

Attachment A

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**AMENDMENT NO. 4
TO PROFESSIONAL SERVICES AGREEMENT
BETWEEN COUNTY OF MONTEREY AND
BENCHMARK LAND USE GROUP, INC. DBA BENCHMARK RESOURCES**

THIS AMENDMENT NO. 4 to Professional Services Agreement No. A-12261 between the County of Monterey, a political subdivision of the State of California (hereinafter, "County") and Benchmark Land Use Group, Inc. dba Benchmark Resources (hereinafter, "CONTRACTOR") is hereby entered into between the County and the CONTRACTOR (collectively, the "Parties") and effective as of the last date opposite the respective signatures below.

WHEREAS, CONTRACTOR entered into Professional Services Agreement No. A-12261 with County on April 15, 2014 (hereinafter, "Agreement") to provide Surface Mining and Reclamation Act (SMARA) annual inspections (hereinafter, "services") through December 31, 2017 for an amount not to exceed \$389,720; and

WHEREAS, Agreement was amended by the Parties on August 18, 2014 (hereinafter, "Amendment No. 1", including Exhibit A-1 - Reallocation of Compliance Review Budget for 2014 and 2015) to reallocate funding between tasks identified in the Agreement with no extension to the term and with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on December 4, 2017 (hereinafter, "Amendment No. 2") to extend the term for one (1) additional year through December 31, 2018 with no increase in the not to exceed amount; and

WHEREAS, Agreement was amended by the Parties on December 4, 2018 (hereinafter, "Amendment No. 3") to extend the term for three (3) additional months through March 31, 2019 with no increase in the not to exceed amount; and

WHEREAS, County has a continued need for services beyond the anticipated five (5) year Agreement term allowed per Request for Proposals (RFP) #10443; and

WHEREAS, the Parties have identified additional services in the amount of \$163,918 to be completed by CONTRACTOR for 2018 and 2019 mine inspections, use permit compliance review and technical assistance for compliance with State regulations; and

WHEREAS, additional time is necessary to allow completion of additional services by CONTRACTOR and to allow County staff time to prepare and process a new RFP; and

WHEREAS, County has identified unused Agreement funding in the amount \$76,825; and

WHEREAS, the Parties wish to reallocate a portion of the unused funding in the amount of \$61,398 for costs associated with 2018 mine inspections and technical assistance services; and

WHEREAS, the Parties wish to reallocate the remaining portion of the existing funding in the amount of \$15,427 for costs associated with 2019 mine inspections, use permit compliance review and technical assistance services; and

WHEREAS, the Parties agree that new additional funding in the amount of \$87,093 is required to allow CONTRACTOR to complete the remaining unfunded services associated with the completion of 2019 mine inspections, use permit compliance review and technical assistance services; and

WHEREAS, the Parties wish to further amend the Agreement to extend the term for one (1) additional year to March 31, 2020, reallocate funding in the amount of \$76,825, and to increase the amount by \$87,093 for a total amount not to exceed \$476,813 to allow CONTRACTOR to continue to provide services identified in the Agreement and as amended by this Amendment No. 4.

NOW, THEREFORE, the Parties agree to amend the Agreement as follows:

1. Amend the first sentence of Paragraph 1, "Services to be Provided", to read as follows:

The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in **Exhibits A, A-1, and A-2** in conformity with the terms of this Agreement.

2. Amend Paragraph 2, "Payments by County", to read as follows:

County shall pay the CONTRACTOR in accordance with the payment provisions set forth in **Exhibits A, A-1, and A-2**, subject to the limitations set forth in this Agreement. The total amount payable by County to CONTRACTOR under this Agreement shall not exceed the sum of \$476,813.

3. Amend the first sentence of Paragraph 3, "Term of Agreement", to read as follows:

The term of this Agreement is from April 1, 2014 to March 31, 2020, unless sooner terminated pursuant to the terms of this Agreement.

4. Amend Paragraph 4, "Additional Provisions/Exhibits" to add "Exhibit A-2, Scope of Services/Payment Provisions".

5. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.

6. This Amendment No. 4 and all previous amendments shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

7. The recitals to this Amendment No. 4 are incorporated into the Agreement and this Amendment No. 4.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment No. 4 to the Agreement which shall be effective as of the last date opposite the respective signatures below.

