

## **DRAFT Agreement for Alder Creek Erosion Control Project**

This agreement ("Agreement") is by and between **Occidental County Sanitation District** ("District") and **Gold Ridge Resource Conservation District**, a special district organized under the California Public Resources Code ("Gold Ridge RCD"). The Effective Date of this Agreement is the date the Agreement is last signed by the parties to the Agreement, unless otherwise specified in Paragraph 5.1.

### **RECITALS**

- A. Gold Ridge RCD represents that it is a duly qualified Resource Conservation District, experienced in erosion control, creek restoration and maintenance, and related services.
- B. The Alder Creek Ranch Erosion Control Project (Project) will address ongoing bank erosion on the north fork of Lancel Creek, a major tributary of Dutch Bill Creek. The Project consists of three separate sites (Sites A, B, and C) located immediately downstream of the spillway outlet of an on-channel reservoir on the Alder Creek Ranch property. Spillway discharge during high-flow events has caused substantial erosion of the bank opposite the outlet (Site A) and at two sites downstream of the outlet (Sites B and C).
- C. Under this Agreement, Gold Ridge RCD will excavate the eroding banks at the three sites, provide administration and monitoring services, and secure the required permits.
- D. The Project fulfills a requirement for Pollution Prevention Plan project described in Order R1-2018-007.
- E. Sonoma County Water Agency operates and manages District under contract with District. References to District employees are understood to be Sonoma County Water Agency employees acting on behalf of District.

In consideration of the foregoing recitals and the mutual covenants contained herein, the parties hereto agree as follows:

### **AGREEMENT**

#### **1. RECITALS**

- 1.1. The above recitals are true and correct.

#### **2. LIST OF EXHIBITS**

- 2.1. The following exhibits are attached hereto and incorporated herein:
  - a. Exhibit A: Scope of Work
  - b. Exhibit B: Schedule of Costs
  - c. Exhibit C: Map
  - d. Exhibit D: Insurance Requirements

### 3. **SCOPE OF SERVICES**

3.1. *Gold Ridge RCD's Specified Services:* Gold Ridge RCD shall perform the services described in Exhibit A (Scope of Work), within the times or by the dates provided for in Exhibit A and pursuant to Article 9 (Prosecution of Work). In the event of a conflict between the body of this Agreement and Exhibit A, the provisions in the body of this Agreement shall control.

3.2. *Cooperation with District:* Gold Ridge RCD shall cooperate with District in the performance of all work hereunder. Gold Ridge RCD shall coordinate the work with District's Project Manager. Contact information and mailing addresses:

<b>District</b>	<b>Gold Ridge RCD</b>
Project Manager: Nazareth Tesfai 404 Aviation Boulevard Santa Rosa, CA 95403-9019 Phone: 707-521-1835 Email: Nazareth.Tesfai@scwa.ca.gov	Contact: John Green 2776 Sullivan Road Sebastopol, CA 95472 Phone: 707-823-5244 Email: john@goldridgercd.org
<b>Remit invoices to:</b>	<b>Remit payments to:</b>
Accounts Payable Same address as above or Email: ap_agreements@scwa.ca.gov	Same address as above

3.3. *Performance Standard and Standard of Care:* Gold Ridge RCD hereby agrees that all its work will be performed and that its operations shall be conducted in accordance with the standards of a reasonable professional having specialized knowledge and expertise in the services provided under this Agreement and in accordance with all applicable federal, state and local laws, it being understood that acceptance of Gold Ridge RCD's work by District shall not operate as a waiver or release. District has relied upon the professional ability and training of Gold Ridge RCD as a material inducement to enter into this Agreement. If District determines that any of Gold Ridge RCD's work is not in accordance with such level of competency and standard of care, District, in its sole discretion, shall have the right to do any or all of the following: (a) require Gold Ridge RCD to meet with District to review the quality of the work and resolve matters of concern; (b) require Gold Ridge RCD to repeat the work at no additional charge until it is satisfactory; (c) terminate this Agreement pursuant to the provisions of Article 6 (Termination); or (d) pursue any and all other remedies at law or in equity.

3.4. *Assigned Personnel:*

- a. Gold Ridge RCD shall assign only competent personnel to perform work hereunder. In the event that at any time District, in its sole discretion, desires the removal of any person or persons assigned by Gold Ridge RCD to perform work hereunder, Gold Ridge RCD shall remove such person or persons immediately upon receiving written notice from District.

- b. Any and all persons identified in this Agreement or any exhibit hereto as the project manager, project team, or other professional performing work hereunder are deemed by District to be key personnel whose services were a material inducement to District to enter into this Agreement, and without whose services District would not have entered into this Agreement. Gold Ridge RCD shall not remove, replace, substitute, or otherwise change any key personnel without the prior written consent of District.
- c. In the event that any of Gold Ridge RCD's personnel assigned to perform services under this Agreement become unavailable due to resignation, sickness, or other factors outside of Gold Ridge RCD's control, Gold Ridge RCD shall be responsible for timely provision of adequately qualified replacements.

