

COUNTY OF MONTEREY AGREEMENT FOR PROFESSIONAL SERVICES WITH SURVEYORS, ARCHITECTS, ENGINEERS & DESIGN PROFESSIONALS (MORE THAN \$100,000) *

This Professional Services Agreement ("Agreement") is made by and between the County of Monterey, a political subdivision of the State of California ("County") and: Benchmark Land Use Group, Inc. dba Benchmark Resources ("CONTRACTOR").

In consideration of the mutual covenants and conditions set forth in this Agreement, the parties agree as follows:

- 1. SERVICES TO BE PROVIDED.** The County hereby engages CONTRACTOR to perform, and CONTRACTOR hereby agrees to perform, the services described in Exhibit A in conformity with the terms of this Agreement. The services are generally described as follows:
Provide, as part of the Surface Mining and Reclamation Act (SMARA), for inspection years 2021 through 2023, annual mine inspections and reporting, document review and recommendations, support for reclamation plan amendments and mining use permits and related California Environmental Quality Act (CEQA) review, and general SMARA program support.
- 2. PAYMENTS BY COUNTY.** County shall pay the CONTRACTOR in accordance with the payment provisions set forth in Exhibit A, 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 \$311,898.00
- 3. TERM OF AGREEMENT.** The term of this Agreement is from August 24, 2021 to July 31, 2024, unless sooner terminated pursuant to the terms of this Agreement. This Agreement is of no force or effect until signed by both CONTRACTOR and County and with County signing last, and CONTRACTOR may not commence work before County signs this Agreement.
- 4. ADDITIONAL PROVISIONS/EXHIBITS.** The following attached exhibits are incorporated herein by reference and constitute a part of this Agreement:

Exhibit A Scope of Services/Payment Provisions

- 5. PERFORMANCE STANDARDS.**
 - 5.01. CONTRACTOR warrants that CONTRACTOR and CONTRACTOR's agents, employees, and subcontractors performing services under this Agreement are specially trained, experienced, competent, and appropriately licensed to perform the work and deliver the services required under this Agreement and are not employees of the County, or immediate family of an employee of the County.
 - 5.02. CONTRACTOR, its agents, employees, and subcontractors shall perform all work in a safe and skillful manner and in compliance with all applicable laws and regulations. All work performed under this Agreement that is required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

*Approved by County Board of Supervisors on _____.

5.03. CONTRACTOR shall furnish, at its own expense, all materials, equipment, and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. CONTRACTOR shall not use County premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement.

6. PAYMENT CONDITIONS.

6.01 CONTRACTOR shall submit to the Contract Administrator an invoice on a form acceptable to County. If not otherwise specified, the CONTRACTOR may submit such invoice periodically or at the completion of services, but in any event, not later than thirty (30) days after completion of services. The invoice shall set forth the amounts claimed by CONTRACTOR for the previous period, together with an itemized basis for the amounts claimed, and such other information pertinent to the invoice as the County may require. The Contract Administrator or his or her designee shall certify the invoice; either in the requested amount or in such other amount as the County approves in conformity with this Agreement, and shall promptly submit such invoice to the County Auditor-Controller for payment. The County Auditor-Controller shall pay the amount certified within thirty (30) days of receiving the certified invoice.

6.02. CONTRACTOR shall not receive reimbursement for travel expenses unless set forth in this Agreement.

7. TERMINATION.

7.01. During the term of this Agreement, the County may terminate the Agreement for any reason by giving written notice of termination to the CONTRACTOR at least thirty (30) days prior to the effective date of termination. Such notice shall set forth the effective date of termination. In the event of such termination, the amount payable under this Agreement shall be reduced in proportion to the services provided prior to the date of termination.

7.02. The County may cancel and terminate this Agreement for good cause effective immediately upon written notice to CONTRACTOR. "Good cause" includes the failure of CONTRACTOR to perform the required services at the time and in the manner provided under this Agreement. If County terminates this Agreement for good cause, the County may be relieved of the payment of any consideration to CONTRACTOR, and the County may proceed with the work in any manner, which County deems proper. The cost to the County shall be deducted from any sum due the CONTRACTOR under this Agreement.

8. INDEMNIFICATION.

8.01 For purposes of the following indemnification provisions ("Indemnification Agreement"), "design professional" has the same meaning as set forth in California Civil Code section 2782.8. If any term, provision, or application of this Indemnification Agreement is found to be invalid, in violation of public policy or unenforceable to any extent, such finding shall not invalidate any

other term or provision of this Indemnification Agreement and such other terms and provisions shall continue in full force and effect. If there is any conflict between the terms, provisions or application of this Indemnification Agreement and the provisions of California Civil Code Sections 2782 or 2782.8, the broadest indemnity protection for County under this Indemnity Agreement that is permitted by law shall be provided by CONTRACTOR.

8.02 Indemnification for Design Professional Services Claims:

CONTRACTOR shall indemnify, defend and hold harmless County, its governing board, directors, officers, employees, and agents against any claims that arise out of, or pertain to, or relate to the negligence, recklessness, or willful misconduct of CONTRACTOR, its employees, subcontractors, and agents in the performance of design professional services under this Agreement, excepting only liability arising from the sole negligence, active negligence or willful misconduct of County, or defect in a design furnished by County, but in no event shall the amount of such CONTRACTOR's liability exceed such CONTRACTOR's proportionate percentage of fault as determined by a court, arbitrator or mediator, or as set out in a settlement agreement. In the event one (1) or more defendants to any action involving such claim or claims against County is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, such CONTRACTOR shall meet and confer with the other parties to such action regarding unpaid defense costs.

