

**CONTRACT FOR CONSULTANT SERVICES BETWEEN
THE CITY OF WATSONVILLE AND SAN BENITO SUPPLY**

THIS CONTRACT, is made and entered into this _____, by and between the **City of Watsonville**, a municipal corporation, hereinafter called "City," and **San Benito Supply**, hereinafter called "Consultant."

WITNESSETH

WHEREAS, the City needs to obtain certain professional, technical and/or specialized services of an independent contractor to assist the City in the most economical manner; and

WHEREAS, Consultant has represented that consultant has appropriate skill, training, qualifications, and experience to render such services called for under this Contract to City.

THE PARTIES HEREBY AGREE AS FOLLOWS:

SECTION 1. SCOPE OF SERVICES. Consultant shall perform those services described in detail in Exhibit "A," entitled "SCOPE OF SERVICES" which exhibit is attached hereto and incorporated herein.

SECTION 2. TERM OF CONTRACT. The term of this Contract shall be from January 1, 2025 to June 30, 2026, inclusive.

SECTION 3. SCHEDULE OF PERFORMANCE. The services of Consultant are to be completed according to the schedule set out in Exhibit "B," entitled "SCHEDULE OF PERFORMANCE," which is attached hereto and incorporated herein. Consultant will diligently proceed with the agreed Scope of Services and will provide such services in a timely manner in accordance with the "SCHEDULE OF PERFORMANCE."

SECTION 4. COMPENSATION. The compensation to be paid to Consultant including both payment for professional services and reimbursable expenses as well as the rate and schedule of payment are set out in Exhibit "C" entitled "COMPENSATION," which is attached hereto and incorporated herein. This amount shall not exceed \$150,000.

SECTION 5. METHOD OF PAYMENT. Except as otherwise provided in Exhibit "C," each month, Consultant shall furnish to the City a statement describing the work performed for compensation during the preceding month. Such statement shall also include a detailed record of the month's actual reimbursable expenditures.

SECTION 6. INDEPENDENT CONSULTANT. It is understood and agreed that Consultant, in the performance of the work and services agreed to be performed by Consultant, shall act as and be an independent Consultant and not an agent or

employee of City, and as an independent Consultant, shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

SECTION 7. ASSIGNABILITY. Consultant shall not assign or transfer any interest in this Contract nor the performance of any of Consultant's obligations hereunder, without the prior written consent of City, and any attempt by Consultant to so assign this Contract or any rights, duties or obligations arising hereunder shall be void and of no effect.

SECTION 8. INDEMNIFICATION. Consultant represents that Consultant has the expertise and experience necessary to perform the services and duties agreed to be performed by Consultant under this Contract, and City is relying upon the skill and knowledge of Consultant to perform said services and duties. Consultant agrees to defend, indemnify and hold harmless City, its officers, agents, and employees, against any loss or liability arising out of or resulting in any way from work performed by or on behalf of Consultant under this Contract or the errors or omissions by Consultant.

SECTION 9. INSURANCE.

A. Auto and Commercial General Liability Insurance. Consultant shall also maintain in full force and effect for the term of this Contract, automobile insurance and commercial general liability insurance with an insurance carrier satisfactory to City, which insurance shall include protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from any actual occurrence arising out of the performance of this Contract. The amounts of insurance shall not be less than the following:

(1) Commercial general liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000.00 per occurrence. If such insurance contains a general aggregate limit, such limit shall apply separately to each project Consultant performs for City. Such insurance shall (a) name City, its appointed and elected officials, and its employees as insureds; and (b) be primary with respect to insurance or self-insurance programs maintained by City and (c) contain standard separation of insured's provisions.

(2) Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$1,000,000.00 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

B. Workers' Compensation Insurance. In accordance with the provisions of Section 3700 of the Labor Code, Consultant shall be insured against liability for Workers' Compensation or undertake self-insurance. Consultant agrees to comply with such provisions before commencing performance of any work under this Contract.

C. Proof of Insurance to City before Notice to Proceed to Work. Consultant shall satisfactorily provide certificates and endorsements of insurance to the City Clerk before Notice to Proceed to Work of this Contract will be issued. Certificates and policies shall state that the policy shall not be canceled or reduced in coverage without thirty (30) days written notice to City. Approval of insurance by City shall not relieve or decrease the extent to which Consultant may be held responsible for payment of damages resulting from services or operations performed pursuant to this Contract. Consultant shall not perform any work under this Contract until Consultant has obtained the required insurance and until the required certificates have been submitted to the City and approved by the City Attorney. If Consultant fails or refuses to produce or maintain the insurance required by these provisions, or fails or refuses to furnish City required proof that insurance has been procured and is in force and paid for, City shall have the right at City's election to forthwith terminate this Contract immediately without any financial or contractual obligation to the City. As a result of such termination, the City reserves the right to employ another consultant to complete the project.