#### **4. PAYMENT**

- 4.1. *Total Costs:* Total costs under this Agreement shall not exceed \$92,400.
- 4.2. *Method of Payment:* Gold Ridge RCD shall be paid in accordance with Exhibit B (Schedule of Costs). Billed hourly rates shall include all costs for overhead and any other charges, other than expenses specifically identified in Exhibit B. Expenses not expressly authorized by the Agreement shall not be reimbursed.
- 4.3. *Invoices:* Gold Ridge RCD shall submit its bills in arrears on a monthly basis, based on work completed for the period, in a form approved by District. The bills shall show or include:
  - a. Gold Ridge RCD name
  - b. Name of Agreement
  - c. District's Project-Activity Code 00054C004
  - d. Task performed with an itemized description of services rendered by date
  - e. Summary of work performed by subconsultants, as described in Paragraph 15.4
  - f. Time in quarter hours devoted to the task
  - g. Hourly rate or rates of the persons performing the task
  - h. List of reimbursable materials and expenses
  - i. Copies of receipts for reimbursable materials and expenses
- 4.4. *Timing of Payments:* Unless otherwise noted in this Agreement, payments shall be made within the normal course of District business after presentation of an invoice in a form approved by District for services performed. Payments shall be made only upon the satisfactory completion of the services as determined by District.
- 4.5. *Taxes Withheld by District:*
  - a. Pursuant to California Revenue and Taxation Code (R&TC) section 18662, District shall withhold seven percent of the income paid to Gold Ridge RCD

for services performed within the State of California under this Agreement, for payment and reporting to the California Franchise Tax Board, if Gold Ridge RCD does not qualify as: (1) a corporation with its principal place of business in California, (2) an LLC or Partnership with a permanent place of business in California, (3) a corporation/LLC or Partnership qualified to do business in California by the Secretary of State, or (4) an individual with a permanent residence in the State of California.

- b. If Gold Ridge RCD does not qualify, as described in Paragraph 4.5.a, District requires that a completed and signed Form 587 be provided by Gold Ridge RCD in order for payments to be made. If Gold Ridge RCD is qualified, as described in Paragraph 4.5.a, then District requires a completed Form 590. Forms 587 and 590 remain valid for the duration of the Agreement provided there is no material change in facts. By signing either form, Gold Ridge RCD agrees to promptly notify District of any changes in the facts. Forms should be sent to District pursuant to Article 16 (Method and Place of Giving Notice, Submitting Bills, and Making Payments) of this Agreement. To reduce the amount withheld, Gold Ridge RCD has the option to provide District with either a full or partial waiver from the State of California.

## **5. TERM OF AGREEMENT AND COMMENCEMENT OF WORK**

### **5.1. *Term of Agreement:***

- a. This Agreement shall expire on June 30, 2021, unless terminated earlier in accordance with the provisions of Article 6 (Termination).
- b. District shall have two options to extend this Agreement for a period of one year each by providing written notice to Gold Ridge RCD thirty days in advance of the expiration date noted in this Article and of the first extension option.

### **5.2. *Commencement of Work:*** Gold Ridge RCD is authorized to proceed immediately with the performance of this Agreement on July 1, 2019.

## **6. TERMINATION**

- 6.1. *Authority to Terminate:* District's right to terminate may be exercised by Sonoma County Water Agency's General Manager.
- 6.2. *Termination Without Cause:* Notwithstanding any other provision of this Agreement, at any time and without cause, District shall have the right, in its sole discretion, to terminate this Agreement by giving 5 days written notice to Gold Ridge RCD.
- 6.3. *Termination for Cause:* Notwithstanding any other provision of this Agreement, should Gold Ridge RCD fail to perform any of its obligations hereunder, within the time and in the manner herein provided, or otherwise violate any of the terms of this Agreement, District may immediately terminate this Agreement by

giving Gold Ridge RCD written notice of such termination, stating the reason for termination.

- 6.4. *Delivery of Work Product and Final Payment Upon Termination:* In the event of termination, Gold Ridge RCD, within 14 days following the date of termination, shall deliver to District all reports, original drawings, graphics, plans, studies, and other data or documents, in whatever form or format, assembled or prepared by Gold Ridge RCD or Gold Ridge RCD's subcontractors, consultants, and other agents in connection with this Agreement subject to Paragraph 12.8 and shall submit to District an invoice showing the services performed, hours worked, and copies of receipts for reimbursable expenses up to the date of termination.
- 6.5. *Payment Upon Termination:* Upon termination of this Agreement by District, Gold Ridge RCD shall be entitled to receive as full payment for all services satisfactorily rendered and reimbursable expenses properly incurred hereunder, an amount which bears the same ratio to the total payment specified in the Agreement as the services satisfactorily rendered hereunder by Gold Ridge RCD bear to the total services otherwise required to be performed for such total payment; provided, however, that if services are to be paid on a per-hour or per-day basis, then Gold Ridge RCD shall be entitled to receive as full payment an amount equal to the number of hours or days actually worked prior to termination multiplied by the applicable hourly or daily rate; and further provided, however, that if District terminates the Agreement for cause pursuant to Paragraph 6.3, District shall deduct from such amounts the amount of damage, if any, sustained by District by virtue of the breach of the Agreement by Gold Ridge RCD.

