) are not modified.

The services specified in the original contract (Exhibit 1) are modified as specified below: (Check one.)

The services specified in the original contract are modified only as specified below:

Modified or New Scope of Services:

(Insert modified or new services.)

Paragraph A-2 of Attachment A to the original contract, as previously amended, is further amended to add subparagraph 5 to the end of Paragraph A-2, to read as follows:

5) Application Processing Support: CONSULTANT shall provide the following specific application processing support services for the following projects, as described in the project-specific scopes of work attached hereto and incorporated herein by the following references:

a. Attachment A-1 (Graniterock AR Wilson Quarry);

- b. Attachment A-2 (Enz Quarry);
- c. Attachment A-3 (Ashurst-Lewis Quarry); and
- d. Attachment A-4 (Graniterock San Benito Sand Plant).

All other provisions of Attachment A to the original contract, as previously amended, shall remain the same.

- The services specified in the original contract are deleted in their entirety and replaced with the following services:

New Scope of Services:
(Insert new services.)

c. Payment Terms. (Check one.)

- The payment terms in the original contract (Exhibit 1) are not modified.
- The payment terms in the original contract (Exhibit 1) are modified as specified below: (Check one.)
- The payment terms are modified only as specified below:

Modified or New Payment Terms:
(Insert modified or new payment terms.)

Paragraph B-3 of the original contract, as previously amended, is further amended to increase the compensation by an additional \$560,850.00 for services rendered pursuant to this amendment, related to processing four applications, subject to reimbursement by the applicants (Graniterock AR Wilson Quarry for \$147,900.00; Enz Quarry for \$202,080.00; Ashurst-Lewis Quarry for \$88,550.00; and Graniterock San Benito Sand Plant for \$122,320.00), as follows:

Original Contract	\$126,000.00 (\$42,000 per year)
First Amendment:	\$126,000.00 (\$42,000 per year)
Second Amendment:	\$126,000.00 (\$42,000 per year)
<u>Third Amendment:</u>	<u>\$560,850.00 (reimbursed by applicants)</u>
Total Not To Exceed:	\$938,850.00

Accordingly, Paragraph B-3 is hereby amended to read as follows:

B-3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ _____, or
- a total sum not to exceed \$938,850.00 _____,
- for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1), and pursuant to any special compensation terms specified in Paragraph B-4.

Paragraph B-4 of the original contract, as previously amended, is further amended to add subparagraph 4 to the end of Paragraph B-4, to read as follows:

4. Application Processing Support: CONSULTANT shall charge for application processing support services for the following projects, according to the budgets attached hereto and incorporated herein by the following references, and subject to reimbursement by the applications:
- a. Attachment A-1 (Graniterock AR Wilson Quarry);
 - b. Attachment A-2 (Enz Quarry);
 - c. Attachment A-3 (Ashurst-Lewis Quarry); and
 - d. Attachment A-4 (Graniterock San Benito Sand Plant).

All other provisions of Attachment B to the original contract, as previously amended, shall remain the same.

- The payment terms are deleted in their entirety and replaced with the following payment terms:

New Payment Terms:

B-1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (Check one.)

- One month in arrears.
- Upon the complete performance of the services specified in the original agreement (Exhibit 1) and this amendment.
- The basis specified in paragraph B-4.

B-2. PAYMENT

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of the original contract, net thirty (30) days from the invoice date.

B-3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$_____ , or
- a total sum not to exceed \$_____ ,

for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

B-4. SPECIAL COMPENSATION TERMS: (Check one.)

- There are no additional terms of compensation.
- The following specific terms of compensation shall apply: (Specify)

d. **Other Terms.** (Check one.)

There are no other terms of the original contract that are modified.

Other terms of the original contract are modified only as specified below:

Other Modified or New Terms:
(Insert other modified or new terms.)

3. **Other Terms.**

All other terms and conditions of the original contract (Exhibit 1) which are not changed by this amendment shall remain the same.

CONTRACTOR



David Brown, Principal



Date

COUNTY


San Benito County Board of Supervisors

Jaime De La Cruz, Chair

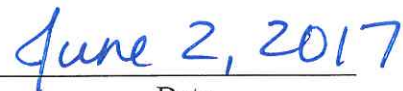
Date

APPROVED AS TO LEGAL FORM:

San Benito County Counsel's Office



Shirley L. Murphy, Deputy County Counsel



Date

ATTACHMENT A-1
Graniterock AR Wilson Quarry

SAN BENITO COUNTY CONTRACT
FOR CONSULTANT'S SERVICES WITH BENCHMARK RESOURCES
CONTRACT ITEM A-2 - APPLICATION PROCESSING SUPPORT

AR WILSON RECLAMATION PLAN AMENDMENT
SCOPE OF WORK AND BUDGET

TASK 1: COMMUNICATION COORDINATION AND MEETINGS

Coordinate with County staff, operator (Graniterock), and other interested parties as necessary to support application and analyses. Coordination activities include the following:

- Regular dialog with County staff and Operator via telephone calls and e-mail.
- Participate in coordination meetings, teleconferences, and hearings.
- This scope of work budgets for attendance at two (2) meetings at the County offices to discuss and coordinate peer review activities, beginning with an initial coordination meeting.

For each meeting and teleconference, we will prepare meeting agendas, coordinate invitations, and assist with general meeting preparation and facilitation as necessary. Additional Benchmark Resources team members, including technical specialists, will participate as necessary via conference call.

TASK 2: APPLICATION REVIEW AND ASSISTANCE

Reclamation Plan Amendment

- Assist in preparation of an reclamation plan amendment that meets current standards and recently issued OMR policy.
- Work with operator to review and assist in needed details for engineered drawings for reclamation. Our scope of work for this effort assumes up to two in-person meetings on site or at County offices, as needed).
- Address changes from the approved reclamation plans to the amended reclamation proposal including changes in mine and reclamation boundaries and address north pit wall stability.

Technical Studies Support:

- **Geotechnical.** Review operator geotechnical report and confirm no other remaining geotechnical issues.

County Application Forms:

- Assist in completing application forms that appropriately describe the limited nature of the project (for use permit and CEQA purposes). This will involve drafting administrative draft application forms and associated graphics and attachments. Coordinating with County staff and Graniterock staff to ensure that data accurately reflects the proposed activities and meets County expectations that are needed to prepare appropriate environmental review. Once input is provided, we will update and finalize applications for final review and submittal by Graniterock staff.

Consolidated Reclamation Footprint:

Visual Analysis:

At the completion of the consolidated footprint graphic, the County, Benchmark and Graniterock determined that Graniterock would have to remove a number of trees to ensure that the slope layback work could be effectively implemented. Therefore, to ensure the tree removal would not have adverse impacts on key surrounding viewpoints, the County and Graniterock authorized the preparation of a visual

analysis. Benchmark completed a visual impact study to evaluate the details of the effects of slope layback on the loss of redwood trees. Existing conditions views from SR 126 were documented from available viewpoints. Tree removal was determined from Graniterock aerial delineation of potential tree removal and transposed to the key viewpoints. Photograph simulations were prepared to depict the changes.

TASK 3: ENVIRONMENTAL REVIEW

The reclamation plan amendment is a discretionary action and subject to CEQA.

Existing Permit and Operations Baseline

The environmental baseline is the permitted condition of the mining and reclamation. The environmental consequences therefore need to be compared to the condition as if reclamation were completed as planned, versus the conditions proposed. The environmental document will establish the existing baseline conditions and will document the degree of change that would occur if the Project is approved. The definition of baseline conditions is an important factor in developing informative and defensible environmental documents, and in ensuring consistent and accurate environmental impact analysis. Benchmark Resources will present and discuss the approach to baseline definition considerations during the initial coordination meeting, and will ensure that baseline conditions are clearly defined in the environmental document.

Proposed Project Revisions

We will prepare a draft Project Description to be provided to the County and Graniterock for review. The draft Project Description will specifically identify those aspects of the Project that may require additional clarification or confirmation of information presented in the draft. Once revisions or clarification to data requests are provided by the County and Applicant, we will then finalize the Project Description for inclusion in the environmental document.

Benchmark will work with operator to develop a Consolidated Reclamation Footprint. Based on the need to clarify the mine's existing disturbance footprint, the County, Graniterock and Benchmark agreed that the Consolidated Reclamation Footprint was a necessary and important component of the project description. The task involves reviewing approved plans, current aerial imagery and working with the operator to determine the appropriate boundaries of past, present and planned operations. T

CEQA Exemption/ND/MND Determination

Determine the appropriate CEQA format that is supportable and defensible. We will prepare a brief memorandum that outlines the proposed approach.

Prepare documentation based on reviewed technical studies completed that evaluates the potential significance of the identified impacts and provide recommendation regarding the proposed environmental document. If a Mitigated Negative Declaration is determined to be appropriate, an Initial Study will discuss and dispose of issues that will not need to be evaluated in greater detail. If, however, an exemption is the appropriate environmental determination, we will prepare documentation explaining why the project is consistent with prior environmental determinations.

TASKS 4: PROCESS COORDINATION

We have provided a budget estimate based on the level of anticipated public and agency concern for reclamation plan amendment. We believe that the majority of the comments will come from OMR and we have budgeted time to work with Graniterock and the County to respond to comments. We also will prepare responses to comments from commenting agencies on the CEQA document as well as other resource agencies.

Benchmark provided additional assistance to staff to respond to comments by the Office of Mine Reclamation, involving:

- Graphics to demonstrate that concerns for affects to wetlands were actually where prior mining had created ponding and therefore not natural features.
- Modifying the consolidated reclamation boundary graphics
- Developing a condition of approval for annual monitoring of slope geotechnical conditions for purposes of updating the financial assurance cost estimate.

Condition 8:

Text describing the visual impact analysis was prepared documented in several drawings and textual description for the Planning Commission. Revisions to Condition No 8 were recommended.

Benchmark reviewed and commented on the draft staff report, supplied project data and CEQA analysis, as well as recommended conditions of approval. A presentation was prepared for the Planning Commission to facilitate the Commission's understanding of the proposed project and the recommended CEQA compliance document. .

TASK 5: HEARINGS/STAFF REPORT

Support county staff in preparation of a staff report summarizing the project and the environmental review process and support at public hearings.

Supplemental Staff Support:

Benchmark provided additional assistance, involving additional on-site meetings and coordination to assist in the transition of department staff. This additional effort was recognized as necessary by both the County and Graniterock to ensure that new staff would understand that potential issues were efficiently resolved and on-site conditions were understood. Based on the new staff's lack of familiarity with mining issues and the Surface Mining and Reclamation Act, additional time for document preparation and coordination was required.

TASK 6: FOLLOW-UP

Post Decision Action Items:

Benchmark is assisting in the needed documents and actions following the decision of the Planning Commission, including: Notice of Exemption, final responses to OMR, filing with County Clerk, and final document preparation and production, including providing final Reclamation Plan Amendment documentation and conditions of approval to OMR.