D. Written notice. Contractor shall provide immediate written notice if (1) any insurance policy required by this Contract is terminated; (2) any policy limit is reduced; (3) or any deductible or self insured retention is increased.

SECTION 10. NON-DISCRIMINATION. Consultant shall not discriminate, in any way, against any person on the basis of age, sex, race, color, creed, national origin, or disability in connection with or related to the performance of this Contract.

SECTION 11. TERMINATION.

A. City and Consultant shall have the right to terminate this Contract, without cause, by giving not less than ten (10) days written notice of termination.

B. If Consultant fails to perform any of its material obligations under this Contract, in addition to all other remedies provided by law, City may terminate this Contract immediately upon written notice.

C. The City Manager is empowered to terminate this Contract on behalf of City.

D. In the event of termination, Consultant shall deliver to City copies of all work papers, schedules, reports and other work performed by Consultant and upon receipt thereof, Consultant shall be paid in full for services performed and reimbursable expenses incurred to the date of termination.

SECTION 12. COMPLIANCE WITH LAWS. Consultant shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments. Consultant shall obtain and maintain a City of Watsonville business license during the term of this Contract.

SECTION 13. GOVERNING LAW. City and Consultant agree that the law governing this Contract shall be that of the State of California. Any suit brought by either party against the other arising out of the performance of this Contract shall be filed and maintained in the Courts of the County of Santa Cruz.

SECTION 14. PRIOR CONTRACTS AND AMENDMENTS. This Contract represents the entire understanding of the parties as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Contract may only be modified by a written amendment.

SECTION 15. CONFIDENTIAL INFORMATION. Except as may be required by law, all data, documents, discussions, or other information developed or received by or for Consultant in performance of this Contract are confidential and not to be disclosed to any person except as authorized by the City Manager.

SECTION 16. OWNERSHIP OF MATERIALS. All reports, documents or other materials developed or received by Consultant or any other person engaged directly by Consultant to perform the services required hereunder shall be and remain the property of City without restriction or limitation upon their use.

SECTION 17. COVENANT AGAINST CONTINGENT FEES. The Consultant covenants that Consultant has not employed or retained any company or person to solicit or secure the Contract, and that Consultant has not paid or agreed to pay any company or person, any fees, commissions, percentage, brokerage fee, gift, or any other consideration contingent on or resulting from the award or making of this Contract. For breach or violation of this covenant, the City shall have the right to annul this Contract without liability, or in its discretion, to deduct from the contract price or consideration or otherwise recover, the full amount of such fee, commission, percentage fee, gift, or contingency.

SECTION 18. WAIVER. Consultant agrees that waiver by City or any one or more of the conditions of performance under this Contract shall not be construed as waiver of any other condition of performance under this Contract.

SECTION 19. CONFLICT OF INTEREST.

A. A Consultant shall avoid all conflict of interest or appearance of conflict of interest in performance of this Contract. Consultant shall file a FPPC Form 700 disclosure statement, which form shall be filed with the City Clerk within thirty (30) days from the effective date of this Contract as applicable.

B. No member, officer, or employee of the City, during their tenure, or for one (1) year thereafter, shall have any interest, direct or indirect, in this Contract or the

proceeds thereof and Consultant agrees not to allow, permit, grant, transfer, or otherwise do anything which will result in such member, officer, or employee of the City from having such interest.

SECTION 20. AUDIT BOOKS AND RECORDS. Consultant shall make available to City, its authorized agents, officers and employees, for examination any and all ledgers and books of account, invoices, vouchers, canceled checks and other records or documents evidencing or related to the expenditures and disbursements charged to the City, and shall furnish to City, its authorized agents and employees, such other evidence or information as City may require with respect to any such expense or disbursement charged by Consultant.

SECTION 21. NOTICES. All notices shall be personally served or mailed, postage prepaid, to the following addresses, or to such other address as may be designated by written notice by the parties:

CITY	CONSULTANT
City Clerk's Office 275 Main Street, Suite 400 Watsonville, CA 95076 (831) 768-3040	San Benito Supply 1060 Nash Road Hollister, CA 95023 (831) 207-5226

SECTION 22. EXHIBITS:

Exhibit A: Scope of Services
Exhibit B: Schedule of Performance
Exhibit C: Compensation

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WITNESS THE EXECUTION HEREOF, on the day and year first hereinabove written.

