

**Agreement between  
Brown's Creek Watershed District and  
Beth Carreño**

**Regulatory Outreach Facilitation**

This agreement is entered into by the Brown's Creek Watershed District, a public body with powers set forth at Minnesota Statutes chapters 103B and 103D (BCWD), and Beth Carreño, a private individual (Carreño). In consideration of the terms and conditions set forth herein, and the exchange of consideration, the sufficiency of which is hereby acknowledged, BCWD and Carreño agree as follows:

1. Scope of Work

Carreño will perform the work described in the June 25, 2024, scope of services attached as Exhibit A (the Services). Exhibit A is incorporated into this agreement and its terms and schedules are binding on Carreño as a term hereof. In the event of conflict or disparity between a term or terms of this agreement and Exhibit A, this agreement will prevail. BCWD, at its discretion, in writing may at any time suspend work or amend the Services to delete any task or portion thereof. Authorized work by Carreño on a task deleted or modified by BCWD will be compensated in accordance with paragraphs 5 and 6. Time is of the essence in the performance of the Services.

2. Independent Contractor

Carreño is an independent contractor under this agreement. Carreño will select the means, method and manner of performing the Services. Nothing herein contained is intended or should be construed to constitute Carreño as the agent, representative or employee of BCWD in any manner. Personnel performing the Services on behalf of Carreño or a subcontractor will not be considered employees of BCWD and will not be entitled to any compensation, rights or benefits of any kind from BCWD.

3. Subcontract and Assignment

Carreño will not assign, subcontract or transfer any obligation or interest in this agreement or any of the Services without the written consent of BCWD and pursuant to any conditions included in that consent. BCWD consent to any subcontracting does not relieve Carreño of its responsibility to perform the Services or any part thereof, nor in any respect its duty of care, insurance obligations or duty to defend, indemnify and hold BCWD harmless under this agreement.

#### 4. Duty of Care; Indemnification

Carreño will perform the Services with due care. Carreño will indemnify, defend and hold harmless BCWD, its officers, board members, employees and agents from any and all actions, costs, damages and liabilities of any nature arising from: (a) Carreño's negligent or otherwise wrongful act or omission, or breach of a specific contractual duty; or (b) a subcontractor's negligent or otherwise wrongful act or omission, or breach of a specific contractual duty owed by Carreño to BCWD. For any claim subject to this paragraph by an employee of Carreño or a subcontractor, the indemnification obligation is not limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Carreño or a subcontractor under workers' compensation acts, disability acts or other employee benefit acts.

#### 5. Compensation

BCWD will compensate Carreño for the Services on progress-payments basis in accordance with Exhibit A. Invoices will be submitted monthly for work performed during the preceding month. Payment for undisputed work will be due within 35 days of receipt of invoice. Direct costs not specified in Exhibit A will not be reimbursed except with prior written approval of the BCWD administrator. Subcontractor fees and subcontractor direct costs, as incurred by Carreño, will be reimbursed by BCWD at the rate specified in BCWD's written approval of the subcontract arrangement.

The total payment for the Services will not exceed \$9,800. Total payment means all sums to be paid whatsoever, including but not limited to fees and reimbursement of direct costs and subcontract costs, whether specified in this agreement or subsequently authorized by the administrator.

Carreño will maintain all records pertaining to fees or costs incurred in connection with the Services for six years from the date of completion of the Services. Carreño agrees that any authorized BCWD representative or the state auditor may have access to and the right to examine, audit and copy any such records during normal business hours.

#### 6. Termination; Continuation of Obligations

This agreement is effective when fully executed by the parties and will remain in force until **March 31, 2025**, unless earlier terminated as set forth herein.

BCWD may terminate this agreement at its convenience, by a written termination notice stating specifically what prior authorized or additional tasks or services it requires Carreño to complete. Carreño will receive full compensation for all authorized work performed, except that Carreño will not be compensated for any

part performance of a specified task or service if termination is due to Carreño's breach of this agreement.

Insurance obligations; duty of care; obligations to defend, indemnify and hold harmless; and document-retention requirements will survive the completion of the Services and the term of this agreement.

7. Waiver

The failure of either party to insist on the strict performance by the other party of any provision or obligation under this agreement, or to exercise any option, remedy or right herein, will not waive or relinquish such party's rights in the future to insist on strict performance of any provision, condition or obligation, all of which will remain in full force and affect. The waiver of either party on one or more occasion of any provision or obligation of this agreement will not be construed as a waiver of any subsequent breach of the same provision or obligation, and the consent or approval by either party to or of any act by the other requiring consent or approval will not render unnecessary such party's consent or approval to any subsequent similar act by the other.

Notwithstanding any other term of this agreement, BCWD waives no immunity in tort. This agreement creates no right in and waives no immunity, defense or liability limit with respect to any third party.