TABLE 1
AR WILSON RECLAMATION PLAN AMENDMENT
BUDGET

TASK AND SUBTASK	BUDGET (\$)
TASK 1: COMMUNICATION COORDINATION AND MEETINGS	\$9,900
TASK 1 SUBTOTAL	\$9,900
TASK 2: APPLICATION REVIEW AND ASSISTANCE	\$83,000
TASK 2 SUBTOTAL	\$83,000
TASK 3: ENVIRONMENTAL REVIEW	\$1,500
TASK 3 SUBTOTAL	\$1,500
TASK 4: PROCESS COORDINATION	\$30,000
TASK 4 SUBTOTAL	\$30,000
TASK 5: HEARINGS/STAFF REPORT	\$18,000
TASK 5 SUBTOTAL	\$18,000
TASK 6: FOLLOW-UP	\$5,500
TASK 6 SUBTOTAL	\$5,500
GRAND TOTAL	\$147,900

ATTACHMENT A-2
Enz Quarry

SAN BENITO COUNTY CONTRACT
FOR CONSULTANT'S SERVICES WITH BENCHMARK RESOURCES
CONTRACT ITEM A-2—APPLICATION PROCESSING SUPPORT

ENZ QUARRY MINE AND RECLAMATION PLAN AMENDMENT

SCOPE OF WORK AND BUDGET

TASK 1: COMMUNICATION COORDINATION AND MEETINGS

Coordinate with County staff, operator, and other interested parties as necessary to support application and analyses. Coordination activities include the following:

- Regular dialog with County staff and Operator via telephone calls and e-mail.
- Participate in coordination meetings, teleconferences, and hearings.
- This scope of work budgets for attendance at two (2) meetings at the County offices to discuss and coordinate peer review activities, beginning with an initial coordination meeting.

For each meeting and teleconference, we will prepare meeting agendas, coordinate invitations, and assist with general meeting preparation and facilitation as necessary. Additional Benchmark Resources team members, including technical specialists, will participate as necessary via conference call.

TASK 2: APPLICATION REVIEW AND ASSISTANCE

Reclamation Plan Amendment

- Assist in preparation of quarry expansion design for reclamation.
- Assist in preparation of an updated reclamation plan that meets current standards and recently issued OMR policy.
- Work with operator to review and assist in needed details for engineered drawings for reclamation. Our scope of work for this effort assumes up to two in-person meetings on site or at County offices, as needed).
- Address changes from the approved reclamation plans to the current reclamation proposal including in use changes area of mining.
- Address closure to open space conditions.

Technical studies support:

- **Technical Studies.** Assist in coordination of updated technical studies.
- **Hydrology.** Assist in updated hydrology report that confirms SMARA standards are met.
- **Geotechnical.** Confirm no changed geotechnical issues with new mine pit design.

County Application Forms

- Assist in completing application forms that appropriately describe the limited nature of the project (for use permit and CEQA purposes). This will involve drafting administrative draft application forms and associated graphics and attachments. Coordinating with County staff and operator staff to ensure that data accurately reflects the proposed activities and meets County expectations that are needed to prepare appropriate environmental review. Once input is provided, we will update and finalize applications for final review and submittal by operator.

TASK 3: ENVIRONMENTAL ANALYSIS

The reclamation plan amendment is a discretionary action and subject to CEQA. It is anticipated that questions will arise regarding the environmental impacts of final reclamation and closure.

Existing Permit and Operations Baseline

The environmental baseline is the permitted condition of the mining and reclamation. The environmental consequences therefore need to be compared to the condition as if reclamation were completed as planned, versus the conditions proposed. The environmental document will establish the existing baseline conditions and will document the degree of change that would occur if the Project is approved. The definition of baseline conditions is an important factor in developing informative and defensible environmental documents, and in ensuring consistent and accurate environmental impact analysis. Benchmark Resources Project Manager and Environmental Analyst will present and discuss the approach to baseline definition considerations during the initial coordination meeting, and will ensure that baseline conditions are clearly defined in the environmental document.

Proposed Project Revisions

It is important to put the proposed plan revisions in the proper context of prior approvals and changes that are and are not subject to CEQA. OMR, other state agencies, and the Public commonly confuse operations and reclamation issues as all subjects of the project approval and CEQA review. The key to this effort is developing a clear and concise project description that describes the activities that are subject to the County's discretionary approval. During our initial preparation of the Project Description we will prepare a detailed list of information needs and questions to assist the County in obtaining information needed for a complete Project Description adequate for meeting CEQA requirements and providing information necessary for conducting the impact analysis for the environmental document. We will then use this information to prepare a draft Project Description to be provided to the County and operator for review and further input if needed. The draft Project Description will specifically identify those aspects of the Project that may require additional clarification or confirmation of information presented in the draft. Once revisions or clarification to data requests are provided by the County and Applicant, we will then finalize the Project Description for inclusion in the environmental document.

CEQA Exemption/ND/MND/EIR Determination

Determine the appropriate CEQA format that is supportable and defensible. We will prepare a brief memorandum that outlines the proposed approach and the advantages and disadvantages of alternative environmental evaluations.

Initial Study

Prepare documentation based on technical studies completed that evaluates the potential significance of the identified impacts and will provide recommendation regarding the proposed environmental document to be relied upon. If an EIR is determined to be appropriate, the Initial Study will discuss and dispose of issues that will not need to be evaluated in greater detail in the EIR. If, however, a Mitigated Negative Declaration is the appropriate environmental determination, the Initial Study will identify mitigation measures that would be required to ensure that potentially significant impacts can be reduced to a less than significant level.

Benchmark Resources will support the initial study with a field analysis to ascertain the potential visibility of the expanded operation. Benchmark will observe the elevations planned for mining from local viewpoints on State Route (SR) 25 and La Cienega Road and prepare a simulation of the visibility to support initial study conclusions. We will review comments from agencies and the public and consider additional analysis or mitigation.

TASK 4: PROCESS COORDINATION

Based on the level of anticipated concern and the recent history of OMR raising issues and involving multiple comment letters. We believe that the majority of the comments will come from OMR and we have budgeted provided for a week and half of principal's time to work with the operator and the County to respond to comments of OMR. We also will help with comments from commenting agencies on the CEQA document as well as other resource agencies.

Benchmark will resolve additional Division of Mine Reclamation (DMR) concerns, including surface disturbances that may not be incorporated in the reclamation plan. Benchmark will incorporate biological surveys into the plan to demonstrate protection of fish and wildlife habitat.

TASK 5: STAFF REPORT/HEARINGS

Support county staff in preparation of a staff report summarizing the project and the environmental review process and support at public hearings as necessary. The scope of this effort will be defined at a later date when the County, operator and Benchmark have a better understanding of the nature of the environmental document to be processed and the nature of the public process is better defined.

Benchmark will prepare a draft staff report for San Benito County (County) staff review. We will prepare for and attend two hearings.

Additional Tasks

- Address Williamson Act compatibility
- Prepare Mitigation Monitoring Reporting Program
- Additional coordination with new assigned county staff
- Prepare PowerPoint presentation
- Public notification issue
- Conditions of approval compliance and Mining Ordinance review in response to Planning Commission inquiry
- Update all Conditions of Approval

TASK 6: GEOTECHNICAL INVESTIGATION

Benchmark will assist the operator in completing rock coring for the project. We will have laboratory analysis of the core completed to determine the material properties to be used in the slope stability analysis. Benchmark will use the information collected from the geophysical site investigation to complete a stability analysis of the proposed final quarry slopes and highwalls. Should the geotechnical analysis show that changes to the original design recommended by Grice Engineering are needed, we will incorporate those changes into an updated quarry design.

TASK 7: ADDITIONAL MODIFICATIONS TO THE APPROVED PLAN

Resoiling and Revegetation

Benchmark will:

- update soil salvage and resoiling procedures,
- modify the revegetation seed mix,
- clarify 2003 reclamation plan protection of stockpiles,
- clarify placement of topsoil under interim reclamation and final conditions, and
- update the weed control plan.

Hydrology and Water Quality

Benchmark will determine storm water pollution prevention plan requirements and overlap them with the reclamation plan and develop a site-specific erosion control plan.

TASK 8: POSTDECISION ACTION ITEMS

Benchmark will assist in preparing the needed documents and implementing the required actions following the decision of the County Planning Commission. For example, Benchmark will prepare the notice of exemption and final responses to DMR, file the necessary documents with the County Clerk, and prepare and produce final documents for distribution, including the final reclamation plan amendment

and conditions of approval to DMR. Includes production of hardcopy reports for applicant, county and DMR.

**ENZ QUARRY MINE AND RECLAMATION PLAN AMENDMENT
BUDGET**

PROJECT TASKS	BUDGET
TASK 1: COMMUNICATION COORDINATION AND MEETINGS	\$32,050
TASK 1 SUBTOTAL	\$32,050
TASK 2: APPLICATION REVIEW AND ASSISTANCE	\$39,050
TASK 2 SUBTOTAL	\$39,050
TASK 3: ENVIRONMENTAL REVIEW	\$24,000
TASK 3 SUBTOTAL	\$24,000
TASK 4: PROCESS COORDINATION	\$13,960
TASK 4 SUBTOTAL	\$13,960
TASK 5: STAFF/HEARINGS	\$48,000
TASK 5 SUBTOTAL	\$48,000
TASK 6: GEOTECHNICAL INVESTIGATION	\$20,000
TASK 6 SUBTOTAL	\$20,000
TASK 7: ADDITIONAL MODIFICATIONS TO THE APPROVED PLAN	\$14,000
TASK 7 SUBTOTAL	\$14,000
TASK 8: POSTDECISION ACTION ITEMS	\$11,020
TASK 8 SUBTOTAL	\$11,020
GRAND TOTALS:	\$202,080

ATTACHMENT A-3
Ashurst-Lewis Quarry

SAN BENITO COUNTY CONTRACT
FOR CONSULTANT'S SERVICES WITH BENCHMARK RESOURCES
CONTRACT ITEM A-2 - APPLICATION PROCESSING SUPPORT
ASHURST-LEWIS RECLAMATION PLAN AMENDMENT AND SITE CLOSURE
SCOPE OF WORK AND BUDGET

TASK 1: COMMUNICATION COORDINATION AND MEETINGS

Coordinate with County staff, operator (Wilbur Ellis), and other interested parties as necessary to support application and analyses. Coordination activities include the following:

- Regular dialog with County staff and Operator via telephone calls and e-mail.
- Participate in coordination meetings, teleconferences, and hearings.
- This scope of work budgets for attendance at two (2) meetings at the County offices to discuss and coordinate peer review activities, beginning with an initial coordination meeting.

For each meeting and teleconference, we will prepare meeting agendas, coordinate invitations, and assist with general meeting preparation and facilitation as necessary. Additional Benchmark Resources team members, including technical specialists, will participate as necessary via conference call.

TASK 2: APPLICATION REVIEW AND ASSISTANCE

Task 2.1: Reclamation/Closure Plan

- Assist in preparation of amended reclamation and closure plan that meets current standards and recently issued OMR policy.
- Work with operator to review engineered drawings for reclamation and closure. Our scope of work for this effort assumes up to two in-person meetings on site or at County offices, as needed).
- Address changes from the approved reclamation plans to the current reclamation proposal including in use changes depth of mining and reclamation without redistributing overburden.
- Document reclamation completed and not subject to amended plan.
- Address closure to range land and open space.

Task 2.2: Technical studies support:

- **Revegetation.** Document current conditions and determine whether reclamation standards have been satisfactorily met.
- **Hydrology.** Review surface hydrology report to be submitted by operator.
- **Geotechnical.** Review geotechnical report to be submitted by operator. Confirm no other remaining geotechnical issues.

