

Attachment B

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FIRST AMENDMENT TO PAVEMENT MAINTENANCE AGREEMENT

THIS FIRST AMENDMENT TO THE PAVEMENT AND MAINTENANCE AGREEMENT ("Amendment") is entered into as of the last date opposite the respective signatures below, by and between San Benito Supply, Inc., a California Corporation ("SBS") and the County of Monterey ("County").

RECITALS:

WHEREAS, SBS conducts a surface mining operation on Metz Road approximately three (3) miles east of Greenfield in the County (commonly known as the Hidden Canyon Quarry) under Use Permit No. PLN010239 ("Permit"), as set forth in the County Planning Commission Resolution No. 05019, dated March 30, 2005; and

WHEREAS, SBS and the County entered into a Pavement Maintenance Agreement ("Agreement") effective as of June 1, 2006 as a condition to authorizing the Permit; and

WHEREAS, Section 6. TERM of said Agreement provided that:

This Agreement shall terminate on the first to occur of (i) a period of twenty (20) years from the Effective Date of this Agreement, or (ii) termination of Permit.

WHEREAS, the Agreement provides for a pavement maintenance and rehabilitation program ("Program") that consists of patchwork of chip seal work of portions of Metz Road and Elm Avenue; and

WHEREAS, SBS desires to extend the Permit for an additional twenty (20) years, with a termination date of March 30, 2045.

NOW, THEREFORE, SBS and the County (collectively referred to as the "Parties") mutually covenant and agree to amend the Agreement as indicated below.

1. Subsection 5.d. of Section 5. INSURANCE is amended to read as follows:

5.d. Waiver of Subrogation:

CONTRACTOR hereby grants to County a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against the County by virtue of the payment of any loss under such insurance. CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the County has received a waiver of subrogation endorsement from the insurer.

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 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 always 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 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.

2. Section 6 TERM is amended to read as follows:

This Agreement shall terminate on the first to occur of (i) March 30, 2045, or (ii) termination of Permit.

3. Section 9.j.(1). NOTICE is amended to read as follows:

Whenever, under the terms of this Agreement, it becomes necessary, appropriate, or desirable for a Party to give notice to the other Party, said notice shall be in writing and shall be personally delivered or given or mailed by commercial overnight courier service or by registered or certified United States mail return receipt requested, with first-class postage prepaid, or by facsimile and confirmation of transmittal thereof, addressed as follows:

To San Benito Supply: Teniya Schipper
San Benito Supply
1060 Nash Road
Hollister, California 95023
Telephone Number (831) 637-6872
Facsimile Number (831) 637-612

To County: Randell Ishii, PE.
Public Works, Facilities and Parks (PWFP)
Director of PWFP
1441 Schilling Place, 2nd Floor
Salinas, California 93901

With Copies to: Mary Grace Perry
Deputy County Counsel
Office of the County Counsel
168 W. Alisal Street, 3rd Floor
Salinas, California 93901

Legal Counsel: Pat Mitchell
Mitchell Chadwick
3001 Lava Ridge Court, Suite 120
Roseville, California 95661

4. Section 3 LIMITATION ON RESPONSIBILITY FOR THE PROGRAM is amended to read as follows:

The patchwork quantities listed in the first column (captioned "Description") of Option B page 11, of Attachment A to the June 1, 2006 Pavement Maintenance Agreement (referred to as the *Pavement Evaluation Study, Maintenance and Rehabilitation Strategy for Metz Road and Elm Avenue*), represent the maximum quantity of pavement maintenance and rehabilitation work to be performed by SBS on an annual basis. Thus, the amount of patchwork to be performed by SBS on an annual basis shall consist of the combined total of full depth patch work performed as part of the scheduled pavement maintenance and rehabilitation (Attachment A, page 9, paragraph 2) and shall not be required to exceed the quantities identified in Option B.