8.03 Indemnification for All Other Claims or Loss:

For any claim, loss, injury, damage, expense or liability other than claims arising out of CONTRACTOR's performance of design professional services under this Agreement, CONTRACTOR shall indemnify, defend and hold harmless County, its governing board, directors, officers, employees, and agents against any claim for loss, injury, damage, expense or liability resulting from or alleging injury to or death of any person or loss of use of or damage to property, arising from or related to the performance of services under this Agreement by CONTRACTOR, its employees, subcontractors or agents, excepting only liability arising from the sole negligence, active negligence or willful misconduct of County, or defect in a design furnished by County.

9.0 INSURANCE.

9.01. Evidence of Coverage:

Prior to commencement of this Agreement, the Contractor shall provide a "Certificate of Insurance" certifying that coverage as required herein has been obtained. Individual endorsements executed by the insurance carrier shall accompany the certificate. In addition, the Contractor upon request shall provide a certified copy of the policy or policies.

This verification of coverage shall be sent to the County's Contracts/Purchasing Department, unless otherwise directed. The CONTRACTOR shall not receive a "Notice to Proceed" with the work under this Agreement until it has obtained all insurance required and such insurance has been approved by the County. This approval of insurance shall neither relieve nor decrease the liability of the CONTRACTOR.

9.02. Qualifying Insurers:

All coverages, except surety, shall be issued by companies which hold a current policy holder’s alphabetic and financial size category rating of not less than A-VII, according to the current Best’s Key Rating Guide or a company of equal financial stability that is approved by the County’s Purchasing Manager.

9.03. Insurance Coverage Requirements:

Without limiting CONTRACTOR’s duty to indemnify, CONTRACTOR shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

Commercial general liability insurance, including but not limited to premises and operations, including coverage for Bodily Injury and Property Damage, Personal Injury, Contractual Liability, Broad Form Property Damage, Independent Contractors, Products and Completed Operations with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).

Business automobile liability insurance, covering all motor vehicles, including owned, leased, non-owned, and hired vehicles, used in providing services under this Agreement, with a combined single limit for Bodily Injury and Property Damage of not less than \$1,000,000 per occurrence.

Modification (Justification attached; subject to approval).

Workers’ Compensation Insurance, if CONTRACTOR employs others in the performance of this Agreement, in accordance with California Labor Code section 3700 and with Employer’s Liability limits not less than \$1,000,000 each person, \$1,000,000 each accident and \$1,000,000 each disease.

Modification (Justification attached; subject to approval).

Professional liability insurance, if required for the professional services being provided (e.g., those persons authorized by a license to engage in a business or profession regulated by the California Business and Professions Code), in the amount of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate, to cover liability for malpractice or errors or omissions made in the course of rendering professional services. If professional liability insurance is written on a “claims-made” basis rather than an occurrence basis, the CONTRACTOR shall, upon the expiration or earlier termination of this Agreement, obtain extended reporting coverage (“tail coverage”) with the same liability limits. Any such tail coverage shall continue for at least three years following the expiration or earlier termination of this Agreement.

Modification (Justification attached; subject to approval).

9.04. Other Insurance Requirements:

All insurance required by this Agreement shall be with a company acceptable to the County and issued and executed by an admitted insurer authorized to transact insurance business in the State

of California. Unless otherwise specified by this Agreement, all such insurance shall be written on an occurrence basis, or if the policy is not written on an occurrence basis, such policy with the coverage required herein shall continue in effect for a period of three years following the date CONTRACTOR completes its performance of services under this Agreement.

Each liability policy shall provide that the County shall be given notice in writing at least thirty (30) days in advance of each endorsed reduction in coverage or limit, cancelation, or intended non-renewal thereof. Each policy shall provide coverage for CONTRACTOR and additional insureds with respect to claims arising from each subcontractor, if any, performing work under this Agreement, or be accompanied by a certificate of insurance from each subcontractor showing each subcontractor has identical insurance coverage to the above requirements.

Commercial general liability and automobile liability policies shall provide an endorsement naming the County of Monterey, its officers, agents, and employees as Additional Insureds with respect to liability arising out of the CONTRACTOR's work, including ongoing and completed operations, and shall further provide that such insurance is primary insurance to any insurance or self-insurance maintained by the County and that the insurance of the Additional Insureds shall not be called upon to contribute to a loss covered by the CONTRACTOR's insurance. The required endorsement form for Commercial General Liability Additional Insured is **ISO Form CG 20 10 11-85 or CG 20 10 10 01 in tandem with CG 20 37 10 01 (2000)**. The required endorsement form for Automobile Additional Insured endorsement is **ISO Form CA 20 48 02 99**.

Prior to the execution of this Agreement by the County, CONTRACTOR shall file certificates of insurance with the County's Contract Administrator and County's Contracts/Purchasing Division, showing that the CONTRACTOR has in effect the insurance required by this Agreement. The CONTRACTOR shall file a new or amended certificate of insurance within five (5) calendar days after any change is made in any insurance policy, which would alter the information on the certificate then on file. Acceptance or approval of insurance shall in no way modify or change the indemnification clause in this Agreement, which shall continue in full force and effect.