## **7. INDEMNIFICATION**

- 7.1. Gold Ridge RCD agrees to accept all responsibility for loss or damage to any person or entity, including Sonoma County Water Agency and Occidental County Sanitation District, and to indemnify, hold harmless, and release Sonoma County Water Agency and Occidental County Sanitation District, their officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Gold Ridge RCD, that arise out of, pertain to, or relate to Gold Ridge RCD's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Gold Ridge RCD agrees to provide a complete defense for any claim or action brought against Sonoma County Water Agency or Occidental County Sanitation District based upon a claim relating to Gold Ridge RCD's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Gold Ridge RCD's obligations under this Article 7 apply whether or not there is concurrent or contributory negligence on the part of Sonoma County Water Agency or Occidental County Sanitation District, but, to the extent required by law, excluding liability due to conduct of Sonoma County Water Agency or Occidental County Sanitation

District. Sonoma County Water Agency and Occidental County Sanitation District shall have the right to select their legal counsel at Gold Ridge RCD's expense, subject to Gold Ridge RCD's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Gold Ridge RCD or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

## **8. INSURANCE**

- 8.1. With respect to performance of work under this Agreement, Gold Ridge RCD shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain, insurance as described in Exhibit D (Insurance Requirements).

## **9. PROSECUTION OF WORK**

- 9.1. Performance of the services hereunder shall be completed within the time required herein, provided, however, that if the performance is delayed by earthquake, flood, high water, or other Act of God or by strike, lockout, or similar labor disturbances, the time for Gold Ridge RCD's performance of this Agreement shall be extended by a number of days equal to the number of days Gold Ridge RCD has been delayed.

## **10. EXTRA OR CHANGED WORK**

- 10.1. Extra or changed work or other changes to the Agreement may be authorized only by written amendment to this Agreement, signed by both parties. Changes to lengthen time schedules or make minor modifications to the scope of work, which do not increase the amount paid under the Agreement, may be executed by Sonoma County Water Agency's General Manager in a form approved by County Counsel. The parties expressly recognize that District personnel are without authorization to order all other extra or changed work or waive Agreement requirements. Failure of Gold Ridge RCD to secure such written authorization for extra or changed work shall constitute a waiver of any and all right to adjustment in the Agreement price or Agreement time due to such unauthorized work and thereafter Gold Ridge RCD shall be entitled to no compensation whatsoever for the performance of such work. Gold Ridge RCD further expressly waives any and all right or remedy by way of restitution and quantum meruit for any and all extra work performed without such express and prior written authorization of District.

## **11. CONTENT ONLINE ACCESSIBILITY**

- 11.1. *Accessibility:* District policy requires that all documents that may be published to the Web meet accessibility standards to the greatest extent possible, and utilizing available existing technologies.

- 11.2. *Standards:* All consultants responsible for preparing content intended for use or publication on a District managed or District funded web site must comply with applicable federal accessibility standards established by 36 C.F.R. section 1194, pursuant to section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. section 794(d)), and District's Web Site Accessibility Policy located at <http://sonomacounty.ca.gov/Services/Web-Standards-and-Guidelines/>.
- 11.3. *Certification:* With each final receivable intended for public distribution (report, presentations posted to the Internet, public outreach materials), Gold Ridge RCD shall include a descriptive summary describing how all deliverable documents were assessed for accessibility (e.g., Microsoft Word accessibility check; Adobe Acrobat accessibility check, or other commonly accepted compliance check).
- 11.4. *Alternate Format:* When it is strictly impossible due to the unavailability of technologies required to produce an accessible document, Gold Ridge RCD shall identify the anticipated accessibility deficiency prior to commencement of any work to produce such deliverables. Gold Ridge RCD agrees to cooperate with District staff in the development of alternate document formats to maximize the facilitative features of the impacted document(s); e.g., embedding the document with alt-tags that describe complex data/tables.
- 11.5. *Noncompliant Materials; Obligation to Cure:* Remediation of any materials that do not comply with District's Web Site Accessibility Policy shall be the responsibility of Gold Ridge RCD. If District, in its sole and absolute discretion, determines that any deliverable intended for use or publication on any District managed or District funded Web site does not comply with District Accessibility Standards, District will promptly inform Gold Ridge RCD in writing. Upon such notice, Gold Ridge RCD shall, without charge to District, repair or replace the non-compliant materials within such period of time as specified by District in writing. If the required repair or replacement is not completed within the time specified, District shall have the right to do any or all of the following, without prejudice to District's right to pursue any and all other remedies at law or in equity:
- a. Cancel any delivery or task order
  - b. Terminate this Agreement pursuant to the provisions of Article 6 (Termination); and/or
  - c. In the case of custom Electronic and Information Technology (EIT) developed by Gold Ridge RCD for District, District may have any necessary changes or repairs performed by itself or by another contractor. In such event, Gold Ridge RCD shall be liable for all expenses incurred by District in connection with such changes or repairs.
- 11.6. *District's Rights Reserved:* Notwithstanding the foregoing, District may accept deliverables that are not strictly compliant with District Accessibility Standards if District, in its sole and absolute discretion, determines that acceptance of such products or services is in District's best interest.

