

## FUNDING AGREEMENT FOR ENVIRONMENTAL REVIEW COSTS

THIS FUNDING AGREEMENT ("Agreement") is entered into and shall be effective as of the date signed by all parties (the "Effective Date"), by and between the County of Siskiyou, a political subdivision of the State of California ("County"), and Southern Oregon Ready Mix, LLC. The County and Southern Oregon Ready Mix, LLC may each be referred to individually as a "Party" and collectively as the "Parties". There are no other parties to this Agreement. The Parties agree as follows:

### RECITALS

- A. Southern Oregon Ready Mix, LLC properties are located in Township 45 North, Range 6 West, Section 13 in an unincorporated area of Siskiyou County. The APN for the proposed Project is 013-360-020 (the "Property").
- B. Southern Oregon Ready Mix, LLC has submitted a Use Permit and Reclamation Plan Amendment application for an existing surface mine ("UP/RP") to the County Planning Department and desires to continue operations of the surface mine on the Property (the "Project").
- C. On July 26, 2023, the County notified Southern Oregon Ready Mix, LLC that such entitlement requires the County to ensure California Environmental Quality Act (CEQA) compliance for Use Permit and Reclamation Plan Amendment.
- D. The Parties acknowledge that County will incur costs related to its review and processing of the Project, that Southern Oregon Ready Mix, LLC stands to directly benefit from County's review and approval of the Project, and that Southern Oregon Ready Mix, LLC should pay all costs actually incurred by the County in connection with its review and processing of the Project in accordance with CEQA.
- E. The funds received will compensate a third-party environmental planning firm to complete CEQA compliance for the Project.
- F. Based on the above, the Parties are entering this Agreement to set forth the Parties' obligations, as the County reviews and processes the Project in accordance with the California Environmental Quality Act.

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which both Parties hereby acknowledge, the Parties agree as follows:

## AGREEMENT

**Section 1. Recitals.** The Recitals above are true and correct and are hereby incorporated into and made a part of this Agreement. In the event of any inconsistency between the Recitals and Sections 1 through 18 of this Agreement, Sections 1 through 18 shall control.

**Section 2. Purpose.** The purpose of this Agreement is to provide terms for Southern Oregon Ready Mix, LLC's payment of certain processing costs, identified in Section 3 below, that the County incurs in connection with processing the Project.

**Section 3. Project Costs.** Southern Oregon Ready Mix, LLC agrees to pay the following costs directly related to the Project, specifically: (a) all expenses related to the use of third-party environmental planning services incurred by the County in processing the Project in compliance with CEQA for the Project; (collectively, the "Project Costs").

**Section 4. Scope.** Project review may require the review of plans and other documents, actions by the County's Community Development staff. In addition, the County intends to hire a third-party environmental planning firm to assist the County with CEQA processes and compliance on Southern Oregon Ready Mix, LLC Use Permit and Reclamation Plan Amendment project. Southern Oregon Ready Mix, LLC will have an opportunity to review and comment on the budget, scope and timeline for the completion of the CEQA document. Southern Oregon Ready Mix, LLC will have no obligation to pay for any services that exceed the scope outlined by the firm. If an ambiguity or disagreement arises as to the services to be performed in accordance with CEQA compliance for the Project, Southern Oregon Ready Mix, LLC may request that County cease performing any further work in connection with the Project until the Parties meet and confer. In addition, County shall meet and confer with Southern Oregon Ready Mix, LLC prior to entering into contract with any other consultants related to the Project. Southern Oregon Ready Mix, LLC shall have the opportunity to review the budget, scope, and timeline of work for any additional consultants that may be required in connection with the Project.

**Section 5. Deposit.** Southern Oregon Ready Mix, LLC shall deposit Fifty-Two Thousand, One Hundred, Seventy-Eight Dollars and 25/100 (\$52,178.25) with County in connection with the execution of this Agreement (the "Deposit"). County shall use the Deposit to pay all Project Costs. Southern Oregon Ready Mix, LLC agrees that County will not pay interest to Southern Oregon Ready Mix, LLC on any Deposit amount.

- A. *Additional Deposit.* If additional work or consultants are required in connection with the Project, County shall notify Southern Oregon Ready Mix, LLC, and seek to meet and confer with Southern Oregon Ready Mix, LLC as described in Section 4. Above. Thereafter, Southern Oregon Ready Mix, LLC shall make an additional deposit with County in an amount that covers the balance of the additional work. The County may stop all processing of the Project until the additional deposit is made by Southern Oregon Ready Mix, LLC or take any action as determined appropriate in its sole discretion. Southern Oregon Ready Mix, LLC acknowledges that it may suffer undue delay if County halts work due to insufficient Deposit.