CONTRACTOR shall at all times during the term of this Agreement maintain in force the insurance coverage required under this Agreement and shall send, without demand by County, annual certificates to County's Contract Administrator and County's Contracts/Purchasing Division. If the certificate is not received by the expiration date, County shall notify CONTRACTOR and CONTRACTOR shall have five (5) calendar days to send in the certificate, evidencing no lapse in coverage during the interim. Failure by CONTRACTOR to maintain such insurance is a default of this Agreement, which entitles County, at its sole discretion, to terminate this Agreement immediately.

10. RECORDS AND CONFIDENTIALITY.

10.01. Confidentiality. CONTRACTOR and its officers, employees, agents, and subcontractors shall comply with any and all federal, state, and local laws which provide for the confidentiality of records and other information. CONTRACTOR shall not disclose any confidential records or other confidential information received from the County or prepared in connection with the performance of this Agreement unless County specifically permits CONTRACTOR to disclose

such records or information. CONTRACTOR shall promptly transmit to County any and all requests for disclosure of any such confidential records or information. CONTRACTOR shall not use any confidential information gained by CONTRACTOR in the performance of this Agreement except for the sole purpose of carrying out CONTRACTOR's obligations under this Agreement.

- 10.02. County Records. When this Agreement expires or terminates, CONTRACTOR shall return to County any County records which CONTRACTOR used or received from County to perform services under this Agreement.
- 10.03. Maintenance of Records. CONTRACTOR shall prepare, maintain, and preserve all reports and records that may be required by federal, state, and County rules and regulations related to services performed under this Agreement. CONTRACTOR shall maintain such records for a period of at least three years after receipt of final payment under this Agreement. If any litigation, claim, negotiation, audit exception, or other action relating to this Agreement is pending at the end of the three-year period, then CONTRACTOR shall retain said records until such action is resolved.
- 10.04. Access to and Audit of Records. The County shall have the right to examine, monitor, and audit all records, documents, conditions, and activities of the CONTRACTOR and its subcontractors related to services provided under this Agreement. Pursuant to Government Code section 8546.7, if this Agreement involves the expenditure of public funds in excess of \$10,000.00, the parties to this Agreement may be subject, at the request of the County or as part of any audit of the County, to the examination and audit of the State Auditor pertaining to matters connected with the performance of this Agreement for a period of three years after final payment under the Agreement.
- 10.05. Royalties and Inventions. County shall have a royalty-free, exclusive, and irrevocable license to reproduce, publish, and use, and authorize others to do so, all original computer programs, writings, sound recordings, pictorial reproductions, drawings, and other works of similar nature produced in the course of or under this Agreement. CONTRACTOR shall not publish any such material without the prior written approval of County.

- 11. NON-DISCRIMINATION.** During the performance of this Agreement, CONTRACTOR, and its subcontractors, shall not unlawfully discriminate against any person because of race, religious creed, color, sex, national origin, ancestry, physical disability, mental disability, medical condition, marital status, age (over 40), or sexual orientation, either in CONTRACTOR's employment practices or in the furnishing of services to recipients. CONTRACTOR shall ensure that the evaluation and treatment of its employees and applicants for employment and all persons receiving and requesting services are free of such discrimination. CONTRACTOR and any subcontractor shall, in the performance of this Agreement, fully comply with all federal, state, and local laws and regulations which prohibit discrimination. The provision of services primarily or exclusively to such target population as may be designated in this Agreement shall not be deemed to be prohibited discrimination.

- 12. **COMPLIANCE WITH TERMS OF STATE OR FEDERAL GRANT.** If this Agreement has been or will be funded with monies received by the County pursuant to a contract with the state or federal government in which the County is the grantee, CONTRACTOR will comply with all the provisions of said contract, to the extent applicable to CONTRACTOR as a subgrantee under said contract, and said provisions shall be deemed a part of this Agreement, as though fully set forth herein. Upon request, County will deliver a copy of said contract to CONTRACTOR, at no cost to CONTRACTOR.

- 13. **INDEPENDENT CONTRACTOR.** In the performance of work, duties, and obligations under this Agreement, CONTRACTOR is at all times acting and performing as an independent contractor and not as an employee of the County. No offer or obligation of permanent employment with the County or particular County department or agency is intended in any manner, and CONTRACTOR shall not become entitled by virtue of this Agreement to receive from County any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, worker’s compensation coverage, insurance or disability benefits. CONTRACTOR shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of CONTRACTOR’s performance of this Agreement. In connection therewith, CONTRACTOR shall defend, indemnify, and hold County harmless from any and all liability, which County may incur because of CONTRACTOR’s failure to pay such taxes.

- 14. **NOTICES.** Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the County and CONTRACTOR’s contract administrators at the addresses listed below:

FOR COUNTY:	FOR CONTRACTOR:
Kathy Nielsen, Management Analyst II	David E. Brown, Principal
Name and Title	Name and Title
Housing & Community Development 1441 Schilling Place, South 2 nd Floor Salinas, CA 93901-4527	2515 East Bidwell Street Folsom, CA 95630
Address	Address
(831) 755-4832	(916) 983-9193
194-HCD-Contracts@co.monterey.ca.us	(916) 983-9193
Phone	Phone

- 15. **MISCELLANEOUS PROVISIONS.**
 - 15.01. Conflict of Interest. CONTRACTOR represents that it presently has no interest and agrees not to acquire any interest during the term of this Agreement, which would directly or indirectly conflict in any manner or to any degree with the full and complete performance of the professional services required to be rendered under this Agreement.

 - 15.02. Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the County and the CONTRACTOR.