Task 2.3: County Application Forms

- Assist in completing application forms that appropriately describe the limited nature of the project (for use permit and CEQA purposes). This will involve drafting administrative draft application forms and associated graphics and attachments. Coordinating with County staff and Wilbur Ellis staff to ensure that data accurately reflects the proposed activities and meets County expectations that are needed to prepare appropriate environmental review. Once input is provided, we will update and finalize applications for final review and submittal by Wilbur Ellis staff.

TASK 3: ENVIRONMENTAL REVIEW

Prior use permits amendments and reclamation plan amendments were approved prior to CEQA, or based on negative declarations. Little or no documentation is therefore available to rely on regarding the environmental consequences of mining and reclamation. The reclamation plan amendment is a discretionary action and subject to CEQA. It is anticipated that questions will arise regarding the environmental impacts of final reclamation and closure.

Task 3.1: Existing Permit and Operations Baseline

The environmental baseline is the permitted condition of the mining and reclamation. The environmental consequences therefore need to be compared to the condition as if reclamation were completed as planned, versus the conditions proposed. The environmental document will establish the existing baseline conditions and will document the degree of change that would occur if the Project is approved. The definition of baseline conditions is an important factor in developing informative and defensible environmental documents, and in ensuring consistent and accurate environmental impact analysis. Benchmark Resources Project Manager and Environmental Analyst will present and discuss the approach to baseline definition considerations during the initial coordination meeting, and will ensure that baseline conditions are clearly defined in the environmental document.

Task 3.2: Proposed Project Revisions

It is important to put the proposed plan revisions in the proper context of prior approvals and changes that are and are not subject to CEQA. OMR, other state agencies, and the Public commonly confuse operations and reclamation issues as all subjects of the project approval and CEQA review. The key to this effort is developing a clear and concise project description that describes that activities that are subject to the County's discretionary approval. During our initial preparation of the Project Description we will prepare a detailed list of information needs and questions to assist the County in obtaining information needed for a complete Project Description adequate for meeting CEQA requirements and providing information necessary for conducting the impact analysis for the environmental document. We will then use this information to prepare a draft Project Description to be provided to the County and Wilbur Ellis for review and further input if needed. The draft Project Description will specifically identify those aspects of the Project that may require additional clarification or confirmation of information presented in the draft. Once revisions or clarification to data requests are provided by the County and Applicant, we will then finalize the Project Description for inclusion in the environmental document.

Task 3.3: CEQA Exemption/ND/MND/EIR Determination

Determine the appropriate CEQA format that is supportable and defensible. We will prepare a brief memorandum that outlines the proposed approach and the advantages and disadvantages of alternative environmental evaluations.

Task 3.4: Initial Study

Prepare documentation based on technical studies completed that evaluates the potential significance of the identified impacts and will provide recommendation regarding the proposed environmental document to be relied upon. If an EIR is determined to be appropriate, the Initial Study will discuss and dispose of issues that will not need to be evaluated in greater detail in the EIR. If, however, an Mitigated Negative Declaration is the appropriate environmental determination, the Initial Study will identify mitigation measures that would be required to ensure that potentially significant impacts can be reduced to a less than significant level.

TASK 4: PROCESS COORDINATION

Based on the level of anticipated concern for the revised plan and the recent history of OMR in raising issues and involving multiple comment letters. We believe that the majority of the comments will come from OMR and we have budgeted provided for a week and half of principal's time to work with Wilbur Ellis and the County to respond to comments of OMR. We also will help with comments from commenting agencies on the CEQA document as well as other resource agencies.

TASK 5: STAFF/HEARINGS

Support county staff in preparation of a staff report summarizing the project and the environmental review process and support at public hearings as necessary. The scope of this effort will be defined at a later date when the County, Wilbur Ellis and Benchmark have a better understanding of the nature of the environmental document to be processed and the nature of the public process is better defined.

**ASHURST-LEWIS RECLAMATION PLAN AMENDMENT/CLOSURE
BUDGET**

TASK AND SUBTASK	COST CATEGORY					LABOR		EXPENSES		TOTAL ESTIMATED COSTS (\$)
	Principal \$235/hr (hrs)	Project Manager \$185/hr (hrs)	Mining Engineer / Geologist \$165/hr (hrs)	Technical Support \$115/hr (hrs)	Support Staff \$95/hr (hrs)	LABOR SUBTOTAL		Direct Expenses (10%) (\$)	Subcontract ors (\$)	
						Hours	Costs			
TASK 1: COMMUNICATION COORDINATION AND MEETINGS										
1.1 Administrative					20	20	\$1,900	\$190		\$2,090
1.2 General Communication/Correspondences					20	20	\$1,900	\$190		\$2,090
1.3 Meetings	32					32	\$7,520	\$750		\$8,270
TASK 1 SUBTOTAL	32	0	0	0	40	72	\$11,320	\$1,130	\$0	\$12,450
TASK 2: APPLICATION REVIEW AND ASSISTANCE										
2.1 Reclamation/Closure Plan	20	12		32		64	\$10,600	\$1,060		\$11,660
2.2 Technical Studies	16	12	24			52	\$9,940	\$990		\$10,930
2.3 County Application Forms		12				12	\$2,220	\$220		\$2,440
TASK 2 SUBTOTAL	36	36	24	32	0	128	\$22,760	\$2,270	\$0	\$25,030
TASK 3: ENVIRONMENTAL REVIEW										
3.1 Existing Permit and Operations Baseline		12		24		36	\$4,980	\$500		\$5,480
3.2 Proposed Project Revisions		24		24		48	\$7,200	\$720		\$7,920
3.3 CEQA Exemption/ND/MND/EIR Determination		24				24	\$4,440	\$440		\$4,880
3.4 Initial Study				40		40	\$4,600	\$460		\$5,060
TASK 3 SUBTOTAL	0	60	0	88	0	148	\$21,220	\$2,120	\$0	\$23,340
TASK 4: PROCESS COORDINATION										
4.1 Office of Mine Reclamation	60	20				80	\$17,800	\$1,780		\$19,580
4.2 CEQA		30				30	\$5,550	\$560		\$6,110
4.3 Other		10				10	\$1,850	\$190		\$2,040
TASK 4 SUBTOTAL	60	60	0	0	0	120	\$25,200	\$2,530	\$0	\$27,730
TASK 5: STAFF/HEARINGS										
5.1 Staff Report						0	\$0	\$0		TBD
5.2 Public Hearings						0	\$0	\$0		TBD
TASK 5 SUBTOTAL	0	0	0	0	0	0	\$0	\$0	\$0	\$0
						SUBTOTALS	\$80,500	\$8,650	\$0	\$88,550
								GRAND TOTAL		\$88,550

ATTACHMENT A-4
Graniterock San Benito Sand Plant

SAN BENITO COUNTY CONTRACT
FOR CONSULTANT'S SERVICES WITH BENCHMARK RESOURCES
CONTRACT ITEM A-2 - APPLICATION PROCESSING SUPPORT

**SAN BENITO SAND PLANT RECLAMATION PLAN AMENDMENT AND SITE CLOSURE
SCOPE OF WORK AND BUDGET**

TASK 1: COMMUNICATION COORDINATION AND MEETINGS

Coordinate with County staff, operator (Graniterock), and other interested parties as necessary to support application and analyses. Coordination activities include the following:

- Regular dialog with County staff and Operator via telephone calls and e-mail.
- Participate in coordination meetings, teleconferences, and hearings.
- This scope of work budgets for attendance at two (2) meetings at the County offices to discuss and coordinate peer review activities, beginning with an initial coordination meeting.

For each meeting and teleconference, we will prepare meeting agendas, coordinate invitations, and assist with general meeting preparation and facilitation as necessary. Additional Benchmark Resources team members, including technical specialists, will participate as necessary via conference call.

TASK 2: APPLICATION REVIEW AND ASSISTANCE

Task 2.1: Reclamation/Closure Plan

- Assist in preparation of amended reclamation and closure plan updated from the 2003 submittal.
- Assist in preparation of an updated reclamation plan that meets current standards and recently issued OMR policy.
- Work with operator to review and assist in needed details for engineered drawings for reclamation and closure. Our scope of work for this effort assumes up to two in-person meetings on site or at County offices, as needed).
- Address changes from the approved reclamation plans to the current reclamation proposal including in use changes depth of mining and reclamation without backfill.
- Document reclamation completed and not subject to amended plan.
- Address closure to open space and conditions consistent with General Plan and zoning readily adaptable to future public uses.

Task 2.2: Technical studies support:

- **Revegetation.** Document current conditions and determine whether reclamation standards have been satisfactorily met.
- **Hydrology.** Assist in coordination of update dated hydrology study. Assure updated hydrology report confirms no risk to property or environment due to breached berm remaining post reclamation
- **Geotechnical.** Confirm no other remaining geotechnical issues, including channel stability, slopes and fills.

Task 2.3: County Application Forms

- Assist in completing application forms that appropriately describe the limited nature of the project (for use permit and CEQA purposes). This will involve drafting administrative draft application forms and associated graphics and attachments. Coordinating with County staff and Graniterock staff to ensure that data accurately reflects the proposed activities and meets County expectations that are needed to prepare appropriate environmental review. Once input is

provided, we will update and finalize applications for final review and submittal by Graniterock staff.

TASK 3: ENVIRONMENTAL REVIEW

Prior use permits amendments and reclamation plan amendments were approved prior to CEQA, or based on negative declarations. Little or no documentation is therefore available to rely on regarding the environmental consequences of mining and reclamation. The reclamation plan amendment is a discretionary action and subject to CEQA. It is anticipated that questions will arise regarding the environmental impacts of final reclamation and closure.

Task 3.1: Existing Permit and Operations Baseline

The environmental baseline is the permitted condition of the mining and reclamation. The environmental consequences therefore need to be compared to the condition as if reclamation were completed as planned, versus the conditions proposed. The environmental document will establish the existing baseline conditions and will document the degree of change that would occur if the Project is approved. The definition of baseline conditions is an important factor in developing informative and defensible environmental documents, and in ensuring consistent and accurate environmental impact analysis. Benchmark Resources Project Manager and Environmental Analyst will present and discuss the approach to baseline definition considerations during the initial coordination meeting, and will ensure that baseline conditions are clearly defined in the environmental document.

Task 3.2: Proposed Project Revisions

It is important to put the proposed plan revisions in the proper context of prior approvals and changes that are and are not subject to CEQA. OMR, other state agencies, and the Public commonly confuse operations and reclamation issues as all subjects of the project approval and CEQA review. The key to this effort is developing a clear and concise project description that describes that activities that are subject to the County's discretionary approval. During our initial preparation of the Project Description we will prepare a detailed list of information needs and questions to assist the County in obtaining information needed for a complete Project Description adequate for meeting CEQA requirements and proving information necessary for conducting the impact analysis for the environmental document. We will then use this information to prepare a draft Project Description to be provided to the County and Graniterock for review and further input if needed. The draft Project Description will specifically identify those aspects of the Project that may require additional clarification or confirmation of information presented in the draft. Once revisions or clarification to data requests are provided by the County and Applicant, we will then finalize the Project Description for inclusion in the environmental document.

Task 3.3: CEQA Exemption/ND/MND/EIR Determination

Determine the appropriate CEQA format that is supportable and defensible. We will prepare a brief memorandum that outlines the proposed approach and the advantages and disadvantages of alternative environmental evaluations.

