

EXHIBIT B

SUBCONTRACT AGREEMENT FOR TREE MORTALITY OPERATIONS

THIS AGREEMENT (“Agreement”) is made and entered into this ___ day of _____, 2017, by and between Blue Ridge Services, Inc., a solid waste consulting company, (“Contractor”), and _____, (Subcontractor) pursuant to the following terms and conditions.

WITNESSETH:

1. RECITAL

Contractor has entered into a contract with the County of Mariposa (“the County”) for Tree Mortality Operations Management Services (“Prime Contract”). A copy of the Prime Contract is attached hereto as Exhibit A. Subcontractor acknowledges that he has reviewed the Prime Contract, is familiar with its terms and will comply with all terms, conditions, covenants and requirements imposed on Contractor by the County as required under the Prime Contract.

2. TERM

The term of this Agreement shall commence on the date first hereinabove written, and shall continue until all work is accepted by Contractor or June 30, 2018, whichever is earlier.

3. SERVICES AND COMPENSATION

Subcontractor shall perform tree mortality operations as described in the, “Scope of Work,” which is attached hereto and incorporated herein by reference. Subcontractor shall provide all staffing and materials necessary to perform the “Scope of Work”. Subcontractor shall be compensated for authorized services performed as described in the “Scope of Work” attached hereto. The Contractor shall pay Subcontractor after receipt of a written invoice from Subcontractor and no later than thirty (30) days after Contractor has been paid by County for the work performed by Subcontractor.

4. ADDITIONAL SERVICES

Subcontractor acknowledges and agrees that Subcontractor and Contractor may amend this Agreement to add additional tree mortality operations to be performed by Subcontractor and paid by Contractor pursuant to the terms of this Agreement, by executing one or more additional “Scopes of Work”. Any additional “Scopes of Work” shall be placed in a writing and signed by both Subcontractor and Contractor, and shall not be effective until signed by both Subcontractor

and Contractor. Subcontractor acknowledges and agrees that the terms of this Agreement shall apply to all additional "Scopes of Work" executed by Subcontractor and Contractor.

5. INSURANCE

Subcontractor shall procure and maintain for the duration of the agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Subcontractor, its subcontractors, agents, representatives, or employees.

A. MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with minimum coverage of no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be one and one half (1 ½) times the required occurrence limit.

(2) Automobile Liability: ISO Form Number CA 00 01 covering any auto, (Code 1), or if Contractor has no owned autos, hired (Code 8) and non-owned autos (Code 9), with minimum coverage of no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with a minimum coverage of no less than \$1,000,000 per accident for bodily injury or disease.

(4) Professional Liability (Errors and Omissions) Insurance appropriate to the Subcontractor's profession and license, with a minimum coverage of no less than \$1,000,000 per occurrence or claim, \$2,000,000 aggregate. If the Subcontractor maintains broader coverage and/or higher limits than the minimums shown above, the Contractor and County requires and shall be entitled to the broader coverage and/or higher limits maintained by the Subcontractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Subcontractor and County.

B. OTHER INSURANCE PROVISIONS

The insurance policies are to contain, or be endorsed to contain, the following provision:

(1) Additional Insured Status: The Contractor, the County, and their directors, officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Subcontractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the

Subcontractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 forms if a later edition is used).

(2) Primary Coverage: For any claims related to this Agreement, the Subcontractor's insurance coverage shall be primary insurance as respects Contractor, the County, its directors, officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by Contractor, the County, its directors, officers, officials, employees, or volunteers shall be in excess of the Subcontractor's insurance and shall not contribute with it.

(3) Notice of Cancellation: Each insurance policy required above shall state that coverage shall not be canceled, except with 30 days prior notice to Contractor and the County.

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

(5) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared to and approved by Contractor. Contractor may require the Subcontractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(6) Acceptability of Insurers: Insurance is to be placed with insurers with a current A.M. Best's rating of no less than "a".