- 15.03. Waiver. Any waiver of any terms and conditions of this Agreement must be in writing and signed by the County and the CONTRACTOR. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any terms or conditions in this Agreement.
- 15.04. Contractor. The term “CONTRACTOR” as used in this Agreement includes CONTRACTOR’s officers, agents, and employees acting on CONTRACTOR’s behalf in the performance of this Agreement.
- 15.05. Disputes. CONTRACTOR shall continue to perform under this Agreement during any dispute.
- 15.06. Assignment and Subcontracting. The CONTRACTOR shall not assign, sell, or otherwise transfer its interest or obligations in this Agreement without the prior written consent of the County. None of the services covered by this Agreement shall be subcontracted without the prior written approval of the County. Notwithstanding any such subcontract, CONTRACTOR shall continue to be liable for the performance of all requirements of this Agreement.
- 15.07. Successors and Assigns. This Agreement and the rights, privileges, duties, and obligations of the County and CONTRACTOR under this Agreement, to the extent assignable or delegable, shall be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns, and heirs.
- 15.08. Compliance with Applicable Law. The parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
- 15.09. Headings. The headings are for convenience only and shall not be used to interpret the terms of this Agreement.
- 15.10. Time is of the Essence. Time is of the essence in each and all the provisions of this Agreement.
- 15.11. Governing Law. This Agreement shall be governed by and interpreted under the laws of the State of California.
- 15.12. Non-exclusive Agreement. This Agreement is non-exclusive and both County and CONTRACTOR expressly reserve the right to contract with other entities for the same or similar services.
- 15.13. Construction of Agreement. The County and CONTRACTOR agree that each party has fully participated in the review and revision of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.
- 15.14. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

- 15.15. Authority. Any individual executing this Agreement on behalf of the County or the CONTRACTOR represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.
- 15.16. Integration. This Agreement, including the exhibits, represents the entire Agreement between the County and the CONTRACTOR with respect to the subject matter of this Agreement and shall supersede all prior negotiations, representations, or agreements, either written or oral, between the County and the CONTRACTOR as of the effective date of this Agreement, which is the date that the County signs the Agreement.
- 15.17. Interpretation of Conflicting Provisions. In the event of any conflict or inconsistency between the provisions of this Agreement and the Provisions of any exhibit or other attachment to this Agreement, the provisions of this Agreement shall prevail and control.

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IN WITNESS WHEREOF, County and CONTRACTOR have executed this Agreement as of the day and year written below.

COUNTY OF MONTEREY

CONTRACTOR

By: DocuSigned by: [Signature]
7B741937A... Purchasing Officer

Date: 9/1/2021

By: _____
Department Head (if applicable)

Date: _____

By: _____
Board of Supervisors (if applicable)

Date: _____

Approved as to Form¹

By: DocuSigned by: [Signature]
FBACA339C87E456... County Counsel

Date: 8/4/2021

Approved as to Fiscal Provisions²

By: DocuSigned by: [Signature]
D3834BFEC1D844... Auditor-Controller
8/4/2021

Approved as to Liability Provisions³

By: _____
Risk Management

Date: _____

Benchmark Land Use Group dba
Benchmark Resources

By: DocuSigned by: [Signature]
C598D53035D4409... (Signature of Chair, President, or Vice President) *

David E. Brown, Principal
Name and Title

Date: 8/2/2021

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

Robert Bruce Steubing, Secretary
Name and Title

Date: 8/2/2021

County Board of Supervisors' Agreement Number: _____

*INSTRUCTIONS: If CONTRACTOR is a corporation, including limited liability and non-profit corporations, the full legal name of the corporation shall be set forth above together with the signatures of two specified officers. If CONTRACTOR is a partnership, the 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.

¹ Approval by County Counsel is required for all Professional Service Agreements over \$100,000.

² Approval by Auditor-Controller is required for all Professional Service Agreements.

³ Approval by risk Management is required only if changes are made in paragraph 8 or 9.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

**To Agreement by and between
County of Monterey, hereinafter referred to as “County”
and
Benchmark Land Use Group, Inc. dba Benchmark Resources, hereinafter referred to as
“CONTRACTOR”**

A. SCOPE OF SERVICES

A.1 CONTRACTOR shall provide services and staff, and otherwise do all things necessary for or incidental to the performance of work, as set forth below:

1.1 INTRODUCTION

CONTRACTOR will administer and manage the County Surface Mining and Reclamation Act (SMARA) Compliance Program on behalf of, and in coordination with, the County at the fourteen (14) mine sites identified in Attachment A of this Exhibit A.

1.2 MINE INSPECTIONS AND ANNUAL COMPLIANCE REVIEW

Section 2774 of SMARA requires inspection to ensure mine conformance with mine reclamation plans. Annual inspection by Benchmark Resources involves the following tasks:

1.2.1 Mine Inspections and Reporting

Mine inspections will be conducted by Andrew Heinemann. Mr. Heinemann is a California-licensed geologist and has not been employed by any of the surface mining operations within the County during the previous 12 months, consistent with Public Resources Code (PRC) Section 3504.5 regarding conflicts of interest. The inspections will be conducted using the guidance document for surface mine inspections (GDSMI) as described in California Code of Regulations (CCR) Section 3504.6.

Benchmark Resources will perform the inspections within the 12-month requirement of the previous inspections and work with each operator to schedule the inspections on the dates requested by the operator in the annual report form required by PRC Section 2207.