Task 3.4: Initial Study

Prepare documentation based on technical studies completed that evaluates the potential significance of the identified impacts and will provide recommendation regarding the proposed environmental document to be relied upon. If an EIR is determined to be appropriate, the Initial Study will discuss and dispose of issues that will not need to be evaluated in greater detail in the EIR. If, however, a Mitigated Negative Declaration is the appropriate environmental determination, the Initial Study will identify mitigation measures that would be required to ensure that potentially significant impacts can be reduced to a less than significant level.

TASK 4: PROCESS COORDINATION

Based on the level of anticipated concern for in the stream and off channel mine reclamation and the recent history of OMR raising issues and involving multiple comment letters. We believe that the majority of the comments will come from OMR and we have budgeted provided for a week and half of principal's time to work with Graniterock and the County to respond to comments of OMR. We also will help with comments from commenting agencies on the CEQA document as well as other resource agencies.

TASK 5: STAFF/HEARINGS

Support county staff in preparation of a staff report summarizing the project and the environmental review process and support at public hearings as necessary. The scope of this effort will be defined at a later date when the County, Graniterock and Benchmark have a better understanding of the nature of the environmental document to be processed and the nature of the public process is better defined.

**SAN BENITO SAND PLANT RECLAMATION PLAN AMENDMENT AND SITE CLOSURE
BUDGET**

TASK AND SUBTASK	COST CATEGORY					LABOR		EXPENSES		TOTAL ESTIMATED COSTS (\$)
	Principal \$235/hr (hrs)	Project Manager \$185/hr (hrs)	Mining Engineer / Geologist \$165/hr (hrs)	Technical Support \$115/hr (hrs)	Support Staff \$95/hr (hrs)	LABOR SUBTOTAL		Direct Expenses (10%) (\$)	Subcontract ors (\$)	
						Hours	Costs			
TASK 1: COMMUNICATION COORDINATION AND MEETINGS										
1.1 Administrative					40	40	\$3,800	\$380		\$4,180
1.2 General Communication/Correspondences					40	40	\$3,800	\$380		\$4,180
1.3 Meetings	40					40	\$9,400	\$940		\$10,340
TASK 1 SUBTOTAL	40	0	0	0	80	120	\$17,000	\$1,700	\$0	\$18,700
TASK 2: APPLICATION REVIEW AND ASSISTANCE										
2.1 Reclamation/Closure Plan	60	20		60		140	\$24,700	\$2,470		\$27,170
2.2 Technical Studies	24	20	40			84	\$15,940	\$1,590		\$17,530
2.3 County Application Forms	4	4		8	4	20	\$2,980	\$300		\$3,280
TASK 2 SUBTOTAL	88	44	40	68	4	244	\$43,620	\$4,360	\$0	\$47,980
TASK 3: ENVIRONMENTAL REVIEW										
3.1 Existing Permit and Operations Baseline		12		24		36	\$4,980	\$500		\$5,480
3.2 Proposed Project Revisions		24		24	8	56	\$7,960	\$800		\$8,760
3.3 CEQA Exemption/ND/MND/EIR Determination		24		2	26	64	\$4,630	\$460		\$5,090
3.4 Initial Study	4	4		40	16	64	\$7,800	\$780		\$8,580
TASK 3 SUBTOTAL	4	64	0	88	26	182	\$25,370	\$2,540	\$0	\$27,910
TASK 4: PROCESS COORDINATION										
4.1 Office of Mine Reclamation	60	20				80	\$17,800	\$1,780		\$19,580
4.2 CEQA		30				30	\$5,550	\$560		\$6,110
4.3 Other		10				10	\$1,850	\$190		\$2,040
TASK 4 SUBTOTAL	60	60	0	0	0	120	\$25,200	\$2,530	\$0	\$27,730
TASK 5: STAFF/HEARINGS										
5.1 Staff Report						0	\$0	\$0		TBD
5.2 Public Hearings						0	\$0	\$0		TBD
TASK 5 SUBTOTAL	0	0	0	0	0	0	\$0	\$0	\$0	\$0
SUBTOTALS							\$111,190	\$11,130	\$0	\$122,320
GRAND TOTAL										\$122,320

**EXHIBIT 1
TO AMENDMENT # 3**

**ORIGINAL
CONTRACT**

(Please attach the initial contract and any prior amendments, from the most recent to the initial contract, in reverse chronological order.)

AMENDMENT TO CONTRACT

#2

The County of San Benito ("COUNTY") and BENCHMARK RESOURCES ("CONTRACTOR") enter into this agreement on the date stated next to the signatures below. In consideration of the mutual promises set forth herein, the parties agree as follows:

1. Existing Contract.

a. Initial Contract.

COUNTY and CONTRACTOR acknowledge that the parties entered into a contract, dated July 29, 2009.

b. Prior Amendments. (Check one.)

The initial contract previously has not been amended.

The initial contract previously has been amended. The date(s) of prior amendments are as follows: _____

c. Incorporation of Original Contract.

The initial contract and any prior amendments to the initial contract (hereafter collectively referred to as the "original contract") are attached to this amendment as Exhibit 1 and made a part of this amended contract.

2. Purpose of this Amendment.

The purpose of this amendment is to change the agreement between the parties in the following particulars:

a. Term of the Contract. (Check one.)

The term of the original contract is not modified.

The term of the original contract (Exhibit 1) is extended from the current expiration date of June 30, 2015, to a new expiration date of June 30, 2018.

b. Scope of Services. (Check one.)

The services specified in the original contract (Exhibit 1) are not modified.

The services specified in the original contract (Exhibit 1) are modified as specified below: (Check one.)

The services specified in the original contract are modified only as specified below:

Modified or New Scope of Services:

(Insert modified or new services.)

The services specified in the original contract are deleted in their entirety and replaced with the following services:

New Scope of Services:

(Insert new services.)

c. **Payment Terms. (Check one.)**

- The payment terms in the original contract (Exhibit 1) are not modified.
 The payment terms in the original contract (Exhibit 1) are modified as specified below: (Check one.)
 The payment terms are modified only as specified below:

Modified or New Payment Terms:
(Insert modified or new payment terms.)

Paragraph B-3 of the original contract (Exhibit 1) is amended to increase the compensation by an additional \$126,000.00 (\$42,000.00 per year) for services rendered pursuant to this amendment for a total contract value not to exceed \$378,000.00. Paragraph B-3 is hereby amended to read as follows:

B-3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ _____, or
 a total sum not to exceed \$378,000.00 _____,
for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) in the amount not to exceed \$126,000.00 (\$42,000.00 per year for three years), amendment #1 in the amount not to exceed \$126,000.00 (\$42,000.00 per year for an additional three years), and this amendment #2 in the amount not to exceed \$126,000.00 (\$42,000.00 per year for an additional three years), for a total contract value of \$378,000.00, and pursuant to any special compensation terms specified in Paragraph B-4.

Attachment B-1 to the original contract (Exhibit 1) is hereby replaced with a revised Attachment B-1, attached hereto and incorporated herein by reference. The revised rates set forth in revised Attachment B-1 shall apply during the term of this amendment #2, according to the provisions of paragraph B-4(3) and Table 1 (Inspection Fee Structure) to the original contract (Exhibit 1).

All other provisions of Attachment B to the original contract shall remain the same.

- The payment terms are deleted in their entirety and replaced with the following payment terms:

New Payment Terms:

B-1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (Check one.)

- One month in arrears.
 Upon the complete performance of the services specified in the original agreement (Exhibit 1) and this amendment.
 The basis specified in paragraph B-4.

B-2. PAYMENT

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of the original contract, net thirty (30) days from the invoice date.

B-3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ _____, or
 a total sum not to exceed \$ _____,

for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

B-4. SPECIAL COMPENSATION TERMS: (Check one.)

- There are no additional terms of compensation.
 The following specific terms of compensation shall apply:
(Specify)

d. Other Terms. (Check one.)

- There are no other terms of the original contract that are modified.
 Other terms of the original contract are modified only as specified below:

Other Modified or New Terms:

(Insert other modified or new terms.)

3. Other Terms.

All other terms and conditions of the original contract (Exhibit 1) which are not changed by this amendment shall remain the same.

CONTRACTOR

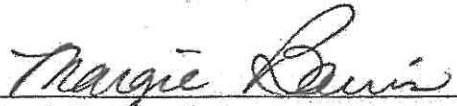

Name/Title: DAVID BROWN, Principal

5.26.15

Date

COUNTY

San Benito County Board of Supervisors

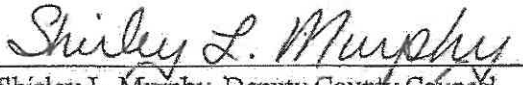

Margie Barrios, Chair

6/2/15

Date

APPROVED AS TO LEGAL FORM:

San Benito County Counsel's Office


Shirley L. Murphy, Deputy County Counsel

May 26, 2015

Date



STANDARD SCHEDULE OF CHARGES

Effective to December 31, 2015

Time spent on behalf of a client, and expenditures on behalf of a client, are charged as follows:

Item	Rate
LABOR	
Principal	\$235-\$265/hour
Director	\$200-\$225/hour
Senior staff project manager, engineer, geologist, biologist	\$175-\$210/hour
Project staff engineer, resource planner, geologist, biologist, coordinator	\$90-\$130/hour
Technical staff analyst, CADD, GIS, field support	\$90-\$125/hour
Support staff document control, word processing, database management	\$85-\$110/hour
EXPENDITURES	
Airfare, auto rental, lodging, equipment, subconsultants, printing, and miscellaneous costs	Cost plus 15% ⁽¹⁾
Report production—black and white	\$0.15 (letter), \$0.50 (tabloid)
Report production—color	\$1.00 (letter), \$1.50 (tabloid)
Large format printing—black and white	\$10 (18x24), \$24 (24x36), \$36 (36x48)
Large format printing—color	\$20 (18x24), \$54 (24x36), \$65 (36x48)
Auto mileage	\$0.56 per mile
Per diem	\$40.00 per day

⁽¹⁾ Administrative burden covers associated overhead, carrying costs, warranty, indemnification, and insurance costs.

EXHIBIT 1
TO AMENDMENT # 2

ORIGINAL
CONTRACT

(Please attach the initial contract and any prior amendments, from the most recent to the initial contract, in reverse chronological order.)

AMENDMENT TO CONTRACT

#1

The County of San Benito ("COUNTY") and BENCHMARK RESOURCES ("CONTRACTOR") enter into this agreement on the date stated next to the signatures below. In consideration of the mutual promises set forth herein, the parties agree as follows:

1. **Existing Contract.**

a. **Initial Contract.**

COUNTY and CONTRACTOR acknowledge that the parties entered into a contract, dated July 29, 2009.

b. **Prior Amendments. (Check one.)**

The initial contract previously has not been amended.

The initial contract previously has been amended. The date(s) of prior amendments are as follows: _____

c. **Incorporation of Original Contract.**

The initial contract and any prior amendments to the initial contract (hereafter collectively referred to as the "original contract") are attached to this amendment as Exhibit 1 and made a part of this amended contract.

2. **Purpose of this Amendment.**

The purpose of this amendment is to change the agreement between the parties in the following particulars:

a. **Term of the Contract. (Check one.)**

The term of the original contract is not modified.