(7) Verification of Coverage: Subcontractor shall furnish Contractor with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this Agreement. All certificates and endorsements are to be received and approved by Contractor before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Subcontractor's obligation to provide them. Contractor reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

(8) Special Risks or Circumstances: Contractor reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

6. HOLD HARMLESS/INDEMNIFICATION

To the fullest extent permitted by law, Subcontractor shall hold harmless, defend at its own expense, and indemnify Contractor, the County, its directors, officers, employees, agents, and volunteers, against any and all liability, claims, losses, damages, or expenses, including reasonable attorney's fees, arising from all acts or omissions to act of Subcontractor or its officers, agents, or employees in rendering services under this Agreement; excluding, however,

such liability, claims, losses, damages, or expenses arising from Contractor's or the County's sole negligence or willful acts.

7. INDEPENDENT CONTRACTOR

It is the expressed intention of the parties that Subcontractor is an independent contractor and not an employee, agent, joint venture or partner of Contractor or the County. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between Subcontractor, and Contractor or the County, or any employee or agent of Contractor or the County. Both parties acknowledge that Subcontractor is not an employee for state or federal tax purposes. Subcontractor shall retain the right to perform services for others during the term of this Agreement.

8. PUBLIC EMPLOYEES RETIREMENT SYSTEM (CALPERS)

In the event that Subcontractor or any employee, agent, or subcontractor of Subcontractor providing services under this Agreement is determined by a court of competent jurisdiction or the Public Employees Retirement System (CalPERS) to be eligible for enrollment in CalPERS as an employee of the County, Subcontractor shall indemnify, defend, and hold harmless Contractor and the County for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of Subcontractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of Contractor or the County.

9. STATE AND FEDERAL TAXES

Subcontractor is not Contractor's or the County's employee. Subcontractor is responsible for paying all required state and federal taxes. In particular:

- A. Neither Contractor nor the County will withhold FICA (Social Security) from Subcontractor's payments;
- B. Neither Contractor nor the County will make state or federal unemployment insurance contributions on behalf of Subcontractor;
- C. Neither Contractor nor the County will withhold state or federal income tax from payment to Subcontractor;
- D. Neither Contractor nor the County will make disability insurance contributions on behalf of Subcontractor;
- E. Neither Contractor nor the County will obtain workers' compensation insurance on behalf of Contractor.

10. ASSIGNMENT

It is understood and agreed that this Agreement contemplates personal performance by the Subcontractor and is based upon a determination of its unique personal competence and experience and upon its specialized personal knowledge. Assignments of any or all rights, duties or obligations of the Subcontractor under this Agreement will be permitted only with the express written consent of Contractor.

11. NOTICE

Any and all notices, reports or other communications to be given to Subcontractor, Contractor or the County shall be given to the persons representing the respective parties at the following addresses:

CONTRACTOR:

Neal Bolton
Blue Ridge Services
PO Box 2398
Mariposa, CA 95338

SUBCONTRACTOR:

COUNTY:

Deputy County Administrative Officer
County of Mariposa
5100 Bullion Street, 2nd Floor
P.O. Box 784
Mariposa, CA 95338

12. COMPLIANCE

Subcontractor shall comply with all federal, state and local laws, codes, ordinance and regulations applicable to Subcontractor's performance under this Agreement, including, but not limited to, laws related to prevailing wages. Specifically, Subcontractor shall not engage in unlawful employment discrimination, including, but not limited to, discrimination based upon a person's race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, gender, citizenship or sexual orientation, as prohibited by state or federal law.

Subcontractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act (8 U.S.C.A. 1101 *et seq.*), as amended; and in connection therewith, shall not employ unauthorized aliens as defined therein. Should subcontractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any agency or instrumentality of the federal or state government, including the courts, impose sanctions against Contractor and/or the County for such use of unauthorized aliens, Subcontractor hereby agrees to, and shall, reimburse Contractor and the County for the cost of all such sanctions imposed, together with any and all costs, including attorney's fees, incurred by Contractor and/or the County in connection therewith.

13. PUBLIC RECORDS ACT

Subcontractor is aware that this Agreement and any documents provided to Contractor or the County may be subject to the California Public Records Act and may be disclosed to members of the public upon request. It is the responsibility of the Subcontractor to clearly identify information in those documents that it considers to be confidential under the California Public Records Act. To the extent that Contractor and the County agree with that designation, such

information will be held in confidence whenever possible. All other information will be considered public.