Listed below are the subtasks for the mine inspections:

- review previous inspection reports to determine if corrective actions or violations were noted;
- review County files and correspondence(s) for previous corrective actions or violations;

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- review the California Department of Conservation (DOC), Division of Mine Reclamation;
- (DMR) input to the County via the Lead Agency Review Team as applicable;
- review County files for any reclamation plan amendments;
- confirm current operator/owner information;
- coordinate with operators and make sure annual reports (MRRC-2) have been filed and copies have been submitted to the County per PRC Section 2207, review submittals;
- review operator annual reports for the previous year regarding reported acreages disturbed and reclaimed;
- review 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; and
 - plan commitments for wildlife habitat, backfilling, regrading slope stability, recontouring, revegetation, drainage and erosion control, stream protection and groundwater, and topsoil salvage and distribution.
- schedule and coordinate site inspection and attendees;
- prepare 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;
- prepare completion compliance form noting any violations and/or steps taken to correct these violations;
- review draft report with County staff, and operator as appropriate, and
- prepare final reports in triplicate for distribution to the County, operator, and DMR.

Benchmark's annual inspections and reports are typically prepared under a fixed-fee budget per site, because that cost structure is preferred by most lead agencies and operators (as compared to annual consulting rates).

Deliverable

Completed mine inspection reporting forms and supporting documentation, such as site photos (electronic submittal).

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

1.2.2 Annual Financial Assurance Cost Estimate (FACE) Update Verification or Preparation

Recent changes to SMARA requirements regarding the overall inspection process and financial assurance cost estimate (FACE) review were effective July 2017. In particular, the FACE submittal and review process changed substantially. The operator must submit the updated FACE within 30 days of the inspection and inspections must be performed within 12-month intervals. Benchmark is very familiar working with these requirements and will schedule the tasks to meet the required timelines.

Benchmark Resources can review and make recommendations to clarify, substantiate, and standardize the reclamation estimates submitted annually by operators in accordance with CCR Section 3804(c). The estimates are reviewed in accordance with the requirements of Section 2773.1 of the SMARA statutes and Section 3800 et seq. of the SMARA regulations. We are aware that certain mine operators have relied on the lead agency to prepare an annual update to their FACE and hereby provide our scope of services for both the FACE verification and FACE preparation on behalf of an operator. (This is similar to other counties we service where the agency prepares all or some of the FACE updates, and it has shown to be an efficient process and provides better control over the lead agencies involvement in the development of the financial assurances).

1.2.3 FACE Verification

Financial assurance verification by Benchmark Resources involves:

- contacting the operator and providing guidance and follow-up to receive the operator's proposed annual estimate submitted in accordance with PRC Section 2773.1(a)(3);
- determining the current California labor and equipment rates or locally established rates;
- reviewing operator costs relative to current field conditions, aerial photographs, primary reclamation activities (grading), revegetation, structure and equipment removal, miscellaneous costs, monitoring, and reclamation administrative costs;
- acquiring the current financial assurance mechanism (FAM) (bond) value;
- comparing the bond value to the FACE, and
- reviewing, resolving, and reporting discrepancies.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Benchmark Resources documents this review of the adequacy of the FACE and, if necessary, provides comments to the County regarding potential inadequacies. Upon completion of the FACE updates and/or verification, Benchmark Resources drafts adequacy letters on behalf of the County for submittal to DMR for their 45-day review.

1.2.4 FACE Preparation

Benchmark Resources is prepared to complete annual FACE updates, whether requested by the operator or requested by the County where the operator does not submit the annual update in a timely or reliable fashion. The preparation of each FACE typically includes:

- review of current site conditions, reclamation status, and plans for the next 12 months;
- preparation of the California-required FACE form (FACE-1 Form);
- review of equipment and labor requirements for reclamation,
- annual update of rates per the *California Department of Industrial Relations General Prevailing Wage Determinations* and the *California Department of Transportation Labor Surcharge and Equipment Rental Rates*;
- review and/or coordination of additional quotes for revegetation costs and site equipment valuation and dismantling, and
- preparation of necessary graphics and related calculations regarding areas of grading, revegetation, and soil volumes.

1.2.5 Financial Assurance Mechanisms (FAM)

The FAM must take one of the forms specified as acceptable by State Mining and Geology Board (SMGB) guidelines (i.e., payable statement, letters of credit, surety bond, or certificate of deposit). The mechanisms are held by the County.

Following annual review and recalculation of financial assurance, Benchmark Resources will compare the new amount to the mechanism and recommend revisions as necessary.

Deliverables

- FACE on the most recently DMR approved form (*if County requests, Benchmark Resources to complete form for operators requesting assistance*).
- FACE adequacy letters for submittal to DMR and operators (*electronic submittals*).
- FACE approval notification with updated FAM requests to operators.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

1.2.6 Conditions of Approval Compliance Review

If determined necessary, Benchmark Resources will complete a condition compliance review simultaneously with the annual mine inspections. The review will be for those operations that are subject to a use permit. We will evaluate the status of compliance and provide recommendations for enforcement or future monitoring. The tasks to perform this review include:

- review of records and preparation of a summary of conditions of approval;
- incorporation of mitigation measures adopted through a mitigation monitoring and reporting program (MMRP).

Documentation of conditional use permit compliance outside of the comments in the MRRC-1 Inspection Reports has not been completed since 2014. Benchmark Resources is prepared to provide a conditional use permit compliance review report for each mine site for an additional fixed cost per site.