CITY

CONSULTANT

CITY OF WATSONVILLE

BY _____
Tamara Vides, City Manager

Signed by:

BY _____
Mason Otta, Ready Mix Territory Sales
Manager

ATTEST:

BY _____
Irwin I. Ortiz, City Clerk

APPROVED AS TO FORM:

BY _____
Samantha W. Zutler, City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

The scope of work is as follows:

As described on material quote from San Benito Supply for the purchase of material supply of sacks of sand slurry and concrete.

- See attachment labeled Exhibit "A"

EXHIBIT "B"

SCHEDULE OF PERFORMANCE

Services shall commence immediately upon execution of this Contract. All services performed under the provisions of this Contract shall be completed in accordance with the following schedule: **January 1, 2025 to June 30, 2026.**

EXHIBIT "C"

COMPENSATION

- a. Total Compensation. The total obligation of City under this Contract shall not exceed \$150,000.
- b. Basis for Payment. Payment(s) to Consultant for services performed under this contract shall be made as follows and shall [not] include payment for reimbursable expenses:
- c. Payment Request. Consultant shall submit a request for payment for services on a monthly basis by letter to Director, or said Director's designated representative. Such request for payment shall cover the preceding monthly period during the term hereof, shall note the City's purchase order number for this contract, shall contain a detailed listing of the total number of items or tasks or hours for which payment is requested, the individual dates on which such services were rendered, and invoices for reimbursable expenses, if any. Upon receipt in the Office of Director of said payment request, Director shall cause payment to be initiated to Consultant for appropriate compensation.



Material Quote-Confidential

SBS (hereafter, "Seller") submits to the purchaser identified below ("Purchaser") this quote for material described below ("Material"). This material quote ("Quote") upon transmission to Purchaser, replaces and terminates any prior quote offer, whether verbal or written, that Purchaser may have received from Seller referencing the Project.

Quotation must be signed within 10 days to validate prices.

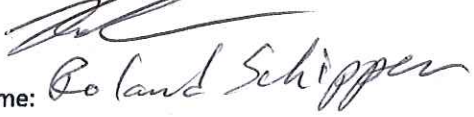
Date:	11/27/2024	Project:	2025 Concrete and Slurry Materials Quote
Company:	City of Watsonville /		
Contact:	Watsonville Field Services		
Phone:		Quote:	2
Email:	beau.kayser@watsonville.gov		

MATERIALS/SPECIFICATION/PRICE

Material		Qty	UOM	Price per Unit	Extension
25	5SK 3/4" CONCRETE	0.00	CY	\$152.00	\$0.00
2SS	2SK SANDSLURRY	0.00	CY	\$112.00	\$0.00
ENVIR	ENVIRO SURCHARGE PER LD	0.00	Each	\$40.00	\$0.00
FS	FUEL SURCHARGE PER LD	0.00	Each	\$50.00	\$0.00

Note: Prices do NOT include sales tax.
 Truck Enviro Fee \$40.00 per load
 Quarry/Mine Enviro Fee (Aggregate Only) \$12.00 per load
 Aggregate Short Load Charge \$125.00 per Load (less than 10 tons)
 Saturday, Sunday, Holiday or Overtime shipments are subject to additional fees
 Stand-by Charge: 4 minutes per yard free unload time. Stand-by will be charged at \$3.25 for each minute thereafter.
 Concrete Short load charge \$125.00 per load (less than 6 cu/yds).
 Unit prices are fixed for 90 days and thereafter expire.

All Pricing Given Verbally or in Print are Subject to Change Without Notice
Seller hereby submits, and by its signature, Purchaser hereby accepts, the Quote; both cases subject to all the terms and Conditions set forth on the second page of this Quote.
 Prices expire 1/1/2026. Sales Contact: Mason Otta 831-207-5226

Seller: SBS Concrete. Aggregate. Supplies.
 Signed By: 
 Printed Name: Roland Schipper
 Date: 12-3-24

Purchaser: Watsonville Field Services
 Signed By:
 Printed Name:
 Date:

Thank You!