The term of the original contract (Exhibit 1) is extended from the current expiration date of June 30, 2012, to a new expiration date of June 30, 2015.

b. **Scope of Services. (Check one.)**

The services specified in the original contract (Exhibit 1) are not modified.

The services specified in the original contract (Exhibit 1) are modified as specified below: (Check one.)

The services specified in the original contract are modified only as specified below:

Modified or New Scope of Services:

(Insert modified or new services.)

The services specified in the original contract are deleted in their entirety and replaced with the following services:

New Scope of Services:

(Insert new services.)

c. **Payment Terms.** (Check one.)

- The payment terms in the original contract (Exhibit 1) are not modified.
 The payment terms in the original contract (Exhibit 1) are modified as specified below: (Check one.)
 The payment terms are modified only as specified below:

Modified or New Payment Terms:
(Insert modified or new payment terms.)

- The payment terms are deleted in their entirety and replaced with the following payment terms:

New Payment Terms:

B-1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (Check one.)

- One month in arrears.
 Upon the complete performance of the services specified in the original agreement (Exhibit 1) and this amendment.
 The basis specified in paragraph B-4.

B-2. PAYMENT

Payment shall be made by COUNTY to CONTRACTOR at the address specified in paragraph 8 of the original contract, net thirty (30) days from the invoice date.

B-3. COMPENSATION

COUNTY shall pay to CONTRACTOR: (Check one.)

- a total lump sum payment of \$ _____, or
 a total sum not to exceed \$ _____,
for services rendered pursuant to the terms and conditions of the original contract (Exhibit 1) and this amendment, and pursuant to any special compensation terms specified in paragraph B-4.

B-4. SPECIAL COMPENSATION TERMS: (Check one.)

- There are no additional terms of compensation.
 The following specific terms of compensation shall apply:
(Specify)

d. **Other Terms.** (Check one.)

- There are no other terms of the original contract that are modified.
 Other terms of the original contract are modified only as specified below:

Other Modified or New Terms:
(Insert other modified or new terms.)

3. **Other Terms.**

All other terms and conditions of the original contract (Exhibit 1) which are not changed by this amendment shall remain the same.

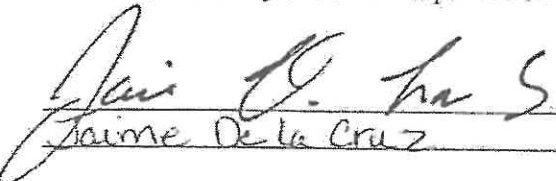
CONTRACTOR


Name/Title: DAVID BROWN, Principal

April 6, 2012
Date

COUNTY

San Benito County Board of Supervisors


Jaime De la Cruz, Chair

May 1, 2012
Date

APPROVED AS TO LEGAL FORM:

San Benito County Counsel's Office


Shirley L. Murphy
Deputy County Counsel

April 6, 2012
Date

**EXHIBIT 1
TO AMENDMENT #1**

**ORIGINAL
CONTRACT**

(Please attach the initial contract and any prior amendments, from the most recent to the initial contract, in reverse chronological order.)

CONTRACT FOR CONSULTANT'S SERVICES

The County of San Benito ("COUNTY") and Resource Design Technology, Inc.,
("CONSULTANT") enter into this contract for consulting services, as described herein.
In consideration of the mutual promises set forth herein, the parties agree as follows:

1. **Duration Contract.**

This contract shall commence upon execution of this contract by all parties and written notice from the COUNTY to the CONSULTANT to proceed with the services specified in the contract. This contract shall end on June 30, 2012 or upon completion of the specified services, whichever occurs first, unless sooner terminated as specified herein.

2. **Scope of Services.**

The CONSULTANT shall perform the services specified in Attachment A to this contract for the COUNTY's benefit. Attachment A is made a part of this contract.

3. **Compensation for Services.**

In consideration for the CONSULTANT's performance, the COUNTY shall pay compensation to the CONSULTANT according to the terms specified in Attachment B to this contract. Attachment B is made a part of this contract.

4. **General Terms and Conditions.**

The rights and duties of the parties to this contract are governed by the general terms and conditions mutually agreed to and listed in Attachment C to this contract. Attachment C is made a part of this contract.

5. **Specific Terms and Conditions.**

There are no additional provisions to this contract.

The rights and duties of the parties to this contract are additionally governed by the specific, additional terms mutually agreed to and listed in Attachment D to this contract. Attachment D is made a part of this contract.

6. **Termination.**

The number of days of advance written notice required for termination of this contract is ten (10) days.

7. Insurance Limits.

The CONSULTANT shall maintain the following insurance policy limits of coverage consistent with the further insurance requirements specified in Attachment C to this contract.

- (a) Comprehensive general liability insurance: \$2,000,000.00
- (b) Professional liability insurance: \$1,000,000.00
- (c) Comprehensive motor vehicle liability insurance: \$1,000,000.00

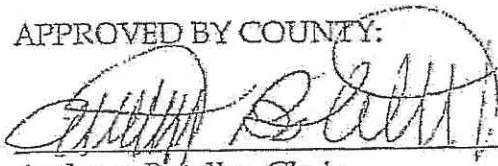
8. Information About Contract Administrators.

The following names, titles, addresses and telephone numbers are the pertinent information for the parties' respective contract administrators:

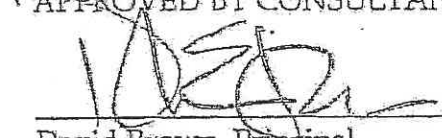
Contract Administrator for COUNTY:	Contract Administrator for CONSULTANT:
Name: <u>Ari Henriques</u>	Name: <u>David Brown</u>
Title: <u>Director of Planning</u>	Title: <u>Principal</u>
Address: <u>3224 Southside Road</u>	Address: <u>4990 Hillside Circle, Suite 400</u>
<u>Hollister, California 95023</u>	<u>El Dorado Hills, California 95762</u>
Telephone No.: <u>(831) 637-5313</u>	Telephone No.: <u>(916) 983-9193 ext. 113</u>
Fax No.: <u>(831) 637-9015</u>	Fax No.: <u>(916) 983-9194</u>

SIGNATURES

APPROVED BY COUNTY:



 Anthony Betelho, Chair
 San Benito County Board of Supervisors
 Date: 7/22/09

APPROVED BY CONSULTANT:


 David Brown, Principal
 Resource Design Technology, Inc.
 Tax ID or SSN: 94-3291385
 Date: 7/24/09

APPROVED AS TO LEGAL FORM:

San Benito County Counsel's Office


 Shirley L. Murphy, Deputy County Counsel
 Date: July 23, 2009

ATTACHMENT A
Consultant's Scope of Services

The CONSULTANT, for the COUNTY's benefit, shall perform lead agency annual inspections and financial assurance verifications of all mining operations in San Benito County, as required under section 2774 of the California Surface Mining and Reclamation Act (SMARA) (Public Resources Code section 2710 et seq.), and SMARA regulations (California Code of Regulations, title 14, section 3700 et seq.), and additional staff support services on an as needed basis, to assist the COUNTY with regulatory compliance issues that may occur, and in processing applications for new or modified surface mining operations and/or reclamation plans, when they are received by the COUNTY. CONSULTANT shall ensure that all personnel and subcontractors providing services under this contract possess and maintain appropriate professional licensing and obtain appropriate professional training. Services include, but are not limited to regulatory compliance support services, application support services, public process services, environmental technical support services and planning support services related to such mining operations during Fiscal Years 2009-2010, 2010-2011, and 2011-2012, as more fully described below:

A-1 **Regulatory Compliance Support:** These services involve site inspections; federal, state and local statutory and regulatory compliance review, including but not limited to compliance with SMARA and SMARA regulations, and the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.) and CEQA Guidelines (California Code of Regulations, title 14, section 15000 et seq.), and the San Benito County Code; and use permit, reclamation plan and mitigation measure compliance review.

1) **Annual Mine Inspections:** CONSULTANT shall inspect each mining operation to determine compliance with federal, state and local statutory and regulatory requirements, particularly including but not limited to compliance with SMARA's minimum standards pursuant to SMARA section 2774, and performance of reclamation activities identified in the approved reclamation plan. CONSULTANT's inspections shall involve the performance of at least the following tasks:

- a) Review of previous inspection reports to determine if there were corrective actions or violations noted;
- b) Review of COUNTY files correspondence for previous corrective actions or violations;
- c) Review of COUNTY files for any use permit and/or reclamation plan amendments;
- d) Confirm current operator/owner information;
- e) Review Operator Annual Report for previous year regarding reported acreages disturbed and reclaimed;

- f) Review the approved reclamation plan, and any amendments thereto, and evaluate the site relative to the approved use permit and reclamation plan to ascertain the reclamation commitments and expected conditions at the current phase of operations. Assess and document:
- Operating parameters, height, depth, acreage, and phasing;
 - Reclamation goals and schedule;
 - COUNTY conditions of approval;
 - Plan commitments for wildlife habitat, agricultural land, backfilling, re-grading, slope stability, re-contouring, re-vegetation, drainage, diversion structures, waterways, erosion control, stream and groundwater protection, topsoil salvage, maintenance and re-distribution, tailings and mining waste management, and buildings, structures and equipment removal; and
 - Completion of performance of reclamation activities.
- g) Scheduling and coordination of site inspection and attendees with operator and COUNTY staff;
- h) Preparation of file records available at inspection;
- i) Acquire aerial photographs and measure current site acreage;
- j) Overlay site boundaries and permitted operating limits and setbacks, and evaluate compliance;
- k) Travel to site and perform scheduled inspection. Document field conditions relative to SMARA performance standards;
- l) Confirm compliance with use permit and reclamation plan terms and conditions of approval;
- m) Identify violations of federal, state or local statutory and regulatory requirements and/or violations of the terms and conditions of the approved use permit and/or reclamation plan and/or public health and safety issues evident on-site, and recommend corrective actions;
- n) Prepare draft written report, using Microsoft Excel spreadsheets, customized for each operation and its approved reclamation plan, consistent with State Mining and Geology Board format and guidelines, presenting cost data in detail and in summary; graphics; and photographs;
- o) Review draft report with COUNTY staff, and operator, as appropriate;
- p) Discuss/agree on timeframes for compliance with corrective actions for violations;
- q) Prepare final reports in triplicate for distribution to COUNTY, operator, and State; and
- r) At the COUNTY's direction, CONSULTANT shall implement all or a portion of the broader range of optional tasks recommended in the State Mining and Geology Board's Surface Mining Inspection Guidelines.