1.3 Additional Services

In addition to providing support in administering and managing the County's SMARA program, Benchmark Resources is available to assist the County, on an as-needed basis, with review and reporting of new mine permit applications, reclamation plans (or amendments), new mining operators report forms, and with the preparation of CEQA documents. Benchmark Resources is also prepared to assist County staff with preparing for planning commission meetings (such as but not limited to coordination public notification and assembling the staff report for a planning commission meeting) and providing expertise at these meetings. These services are developed based on site-specific circumstances and based on a scope of work and budget (estimates based on time and materials) as approved by the County.

1.4 Mine Closures

In addition to providing support in administering and managing the County's SMARA program, Benchmark Resources will assist the County in preparing the closure reports and closure submittal packages for mine sites which are no longer active, and appear to meet all reclamation plan requirements. The tasks for this scope are as follows:

- conduct a site closure inspection to determine that the mine site has been reclaimed in accordance with the approved reclamation plan and CUP requirements;
- coordination and completion of mine inspection "closure" report (assuming no remaining reclamation tasks);

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

- set-up and finalize closure report packet (including FACE review and correspondences) and submit packet to DMR;
- coordinate and participate in final closure inspection with DMR staff, and
- (*if applicable*) additional follow-up/coordination with DMR.

This scope of work includes the cost for three mine site closures at \$11,440.00 per site. The total cost for three mine site closures is \$34,320.00.

Mine sites that require an amendment to the approved reclamation plan will need to be budgeted separately as the effort required to develop and or review an amendment to a reclamation plan varies in specific efforts and time.

- A.2** All written reports required under this Agreement shall be delivered electronically and/or in hardcopy to the following individual, in accordance with the Schedule in Section C.1 below.

Kathy Nielsen, Management Analyst II
County of Monterey, Housing and Community Development Department
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527
Email: nielsenk@co.monterey.ca.us

B. PAYMENT PROVISIONS

B.1 COMPENSATION/ PAYMENT

County shall pay an amount not to exceed \$311,898.00 for the performance of all things necessary for or incidental to the performance of work as set forth in the Scope of Services. CONTRACTOR's compensation for services rendered shall be based on the following rates or in accordance with the following terms:

CONTRACTOR has calculated a fixed fee for SMARA annual inspections, financial assurance verification, and review of conditional use permit compliance for the County, which is based on the size, complexity, and history of compliance for each operation. These fees cover routine compliance review activities.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**Inspection Year 2021 (August 1, 2021 through July 31, 2022)
Budget for Annual Mine Inspections**

Mine I.D. and Name	Annual Inspection	FACE/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	\$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
91-27-0023 – Beck Pit (DKD 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:	\$45,900	\$14,250	\$60,150

**Inspection Year 2021 (August 1, 2021 through July 31, 2022)
Budget for Compliance Review**

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	\$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
91-27-0027 – 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:	\$29,920

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**Inspection Year 2022 (August 1, 2022 through July 31, 2023)
Budget for Annual Mine Inspections**

Mine I.D. and Name	Annual Inspection	FACE/FA M	Total Site Fee
91-27-0004 – Metz Facility	\$3,143	\$976	\$4,118
91-27-0005 – Natividad Quarry	\$3,143	\$976	\$4,118
91-27-0007 – BLM Rockpile	\$3,143	\$976	\$4,118
91-27-0009 – Bitterwater	\$3,143	\$976	\$4,118
91-27-0011 – Pine Canyon Quarry	\$3,143	\$976	\$4,118
91-27-0012 – Stonewall Canyon Quarry	\$3,143	\$976	\$4,118
91-27-0019 – Brinan Pit	\$3,143	\$976	\$4,118
91-27-0020 – Echenique Pit	\$3,143	\$976	\$4,118
91-27-0021 – Jefferson Pit	\$3,143	\$976	\$4,118
91-27-0023 – Beck Pit (DKD Pit)	\$3,143	\$976	\$4,118
91-27-0025 – Chalone Creek Pit	\$3,143	\$976	\$4,118
91-27-0027 – Chualar Site	\$3,143	\$976	\$4,118
91-27-0028 – Handley Ranch Quarry	\$3,143	\$976	\$4,118
91-27-0029 – Hidden Canyon	\$3,143	\$976	\$4,118
91-27-0030 – Carmel Stone Mine	\$3,143	\$976	\$4,118
TOTAL:	\$47,145	\$14,640	\$61,785

**Inspection Year 2022 (August 1, 2022 through July 31, 2023)
Budget Compliance Review**

Mine I.D. and Name	Use Permit Compliance Review
91/27-0004 – Metz Facility	\$3,338
91-27-0005 – Natividad Quarry	\$3,338
91-27-0007 – BLM Rockpile	\$1,068
91-27-0009 – Bitterwater	\$1,068
91-27-0011 – Pine Canyon Quarry	\$1,068
91-27-0012 – Stonewall Canyon Quarry	\$3,338
91-27-0019 – Brinan Pit	\$1,068
91-27-0020 – Echenique Pit	\$1,068
91-27-0021 – Jefferson Pit	\$1,068
91-27-0023 – Beck Pit (DKD Pit)	\$2,157
91-27-0025 – Chalone Creek Pit	\$1,068
91-27-0027 – Chualar Site	\$1,068
91-27-0028 – Handley Ranch Quarry	\$3,338
91-27-0029 – Hidden Canyon	\$3,338
91-27-0030 – Carmel Stone Mine	\$3,338
TOTAL:	\$30,729