COUNTY OF MONTEREY

CONTRACTOR*

By: _____
Contracts/Purchasing Officer

Benchmark Land Use Group, Inc. dba
Benchmark Resources
Contractor's Business Name

Date: _____

By: [Signature]
(Signature of Chair, President or Vice President)

Approved as to Form and Legality
Office of the County Counsel-Risk Management
Charles J. McKee, County Counsel-Risk Manager

Its: DAVID E. BROWN, PRESIDENT
(Print Name and Title)

By: [Signature]
Brian P. Briggs
Deputy County Counsel

Date: 2-27-19

Date: 3-5-19

By: [Signature]
(Signature of Secretary, Asst. Secretary, CFO,
Treasurer or Asst. Treasurer)

Its: Bruce Steubing, Secretary
(Print Name and Title)

Approved as to Fiscal Provisions
By: [Signature]
Auditor/Controller

Date: 2/27/19

Date: 3-5-19

Approved as to Indemnity and Insurance Provisions
Office of the County Counsel-Risk Management
Charles J. McKee, County Counsel-Risk Manager

By: _____

Name: _____

Title: _____

Date: _____

*INSTRUCTIONS: IF CONTRACTOR is a corporation, including non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two (2) specified officers per California Corporations Code Section 313. If CONTRACTOR is a Limited Liability Corporation (LLC), the full legal name of the LLC shall be set forth above together with the signatures of two (2) managing members. If CONTRACTOR is a partnership, the full legal name of the partnership shall be set forth above together with the signature of a partner who has authority to execute this Agreement on behalf of the partnership. If CONTRACTOR is contracting in an individual capacity, the individual shall set forth the name of the business, if any, and shall personally sign the Agreement or Amendment to said Agreement.

EXHIBIT A-2 – SCOPE OF SERVICES/PAYMENT PROVISIONS

2018 ANNUAL MINE INSPECTIONS AND COMPLIANCE REVIEW

Benchmark Resources has calculated a fixed fee for Surface Mining and Reclamation Act (SMARA) annual inspections, financial assurance verification, and review of conditional use permit compliance for Monterey County, which is set based on the size, complexity, and history of compliance for each operation. These fees cover routine compliance review activities. If violations are discovered that require substantial effort to resolve, or other services are requested by the County, our standard time and materials rates would apply to the key personnel assigned these tasks, see “Standard Schedule of Charges for 2018.”

**JANUARY 1, 2018 THROUGH DECEMBER 31, 2018
BUDGET FOR ANNUAL MINE INSPECTIONS**

Mine I.D. and Name	Annual Inspection	FAE/FAM*	Total Site Fee
91-27-0004 – Metz Facility	\$3,060	\$950	\$4,010
91-27-0005 – Natividad Quarry	\$3,060	\$950	\$4,010
91-27-0007 – BLM Rockpile	\$3,060	\$950	\$4,010
91-27-0009 – Bitterwater (Bray)	\$3,060	\$950	\$4,010
91-27-0011 – Pine Canyon Quarry	\$3,060	\$950	\$4,010
91-27-0012 – Stonewall Canyon Quarry	\$3,060	\$950	\$4,010
91-27-0019 – Brinan Pit	\$3,060	\$950	\$4,010
91-27-0020 – Echenique Pit	\$3,060	\$950	\$4,010
91-27-0021 – Jefferson Pit	\$3,060	\$950	\$4,010
91-27-0025 – Chalone Creek Pit	\$3,060	\$950	\$4,010
91-27-0027 – Chualar Site	\$3,060	\$950	\$4,010
91-27-0028 – Handley Ranch Quarry	\$3,060	\$950	\$4,010
91-27-0029 – Hidden Canyon	\$3,060	\$950	\$4,010
91-27-0030 – Carmel Stone Mine	\$3,060	\$950	\$4,010
TOTAL:	\$42,840	\$13,300	\$56,140

*FAE/FAM – Financial Assurance Estimate/Financial Assurance Mechanism

Additional Technical Assistance:

Allowable amount for January 1, 2018 to December 31, 2018: **\$ 5,258**
(Based on time and materials and the Standard Schedule of Charges)

Additional tasks/duties/technical assistance related to mine inspections shall not be provided unless approved by the County’s Project Planner.

Total for 2018 Annual Mine Inspections and Additional Technical Assistance: **\$61,398**

EXHIBIT A-2 – SCOPE OF SERVICES/PAYMENT PROVISIONS

2019 ANNUAL MINE INSPECTIONS AND COMPLIANCE REVIEW

Benchmark Resources has calculated a fixed fee for Surface Mining and Reclamation Act (SMARA) annual inspections, financial assurance verification, and review of conditional use permit compliance for Monterey County, which is set based on the size, complexity, and history of compliance for each operation. These fees cover routine compliance review activities. If violations are discovered that require substantial effort to resolve, or other services are requested by the County, our standard time and materials rates would apply to the key personnel assigned these tasks, see “Standard Schedule of Charges through March 31, 2020.”