2) *Financial Assurance*: These services involve CONSULTANT'S review and recommendations to clarify, substantiate, and standardize the reclamation estimates submitted annually by operators in accordance with SMARA Regulations section 3804(c). CONSULTANT shall review the estimates in accordance with the requirements of SMARA section 2773.1 and SMARA Regulations section 3800 *et seq.* CONSULTANT's financial assurance verification shall involve the performance of at least the following tasks:

- a) Analyze physical activities and materials necessary to implement the reclamation plan, the COUNTY's unit costs or costs for third party contracting for completion of each of the reclamation activities, the number of units for each activity, and a contingency amount, not to exceed ten percent (10%) of the reclamation costs;
- b) Contact with operator, provide guidance and follow-up to receive its proposed annual estimate submitted in accordance with SMARA section 2773.1(a)(3), including a contingent amount not to exceed ten percent (10%) of the estimated reclamation costs, and verify the operator's financial assurance estimates;
- c) Establish current labor and equipment rates as established by State, or by locally established sources, to estimate the COUNTY's unit costs or costs for third party contracting for completion of each of the reclamation activities;
- d) Renew operator costs relative to current site field conditions and aerial photograph, relative to:
 - Grading
 - Backlit areas;
 - Highwalls that do or do not meet the approved plan standard;
 - General grading;
 - Scarification for planting;
 - Resoiling;
 - Re-vegetation
 - Approved seed mix and costs;
 - Seeding and planting tasks;
 - Success monitoring and follow-up costs;
 - Equipment and plant
 - Removal costs;
 - Site clean-up and waste disposal;
 - Other applicable uses;
- e) Obtain current financial assurance mechanism (bond) value;
- f) Compare bond value to Financial Assurance estimates;
- g) Review, report and resolve any discrepancies; and

At the request of COUNTY staff, CONSULTANT shall develop current financial assurance calculations for any operations that fail to submit an annual financial assurance, using the State Mining and Geology Board financial assurance guidelines, the approved reclamation plan, and current estimates of surface disturbances, active and completed reclamation, and site conditions.

- 3) *Use Permit Compliance Monitoring:* At the COUNTY's option, CONSULTANT shall perform a use permit compliance review, simultaneously with the annual mine inspection of any mining operations. Limited additional costs may be associated with this service, depending on the number of conditions of approval, degree of compliance and other variables.
- ~~4) *Assistance In Compliance With The Clean Water Act, Endangered Species Act, and California Fish and Game Code, and Processing of Stormwater Pollution Prevention Plans (SWPPP's), Spill Prevention Control and Countermeasures Plans (SPCCP's), Fish and Game Code Section 1603 Streambed Alteration Agreements and Clean Water Act Section 404 Permits:*~~ At the COUNTY's option, CONSULTANT shall assist Planning Department staff in compliance with the typical requirements for compliance under the Clean Water Act, federal and state endangered species acts, California Fish and Game Code, and other laws and regulations, and with processing necessary applications, including but not limited to SWPPP's, SPCCP's, Section 1603 Streambed Alteration agreements and Section 404 permits.

A-2 **Application Processing Support:** At the COUNTY's request, CONSULTANT may perform the following services involving review and management of applications for new or modified mining operations, including federal, state and local statutory and regulatory compliance review, including but not limited to compliance with SMARA and SMARA regulations, and CEQA and CEQA Guidelines.

- 1) **Permit Application Processing:** CONSULTANT may facilitate inter-agency coordination, project communication and correspondence, team management, preparation of staff reports, recommended conditions of approval, mitigation monitoring plans, findings of fact, Statements of Overriding Considerations and hearings presentation, and other day-to-day tasks necessary to comply with all procedural requirements and present a project to the COUNTY decision-makers.
- 2) **CEQA Compliance:** CONSULTANT may assist COUNTY staff in preparing appropriate CEQA documentation on proposed mining projects.

- 3) Mining Use Permit and Reclamation Plan Applications: CONSULTANT may assist COUNTY staff in preparing mine plans, operations descriptions, reclamation plans and financial assurance estimates for new, expanded or modified mining operations.
- 4) CONSULTANT may assist COUNTY staff in performing the following services related to processing an application from its initial submittal through to its approval and follow-up:
 - a) Application Completeness Review;
 - b) Use Permit and/or Reclamation Plan Review for SMARA Compliance;
 - c) CEQA Compliance (Preparation of Initial Study, Environmental Impact Report, Negative Declaration, Mitigated Negative Declaration);
 - d) Preparation and Circulation of Public and Responsible Agency Notifications;
 - e) Staff Report;
 - f) Conditions of Approval;
 - g) Hearing Presentation; and
 - h) Mitigation Monitoring.

A-3 Public Process Support: At the COUNTY's request, CONSULTANT may perform the following services involving the preparation of materials, including but not limited to graphics, brochures, and other products designed to convey concepts and information in lay-person terms, and presentations for public hearings and other presentations to stakeholders, decision-makers and the public:

- 1) Public Scoping Meetings;
- 2) Community Workshops;
- 3) Planning Commission Presentations;
- 4) Board of Supervisors Presentations; and
- 5) Meetings and Presentations to Responsible Agencies.

A-4 Environmental Technical Support: At the COUNTY's request, CONSULTANT may perform the following specialized technical services involving the analysis of potential adverse impacts to air quality, archaeology, hydrology, biological resources, etc. and the development of appropriate mitigation measures, project management services, and regulatory permit compliance, by CONSULTANT's staff members with the appropriate expertise in wildlife habitat and endangered species, slope stability, re-vegetation, engineering and erosion control, agricultural land and its productivity, surface waters, soils, and others:

- 1) Planning and Design: CONSULTANT may assist COUNTY staff with operations site planning, second land use plans, revegetation planning, and drainage and erosion control.

- 2) **Biological Resources Permits:** CONSULTANT may assist COUNTY staff with documentation of biological resources, including endangered species, assessment of impacts under the federal Endangered Species Act and the California Endangered Species Act, and conducting mitigation ratio negotiations.
- 3) **Geological Investigations:** CONSULTANT may assist COUNTY staff with resource identification, quantification of reserves and resources, assessment of mineral quality, and establishing mine claims.
- 4) **Engineering:** CONSULTANT may assist COUNTY staff with quarry design, reclamation design, slope stability analysis, ore and waste quantification.
- 5) **Air Quality Evaluations:** CONSULTANT may assist COUNTY staff with preparation and processing of CEQA impact evaluations, Authorities to Construct, Permits to Operate, emission estimates, Title V Compliance, variances, and permit compliance audits.
- 6) **Water Quality Evaluations:** CONSULTANT may assist COUNTY staff with preparation and processing of storm water permits (NPDES), Waste Discharge Requirements applications, baseline water quality sampling, water quality monitoring programs.
- 7) **Jurisdictional Wetlands and Streambed Alteration:** CONSULTANT may assist COUNTY staff with delineations of jurisdictional resources, preparation and processing of permit applications (Section 404, 1601, 1602) and conducting mitigation negotiations.

A-5 **Planning Support:** At the COUNTY's request, CONSULTANT may perform the following services involving mineral resource planning, such as development of a General Plan Mineral Resource Element, and preparation of a county-wide Aggregate Resources Management Plan, incorporating policies and guidelines aimed at facilitating the permitting of locally important aggregate reserves while providing for conservation of natural resources and minimizing potential conflicting land uses.

END OF ATTACHMENT A

ATTACHMENT B
Payment Schedule

B-1. BILLING

Charges for services rendered pursuant to the terms and conditions of this contract shall be invoiced on the following basis: (check one)

- One month in arrears.
 Upon the complete performance of the services specified in Attachment A.
 The basis specified in paragraph B-4.

B-2. PAYMENT

Payment shall be made by the COUNTY to the CONSULTANT at the address specified in paragraph 8 of this contract, net thirty (30) days from the invoice date.

B-3. COMPENSATION

The COUNTY shall pay to the CONSULTANT: (check one)

a total lump sum payment of \$ _____, or

a total sum not to exceed \$ 126,000.00 (\$42,000.00 per year)

for services rendered pursuant to the terms and conditions of this contract and pursuant to any special compensation terms specified in this attachment, Attachment B.

B-4. SPECIAL COMPENSATION TERMS: (check one)

There are no additional terms of compensation.

The following specific terms of compensation shall apply: (Specify)

1. CONSULTANT shall bill the COUNTY upon completion of inspection services for each mining operation, based on the rates set forth in the Inspection Fee Schedule below.
2. COUNSULTANT shall provide an invoice of all completed inspection services on the first day of each month.
3. Inspection Fee Structure: CONSULTANT shall charge a fixed fee for SMARA annual inspections and financial assurance verification, based on the size and complexity of the site, as reflected in Table 1 (SMARA Inspection Cost Structure) below. These fees will cover routine SMARA compliance review activities. The primary conditions affecting the level of effort required to complete a SMARA compliance review include the site's size; reclamation plan's complexity, level of annual surface disturbance, and the site's location and access. Any combination of these variables could alter the ranking for a particular operation.

In the event that special circumstances arise with SMARA annual inspections and/or financial assurance verification for a particular mining operation, such as unusually isolated or large, complex mining operations, the operator missing the site meeting, the need for multiple site visits, or violations that require substantial effort to resolve, the CONSULTANT may charge, subject to the COUNTY's written authorization, an additional amount based on its standard time and materials rates, as reflected in Attachment B-1 (Standard Schedule of Charges) to this contract. The COUNTY Planning Director will determine, in writing, if special circumstances exist. The rates reflected in Attachment B -1 will remain in effect for the entire term of this contract.

**TABLE 1
INSPECTION FEE STRUCTURE**

**ANNUAL INSPECTION AND FAE
LEVEL OF EFFORT / VARIABLES**

Condition	Variables			Special Assignment
	Low	Moderate	High	
Size	Small (<10 acres)	Medium (10-30 acres)	Large (>30 acres)	Additional circumstances/ difficulties encountered
Reclamation Plan Difficulty	Straightforward/ Complete	Moderate	Complex/ Incomplete	
Level of Site Change	Low (<10 acres)	Medium (10 to 20 acres)	Large (>20 acres)	
Location and Access	Accessible	Moderate	Difficult	
Cost	\$1,450	\$1,750	\$2,150	See Attachment B-1, Standard Schedule of Charges

OTHER SERVICES

Use Permit Compliance Review	See Attachment B-1, Standard Schedule of Charges
Financial Assurance Development	
Contract Staff Services	

END OF ATTACHMENT B

resource design
land • minerals • environment

STANDARD SCHEDULE OF CHARGES

Effective to December 30, 2009

Labor: Time spent on behalf of a client is charged as follows:

Services	Rate
Principal	\$175 – 225/hour
Director	\$150 – 200/hour
Senior Staff Project Manager, Engineer, Geologist, Biologist	\$125 - 175/hour
Project Staff Engineer, Resource Planner, Geologist, Biologist, Coordinator	\$90 – 130/hour
Technical Staff Analyst, CADD, GIS, Field Support	\$75 – 125/hour
Support Staff Document Control, Word Processing, Database Management	\$60 – 110/hour

Expenses: Expenditures on behalf of a client are reimbursed as follows:

Expenditure	Rate
Airfare, auto rental, lodging, equipment, subconsultants, printing and miscellaneous costs	Cost, plus 15 percent ⁽¹⁾
Report Production – Black & White	\$0.15 (Letter), \$0.50 (Tabloid)
Report Production – Color	\$1.00 (Letter), \$1.50 (Tabloid)
Large Format Printing – Black & White	\$10 (18x24), \$24 (24x36), \$36 (36x48)
Large Format Printing – Color	\$20 (18x24), \$54 (24x36), \$65 (36x48)
Auto Mileage	\$0.65 per mile
Per Diem	\$40.00 per day

⁽¹⁾ Administrative Burden covers associated overhead, carrying costs, warranty, indemnification and insurance costs.