MATERIAL QUOTE TERMS & CONDITIONS

1 ACCEPTANCE: Unless otherwise stated on the first page of this quote, this Quote shall constitute a firm offer for thirty (30) days from its date first written above "Acceptance Period". The terms and conditions of this Quote may be accepted by the Purchaser ("Acceptance") only by one of the following alternatives performed within the Acceptance Period: (i) Purchaser's execution and delivery to Seller of this Quote; or (ii) purchaser's placing either of written or oral order for all or a portion of the material quoted under this Quote; or (iii) Seller's commencement of performance. Should Acceptance occur through clauses (ii) or (iii) above, the terms and conditions of this Quote govern regardless of whether or not Purchaser has signed this Quote. Should either of the events of clauses, (i) or (iii) occur after the expiration of the Acceptance Period, Seller has the discretion to perform or not to perform and, if Seller elects to perform, then all of the terms and conditions of this Quote shall govern, other than price which shall be adjusted to reflect any increases in Seller's then published pricing for the Materials. This quote can only be modified by both parties. Any and all additional or different terms proposed by Purchaser, whether contained in Purchaser's purchase order, shipping release forms, prior practice between the parties, or on any modification to this Quote by Purchaser shall not be binding on nor obligate the Seller unless prior to Acceptance this Quote is returned with Purchaser's, full counter-proposal and is then signed and dated by Seller's authorized representative. The issuance or the execution of this Quote is not intended, nor shall be construed, as creating an exclusive or requirements supply agreement between Purchaser and Seller. In the event no stated quantity amounts are included on the first page of this Quote, Seller reserves the absolute discretion to determine how to allocate Material among its customers, including Purchaser.

2 DELIVERY: Delivery shall be F.O.B.: (a) Project Location; (b) Seller's Plant(s); or (c) at another location agreed to between the parties. Material shall be delivered or made available in accordance with a schedule mutually agreed upon by the Purchaser and Seller Where delivery off of Seller's facility Is Seller's responsibility, Seller or its contract hauler will enter upon the delivery location only as a convenience to Purchaser and Purchaser specifically waives and agrees to defend, indemnify and hold Seller harmless from and against any claim of liability or action against Seller because of damage caused thereby including, but not limited to, damage to concrete surfaces, pipelines or underground structures or utilities. Purchaser agrees to provide clear, substantial and suitable access to point of delivery.

3 PAYMENT TERMS: Purchaser shall pay seller at the prices given in the table above. Seller shall invoice Purchaser on a daily basis for Material delivered. Payment shall be due no more than 30 days from the date of the invoice in the full amount of the invoice without retention of any amount by Purchaser. Purchaser's failure to pay all amount owing when due shall be deemed a material breach of the Quote, and Seller may at its option: (i) terminate this Quote; (ii) require payment to be made in advance of future deliveries; or (iii) place future deliveries on C.O.D. basis. Seller's election or waiver of any of such remedies as to one such breach shall not waive its right as to subsequent payment breaches. Amounts due shall bear an interest charge computed from the due date at the lesser of the maximum interest rate allowed by law or at the rate of 1.5% per month. Purchasers agree to pay all costs and expenses of collecting past due accounts, including actual attorney's fees incurred, whether or not suit or action is filed, on appeal or otherwise.

4 UNLOADING TIME: READY-MIX: Seller allows an unloading allowance of 4 minutes per cu yd purchased, or 38 minutes per full load (9.5 cu yd). The time allowance begins when the concrete mixer arrives at the Project and ends when the concrete is, finished pouring. If the actual unloading time exceeds the time allowed, the excess unloading time will be charged at the rate of \$2.00 per minute.

5 READY-MIX CONCRETE ADDITIVES: Seller shall not be responsible for the effect on slump, strength, or quality of any concrete to which water or any other material are added at the direction of Purchaser or Purchaser's representative or agent. Seller does not guarantee pump ability of mixes because Seller has no control over the type of equipment used or prevailing conditions. When color additives or any other additives or add agents are added to ready-mix concrete ("Additives"), they shall be at the request and instructions of Purchaser, and at Purchaser's risk. Seller does not warrant or guarantee Additives or the ready mixed concrete product to which they are added.

6 INSPECTIONS OR ALTERATIONS: It shall be Purchaser's responsibility to make, or cause to be made, and pay for such inspections and tests as may be required or desired at Seller's facility or the F.O.B. location to assure the Material meets any requirement of Purchaser other than specified in this Quote.