8. Insurance

At all times during the term of this agreement, Carreño will have and keep in force standard liability and comprehensive automobile insurance coverage. Carreño will not commence work until she has filed with BCWD a certificate of insurance clearly evidencing the required coverage.

9. Compliance With Laws

Carreño will comply with the laws and requirements of all federal, state, local and other governmental units in connection with performing the Services and will procure all licenses, permits and other rights necessary to perform the Services.

In performing the Services, Carreño will ensure that no person is excluded from full employment rights or participation in or the benefits of any program, service or activity on the ground of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status or national origin; and no person who is protected by applicable federal or state laws, rules or regulations against discrimination otherwise will be subjected to discrimination.

## 10. Materials

All materials, including but not limited to data and information, obtained or generated by Carreño in performing the Services, including documents in hard and electronic copy, software, and all other forms in which the materials are contained, documented or memorialized, are the property of BCWD. Carreño hereby assigns and transfers to BCWD all right, title and interest in: (a) its copyright, if any, in the materials; any registrations and copyright applications relating to the materials; and any copyright renewals and extensions; (b) all works based on, derived from or incorporating the materials; and (c) all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and all causes of action in law or equity for past, present or future infringement based on the copyrights. Carreño agrees to execute all papers and to perform such other proper acts as BCWD may deem necessary to secure for BCWD or its assignee the rights herein assigned.

BCWD may immediately inspect, copy or take possession of any materials on written request to Carreño. On termination of the agreement, Carreño may maintain a copy of some or all of the materials except for any materials designated by BCWD as confidential or non-public under applicable law, a copy of which may be maintained by Carreño only pursuant to written agreement with BCWD specifying terms.

## 11. Data Practices; Confidentiality

If Carreño receives a request for data pursuant to the Data Practices Act, Minnesota Statutes chapter 13 (DPA), that may encompass data (as that term is defined in the DPA) Carreño possesses or has created as a result of this agreement, she will inform BCWD immediately and transmit a copy of the request. If the request is addressed to BCWD, Carreño will not provide any information or documents, but will direct the inquiry to BCWD. If the request is addressed to Carreño, Carreño will be responsible to determine whether she is legally required to respond to the request and otherwise what its legal obligations are, but will notify and consult with BCWD and its legal counsel before replying. Nothing in the preceding sentence supersedes Carreño's obligations under this agreement with respect to protection of BCWD data, property rights in data or confidentiality. Nothing in this section constitutes a determination that Carreño is performing a governmental function within the meaning of Minnesota Statutes section 13.05, subdivision 11, or otherwise expands the applicability of the DPA beyond its scope under governing law.

Carreño agrees that she will not disclose and will hold in confidence any and all proprietary materials owned or possessed by BCWD and so denominated by BCWD. Carreño will not use any such materials for any purpose other than

performance of the Services without BCWD written consent. This restriction does not apply to materials already possessed by Carreño or that Carreño received on a non-confidential basis from BCWD or another party. Consistent with the terms of this section 11 regarding use and protection of confidential and proprietary information, Carreño retains a nonexclusive license to use the materials and may publish or use the materials in its professional activities. Any Carreño duty of care under this agreement does not extend to any party other than BCWD or to any use of the materials by BCWD other than for the purpose(s) for which Carreño is compensated under this agreement.

12. BCWD Property

All property furnished to or for the use of Carreño or a subcontractor by BCWD and not fully used in the performance of the Services, including but not limited to equipment, supplies, materials and data, both hard copy and electronic, will remain the property of BCWD and returned to BCWD at the conclusion of the performance of the Services, or sooner if requested by BCWD. Carreño further agrees that any proprietary materials are the exclusive property of BCWD and will assert no right, title or interest in the materials. Carreño will not disseminate, transfer or dispose of any proprietary materials to any other person or entity unless specifically authorized in writing by BCWD. Any property including but not limited to materials supplied to Carreño by BCWD or deriving from BCWD is supplied to and accepted by Carreño as without representation or warranty including but not limited to a warranty of fitness, merchantability, accuracy or completeness. However, Carreño's warranty of professional care under paragraph 4, above, does not extend to materials provided to Carreño by BCWD or any portion of the Services that is inaccurate or incomplete as the result of Carreño's reliance on those materials.

13. Notices

Any written communication required under this agreement to be provided in writing will be directed to the other party as follows:

To BCWD:

Administrator  
Brown's Creek Watershed District  
455 Hayward Ave North  
Oakdale, MN 55128  
651-330-8220, ext. 236; KKill@mnwcd.org

To Carreño:

Beth Carreño

920-918-5550; bethcarreno@gmail.com

Either of the above individuals may in writing designate another individual to receive communications under this agreement.

14. Choice of Law, Venue and Jurisdiction

This agreement will be construed under and governed by the laws of the State of Minnesota, and venue for any dispute under this agreement will be in the district court of Washington County, Minnesota.