- B. *Return of Unused Funds.* County shall return any unused portions of the Deposit upon (i) the written request of, Southern Oregon Ready Mix, LLC, accompanied by formal withdrawal of the Project, (ii) expiration of the statute of limitations to challenge County's approval of the Project; or (iii) formal action by the County to deny the Project. Southern Oregon Ready Mix, LLC shall remain responsible for all Project Costs that have accrued up to the date of County's return of any unused portion of the Deposit, which costs shall be accounted for and then deducted from the unused portion of the Deposit prior to return, unless a later date of payment is otherwise agreed to in writing by the Parties.
- C. *Request for Release.* Southern Oregon Ready Mix, LLC may request that County deliver written confirmation that all Project Costs have been paid ("Release"). Within sixty (60) days from the date that County receives Southern Oregon Ready Mix, LLC request for Release, County shall provide Southern Oregon Ready Mix, LLC with either: (i) a formal invoice stating the monies owed by Southern Oregon Ready Mix, LLC for any outstanding Project Costs; or (ii) a Release stating that Southern Oregon Ready Mix, LLC has satisfied all Project Costs, along with any reimbursement owed to Southern Oregon Ready Mix, LLC after payment of all outstanding Project Costs.

**Section 6. Term.** The term of this Agreement will commence on the Effective Date and shall continue until whichever of the following occurs first: (i) the Project is withdrawn by Southern Oregon Ready Mix, LLC for any reason and Southern Oregon Ready Mix, LLC has paid all outstanding Project Costs to County; (ii) County provides a Release; (iii) the Parties mutually agree in writing to terminate this Agreement; or (iv) three months have passed since County's approval of the Project and Southern Oregon Ready Mix, LLC has paid all outstanding Project Costs to County.

**Section 7. Administration.** The County's Community Development Director ("Director") is responsible for the interpretation and administration of this Agreement. Should a disagreement arise between the Parties with respect to the Director's interpretation or administration of any provision of this Agreement, such decision may be appealed to the Board of Supervisors.

**Section 8. Recordkeeping.** County shall maintain accurate accounting and bookkeeping records relating to its Project Costs, including all Deposits and all Project expenses paid from the Deposit. Southern Oregon Ready Mix, LLC may request to review, inspect, copy and audit these records, including all non-privileged source documents. On a monthly basis, and upon Southern Oregon Ready Mix, LLC's reasonable request, County shall provide a statement of the monies deposited and all County costs paid or reimbursed from the Deposit.

**Section 9. County's Obligations.** County agrees to process the Project in a timely manner consistent with the Permit Streamlining Act (Gov. Code § 65920 et seq.), as applicable.

**Section 10. No County Guarantee on Project Approval.** Nothing in this Agreement shall be construed as preliminary or formal County approval of the Project, and this Agreement does not commit County to any particular decision or approval. Southern Oregon Ready Mix, LLC shall remain responsible for all Project Costs incurred by County regardless of whether the Project is ultimately approved. County makes no promise, representation or warranty that the Project shall be approved by a certain date.

**Section 11. Joint and Several Liability.** [omitted]

**Section 12. Insolvency/Receivership.** Either the appointment of a receiver to take possession of all or substantially all of the assets of Southern Oregon Ready Mix, LLC, or a general assignment by Southern Oregon Ready Mix, LLC for the benefit of creditors, or any action taken or offered by Southern Oregon Ready Mix, LLC under any insolvency or bankruptcy action, will constitute a breach of this Agreement by Southern Oregon Ready Mix, LLC, and in such event this Agreement will automatically cease and terminate, provided that any outstanding payment obligation to County shall survive.

**Section 13. Default.** If Southern Oregon Ready Mix, LLC is in default or breach of its obligations under this Agreement, County will provide Southern Oregon Ready Mix, LLC written notice of the default. Immediately upon delivering notice of the default, County may utilize the Deposit to cover all Project Costs incurred by County since Southern Oregon Ready Mix, LLC's prior payment, and County may cease processing the Project. County may terminate this Agreement if Southern Oregon Ready Mix, LLC does not cure the default within fifteen (15) days of County's delivery of the notice of default. In such case, (i) County shall have no further obligation to process the Project; (ii) Southern Oregon Ready Mix, LLC shall remain liable for any monies owed as of the date of termination; and (iii) County may seek legal action for costs incurred and not paid. County may deem the Project withdrawn if full payment is not made within sixty (60) days of notification.