14. ENTIRE AGREEMENT AND MODIFICATION

This Agreement contains the entire agreement of the parties relating to the subject matter of this Agreement and supersedes all prior agreements and representations with respect to the subject matter hereof. This Agreement may only be modified by a written amendment hereto, executed by both parties; however, matters concerning the scope of services which do not affect the agreed price may be modified by mutual written consent of Contractor and Subcontractor. If there are exhibits attached hereto, and a conflict exists between the terms of this Agreement and any exhibit, the terms of this Agreement shall control.

15. ENFORCEABILITY AND SEVERABILITY

The invalidity or enforceability of any term or provisions of this Agreement shall not, unless otherwise specified, affect the validity or enforceability of any other term or provision, which shall remain in full force and effect.

16. SAFETY, ALCOHOL AND DRUG TESTING

Subcontract warrants and agrees that Subcontractor's performance under this Agreement shall at all times be conducted in a safe and careful manner in compliance with all Federal, State and local statutes, codes, regulations or other requirements, including, but not limited to those imposed by OSHA. Subcontractor acknowledges and agrees that Contractor may at any time and without notice, observe and inspect Subcontractor's operations. Subcontractor further acknowledges that if at any time Contractor observes operations that, in Contractor's sole judgment, imperil persons or property, Contractor may require that Subcontractor immediately shut down operations until such time that Contractor is satisfied that Subcontractor can resume operations in a safe manner. In the event Contractor exercises its right to shut down operations due to a safety concern as described in this paragraph, Subcontractor shall not be entitled to any additional compensation of any type, including, but not limited to compensation for extra time spent performing this Agreement and/or moving or removing equipment to or from the job site.

In the event of any accident occurring during the performance of this Agreement that causes more than \$500.00 in property damage, or results in death or an injury that requires medical attention; Subcontractor acknowledges and agrees that Subcontractor, its owners and employees shall immediately submit to alcohol and drug testing upon request of Contractor and/or any law enforcement agency.

17. PARTIAL PERFORMANCE AND PAYMENT

In the event that Subcontractor's performance of this Agreement is halted for a period of ninety (90) days or more by Contractor through no fault of Subcontractor, Contractor shall pay Subcontractor for the portion of the work that has been performed. In determining the amount to pay Subcontractor, Contractor shall pay Subcontractor a percentage of the amount owed for full performance under this Agreement that corresponds to the percentage of trees cut down or removed by contractor as compared to the total number of trees to be cut down and removed.

For example, if 400 out of 1000 total trees have been cut down or removed by Subcontractor, Contractor would pay 40% of the total contract price.

18. PERFORMANCE BOND

Subcontractor shall procure and maintain during the term of this Agreement a Performance Bond to be issued by one or more personal sureties, to guarantee Subcontractor's full and faithful performance under this Agreement. Subcontractor shall provide Contractor with a copy of the Performance Bond within seven calendar days after this Agreement has been executed by all parties and at any time thereafter on the request of Contractor.

19. TERMINATION AND RIGHTS UPON TERMINATION

A. Contractor may terminate this Agreement at any time by mailing a notice in writing to Subcontractor that the Agreement is terminated. This Agreement shall then be deemed terminated and no further work shall be performed by Subcontractor. If the Agreement is so terminated, Subcontractor shall be paid for that percentage of the work actually completed, based on a pro rata portion of the compensation for said work satisfactorily completed at the time the notice of termination is received.

B. Should Subcontractor default in the performance of this Agreement or materially breach any of its provisions, Contractor, at its option, may terminate this Agreement by giving written notification to Subcontractor. The termination date shall be the effective date of the notice. For the purposes of this subsection, default or material breach of this Agreement shall include, but not be limited to, any of the following: failure to perform required services in a timely manner, willful destruction of Contractor or County property, dishonesty, or theft.

20. NO WAIVER

The failure to exercise any right to enforce any remedy contained in this Agreement shall not operate as, or be construed as, a waiver or relinquishment of the exercise of such right or remedy, or of any other right or remedy herein contained.

21. DISPUTES

Should it become necessary for a party to this Agreement to enforce any of the provisions hereof, the prevailing party in any claim or action shall be entitled to reimbursement for all expenses so incurred, including reasonable attorney's fees.