ATTACHMENT C
General Terms and Conditions

C-1. INDEMNIFICATION

The CONSULTANT and the COUNTY each agree to indemnify, defend and save harmless the other party and the other party's officers, agents and employees, from and against any and all claims and losses whatsoever arising out of, or in any way related to, the indemnifying party's performance under this contract, including, but not limited to, claims for property damage, personal injury, death, and any legal expenses (such as attorneys' fees, court costs, investigation costs, and experts' fees) incurred by the indemnitee in connection with such claims. A party's "performance" includes the party's action or inaction and the action or inaction of that party's officers, agents and employees.

C-2. GENERAL INSURANCE REQUIREMENTS

Without limiting the CONSULTANT's duty to indemnify the COUNTY, the CONSULTANT shall comply with the insurance coverage requirements set forth in Paragraph C3. Those insurance policies mandated by Paragraph C-3 shall satisfy the following requirements:

- (a) Each policy shall be issued by a company authorized by law to transact business in the State of California.
- (b) Each policy shall provide that the COUNTY shall be given notice in writing at least thirty (30) days in advance of any change, cancellation, or non-renewal thereof.
- (c) The comprehensive motor vehicle and comprehensive general liability policies shall each provide an endorsement naming the County of San Benito and its officers, agents and employees as additional insureds.
- (d) Each policy shall provide identical coverage for each subcontractor performing work under this contract, or be accompanied by a certificate of insurance showing that the subcontractor has identical insurance coverage.
- (e) The required coverages shall be maintained in effect throughout the term of this contract.

C-3. INSURANCE COVERAGE REQUIREMENTS

The CONSULTANT shall maintain the following insurance policies in full force and effect during the term of this contract:

- (a) Comprehensive general liability insurance. The CONSULTANT shall maintain comprehensive general liability insurance, covering all of the CONSULTANT's operations, with a combined single limit of not less than the amount set out in paragraph 6 of this contract.
- (b) Professional liability insurance. The CONSULTANT shall maintain professional liability insurance with liability limits of not less than the amount set out in paragraph 6 of this contract.

- (c) Comprehensive motor vehicle liability insurance. The CONSULTANT shall maintain comprehensive motor vehicle insurance covering all motor vehicles (including owned, non-owned and hired) used in providing services under this contract, with a combined single limit of not less than the amount set out in paragraph 6 of this contract.
- (d) Workers' compensation insurance. The CONSULTANT shall maintain a workers' compensation plan covering all of its employees as required by California Labor Code Section 3700, either through workers' compensation insurance issued by an insurance company or through a plan of self-insurance certified by the State Director of Industrial Relations. If the CONSULTANT elects to be self-insured, the certificate of insurance otherwise required by this contract shall be replaced with a consent to self-insure issued by the State Director of Industrial Relations.

C-4. CERTIFICATE OF INSURANCE

Prior to the execution of this contract by the COUNTY, the CONSULTANT shall file certificates of insurance with the COUNTY, showing that the CONSULTANT has in effect the insurance required by this contract. The CONSULTANT shall file a new or amended certificate promptly after any change is made in any insurance policy which would alter the information on the certificate then on file. In lieu of providing proof of insurance, the CONSULTANT may provide proof of self-insurance meeting requirements equivalent to those imposed herein. The CONSULTANT warrants that the CONSULTANT's self-insurance provides substantially the same protection to the COUNTY as the insurance required herein. The CONSULTANT further agrees to notify the COUNTY in the event any change in self-insurance occurs that would alter the obligations undertaken in this contract within thirty (30) days of such change.

C-5. RECORDS TO BE MAINTAINED

The CONSULTANT shall keep and maintain accurate records of all costs incurred and all time expended for work under this contract, and the CONSULTANT will contractually require that all subcontractors performing work called for under this contract also keep and maintain such records. All such records, whether kept by the CONSULTANT or any subcontractor, shall be made available to the COUNTY or its authorized representative or officials of the State of California for review or audit during normal business hours, upon reasonable advance notice given by the COUNTY, its authorized representative, or officials of the State of California.

C-6. RETENTION OF RECORDS

The CONSULTANT shall maintain and preserve all records related to this contract for a period of three years from the close of the fiscal year in which final payment under this contract is made. The CONSULTANT shall also contractually require the maintenance of such records in the possession of any third party performing work related to this contract for the same period of time. Such records shall be retained beyond the three-year period, if any audit involving such records is then pending, until the audit findings are resolved. The obligation to insure the maintenance of the records beyond the initial three-year period shall arise only if the COUNTY notifies the CONSULTANT of the commencement of an audit prior to the expiration of the three-year period.

C-7. TITLE TO DOCUMENTS; COPYRIGHT

All reports, data, drawings, maps and other materials and information collected, prepared, produced or utilized by the CONSULTANT or any subcontractor of the CONSULTANT in performance of this contract shall, after completion and acceptance of the contract, become the property of the COUNTY, and shall not be subject to any copyright claimed by the CONSULTANT, subcontractor, or their agents or employees. In the event the contract is terminated prior to completion, all finished or unfinished reports, data, drawings, maps and other materials and information collected, prepared, produced or utilized by the CONSULTANT or any subcontractor of the CONSULTANT in performance of this contract shall become the property of the COUNTY, and shall not be subject to any copyright claimed by the CONSULTANT, subcontractor, or their agents or employees. The CONSULTANT shall deliver the above-described materials to the COUNTY in a timely fashion upon completion or termination of the contract. The CONSULTANT may retain copies of all such materials exclusively for administrative purposes. Any use of the above-described materials, whether finished or unfinished, for other projects by the CONSULTANT, any subcontractor of the CONSULTANT or any of their agents or employees, without the prior written consent of the COUNTY, is prohibited.

C-8. INDEPENDENT CONTRACTOR

The CONSULTANT and its officers, agents and employees, in the performance of this contract, are independent contractors in relation to the COUNTY and not officers or employees of the COUNTY. Nothing in this contract shall create any of the rights, powers, privileges or immunities of any employee of the COUNTY. The CONSULTANT shall be solely liable for all applicable taxes and benefits, including, but not limited to, federal and state income taxes and Social Security taxes, arising out of the performance of this contract. The CONSULTANT further represents to the COUNTY that the CONSULTANT has no expectation of receiving any benefits incidental to employment.

C-9. PERSONNEL

- (a) Employees: The CONSULTANT covenants that it now employs, or will employ, all necessary personnel required to perform the services described in Attachment A to this contract.
- (b) Subcontractors: In order to complete its performance under this contract, the CONSULTANT may engage subcontractors at its own expense. The selection of subcontractors shall be subject to the prior written approval of the COUNTY.
- (c) Project Manager: The CONSULTANT shall designate one individual as Project Manager, as specified in paragraph 8 of this contract. Any change in the Project Manager shall require the prior written approval of the COUNTY. The Project Manager shall have the overall responsibility for the progress and execution of the CONSULTANT's performance under this contract.
- (d) The CONSULTANT's Representative: The CONSULTANT shall provide a responsible representative of its firm to attend all meetings with the COUNTY,

Applicant and other interested parties, as required by this contract or as requested by the COUNTY. The CONSULTANT's representative shall attend all public hearings before the San Benito County Planning Commission and/or San Benito County Board of Supervisors, as required by this contract or as requested by the COUNTY.

C-10. CONFLICT OF INTEREST

The CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, financial or otherwise, which would conflict in any manner or degree with the performance of the services hereunder. The CONSULTANT further covenants that, in the performance of this contract, no subcontractor or person having such an interest shall be used or employed. The CONSULTANT certifies that no one who has or will have any financial interest under this contract is an officer or employee of the COUNTY.

C-11. COMPLIANCE WITH APPLICABLE LAWS

The CONSULTANT, at its sole cost and expense, shall comply with all applicable federal, state and local laws now or hereafter in force and with any applicable regulations in performing the work and providing the services specified in this contract. This obligation includes, without limitation, the acquisition and maintenance of any permits, licenses or other entitlements necessary to perform the duties imposed expressly or impliedly under this contract.

C-12. NONDISCRIMINATION

The CONSULTANT shall not discriminate in the employment of persons necessary to perform this contract on any legally impermissible basis, including on the basis of the race, color, national origin, ancestry, religion, age, sex, or disability of such person.

C-13. BANKRUPTCY

The CONSULTANT shall immediately notify the COUNTY in the event that the CONSULTANT ceases conducting business in the normal manner, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or avails itself of, or becomes subject to, any proceeding under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or protection of the rights of creditors. Where such proceedings are not withdrawn or discharged within thirty (30) days, the COUNTY may at its option terminate this contract.

C-14. PROHIBITION AGAINST ASSIGNMENT

Except as specifically authorized herein, no rights under this contract may be assigned and no duties under this contract may be delegated or subcontracted by the CONSULTANT without the COUNTY's prior written consent, and any attempted assignment, subcontracting or delegation without such consent shall be void.

C-15. TERMINATION

- (a) The COUNTY may terminate this contract, without cause, at any time upon giving five (5) days' advance written notice to the CONSULTANT. Such notice shall set forth the effective date of the termination. Notice shall be effective as specified in paragraph C-21 of this attachment, Attachment C.
- (b) The COUNTY may issue an oral stop work order to temporarily halt work by the CONSULTANT in anticipation of written notice of termination. The COUNTY must provide written notice of termination within two (2) working days of the oral notice, as specified in paragraph C-21 of this attachment, Attachment C. The COUNTY's failure to provide written notice of termination shall result in nullification of the oral notice.
- (c) Upon receipt of a notice of termination pursuant to subparagraphs (a) or (b) above, the CONSULTANT shall:
 - (i) immediately discontinue all services under this contract; and
 - (ii) promptly deliver to the COUNTY all finished or unfinished reports, data, drawings, maps and other materials and information collected, prepared, produced or utilized by the CONSULTANT or any subcontractor of the CONSULTANT in performance of this contract.
- (d) In the event of termination, the COUNTY shall:
 - (i) compensate the CONSULTANT for all actual costs incurred and documented by the CONSULTANT prior to the effective date of termination, not to exceed the total contract price specified in Attachment B to this contract; and
 - (ii) provide the CONSULTANT with an opportunity for consultation with the COUNTY regarding the COUNTY's possible rescission of its termination of this contract.

C-16. NEGOTIATED CONTRACT

This contract has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this contract within the meaning of California Civil Code section 1654.

C-17. SEVERABILITY

Should any provision herein be found or deemed to be invalid, this contract shall be construed as not containing such provision, and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end the provisions of this contract are declared to be severable.

C-18. ENTIRE AGREEMENT

This contract is the entire agreement of the parties. There are no understandings or agreements pertaining to this contract except as are expressly stated in writing in this contract or in any document attached hereto or incorporated herein by reference. Any alterations to or variations of the terms of this contract shall be invalid unless made in writing and signed by both parties.

C-19. AMENDMENT OF CONTRACT

In the event that a change to the scope of services outlined in Attachment A to this contract is required, the party first identifying such a need shall immediately notify the other party in writing, as specified in paragraph C-21 of this attachment, Attachment C, of the need to amend this contract. Representatives of both parties shall meet and confer within two (2) working days of receipt of such notice. Any change in the scope of services mutually agreed to by both parties may result in a change in compensation terms specified in Attachment B to this contract. Any amendment of this contract resulting from such mutual agreement of the parties' representatives shall be in writing, signed by all parties.

C-20. TIME IS OF THE ESSENCE

Time is of the essence in the performance of this contract.