**Section 14. Agreement not a Debt or Liability of County.** This Agreement shall in no way constitute a debt or liability of the County. The County shall not in any event be liable for any payments related to the Project other than to remit payments and to return any excess or unexpended Deposit funds as set forth herein. The County shall in no way be obligated to advance any of its own funds in connection with the Project. No member of the Board of Supervisors, or other officer, employee or agent of the County shall to any extent be personally liable hereunder.

**Section 15. Indemnity.** Southern Oregon Ready Mix, LLC shall defend, indemnify, and hold harmless the County and its elected and appointed councils, boards, and commissions, officials, employees, agents, representatives and contractors from any claim, action, or proceeding against County, its agents, officers or employees to attack, set aside, void or annul the Project, or any part thereof, or any decision, determination, or action, made or taken approving, supplementing, or sustaining, the Project or any part thereof, or any related approvals or Project conditions imposed by County or any of its agencies, departments, commissions, agents (including consultants), officers or employees, concerning the Project, or to impose personal liability against such agents, officers or employees resulting from their non-negligent involvement in the Project, which action is brought within the time period provided by law, including any claim for private attorney general fees claimed by or awarded to any party from County. To the extent that County uses any of its resources responding to such action, Southern Oregon Ready Mix, LLC shall reimburse County in accordance with this Agreement for the documented use of such resources within thirty (30) days within receipt of such documentation. If Southern Oregon Ready Mix, LLC does not reimburse all costs within thirty (30) days of receipt of such documentation, a penalty shall accrue on the unpaid amount at a rate of 12% per annum compounded daily. Such resources include, but are not limited to, court costs, defense counsel for County or any other direct costs associated with responding to the action. This agreement and obligation of Southern Oregon Ready Mix, LLC to indemnify County hereunder shall expire upon the expiration of the later of (i) the challenge period (including any

appeal) for the Project approvals (if no challenge is made) or (ii) the dismissal or settlement of any challenge which is timely filed.

- A. *Notice and Participation.* County shall promptly notify Southern Oregon Ready Mix, LLC of any action received by County. Southern Oregon Ready Mix, LLC shall defend County through counsel selected by County. County shall cooperate with Southern Oregon Ready Mix, LLC in the fulfillment of Southern Oregon Ready Mix, LLC's responsibilities hereunder, and County agrees that its full and timely cooperation is essential to Southern Oregon Ready Mix, LLC's obligation to defend County. Cooperation does not include taking any action or making any decision that County does not feel is in its own best interest and County reserves the right to settle or resolve the action after consultation with Southern Oregon Ready Mix, LLC. In its sole discretion, County may determine its degree of participation in the defense of any such action.
- B. *Defense.* Defense Counsel shall report to and receive direction from County Counsel with respect to the representation of County. Nothing in this Agreement shall be construed in a manner that requires County to exercise its legislative discretion in a particular manner.
- C. *Settlement.* Southern Oregon Ready Mix, LLC shall not be required to pay or perform any settlement of such action unless Southern Oregon Ready Mix, LLC approves the settlement in writing. At Southern Oregon Ready Mix, LLC's request, County shall consider changes to any approvals granted to the Project, or any part thereof, at Southern Oregon Ready Mix, LLC's sole cost and expense. Nothing herein shall obligate County to make or approve any such change and any change shall be made according to such procedures and under such terms and conditions as provided by law or as County in its sole discretion deems appropriate.
- D. *Deposit.* Southern Oregon Ready Mix, LLC shall maintain its Deposit with the County in accordance with Section 5 of this Agreement throughout the duration of any action against County, and indemnification thereof by Southern Oregon Ready Mix, LLC, pursuant to this section.

**Section 16. Attorney's Fees and Costs.** If any action at law or in equity, including action for declaratory relief, is brought between the Parties to enforce or interpret provisions of this Agreement, the prevailing Party shall be entitled to reasonable attorney's fees and costs, which may be set by the court or arbitrator in the same action or in a separate action brought for that purpose, in addition to any other relief to which such Party may be entitled.