## **12. REPRESENTATIONS OF GOLD RIDGE RCD**

- 12.1. *Status of Gold Ridge RCD:* The parties intend that Gold Ridge RCD, in performing the services specified herein, shall act as an independent contractor and shall control the work and the manner in which it is performed. Gold Ridge RCD is not to be considered an agent or employee of District and is not entitled to participate in any pension plan, worker's compensation plan, insurance, bonus, or similar benefits District provides its employees. In the event District exercises its right to terminate this Agreement pursuant to Article 6 (Termination), Gold Ridge RCD expressly agrees that it shall have no recourse or right of appeal under rules, regulations, ordinances, or laws applicable to employees.
- 12.2. *Taxes:* Gold Ridge RCD agrees to file federal and state tax returns and pay all applicable taxes on amounts paid pursuant to this Agreement and shall be solely liable and responsible to pay such taxes and other obligations, including, but not limited to, state and federal income and FICA taxes. Gold Ridge RCD agrees to indemnify and hold District harmless from any liability which it may incur to the United States or to the State of California or to any other public entity as a consequence of Gold Ridge RCD's failure to pay, when due, all such taxes and obligations. In case District is audited for compliance regarding any withholding or other applicable taxes, Gold Ridge RCD agrees to furnish District with proof of payment of taxes on these earnings.
- 12.3. *Records Maintenance:* Gold Ridge RCD shall keep and maintain full and complete documentation and accounting records concerning all services performed that are compensable under this Agreement and shall make such documents and records available to District for inspection at any reasonable time. Gold Ridge RCD shall maintain such records for a period of four (4) years following completion of work hereunder.
- 12.4. *Conflict of Interest:* Gold Ridge RCD covenants that it presently has no interest and that it will not acquire any interest, direct or indirect, that represents a financial conflict of interest under state law or that would otherwise conflict in any manner or degree with the performance of its services hereunder. Gold Ridge RCD further covenants that in the performance of this Agreement no person having any such interests shall be employed. In addition, if required by law or requested to do so by District, Gold Ridge RCD shall submit a completed Fair Political Practices Commission Statement of Economic Interests (Form 700) with District within 30 calendar days after the Effective Date of this Agreement and each year thereafter during the term of this Agreement, or as required by state law.
- 12.5. *Statutory Compliance/Living Wage Ordinance:* Gold Ridge RCD agrees to comply, and to ensure compliance by its subconsultants or subcontractors, with all applicable federal, state and local laws, regulations, statutes and policies, including but not limited to the County of Sonoma Living Wage Ordinance, applicable to the services provided under this Agreement as they exist now and



as they are changed, amended or modified during the term of this Agreement. Without limiting the generality of the foregoing, Gold Ridge RCD expressly acknowledges and agrees that this Agreement is subject to the provisions of Article XXVI of Chapter 2 of the Sonoma County Code, requiring payment of a living wage to covered employees. Noncompliance during the term of the Agreement will be considered a material breach and may result in termination of the Agreement or pursuit of other legal or administrative remedies.

- 12.6. *Nondiscrimination:* Gold Ridge RCD shall comply with all applicable federal, state, and local laws, rules, and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, marital status, age, medical condition, pregnancy, disability, sexual orientation or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated herein by this reference.
- 12.7. *Assignment of Rights:* Gold Ridge RCD assigns to District all rights throughout the world in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications, if any, now or later prepared by Gold Ridge RCD in connection with this Agreement. Gold Ridge RCD agrees to take such actions as are necessary to protect the rights assigned to District in this Agreement, and to refrain from taking any action which would impair those rights. Gold Ridge RCD's responsibilities under this provision include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as District may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of District. Gold Ridge RCD shall not use or permit another to use the plans and specifications in connection with this or any other project without first obtaining written permission of District.
- 12.8. *Ownership and Disclosure of Work Product:* All reports, original drawings, graphics, plans, studies, and other data or documents ("documents"), in whatever form or format, assembled or prepared by Gold Ridge RCD or Gold Ridge RCD's subcontractors, consultants, and other agents in connection with this Agreement shall be the property of District. District shall be entitled to immediate possession of such documents upon completion of the work pursuant to this Agreement. Upon expiration or termination of this Agreement, Gold Ridge RCD shall promptly deliver to District all such documents, which have not already been provided to District in such form or format as District deems appropriate. Such documents shall be and will remain the property of District without restriction or limitation. Gold Ridge RCD may retain copies of the above described documents but agrees not to disclose or discuss any information gathered, discovered, or generated in any way through this Agreement without the express written permission of District.
- 12.9. *District Liability:* District is a separate legal entity from Sonoma County Water Agency, operated under contract by Sonoma County Water Agency. To the

extent any work under this Agreement relates to District activities, Gold Ridge RCD shall be paid exclusively from District funds. Gold Ridge RCD agrees that it shall make no claim for compensation for Gold Ridge RCD's services against Sonoma County Water Agency funds and expressly waives any right to be compensated from other funds available to Sonoma County Water Agency.

### **13. PREVAILING WAGES**

- 13.1. *General:* Gold Ridge RCD shall pay to any worker on the job for whom prevailing wages have been established an amount equal to or more than the general prevailing rate of per diem wages for (1) work of a similar character in the locality in which the work is performed and (2) legal holiday and overtime work in said locality. The per diem wages shall be an amount equal to or more than the stipulated rates contained in a schedule that has been ascertained and determined by the Director of the State Department of Industrial Relations and District to be the general prevailing rate of per diem wages for each craft or type of workman or mechanic needed to execute this Agreement. Gold Ridge RCD shall also cause a copy of this determination of the prevailing rate of per diem wages to be posted at each site work is being performed, in addition to all other job site notices prescribed by regulation. Copies of the prevailing wage rate of per diem wages are on file at District and will be made available to any person upon request.
- 13.2. *Subcontracts:* Gold Ridge RCD shall insert in every subcontract or other arrangement which Gold Ridge RCD may make for performance of such work or labor on work provided for in the Agreement, provision that Subcontractor shall pay persons performing labor or rendering service under subcontract or other arrangement not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed in the Labor Code. Pursuant to Labor Code section 1775(b)(1), Gold Ridge RCD shall provide to each Subcontractor a copy of sections 1771, 1775, 1776, 1777.5, 1813, and 1815 of the Labor Code.
- 13.3. *Compliance Monitoring and Registration:* This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Gold Ridge RCD shall furnish and shall require all subcontractors to furnish the records specified in Labor Code section 1776 (e.g. electronic certified payroll records) directly to the Labor Commissioner in a format prescribed by the Labor Commissioner at least monthly (Labor Code 1771.4 (a)(3)). Gold Ridge RCD and all subcontractors performing work that requires payment of prevailing wages shall be registered and qualified to perform public work pursuant to Labor Code section 1725.5 as a condition to engage in the performance of any services under this Agreement.