**JANUARY 1, 2019 THROUGH MARCH 31, 2020
BUDGET FOR ANNUAL MINE INSPECTIONS**

Mine I.D. and Name	Annual Inspection	FAE/FAM*	Total Site Fee
91-27-0004 – Metz Facility	\$3,300	\$1,000	\$4,300
91-27-0005 – Natividad Quarry	\$3,300	\$1,000	\$4,300
91-27-0007 – BLM Rockpile	\$3,300	\$1,000	\$4,300
91-27-0009 – Bitterwater (Bray)	\$3,300	\$1,000	\$4,300
91-27-0011 – Pine Canyon Quarry	\$3,300	\$1,000	\$4,300
91-27-0012 – Stonewall Canyon Quarry	\$3,300	\$1,000	\$4,300
91-27-0019 – Brinan Pit	\$3,300	\$1,000	\$4,300
91-27-0020 – Echenique Pit	\$3,300	\$1,000	\$4,300
91-27-0021 – Jefferson Pit	\$3,300	\$1,000	\$4,300
91-27-0023 – Beck Pit (DKD Pit)	\$3,300	\$1,000	\$4,300
91-27-0025 – Chalone Creek Pit	\$3,300	\$1,000	\$4,300
91-27-0027 – Chualar Site	\$3,300	\$1,000	\$4,300
91-27-0028 – Handley Ranch Quarry	\$3,300	\$1,000	\$4,300
91-27-0029 – Hidden Canyon	\$3,300	\$1,000	\$4,300
91-27-0030 – Carmel Stone Mine	\$3,300	\$1,000	\$4,300
TOTAL:	\$49,500	\$15,000	\$64,500

*FAE/FAM – Financial Assurance Estimate/Financial Assurance Mechanism

EXHIBIT A-2 – SCOPE OF SERVICES/PAYMENT PROVISIONS

**JANUARY 1, 2019 THROUGH MARCH 31, 2020
BUDGET FOR COMPLIANCE REVIEW ¹**

Mine I.D. and Name	Use Permit Compliance Review
91-27-0004 – Metz Facility	\$3,250
91-27-0005 – Natividad Quarry	\$3,250
91-27-0007 – BLM Rockpile	\$1,040
91-27-0009 – Bitterwater (Bray)	\$1,040
91-27-0011 – Pine Canyon Quarry	\$1,040
91-27-0012 – Stonewall Canyon Quarry	\$3,250
91-27-0019 – Brinan Pit	\$1,040
91-27-0020 – Echenique Pit	\$1,040
91-27-0021 – Jefferson Pit	\$1,040
91-27-0023 – Beck Pit (DKD Pit)	\$2,100
91-27-0025 – Chalone Creek Pit	\$1,040
91-27-0026 – Bradley Mine	\$2,100
91-27-0027 – Chualar Site	\$1,040
91-27-0028 – Handley Ranch Quarry	\$3,250
91-27-0029 – Hidden Canyon	\$3,250
91-27-0030 – Carmel Stone Mine	\$3,250
TOTAL:	\$32,020

¹ – Use Permit Compliance Review for 2019 is an optional task.

Optional task(s) described above shall not be provided unless authorized in writing by the County's Project Planner prior to the optional task(s) being provided.

Additional Technical Assistance:

Allowable amount for January 1, 2019 to March 31, 2020: **\$ 6,000**
(Based on time and materials and the Standard Schedule of Charges)

Optional tasks and Additional tasks/duties/technical assistance described in Exhibit A-2 – Scope of Services/Payment Provision of the Agreement and related to mine inspections shall not be provided unless authorized in writing by the County's Project Planner prior to the additional services being provided.

**Total for 2019 Annual Mine Inspections, Use Permit Compliance Review
and Additional Technical Assistance: **\$102,520****

EXHIBIT A-2 – SCOPE OF SERVICES/PAYMENT PROVISIONS

**RATE SCHEDULE
(Effective April 1, 2019)**

Item	Rate
BENCHMARK RESOURCES STAFF	
Principal	\$245/hour
Director	\$225/hour
Mining engineer/lead inspector	\$185/hour
Geotechnical engineer	\$185/hour
Technical staff	\$125/hour
Support staff	\$110/hour
SUBCONSULTANTS	
Hydrogeologist Dr. Andrew Kopania, EMKO Environmental, Inc.	\$200/hour
Soils scientist Victor Classen	\$170/hour
EXPENDITURES	
Airfare, auto rental, lodging, equipment, subconsultants, printing and miscellaneous costs	Cost, plus 15%*
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	Current Standard IRS Mileage Rate**
Per diem	\$40.00 per day

*-Administrative burden covers associated overhead, warranty, indemnification, insurance and carrying costs.

**-Subject to change annually based on rates posted by IRS.

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