7 INTEGRATED AGREEMENT, EXCLUSIVE TERMS, MODIFICATION: This quote sets forth the entire agreement between Seller and Purchaser with respect to its subject matters provided, however, that in the event Purchaser and

Seller are parties to a Purchase Agreement on Seller's Form of the Purchase Agreement. In the event of any conflict between an item on the first page of this Quote and the Purchase Agreement, the provision on the first page of this Quote shall govern. In the event of any conflict between an item in the Terms and Conditions and terms and conditions of the Purchase Agreement, the Purchase Agreement will control. Except with regard to any such Purchase Agreement, all prior and contemporaneous conversations, practices between the parties, quotes, offers, negotiations, representation, promises and warranties with respect to said subject matters are waived, merged herein and superseded hereby. This is a fully integrated agreement. No terms and conditions other than those stated herein and no agreement or understanding in any way purporting to modify or supplement these terms shall be binding on Seller unless made in writing and signed by Seller. Seller hereby objects to and rejects any and all additional or different terms by Purchaser, whether verbal, contained in Purchaser's purchase order or shipping release forms.

8 PRICE ESCALATION: The prices stated on the first page of this Quote are subject to adjustment: (a) if and as stated on said first page; (b) if no quantity amounts are stated on the first page, then as and when determined by Seller upon written notice to Purchaser; and (c) on account of increases in Fuel and Elements costs as described in this paragraph. Purchaser acknowledges that national and regional supply shortages for the raw material necessary for the production and delivery of the Material may occur and that the prices for oil, liquid propane, gasoline, diesel, natural gas and electricity (collectively "Fuel") as well as liquid asphalt, Portland cement and lime (collectively "Elements") may increase during the term of this Quote. In the event that Seller incurs costs increases in Fuel or Elements such that if the purchase price of any Material to be supplied under this Quote is increased to reflect the same cost increase incurred by Seller for the Fuel and Elements of that Material and would result in an increase in the price of said Material of greater than (i) 10% for aggregate type Material, (ii) 6% for asphaltic concrete Material or (iii) 4% for Portland cement type Material, the Purchaser and Seller shall negotiate to mutually agree upon a revised price for the Material yet to be delivered under this Quote. If the parties cannot agree upon a revised price for such Material, then either Party may, upon two (2) days written notice, terminate this quote as to any Material not delivered to Purchaser as of the date of termination.

9 WARRANTY, REMEDIES SELLER WARRANTS THAT THE MATERIAL WILL, AT THE POINT AND TIME OF DELIVERY, CONFORM TO THE SPECIFICATIONS SET FORTH ON THE FACE HEREOF. NO OTHER WARRANTIES OF ANY KIND ARE MADE BY SELLER AND SELLER EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES TO THE FULLEST EXTENT PERMITTED BY LAW, WHETHER EXPRESSLY OR IMPLIED, INCLUDING BUT NOT LIMITED TO, WARRANTIES, OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. Purchaser's exclusive remedies for breach of this express warranty with respect to any nonconforming Material shall be limited solely, at the option of Seller, to (i) replacement of the nonconforming Material to the F.O.B. delivery point; or (ii) the cost to replace the nonconforming Material to the F.O.B. delivery point. Seller shall be given a reasonable opportunity to investigate and cure any nonconformance. Seller's breach of warranty obligation shall not extend beyond the last to occur of: one (1) year following substantial completion of the Project for which the Quote applies, or one (1) year from the last delivery of Material under this Quote. Seller's liability for any other breach of this Quote shall be limited to the difference between the delivered price of the Material covered hereby and the market price of such Material at the F.O.B. point specified above. In no event shall Seller be liable for such loss of profit, delay or any incidental or consequential damages. In no case shall Seller's liability hereunder exceed the sum of the amounts actually paid by Purchaser to Seller under this Quote.

10 FORCE MAJEURE: Seller shall not be liable for failure to perform or delay in delivery by reason of any contingency or occurrence reasonably beyond Seller's control which shall be defined to include, but not limited to, actual or threatened strikes, labor disputes, boycotts, work stoppages, or work slowdowns, or fire, flood, inclement weather, embargos, war, governmental authority, or regulations, including allocations, preferences, and priorities established by or for the government, or shortage or failure of raw material or transportation which makes performance by Seller under any Quote more costly. If such delay continues for a period of more than sixty (60) days, Purchaser shall have the right, upon seven (7) days written notice to Seller, to terminate this Quote.

11 PROPOSITION 85 NOTICE: THIS PRODUCT CONTAINS CHEMICALS KNOWN TO THE STATE OF CALIFORNIA TO CAUSE CANCER, BIRTH DEFECTS OR OTHER REPRODUCTIVE HARM.

12 MISCELLANEOUS: Time is of the essence in this Quote. This Quote is governed by California law, without regard to its internal conflicts of law regime. In the event of any dispute, disagreement or claim arising out of, or governed by this Quote, the Parties agree that the courts of the State of California have exclusive jurisdiction to resolve such dispute.

Thank You!