- 13.4. *Compliance with Law:* In addition to the above, Gold Ridge RCD stipulates that it shall comply with all applicable wage and hour laws, including without limitation Labor Code sections 1725.5, 1775, 1776, 1777.5, 1813, and 1815 and California Code of Regulations, Title 8, section 16000, et seq.

#### **14. DEMAND FOR ASSURANCE**

- 14.1. Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may in writing demand adequate assurance of due performance and until such assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received. "Commercially reasonable" includes not only the conduct of a party with respect to performance under this Agreement, but also conduct with respect to other agreements with parties to this Agreement or others. After receipt of a justified demand, failure to provide within a reasonable time, but not exceeding thirty (30) days, such assurance of due performance as is adequate under the circumstances of the particular case is a repudiation of this Agreement. Acceptance of any improper delivery, service, or payment does not prejudice the aggrieved party's right to demand adequate assurance of future performance. Nothing in this Article 14 limits District's right to terminate this Agreement pursuant to Article 6 (Termination).

#### **15. ASSIGNMENT AND DELEGATION**

- 15.1. *Consent:* Neither party hereto shall assign, delegate, sublet, or transfer any interest in or duty under this Agreement without the prior written consent of the other, and no such transfer shall be of any force or effect whatsoever unless and until the other party shall have so consented.
- 15.2. *Subcontracts:* Notwithstanding the foregoing, Gold Ridge RCD may enter into subcontracts with the subconsultants specifically identified herein. If no subconsultants are listed, then no subconsultants will be utilized in the performance of the work specified in this Agreement. Approved subconsultants are as follows:

Name	Type of Services	Prevailing Wages Apply? Y/N
Charles Hope Construction	Construction	Y
Contractor Compliance and Monitoring, Inc.	Labor compliance and monitoring	N

- 15.3. *Change of Subcontractors or Subconsultants:* If, after execution of the Agreement, parties agree that subconsultants not listed in Paragraph 15.2 will be utilized, Gold Ridge RCD may enter into subcontracts with subconsultants to perform other specific duties pursuant to the provisions of this Paragraph 15.3.

The following provisions apply to any subcontract entered into by Gold Ridge RCD other than those listed in Paragraph 15.2:

- a. Prior to entering into any contract with subconsultant, Gold Ridge RCD shall obtain District approval of subconsultant.
- b. All agreements with subconsultants shall (a) contain indemnity requirements in favor of District in substantially the same form as that contained in Article 7 (Indemnification), (b) contain language that the subconsultant may be terminated with or without cause upon reasonable written notice, and (c) prohibit the assignment or delegation of work under the agreement to any third party.

15.4. *Summary of Subconsultants' Work:* Gold Ridge RCD shall provide District with a summary of work performed by subconsultants with each invoice submitted under Paragraph 4.2. Such summary shall identify the individuals performing work on behalf of subconsultants and the total amount paid to subconsultant, broken down by the tasks listed in the Scope of Work.

## **16. METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS, AND MAKING PAYMENTS**

- 16.1. *Method of Delivery:* All notices, bills, and payments shall be made in writing and shall be given by personal delivery, U.S. Mail, courier service, or electronic means. Notices, bills, and payments shall be addressed as specified in Paragraph 3.2.
- 16.2. *Receipt:* When a notice, bill, or payment is given by a generally recognized overnight courier service, the notice, bill, or payment shall be deemed received on the next business day. When a copy of a notice, bill, or payment is sent by electronic means, the notice, bill, or payment shall be deemed received upon transmission as long as (1) the original copy of the notice, bill, or payment is deposited in the U.S. mail and postmarked on the date of the electronic transmission (for a payment, on or before the due date), (2) the sender has a written confirmation of the electronic transmission, and (3) the electronic transmission is transmitted before 5 p.m. (recipient's time). In all other instances, notices, bills, and payments shall be effective upon receipt by the recipient. Changes may be made in the names and addresses of the person to whom notices are to be given by giving notice pursuant to this Article 16.

## **17. MISCELLANEOUS PROVISIONS**

- 17.1. *No Bottled Water:* In accordance with District Board of Directors Resolution No. 09-0920, dated September 29, 2009, no District funding shall be used to purchase single-serving, disposable water bottles for use in District facilities or at District-sponsored events. This restriction shall not apply when potable water is not available.