**Section 17. Notices.** Any notice or communication required hereunder between County and Southern Oregon Ready Mix, LLC must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (a) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (b) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If

given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to County: Siskiyou County Community Development  
Attn: Rick Dean  
806 South Main St  
Yreka, CA 96097  
(530)841-2100

And Siskiyou County Counsel  
Attn: Natalie E. Reed  
PO Box 659  
Yreka, CA 96097  
(530) 841-8100

Southern Oregon Ready Mix, LLC Juan Bernardino  
PO Box 494519  
Redding, CA 96049  
(530) 246-4292

**Section 18. General Provisions.**

- A. *Governing Law.* The validity, interpretation and performance of this Agreement shall be controlled by and construed pursuant to the laws of the State of California.
- B. *Venue.* Venue for all legal proceedings shall be in the Superior Court for the County of Siskiyou.
- C. *Severability.* If this Agreement in its entirety is determined by a court to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment. If any provision of this Agreement shall be determined by a court to be invalid and unenforceable, or if any provision of this Agreement is rendered invalid or unenforceable according to the terms of any federal or state statute, which becomes effective after the Effective Date of this Agreement, the remaining provisions shall continue in full force and effect and shall be construed to give effect to the intent of this Agreement.
- D. *Waiver.* Waiver of any condition, breach or default under this Agreement does not constitute a continuing waiver, or the waiver of a subsequent breach. No Party shall be deemed to have made any such waiver unless it is in writing and signed by the Party so waiving.

- E. *Entire Agreement.* This Agreement, together with its specific references, attachments and Exhibits, constitutes all of the agreements, understandings, representations, conditions, warranties and covenants made by and between the Parties hereto with respect to the subject matter of this Agreement. Unless set forth herein, neither Party shall be liable for any representations made express or implied not specifically set forth herein.
- F. *Amendment of this Agreement.* This Agreement may only be amended by the written mutual consent of the Parties.
- G. *Captions.* The captions of this Agreement are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.
- H. *Mandatory and Permissive.* "Shall" and "will" and "agrees" are mandatory. "May" or "can" are permissive.
- I. *Successors and Assigns.* All representations, covenants and warranties specifically set forth in this Agreement, by or on behalf of or for the benefit of any or all of the Parties hereto, shall be binding upon and inure to the benefit of such Party, its successors and assigns. SOUTHERN OREGON READY MIX, LLC shall not assign its rights and obligations under this Agreement without the written consent of County.
- J. *Counterparts.* This Agreement may be executed simultaneously and, in several counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.
- K. *Other Documents.* The Parties agree that they shall cooperate in good faith to accomplish the objectives of this Agreement and to that end, agree to execute and deliver such other instruments or documents as may be necessary and convenient to the fulfill the purposes and intentions of this Agreement.
- L. *Time is of the Essence.* Time is of the essence in this Agreement in each covenant and term and condition herein.
- M. *Authority.* All Parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement and the names, titles and capacities herein stated on behalf of any entities, persons, states or firms represented or purported to be represented by such entities, persons, states or firms and that all former requirements necessary or required by the state or federal law in order to enter into this Agreement had been fully complied with.
- N. *Advice of Legal Counsel.* Each Party acknowledges that it has reviewed this Agreement with its own legal counsel, and based upon the advice of that counsel, freely entered into this Agreement. This Agreement will be construed as if drafted with equal input of both Parties.

IN WITNESS WHEREOF, County and Contractor have executed this agreement on the dates set forth below, each signatory represents that they have the authority to execute this agreement and to bind the Party on whose behalf their execution is made.

COUNTY OF SISKIYOU

Date: \_\_\_\_\_

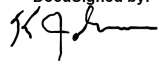
\_\_\_\_\_  
MICHAEL N. KOBSEFF, CHAIR  
Board of Supervisors  
County of Siskiyou  
State of California

ATTEST:  
LAURA BYNUM  
Clerk, Board of Supervisors

By: \_\_\_\_\_  
Deputy


CONTRACTOR:  
Southern Oregon Ready Mix, LLC

Date: 6/10/2024  
\_\_\_\_\_

DocuSigned by:  
  
DEF427BAF48E49E

\_\_\_\_\_  
Kirk Johnson, Vice President

Date: 6/12/2024  
\_\_\_\_\_

DocuSigned by:  
  
9DD575A46AD848A...

\_\_\_\_\_  
Juan Bernadino, Manager

License No.: \_\_\_\_\_  
(Licensed in accordance with an act providing for the registration of contractors)

Note to Contractor: For corporations, the contract must be signed by two officers. The first signature must be that of the chairman of the board, president or vice-president; the second signature must be that of the secretary, assistant secretary, chief financial officer or assistant treasurer. (Civ. Code, Sec. 1189 & 1190 and Corps. Code, Sec. 313.)

TAXPAYER I.D. \_\_\_\_\_

ACCOUNTING:  
Fund    Organization    Account    Activity Code (if applicable)  
72078                      216073

Encumbrance number (if applicable):

If not to exceed, include amount not to exceed:

If needed for multi-year contracts, please include separate sheet with financial information for each fiscal year.