5. SBS shall contract with Viborg Sand & Gravel ("VSG") to complete the following work on Elm Avenue:
 - a. Sweep and clean Elm Avenue utilizing kick brooms;
 - b. Oil tack existing surface with a SS1h oil 60/40 mix (60% oil / 40% water), utilizing a 2020 Bearcat Distributer Truck at a rate of .12 of a gallon per square yard;
 - c. Use of the Hot Mix Asphalt (HMA) leveling layers at 10 pounds per square foot;
 - d. Oil seal the leveling course, with spread SS1h 60/40 mix at .13 to .14 depending on the day's temperature. The Paver will be followed by a Cat CB10 Steel Wheel Roller (67" wide), followed by a Hypac 9-wheel pneumatic roller;
 - e. Single chip seal: Spread CRSII oil at a rate of .42 of a gallon, and then spread 3/8" chip rack supplied by SBS at a rate of 30lbs per square yard. The Chip Spreader to be utilized is a 2016 Etnyre Quad, 11-22-foot computer-controlled chip spreader;
 - f. Sweep excess chip the same day or the following morning upon chipping or sweeping; and
 - g. Install striping and signage in accordance with the latest edition of the California Manual for Uniform Traffic Control Devices (CAMUTCD).
6. SBS shall contract with Viborg Sand & Gravel ("VSG") to complete the following work on Metz Road:
 - a. Single chip seal: Spread CRSII oil at a rate of .42 of a gallon, and then spread 3/8" chip rack supplied by SBS at a rate of 30lbs per square yard. The Chip Spreader to be utilized is a 2016 Etnyre Quad, 11-22-foot computer-controlled chip spreader;
 - b. Sweep excess chip the same day or the following morning upon chipping or sweeping; and
 - c. Install striping and signage in accordance with the latest edition of the California Manual for Uniform Traffic Control Devices (CAMUTCD)
7. SBS to continue monitoring the pavement on an annual basis and perform subsequent pavement maintenance as outlined in condition of approval number 71 (PLN010239).
8. All other terms and conditions of the Agreement, including all Exhibits thereto, remain unchanged and in full force.

9. This Amendment No. 1 shall be attached to the Agreement and incorporated therein as if fully set forth in the Agreement.

10. The recitals to this Amendment No. 1 are incorporated into the Agreement and this Amendment No. 1.

IN WITNESS THEREOF, the Parties hereto have executed this Amendment effective as of the last date opposite the respective signatures below.

San Benito Supply, Inc.
a California Corporation

County of Monterey

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|---|--|
| <p>By: <u>[Signature]</u></p> <p>Name: <u>Ben Schipper</u></p> <p>Title: <u>President</u> (Chair of the Board, President or Vice President)</p> <p>Date: <u>1/22/2025</u></p> | <p>By: _____</p> <p>Name: _____</p> <p>Title: _____</p> <p>Date: _____</p> |
| <p>And By: <u>[Signature]</u></p> <p>Name: <u>Naomi Stringer</u></p> <p>Title: <u>CFO</u> (Secretary, Assistant Secretary, Treasurer, Assistant Treasurer or Chief Financial Officer)</p> <p>Date: <u>1/22/2025</u></p> | <p>Approved as to form: Office of the County Counsel Susan K. Blich, County Counsel</p> <p>Signed by: <u>[Signature]</u> By: <u>Mary Grace Perry</u> 76A18B9BA72D498... Mary Grace Perry Deputy County Counsel</p> <p>Date: <u>2/19/2025</u></p> |
| | <p>Approved as to Indemnity and Insurance Provisions: Office of the County Counsel/Risk Management Susan K. Blich, County Counsel</p> <p>DocuSigned by: <u>[Signature]</u> By: <u>David Bolton</u> 3E7A8EF11DD8440... David Bolton, Risk Manager</p> <p>Date: <u>2/19/2025</u></p> |

SAN BENITO SUPPLY, INC, a California Corporation

By _____
(Signature)

Print/Type Name: _____

Date: _____ Title: _____

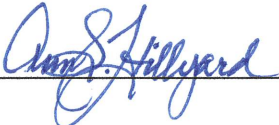
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

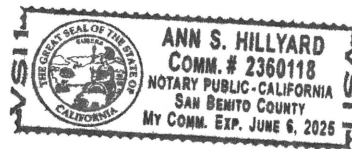
STATE OF
CALIFORNIA
COUNTY OF
~~MONTEREY~~ **SAN BENITO**

On Jan 22, 2025 before me, Ann S Hillyard, Notary Public,
personally appeared Ben Schipper and Naomi Stringer,
who proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s)
is/are subscribed to the within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the
person(s) acted, executed the instrument.

*I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.*

WITNESS my hand and official

seal. Signature 



(SEAL)