- 17.2. *No Waiver of Breach:* The waiver by District of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.
- 17.3. *Construction:* To the fullest extent allowed by law, the provisions of this Agreement shall be construed and given effect in a manner that avoids any violation of statute, ordinance, regulation, or law. The parties covenant and agree that in the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby. Gold Ridge RCD and District acknowledge that they have each contributed to the making of this Agreement and that, in the event of a dispute over the interpretation of this Agreement, the language of the Agreement will not be construed against one party in favor of the other. Gold Ridge RCD and District acknowledge that they have each had an adequate opportunity to consult with counsel in the negotiation and preparation of this Agreement.
- 17.4. *Consent:* Wherever in this Agreement the consent or approval of one party is required to an act of the other party, such consent or approval shall not be unreasonably withheld or delayed.
- 17.5. *No Third-Party Beneficiaries:* Except as provided in Article 7 (Indemnification), nothing contained in this Agreement shall be construed to create and the parties do not intend to create any rights in third parties.
- 17.6. *Applicable Law and Forum:* This Agreement shall be construed and interpreted according to the substantive law of California, regardless of the law of conflicts to the contrary in any jurisdiction. Any action to enforce the terms of this Agreement or for the breach thereof shall be brought and tried in Santa Rosa or in the forum nearest to the City of Santa Rosa, in the County of Sonoma.
- 17.7. *Captions:* The captions in this Agreement are solely for convenience of reference. They are not a part of this Agreement and shall have no effect on its construction or interpretation.
- 17.8. *Merger:* This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement, pursuant to Code of Civil Procedure section 1856. Each Party acknowledges that, in entering into this Agreement, it has not relied on any representation or undertaking, whether oral or in writing, other than those which are expressly set forth in this Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

17.9. *Survival of Terms:* All express representations, waivers, indemnifications, and limitations of liability included in this Agreement will survive its completion or termination for any reason.

17.10. *Time of Essence:* Time is and shall be of the essence of this Agreement and every provision hereof.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date last signed by the parties to the Agreement.

Reviewed as to funds:

TW 18/19-100

By: \_\_\_\_\_  
Sonoma County Water Agency  
Division Manager - Administrative  
Services

Approved as to form:

By: \_\_\_\_\_  
Adam Brand, Deputy County Counsel

Insurance Documentation is on file with  
District

Date/TW Initials: 8/15/19 JES

**Occidental County Sanitation District**

**Gold Ridge Resource Conservation District**, a  
special district organized under the California  
Public Resources Code

By: \_\_\_\_\_  
Grant Davis  
General Manager  
Authorized per Sonoma County Water  
Agency's Board of Directors Action on  
September 24, 2019

By: \_\_\_\_\_  
Brittany Jensen, Executive Director

Title: \_\_\_\_\_

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

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

DIR Registration #: \_\_\_\_\_

# **Exhibit A**

## **Scope of Work**

### **1. TASKS**

- 1.1. Task 1. Project Management and Administration
  - a. Provide Project management and administration including, but not limited to, the following tasks:
    - i. Manage Project funding and subcontracting with consultants and contractors
    - ii. Provide accounting and invoicing
    - iii. Provide reporting as specified in Task 5
- 1.2. Task 2. Permitting
  - a. Secure the following permits for Project construction:
    - i. Department of Fish and Wildlife 1602 Streambed Alteration Agreement
    - ii. CWA 404 Dredge/Fill Permit from the US Army Corps of Engineers
    - iii. Regional Water Quality Control Board CWA 401 Water Quality Certification
    - iv. CEQA compliance
- 1.3. Task 3. Construction
  - a. Perform construction tasks, including:
    - i. Excavate the eroding bank at Site A to a 2:1 gradient to minimize the potential for future erosion
    - ii. Place riprap armor measuring up to four feet in diameter along 125 feet of streambank
    - iii. Dig a keyway along the toe of the bank, and place armor in the keyway and up the reconfigured bank for five feet. Place the largest armor particles in the keyway and along the base of the bank, with progressively smaller armor particles placed higher on the bank
    - iv. At Sites B and C, excavate the eroding banks to a stable gradient (2:1 at Site B and 3:1 at Site C)
    - v. Install wildlife-friendly livestock exclusion fencing around the perimeter of the project and tie it into existing fencing. Include two gates in the fence to allow for limited grazing at appropriate times of the year
    - vi. During the first winter following earthwork and rock placement, sprig with willow the lower portions of the banks at the three sites
  - b. Prepare a report summarizing construction work, as described in Task 5.



1.4. Task 4. Monitoring

- a. Perform monitoring activities including, but not limited to:
  - i. Photograph the site pre-construction, during construction, immediately following construction, and throughout the monitoring period, as defined in ii and iii below. Take photos from the same vantage point each time.
  - ii. Monitor work sites for indicators of continued erosion or instability through two wet seasons
  - iii. Monitor willow sprigging success through two wet seasons
  - iv. Prepare a report summarizing monitoring results, as described in Task 5

1.5. Task 5. Reporting

- a. Report:
  - i. Contents. Prepare a report that includes, but is not limited to, the items below.
    - a) Table of Contents
    - b) Summary of construction activities and monitoring results
    - c) A detailed description of the work performed, including methodology, literature reviewed, and individuals and agencies contacted
    - d) A final budget and receipts
    - e) Photos of the Project
    - f) A map of the Project area
    - g) Other information to support the Project or as requested by District
    - h) Certification by Gold Ridge RCD that the Project has been successfully implemented and meets Project goals or that identifies plans to correct any deficiencies and conduct any additional maintenance identified through post-Project monitoring, how those corrections and additional maintenance will be funded, and a time schedule to address implementing any needed corrections or additional maintenance.
  - ii. Review. Submit to District for review.
    - a) First Draft: Prepare the report in draft form and submit to District for review and approval in accordance with the date listed for this deliverable. District will return 1 copy of the draft report to Gold Ridge RCD with comments or approval in writing.
    - b) Subsequent Draft(s): If District requests revisions, revise the draft report and resubmit 1 copy of the report for District approval.
  - iii. Final: Following District approval and prior to District's acceptance of work under this Agreement, submit the final approved report to District in accordance with the date listed for this deliverable.

