

Attachment B-2
Article IX (RMA-Planning)
(Partial cost recovery)

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

Resolution No. _____)
A Resolution Amending Article IX (RMA-)
Planning) of the Monterey County Fee)
Resolution to increase the Surface Mine)
Annual Inspection fee from \$3,227.91 to)
\$7,600.00, for mine operations with a disturbed)
area of over 20 acres, as shown in the 2012)
Inspection Reports, for Fiscal Year 2013-2014)
to cover the reasonable cost of inspections.)
(REF130098/SMARA Inspection Fee)

This Resolution is made with reference to the following facts:

1. State law allows the County, after noticed public hearing, to adopt a resolution to adopt new fees or increase existing fees for processing permits and entitlements, provided the fees do not exceed the estimated reasonable cost of providing the service for which the fee is charged.
2. Section 1.40.010 of Chapter 1.40 of the Monterey County Code provides that all fees, penalties, refunds, reimbursements, and charges of any kind collected by the County may be specified in the Monterey County Fee Resolution.
3. RMA-Planning is proposing to amend the Surface Mine Annual Inspection fee to partially offset the costs for the Consultant to complete the annual inspections for the sixteen (16) mine sites for 2013. The State Office of Mine Reclamation has created a new inspection form, requiring that more effort will need to be conducted to complete the new forms to the satisfaction of the state. The increased fee is based upon the cost for the consultant to complete the inspections. The amendment to the Surface Mine Inspection fee is shown by strikeout and underline in the Article attached hereto and incorporated herein by reference, with additions shown by underline and deletions shown in ~~strike through~~.
4. The land use fee adjustment made by this resolution partially covers the cost for the consultant to conduct the Surface Mine Annual Inspections. The fees do not exceed the reasonable or actual costs of performing the services. Any and all of the adjustments to the fee reflect no more than the actual cost of the service or benefit received by the payor. To the extent that the fees do not result in full cost recovery, the discount does not result in increased charges to other payors; the increased cost will be covered by an increased subsidy from the County General Fund.
5. Many small mining operations are operating in Monterey County. With the impacts of the recession, these small operations have had little production and revenue over the last few years. The Board of Supervisors desires to provide a subsidy to the inspection fee for

these small operations as a result of the economic downturn for this year. The subsidy will be provided through the County general fund.

6. These fees are not a “tax” and are exempt from voter approval under section 1(e)(1)-(3), (5) and (6) of Article XIII C of the California Constitution (Proposition 26, excepting from the definition of “tax” charges imposed for specific benefit conferred/privilege/service or product, and/or reasonable regulatory costs to a local government for issuing permits and the administrative enforcement thereof, fines and penalties and charges for violation of law, and property development charges.) These fees are imposed for a specific government service provided directly to the applicant that is not provided to those not charged, are imposed for the reasonable regulatory costs to the County for issuing permits for property development and the administrative enforcement thereof, and do not exceed the reasonable costs to the County of providing these services.
7. Under section 2774 (b) of the Public Resources Code, section 3504.5(e) of Title 14 of the California Code of Regulations, and section 16.04.100 of the Monterey County Code, the mine operator is solely responsible for the reasonable cost of the annual inspection conducted by the lead agency.
8. This action to modify the Surface Mine Annual Inspection fee is not a project under the California Environmental Quality Act because it is a governmental funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment. (CEQA Guidelines section 15378(b)(4).)
9. Said amendment to the Surface Mine Annual Inspection fee shall take effect no sooner than 60 days following final action on the adoption of the amendment.
10. The Board of Supervisors held duly noticed public hearings on October 22, 2013, and November 5, 2013, to consider this fee adjustment. Notice of this matter was provided by publication of notice in newspapers of local circulation in the County and distribution of notice to interested persons, and all testimony from staff and the public has been heard and considered.

NOW, THEREFORE, BE IT RESOLVED by the Monterey County Board of Supervisors as follows:

1. The foregoing recitals are true and correct.
2. Article IX (RMA-Planning) of the Monterey County Fee Resolution, attached hereto and incorporated herein by reference, is hereby amended as shown by strikeout and underline in the attached Article.
3. Said amendments to the Article shall take effect on the 61st day following adoption.

PASSED AND ADOPTED this **5th** day of **November, 2013**, by the following vote, to wit:

AYES:

NOES:

ABSENT:

I, Gail T. Borkowski, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book___ for the meeting on _____.

Dated:

Gail T. Borkowski, Clerk of the Board of Supervisors
County of Monterey, State of California

By: _____
Deputy

**AMENDMENT TO
ARTICLE IX
RMA-PLANNING FEES**

(Per Resolution No. _____, adopted _____ by the Monterey County Board of Supervisors)

Section 3, relating to Surface Mining and Reclamation fees, of Article IX of the County Master Fee Resolution is amended to read as follows:

SECTION 3. SURFACE MINING AND RECLAMATION

A. Various fees for planning services required by Public Resources Code 2761 - 2764 (Surface Mining and Reclamation Act) and Chapter 16.04, Monterey County Code (Surface Mining and Reclamation)

| <u>DESCRIPTION</u> | <u>AMOUNT</u> | <u>UNIT/TIME</u> |
|---|---------------|------------------|
| 1. Surface Mine Reclamation Plan | \$12,911.65 | Each |
| 2.a Surface Mine Annual Inspection <u>(less than or equal to 20 acres disturbed area, as shown on the 2012 Mine Inspection Form)</u> | \$3,227.91 | Each |
| 2.b Surface Mine Annual Inspection <u>(greater than 20 acres disturbed area, as shown on the 2012 Mine Inspection Form)</u> | \$7,600.00 | Each |