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**Inspection Year 2023 (August 1, 2023 through July 31, 2024)
Budget for Annual Mine Inspections**

Mine I.D. and Name	Annual Inspection	FACE/FAM	Total Site Fee
91-27-0004—Metz Facility	\$3,227	\$1,002	\$4,229
91-27-0005—Natividad Quarry	\$3,227	\$1,002	\$4,229
91-27-0007—BLM Rockpile	\$3,227	\$1,002	\$4,229
91-27-0009—Bitterwater	\$3,227	\$1,002	\$4,229
91-27-0011—Pine Canyon Quarry	\$3,227	\$1,002	\$4,229
91-27-0012—Stonewall Canyon Quarry	\$3,227	\$1,002	\$4,229
91-27-0019—Brinan Pit	\$3,227	\$1,002	\$4,229
91-27-0020—Echenique Pit	\$3,227	\$1,002	\$4,229
91-27-0021—Jefferson Pit	\$3,227	\$1,002	\$4,229
91-27-0023—Beck Pit (DKD Pit)	\$3,227	\$1,002	\$4,229
91-27-0025—Chalone Creek Pit	\$3,227	\$1,002	\$4,229
91-27-0027—Chualar Site	\$3,227	\$1,002	\$4,229
91-27-0028—Handley Ranch Quarry	\$3,227	\$1,002	\$4,229
91-27-0029—Hidden Canyon	\$3,227	\$1,002	\$4,229
91-27-0030—Carmel Stone Mine	\$3,227	\$1,002	\$4,229
TOTAL:	\$48,405	\$15,030	\$63,435

**Inspection Year 2023 (August 1, 2023 through July 31, 2024)
Budget for Compliance Review**

Mine I.D. and Name	Use Permit Compliance Review
91/27-0004—Metz Facility	\$3,428
91-27-0005—Natividad Quarry	\$3,428
91-27-0007—BLM Rockpile	\$1,097
91-27-0009—Bitterwater	\$1,097
91-27-0011—Pine Canyon Quarry	\$1,097
91-27-0012—Stonewall Canyon Quarry	\$3,428
91-27-0019—Brinan Pit	\$1,097
91-27-0020—Echenique Pit	\$1,097
91-27-0021—Jefferson Pit	\$1,097
91-27-0023—Beck Pit (DKD Pit)	\$1,097
91-27-0025—Chalone Creek Pit	\$2,215
91-27-0027—Chualar Site	\$1,097
91-27-0028—Handley Ranch Quarry	\$3,428
91-27-0029—Hidden Canyon	\$3,428
91-27-0030—Carmel Stone Mine	\$3,428
TOTAL:	\$31,559

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS**Mine Closure Proposed Budget (per mine)
August 1, 2021 through July 31, 2024**

Cost Category		Labor			Labor Subtotal		Expenses	Proposed Costs (\$)
		Mine Engineer (hrs)	CADD/GIS Tech. (hrs)	Document Tech. (hrs)			Expenses (mileage) (\$)	
TASK AND SUBTASK		\$185	\$115	\$110	Hours	Costs		
Task 1:	Mine Closure							
1.1	Closure Inspection	12.0			12.0	\$2,220	\$240	\$2,460
1.2	Closure Report	4.0	2.0	2.0	8.0	\$1,190		\$1,190
1.3	Closure Package Development, FACE Review & Submittal to DMR	10.0		4.0	14.0	\$2,290		\$2,290
1.4	Final Closure Inspection w/DMR	10.0			10.0	\$1,850	\$240	\$2,090
1.5	DMR Contingencies*	16.0	2.0	2.0	20.0	\$3,410		\$3,410
TASK 1 SUBTOTAL		52.0	4.0	8.0	64.0	\$10,960	\$480	\$11,440
GRAND TOTAL								\$11,440

B.2 Additional/On-Call Services

On-call services, such as resolution of issues raised by DMR or County staff (or citizen complaint), would be accomplished on an hourly basis according to determined tasks approved by the County and charged based on the rates reflected in Table 6-3, “Benchmark Resources Standard Fee Schedule.” Invoicing would be done on a monthly, time and materials basis. The rates outlined in the following table will be valid for the initial three-year term of our agreement with the County.

Benchmark Resources Standard Fee Schedule

Item	Rate
LABOR	
Principal	\$245/hour
Director	\$225/hour
Senior staff project manager, engineer, geologist, biologist	\$185/hour
Project staff engineer, resource planner, geologist, biologist	\$125/hour
Technical staff analyst/editor, CADD, GIS, field support	\$125/hour
Support staff document control, word processing, database management	\$110/hour

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

Item	Rate
EXPENDITURES	
Airfare, auto rental, lodging, equipment, subconsultants, 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)

There shall be no travel reimbursement allowed during this Agreement, as the proposed costs are a flat fee.

CONTRACTOR warrants that the cost charged for services under the terms of this Agreement are not in excess of those charged to any other client for the same services performed by the same individuals.

B.2 CONTRACTOR’S BILLING PROCEDURES

Invoices under this Agreement shall be submitted monthly and promptly, and in accordance with Paragraph 6, “Payment Conditions,” of the Agreement. All invoices shall reference the Multi-Year Agreement (MYA) number, services (**SMARA Annual Mine Inspections and Reporting**) and associated Delivery Order number. An original hardcopy of the invoice shall be sent to the following address or via email to 194-HCD-Finance@co.monterey.ca.us:

County of Monterey
Housing and Community Development Department – Finance Division
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

Any questions pertaining to invoices under this Agreement should be directed to the HCD Finance Division at (831) 755-4800 or via email to: 194-HCD-Finance@co.monterey.ca.us.