Deliverable	Due Date
Draft Report	Within 14 calendar days of completion of second season of monitoring
Final Report	Within 14 calendar days of District's approval of draft

## **2. DELIVERABLES**

- 2.1. Submit one electronic copy in PDF format (emailed, on CD, or via internet) of each final deliverable to District.
- 2.2. Comply with requirements of Article 11 (Content Online Accessibility).

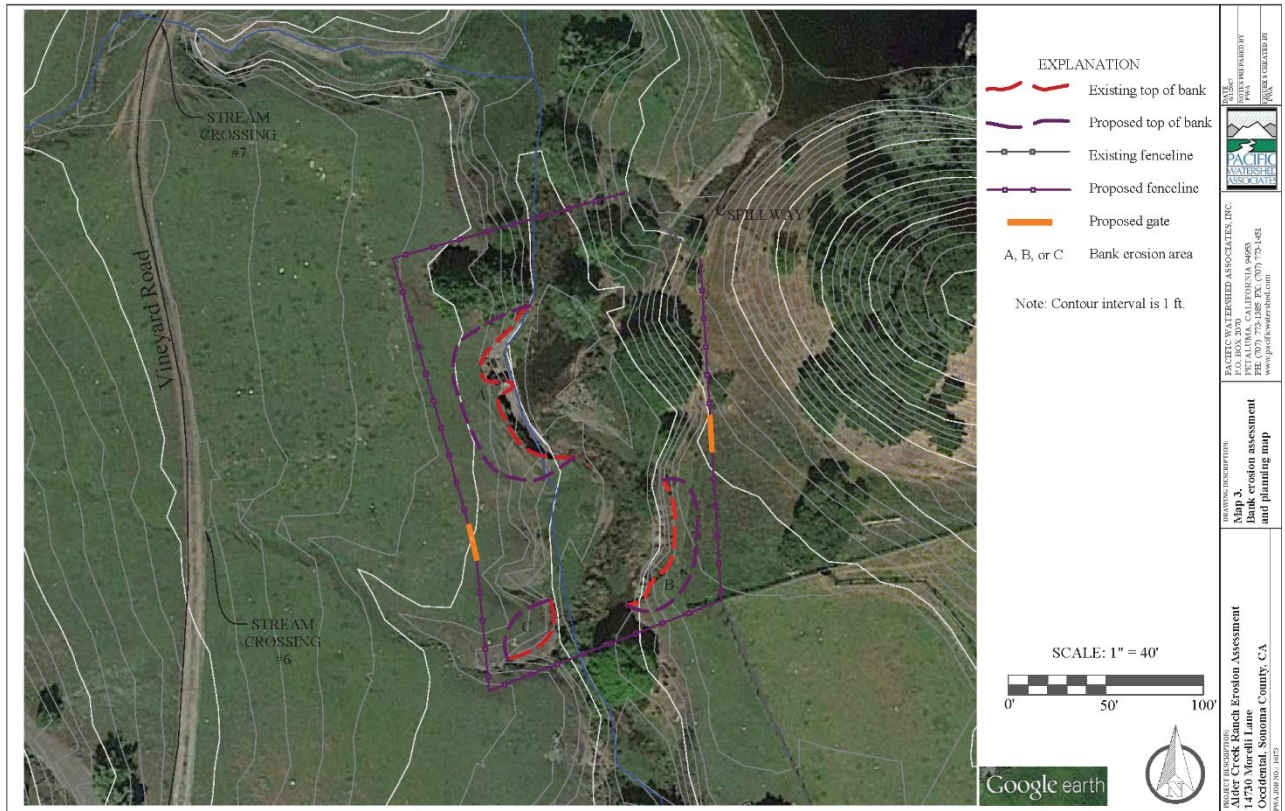
## Exhibit B

### Schedule of Costs

PERSONNEL	
Title	Hourly Rates not Subject to Prevailing Wage
Brittany Jensen	\$ 122.00
John Green	\$ 119.00
William Hart	\$ 105.00
Noelle Johnson	\$ 118.00
Sierra Cantor	\$ 109.00
Adriana Stagnaro	\$ 94.00
Jason Hoorn	\$ 109.00
Joe Pozzi	\$ 106.00
Michele Harris	\$ 101.00
Craig Macmillan	\$ 101.00
PREVAILING WAGES	
For work subject to prevailing wage rates, the hourly rate charged will be equivalent to the prevailing wage rate applicable to the work performed by each laborer.	
EXPENSES	
Item	Cost
Charles Hope Construction	at cost, not to exceed \$66,600.00
Contractor Compliance and Monitoring, Inc.	at cost, not to exceed \$1500.00
Copies	\$0.10 per page
Postage	at cost
Overnight mail	at cost
Mileage for personal car	Current IRS rate

# Exhibit C

## Map of Project Area



## **Exhibit D**

### **Insurance Requirements**

With respect to performance of work under this Agreement, Gold Ridge RCD shall maintain and shall require all of its subcontractors, consultants, and other agents to maintain insurance as described below unless such insurance has been expressly waived by the attachment of a *Waiver of Insurance Requirements*. Any requirement for insurance to be maintained after completion of the work shall survive this Agreement.