15. Whole Agreement

The entire agreement between the two parties is contained herein and this agreement supersedes all oral agreements and negotiations relating to the subject matter hereof. Any modification of this agreement is valid only when reduced to writing as an amendment to the agreement and signed by the parties hereto. BCWD may amend this agreement only by action of the Board of Managers acting as a body.

*{Signature page follows.}*

IN WITNESS WHEREOF, intending to be legally bound, the parties hereto execute and deliver this agreement.

**Carreño**

\_\_\_\_\_  
By Beth Carreño

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

**Brown's Creek Watershed District**

\_\_\_\_\_  
By Karen Kill  
Its Administrator

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

*Approved as to Form and Execution*

\_\_\_\_\_  
BCWD attorney

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**Exhibit A**  
**Scope of Services**

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**June 25, 2024**

## **OVERVIEW**

Brown's Creek Watershed District (BCWD) is in the process of completing its Comprehensive Watershed Management Plan update, and one of the issues is the District's regulatory program. Some Board members and stakeholders have expressed an interest in a facilitated review of the current rules with a possible rule change to run concurrently with the plan update.

Facilitated stakeholder engagement could provide information for the Board to determine if a rules revision should be completed as part of the planning process. In addition, it could provide a complete assessment of the District's regulatory program with reviews of public perception and understanding, existing rules and potential changes, regulatory processes and responsibilities, and information and outreach materials. This information could be used by the Board to determine where changes or improvements are needed (rules, processes, resources, and/or materials) and allocate resources and budgets, identify goals, select strategies, and set timelines for the regulatory component of the plan.

## **PURPOSE & GOAL**

Utilize a facilitated stakeholder engagement process to complete a comprehensive review of the BCWD Regulatory Program. Results and recommendations related to changes in rules, regulatory processes, or program resources and guidance materials will be provided to the BCWD Board for consideration, action, and/or inclusion in the 2026 – 2035 Brown's Creek Watershed Management Plan. Additional activities may take place as a result of BCWD Board decision-making and could include the facilitation of the rules change efforts, completion of activities related to developing new regulatory process, and/or supporting adaptation and development of regulatory program resources and guidance materials.

## **Initial Regulatory Program Review and Needs Assessment (\$6,100)**

- Internal Planning Meetings (August – October 2024)
  - Coordination meetings between Beth Carreño (consultant), Karen Kill (BCWD Administrator), and others identified by Karen Kill for participation
  - Before initial stakeholder engagement to review agenda and process (1) and after the stakeholder meeting to review results and recommendations (2)
- Facilitated Stakeholder Engagement (1st) (September 2024)
  - Stakeholder meeting to get feedback on current regulatory program and possible changes to rules, processes, and resources / materials
  - BCWD defines stakeholders and completes outreach and invitations for meetings with input and support from Beth Carreño
  - Initial Stakeholder Meeting
    - Agenda will include presentation of the current BCWD rules and regulatory program with information on BCWD efforts, investments, and changes to ensure stakeholders understand current program

- Facilitated discussion will increase engagement and feedback to assess current efforts and identify possible changes
- Summary report (September – October 2024)
  - Beth Carreño will provide a report summarizing the stakeholder feedback
    - The report will include recommendations from stakeholders and the facilitator
- DELIVERABLES Facilitated stakeholder meeting
  - Summary report with recommendations

### **Technical Advisory Committee (TAC) and Board Engagement (\$2,100)**

- Internal Planning Meetings (October – December 2024)
  - Coordination meetings between Beth Carreño (consultant), Karen Kill (BCWD Administrator), and others identified by Karen Kill for participation
  - Before Technical Advisory Committee (TAC) and BCWD Board meeting presentations and/or as needed
- TAC Meeting (October 2024)
  - Present summary report to the TAC and get additional input
- Board Workshop (November 2024)
  - Present summary report and input from the TAC to the Board
  - Board determines next steps
- Final report (December 2024 – January 2025)
  - Beth Carreño will create a final report that incorporates stakeholder, TAC, and Board feedback and Board direction
    - The report could be used as the foundation for the final stakeholder engagement to review with stakeholders what was learned through the review and needs assessment plus the District's next steps
- DELIVERABLES
  - Presentation with support materials and facilitated engagement for TAC
  - Presentation with support materials for Board
  - Final report

### **Regulatory Program Review and Needs Assessment Outcomes (\$1,600)**

- Internal Planning Meetings (December 2024 – January 2025)
  - Coordination meetings between Beth Carreño (consultant), Karen Kill (BCWD Administrator), and others identified by Karen Kill for participation
  - Before final stakeholder meeting and/or as needed
- Facilitated Stakeholder Engagement (2nd) (January 2025)
  - Stakeholder meeting to present final report of the regulatory program review and needs assessment and provide next steps identified by the Board

- DELIVERABLES
  - Facilitated stakeholder engagement and sharing outcomes
  - Communications packet including press release, article, and social media content

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