It is agreed by the parties hereto that unless otherwise expressly waived by them, any action brought to enforce any of the provisions hereof or for declaratory relief hereunder shall be filed and remain in a court of competent jurisdiction in the County of Mariposa, State of California.

22. CAPTIONS

The captions of this Agreement are for convenience in 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.

23. NUMBER AND GENDER

In this Agreement, the neutral gender includes the feminine and masculine, the singular includes the plural, and the word “person” includes corporations, partnerships, firms or associations, wherever the context so requires.

24. MANDATORY AND PERMISSIVE

“Shall” is mandatory. “May” is permissive.

25. 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.

26. 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.

27. OTHER DOCUMENTS

The parties agree that they shall cooperate in good faith to accomplish the object of this Agreement and, to that end, agree to execute and deliver such other and further instruments and documents as may be necessary and convenient to the fulfillment of these purposes.

28. CONTROLLING LAW

The validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of the State of California.

29. REPRESENTATIONS, AUTHORITY

Each party and each party’s signatory warrant and represent that each has full authority and capacity to enter into this Agreement in accordance with all requirements of law. The parties also warrant that any signed amendment or modification to the agreement shall comply with all requirements of law, including capacity and authority to amend or modify the Agreement.

Subcontractor warrants and represent to Contractor that Subcontractor has not conferred with, or colluded with, any person, other than Subcontractor’s own owners and employees, in connection with any bid, proposal or contract price submitted to, or agreed upon with, Contractor.

30. NEGOTIATED AGREEMENT

This Agreement has been arrived at through negotiation between the parties. Neither party is to be deemed the party which prepared this Agreement within the meaning of California Civil Code section 1654. Each party represents and warrants that in executing this Agreement it does so with full knowledge of the rights and duties it may have with respect to the other party. Each

party also warrants and represents that it has received independent legal advice from its attorney with respect to the matters set forth in this Agreement and the rights and duties arising out of this Agreement, or that such party willingly foregoes any such consultation.

31. NO RELIANCE ON REPRESENTATIONS

Each party warrants and represents that it is not relying and has not relied upon any representation or statement made by the other party with respect to the facts involved or its rights or duties. Each party understands and agrees that the facts relevant, or believed to be relevant to this Agreement, have been independently verified. Each party further understands that it is responsible for verifying the representations of law or fact provided by the other party.

32. WARRANTY

Contractor has relied, and will rely, upon the professional ability and training of Subcontractor as a material inducement to enter into this Agreement. Subcontractor hereby warrants that all work shall be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of Subcontractor's work by Contractor shall not operate as a waiver or release.

33. MEDIATION

Contractor and Subcontractor agree that prior to filing any lawsuit, litigation, legal or arbitration proceeding regarding any dispute between Contractor and Subcontractor relating to this Agreement; Contractor and Subcontractor will engage in mediation with an attorney or retired judge with no less than five (5) years' experience with contract and civil litigation issues. In the event of a dispute, either party may initiate mediation by sending a written notice to the other party summarizing the nature of the dispute and identifying three (3) potential mediators that meet the qualifications described above. Upon receipt of the initial notice, the party receiving the initial notice shall select one of the three proposed mediators and send written notice back to the other party of the selected mediator and a summary of any additional disputed issues, no later than ten calendar days after receipt of the initial notice. Thereafter, both parties shall cooperate in scheduling and concluding the mediation within 90 days from the date of the initial notice.

34. EQUAL OPPORTUNITY

During the performance of this contract, the Subcontractor agrees as follows:

A. Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by Subcontractor setting forth the provisions of this nondiscrimination clause.

B. Subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

C. Subcontractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Subcontractor's legal duty to furnish information.

D. Subcontractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

E. Subcontractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

F. Subcontractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

G. In the event of the Subcontractor's non-compliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated or suspended in whole or in part and the Subcontractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

H. Subcontractor will include the provisions of paragraphs (A) through (H) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Subcontractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of

Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Subcontractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

SUBCONTRACTOR

CONTRACTOR

(Name and Title)
(Name of Business)

Neal Bolton, President
Blue Ridge Services, Inc.

SCOPE OF WORK

Subcontractor will