District reserves the right to review any and all of the required insurance policies and/or endorsements, but has no obligation to do so. Failure to demand evidence of full compliance with the insurance requirements set forth in this Agreement or failure to identify any insurance deficiency shall not relieve Gold Ridge RCD from, nor be construed or deemed a waiver of, its obligation to maintain the required insurance at all times during the performance of this Agreement.

#### **1. INSURANCE**

##### **1.1. Workers Compensation and Employers Liability Insurance**

- a. Required if Gold Ridge RCD has employees as defined by the Labor Code of the State of California.
- b. If Gold Ridge RCD currently has no employees as defined by the Labor Code of the State of California, Gold Ridge RCD agrees to obtain the above-specified Workers Compensation and Employers' Liability insurance should employees be engaged during the term of this Agreement or any extensions of the term.

##### **1.2. General Liability Insurance**

- a. Commercial General Liability Insurance on a standard occurrence form, no less broad than Insurance Services Office (ISO) form CG 00 01.
- b. Minimum Limits: \$1,000,000 per Occurrence; \$2,000,000 General Aggregate; \$2,000,000 Products/Completed Operations Aggregate. The required limits may be provided by a combination of General Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance. If Gold Ridge RCD maintains higher limits than the specified minimum limits, District requires and shall be entitled to coverage for the higher limits maintained by Gold Ridge RCD.
- c. Any deductible or self-insured retention shall be shown on the Certificate of Insurance. If the deductible or self-insured retention exceeds \$25,000 it must be approved in advance by District. Gold Ridge RCD is responsible for any deductible or self-insured retention and shall fund it upon District's written request, regardless of whether Gold Ridge RCD has a claim against the insurance or is named as a party in any action involving District.
- d. Sonoma County Water Agency, Occidental County Sanitation District, their officers, agents, and employees, shall be endorsed as additional insureds for

liability arising out of operations by or on behalf of Gold Ridge RCD in the performance of this Agreement.

- e. The insurance provided to the additional insureds shall be primary to, and non-contributory with, any insurance or self-insurance program maintained by them.
- f. The policy definition of “insured contract” shall include assumptions of liability arising out of both ongoing operations and the products-completed operations hazard (broad form contractual liability coverage including the “f” definition of insured contract in Insurance Services Office form CG 00 01, or equivalent).
- g. The policy shall cover inter-insured suits between the additional insureds and Gold Ridge RCD and include a “separation of insureds” or “severability” clause which treats each insured separately.
- h. Required Evidence of Insurance:
  - i. Copy of the additional insured endorsement or policy language granting additional insured status, and
  - ii. Certificate of Insurance.

#### 1.3. Automobile Liability Insurance

- a. Minimum Limit: \$1,000,000 combined single limit per accident. The required limit may be provided by a combination of Automobile Liability Insurance and Commercial Excess or Commercial Umbrella Liability Insurance.
- b. Insurance shall cover all owned autos. If Gold Ridge RCD currently owns no autos, Gold Ridge RCD agrees to obtain such insurance should any autos be acquired during the term of this Agreement or any extensions of the term.
- c. Insurance shall cover hired and non-owned autos.
- d. Required Evidence of Insurance: Certificate of Insurance.

#### 1.4. Standards for Insurance Companies

- a. Insurers, other than the California State Compensation Insurance Fund, shall have an A.M. Best's rating of at least A:VII.

#### 1.5. Documentation

- a. The Certificate of Insurance must include the following reference: TW 18/19-100.
- b. All required Evidence of Insurance shall be submitted prior to the execution of this Agreement. Gold Ridge RCD agrees to maintain current Evidence of Insurance on file with District for the entire term of this Agreement and any additional periods if specified in Sections 1.1, 1.2, or 1.3, above.
- c. The name and address for mailing Additional Insured endorsements and Certificates of Insurance is: Occidental County Sanitation District, c/o Sonoma County Water Agency, 404 Aviation Boulevard, Santa Rosa, CA 95403-9019.

- d. Required Evidence of Insurance shall be submitted for any renewal or replacement of a policy that already exists, at least ten (10) days before expiration or other termination of the existing policy.
- e. Gold Ridge RCD shall provide immediate written notice if: (1) any of the required insurance policies is terminated; (2) the limits of any of the required policies are reduced; or (3) the deductible or self-insured retention is increased.
- f. Upon written request, certified copies of required insurance policies must be provided within thirty (30) days.

1.6. Policy Obligations

- a. Gold Ridge RCD's indemnity and other obligations shall not be limited by the foregoing insurance requirements.

1.7. Material Breach

- a. If Gold Ridge RCD fails to maintain insurance which is required pursuant to this Agreement, it shall be deemed a material breach of this Agreement. District, at its sole option, may terminate this Agreement and obtain damages from Gold Ridge RCD resulting from said breach. Alternatively, District may purchase the required insurance, and without further notice to Gold Ridge RCD, District may deduct from sums due to Gold Ridge RCD any premium costs advanced by District for such insurance. These remedies shall be in addition to any other remedies available to District.