C-21. NOTICES

Notices to the parties in connection with the administration of this contract shall be given to the parties' contract administrators personally or by regular mail or facsimile transmission as more particularly specified in this paragraph. Notices will be deemed given on:

- (a) The day the notice is personally delivered to the contract administrator or the office of the party's contract administrator; or
- (b) Five days after the date the notice is deposited in the United States mail, with first-class postage fully prepaid, addressed to the party's contract administrator at the address specified in paragraph 7 of this contract or as specified in a written notice of change of address that was given to the other party's contract administrator; or
- (c) On the day that the notice is transmitted by facsimile to a party's facsimile number specified in paragraph 7 of this contract or as specified in a written notice of change of facsimile number that was given to the other party's contract administrator, provided that an original of such notice is also deposited in the United States mail, as indicated in paragraph C-18(b) above, on the same day as the facsimile transmission is made.

C-22. RESPONSIBILITY OF CONTRACT ADMINISTRATORS

All matters concerning this contract which are within the responsibility of the parties shall be under the direction of, or shall be submitted to, the respective contract administrators or to the parties' employees specified, in writing, by the contract administrators. A party may, in its sole discretion, change its designation of its contract administrator and shall promptly give written notice to the other party of any such change. Likewise, a party shall promptly give written notice to the other party of any change of the contract administrator's address or facsimile number.

C-23. MATERIALITY

The parties consider each and every term, covenant, and provision of this contract to be material and reasonable.

C-24. WAIVER

Waiver by either party of a breach of any covenant of this contract will not be construed to be a continuing waiver of any subsequent breach. The COUNTY's receipt of consideration with knowledge of the CONSULTANT's violation of a covenant does not waive its right to enforce any covenant of this contract. The parties shall not waive any provisions of this contract unless the waiver is in writing and signed by all parties.

C-25. AUTHORITY AND CAPACITY

The CONSULTANT and the CONSULTANT's signatory each warrant and represent that each has full authority and capacity to enter into this contract.

* C-26. BINDING ON SUCCESSORS

All of the conditions, covenants and terms herein contained shall apply to, and bind, the heirs, successors, executors, administrators and assigns of the CONSULTANT. The CONSULTANT and all of the CONSULTANT's heirs, successors, executors, administrators, and assigns shall be jointly and severally liable under this contract.

C-27. CUMULATION OF REMEDIES

All of the various rights, options, elections, powers and remedies of the parties shall be construed as cumulative, and no one of them exclusive of any other or of any other legal or equitable remedy which a party might otherwise have in the event of a breach or default of any condition, covenant or term by the other party. The exercise of any single right, option, election, power or remedy shall not, in any way, impair any other right, option, election, power or remedy until all duties and obligations imposed shall have been fully performed.

C-28. INDEPENDENT ADVICE

Each party hereby represents and warrants that in executing this contract it does so with full knowledge of the rights and duties it may have with respect to the other. Each party also represents and warrants that it has received independent legal advice from its attorney with respect to the matters set forth in this contract and the rights and duties arising out of this contract, or that such party willingly foregoes any such consultation.

C-29. NO RELIANCE ON REPRESENTATIONS

Each party hereby represents and warrants that it is not relying, and has not relied, upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this contract may hereunder turn out to be other than, or different from the facts now known to such party as true, or believed by such party to be true. The parties expressly assume the risk of the facts turning out to be different and agree that this contract shall be effective in all respects and shall not be subject to rescission by reason of any such difference in facts.

C-30. REDUCTION OF CONSIDERATION

The CONSULTANT agrees that the COUNTY shall have the right to deduct from any payments specified in Attachment B to this contract any amount owed to the COUNTY by the CONSULTANT as a result of any obligation arising prior to the execution of this contract. For purposes of this paragraph, obligations arising prior to the execution of this contract may include, without limitation, any property tax, secured or unsecured, which tax is in arrears. If the COUNTY exercises the right to reduce the consideration specified in Attachment B to this contract, the COUNTY shall give the CONSULTANT notice of the amount of any off-set and the reason for the deduction.

C-31. COUNTERPARTS

This contract may be executed in any number of counterparts, each of which so executed shall be deemed to be an original. The counterparts shall together constitute one contract.

END OF ATTACHMENT C

ATTACHMENT D
Special Terms and Conditions:

The following specific terms and conditions shall apply: (*specify*).

- D-1 The COUNTY issued a Request for Proposals (RFP) regarding the performance of quarry inspection and compliance services to assist the San Benito County Planning Director and staff, regarding the COUNTY's performance of annual quarry inspections. The parties agree and acknowledge that the CONSULTANT was selected on the basis of its qualifications and expertise as a specialist in the field, as reflected in its submittal, and that the parties entered into a contract on May 4, 2006. The parties further agree and acknowledge that the contract is being renewed on the ongoing basis of CONSULTANT'S qualifications and expertise as a specialist in the field, as reflected in its original submittal and as augmented by its proposed scope of work submitted in connection with the contract renewal. The Consultant's submittal is attached hereto and incorporated herein by reference as Attachment D-1.
- D-2 The CONSULTANT and COUNTY staff shall work as a team throughout the annual quarry inspection process, quickly resolving project management issues that may arise during the performance of services, through a conference call or face-to-face meeting, to keep the quarry inspection process moving.
- D-3 The parties will designate project managers who will be the primary points of contact.
- D-4 The parties shall respond to or acknowledge each other's requests or inquiries in a reasonable time.
- D-5 COUNTY staff shall prepare staff reports for any Planning Commission and Board of Supervisors meetings and hearings, unless otherwise noted in the scope of services, Attachment A to this contract. The CONSULTANT shall provide assistance and input to the COUNTY for the staff reports, as needed.
- D-6 The COUNTY will arrange, host and advertise all public meetings, workshops, study sessions and public hearings, unless otherwise noted in Attachment A to this contract. The CONSULTANT will provide content and conduct the meetings, workshops and study sessions as noted in Attachment A.

END OF ATTACHMENT D

SAN BENITO COUNTY SURFACE MINING OPERATIONS

STAFF SUPPORT SERVICES SCOPE OF WORK

1.0 INTRODUCTION

Resource Design Technology, Inc. (Resource Design) provides specialized planning and environmental compliance services to lead agencies throughout California responsible for permit application processing, environmental review, and compliance monitoring of surface mining operations. The company experience and staff capabilities support all aspects of site environmental investigations, mine engineering, reclamation planning for lands and entitlements, and compliance with local mining ordinances, the California Surface Mining and Reclamation Act, and the full array of responsible agency permits applicable to such operations.

San Benito County has engaged Resource Design for lead agency annual mine inspections and financial assurance verification as required under CCR § 2774. Additional staff support services are supplied on a case-by-case basis as regulatory compliance issues occur, and as applications for new or modified surface mining operations are received by the County.

2.0 SCOPE OF WORK

Resource Design provides the following duties to assist San Benito County in maintaining compliance, and processing applications for surface mining operations.

- **Regulatory Compliance Support:** These services involve site inspections and permits compliance review;
- **Application Processing Support:** Review and management of applications for new or modified mining operations, including CEQA compliance;
- **Public Process Support:** Capabilities and tasks for public hearings and presentations;
- **Environmental Technical Support:** Specialized technical services such as air quality, archaeology, hydrology, etc.; and
- **Planning Support:** Mineral resource planning, such General Plan mineral resource development services.

Task descriptions for these services are described below.

2.1 Regulatory Compliance Support

2.1.1 Annual Mine Inspections

Inspection of conformance with mine reclamation plans is required annually by § 2774 of SMARA. This inspection requires at least the following tasks:

- Review of previous inspection reports to determine if there were corrective actions or violations noted;
- Review of County files correspondence for previous corrective actions or violations;
- Review of County files for any reclamation plan amendments;
- Confirm current operator/owner information;
- Review Operator Annual Report for previous year regarding reported acreages disturbed and reclaimed;
- Review of the approved reclamation plan, and any amendments thereto, to ascertain the reclamation commitments and expected conditions at the current phase of operations. Document:
 - Operating parameters, height, depth, acreage, and phasing;
 - Reclamation goals and schedule;
 - County conditions of approval;
 - Plan commitments for wildlife habitat, backfilling, regrading slope stability, recontouring, revegetation, drainage and erosion control, and stream protection and groundwater, topsoil salvage and distribution.
- Scheduling and coordination of site inspection and attendees;
- Preparation of file records available at inspection;
- Acquire aerial photographs and measure current site acreage;
- Overlay site boundaries and permitted operating limits and setbacks, and evaluate compliance;
- Travel to site and perform scheduled inspection. Document field conditions relative to SMARA performance standards;
- Prepare draft written report, graphics, and photographs;
- Review draft report with County staff, and operator, as appropriate;
- Discuss/agree on timeframes for compliance with corrective actions for violations; and
- Prepare final reports in triplicate for distribution to County, operator, and State.

2.1.2 *Financial Assurance*

Resource Design will review and make recommendations to clarify, substantiate, and standardize the reclamation estimates submitted annually by operators in accordance with CCR § 3804(c). The estimates will be reviewed in accordance with the requirements of § 2773.1 of SMARA and § 3800 *et seq.* of the regulations.

Financial assurance verification requires at least the following tasks:

- Contact with operator, provide guidance and follow-up to receive its proposed annual estimate submitted in accordance with PRC § 2773.1 (a)(3);
- Establish current labor and equipment rates as established by State, or by locally established sources;
- Renew operator costs relative to current site field conditions and aerial photograph, relative to:
 - Grading
 - Backlit areas;
 - Highwalls that do or do not meet the approved plan standard;
 - General grading;
 - Scarification for planting;
 - Resoiling;
 - Revegetation
 - Approved seed mix and costs;
 - Seeding and planting tasks;
 - Success monitoring and follow-up costs;

- Equipment and plant:
 - Removal costs;
 - Site clean-up and waste disposal;
- Other applicable uses;
- Obtain current financial assurance mechanism (bond) value;
- Compare bond value to FAE;
- Review discrepancies, resolve, report.

2.1.3 Use Permit Compliance Monitoring

Mine site start-up, operation and closure can require special inspection attention for SMARA compliance and Use Permit compliance. Mitigation monitoring is required for environmental mitigation required under CEQA. Our expertise in understanding regulatory requirements and operational realities facilitates this real-time work.

At the County's option, a use permit compliance review can be carried out simultaneously with the SMARA inspection. This maximizes the efficiency of enforcing conditions of approval and the mitigation monitoring requirements of the CEQA. In many cases, limited additional costs are associated with this service, depending on the number of conditions, degree of compliance, and other variables.

2.1.4 SWPPPs, SPCCPs, 1600, 404, ESA

As experts in mine permitting and compliance, our staff is entirely familiar with the large array of permits and typical requirements for compliance under the Clean Water Act, Fish and Game Code, federal and state endangered species acts, and other laws and regulations. We assist with compliance or processing of these applications as requested.

2.2 Application Processing Support

Resource Design's staff assists several lead agencies with review and processing of applications for mining use permits, reclamation plan approval and related CEQA documentation, such as:

- **Permit Application Processing:** Inter-agency coordination, project communication and correspondence, team management, staff reports, preparation of conditions of approval, mitigation monitoring plans, findings of fact, Statements of Overriding Considerations and hearings presentation and other day-to-day tasks necessary to comply with all procedural requirements and present a project to the decision-makers.