County may, in its sole discretion, terminate the Agreement or withhold payments claimed by CONTRACTOR for services rendered if CONTRACTOR fails to satisfactorily comply with any term or condition of this Agreement.

No payments in advance or in anticipation of services or supplies to be provided under this Agreement shall be made by County.

EXHIBIT A – SCOPE OF SERVICES/PAYMENT PROVISIONS

County shall not pay any claims for payment for services submitted more than twelve (12) months after the calendar month in which the services were completed.

DISALLOWED COSTS: CONTRACTOR is responsible for any audit exceptions or disallowed costs incurred by its own organization or that of its subcontractors.

C. SCHEDULE

C.1 Pursuant to SMARA § 2774(b)(a), annual inspections will be completed in intervals of no more than 12 months.

Task	Date/Duration
Schedule inspections	August
Conduct Inspections with Operators <i>Inspections take 1.5 to 3 hours depending on complexity</i>	September - December
Submit inspection reports to DMR	90 days and by March after inspections are complete
Conduct FACE reviews; submit letters of completeness and adequacy	90 days and by March after inspections are complete

Attachment A - Active Mines in Monterey County



Benchmark Land Use Group, Inc. dba Benchmark Resources

ATTACHMENT A - MONTEREY COUNTY MINING LOCATIONS

	State I.D. No.	County File No.	Operator	Site Name & Location	APN(s)	Type of Mine	Mine Status	Disturbed Acres
1.	91-27-0004	PC06872 PLN980287	Granite Construction Company	Metz Quarry Metz Road, 3 miles east of Greenfield	418-401-009-000, 006, 007, 021, & 026 249-011-009-000, 010, & 013 418-391-012-000, 013, 014, 015, & 016	Sand and Gravel	Idle	Plant area ~27 acres; in-stream ~111 acres
2.	91-27-0005	PC04745	Lhoist North America / Chemical Lime Company	Natividad Quarry 11771 Old Stage Road, Salinas	211-031-016-000	Dolomite and Lime	Active	427 acres
3.	91-27-0007	PC092017	William J. Clark Trucking	BLM Rockpile West of Highway 101 off Lockwood-San Ardo Road, Lockwood	422-101-002-000	Sand and Gravel	Active	15 acres
4.	91-27-0009	PC05361 PC93019	William J. Clark Trucking	Clark Pit (Bitterwater) 6 miles east of King City	419-131-005-000	Sand and Gravel	Active	Plant area ~23 acres; in-stream ~59 acres
5.	91-27-0011	PC92022	Granite Construction Company	Pine Canyon Quarry end of Pine Canyon Road, 7 miles south of Salinas	416-471-005-000, 006, 007, 008, & 009 269-063-004-000	Decomposed Granite	Idle	15 acres
6.	91-27-0012	PC07447 PLN060550 (pending)	Syar Industries	Stonewall Canyon Quarry Stonewall Canyon Road, Soledad	417-151-056-000	Sand and Gravel	Active	50 acres
7.	91-27-0019	PLN990292	Swift Techtonics	Brinan Pit / Rancho Rico Gravel Pit Sargents Road, east of San Ardo	422-111-030-000 422-111-015-000 & 017	Sand and Gravel	Active	Plant area ~6 acres; in-stream ~31 acres
8.	91-27-0020	PLN970422	Swift Techtonics	Echenique Pit 1 mile south of Paris Valley Road, San Lucas	237-011-019-000	Sand and Gravel	Active	11.6 acres
9.	91-27-0021	PC96050	Keith Day Company, Inc.	Jefferson Pit Off Del Monte Road, 3 miles north of the City of Marina	229-011-016-000	Sand and Gravel	Idle	3 acres

ATTACHMENT A - MONTEREY COUNTY MINING LOCATIONS

	State I.D. No.	County File No.	Operator	Site Name & Location	APN(s)	Type of Mine	Mine Status	Disturbed Acres
10.	91-27-0025	PC94211	Swift Techtonics	Chalone Creek Pit South of Metz Road, north of Elm Ave; east of Greenfield	418-401-027-000	Sand and Gravel	Active	Plant area ~11 acres
11.	91-27-0027	PLN000066	Keith Day Company, Inc.	Chualar Site 2 miles southwest of Chualar on River Road	167-033-010-000, 011, & 013	Sand and Gravel	Active	6 acres
12.	91-27-0028	PLN010290 PLN010291	Granite Construction Company	Handley Ranch Quarry 25485 Iverson Road, Gonzales	416-471-005-000, 006, 007, 008, 009 & 014; 415-081-018-000 & 019; 269-063-004-000 223-031-004-000 223-051-001-000	Stone	Active	58 acres
13.	91-27-0029	PLN010239	San Benito Supply, Inc.	Hidden Canyon Quarry Metz Road, 2 miles north of Elm Ave; east of Greenfield	418-401-029-000, 030 & 031	Sand and Gravel	Active	49.3 acres
14.	91-27-0030	PLN090191	Vance Querfurth	Carmel Stone Mine 6 miles west of Highway 101; north of Lockwood-San Ardo Road, Lockwood	422-101-002-000	Monterey shale (Carmel stone)	Active	4 acres