

## ASSIGNMENT AND ASSUMPTION AGREEMENT

**Dated: April 27, 2018**

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Agreement") is made and entered into as of April 27, 2018, by and between Acterra: Action for a Healthy Planet, a California non-profit public benefit corporation ("Assignor"), and Grassroots Ecology, a California non-profit public benefit corporation ("Assignee").

1. Assignor, for good and valuable consideration, the receipt of which is hereby acknowledged, does hereby ASSIGN, CONTRIBUTE, TRANSFER AND CONVEY to Assignee, and Assignee hereby receives from the Assignor all of Assignor's right, title and interest in and to, and assumes all liabilities and obligations of the Assignor, arising after the date hereof under all of the contracts listed on **Exhibit A** (the "**Assigned Contracts**"), subject to the provisions of Section 2. All Assigned Contracts that require consent of a third party to assign or transfer (a "**Consent Contract**") are set forth on **Exhibit B**. If any consent is not obtained and delivered by the date hereof, Assignor shall continue to use its commercially reasonable efforts to obtain such consent until June 30, 2018 (the "**Release Date**"). Until the earlier of (a) such time as the consent is obtained and (b) the Release Date, the Assignor will, together with the Assignee, make such arrangements (including subcontracting if permitted) to provide the Assignor and Assignee the economic and operational equivalent of assigning or transferring such Consent Contracts, including enforcement for the benefit of the Assignor and/or Assignee of all claims or rights arising thereunder. Upon receipt of such third party consent after the date hereof, such Consent Contract shall be transferred and assigned to the Assignee, and thereafter be deemed an Assigned Contracts.

2. Assignor hereby conveys, transfers and assigns to Assignee, and Assignee hereby receives from Assignor, Assignor's obligations arising after the date hereof under the Assigned Contracts (the "**Assumed Liabilities**"). Notwithstanding the above, the Assumed Liabilities will not include any liabilities relating to failure to perform, improper performance, or other breach, default or violation by the Assignor under any Assigned Contracts on or prior to the date hereof. Additionally, if any consent required to assign a Consent Contract is not received by the date hereof, such liabilities will not be assigned by Assignor nor assumed by the Assignee until such consent is received and delivered to Assignee (and in such case, will not include any liabilities relating to failure to perform, improper performance, or other breach, default or violation by the Assignor under any Assigned Contracts prior to the date such consent is received and delivered to Assignee); *provided* the final two sentence of Section 1 shall apply thereto. Except for the Assumed Liabilities, no other liabilities or obligations of the Assignor will be assumed by the Assignee ("**Excluded Liabilities**"). The Excluded Liabilities will remain the sole responsibility of and will be retained, paid, performed and discharged solely be the Assignor.

3. The Assignee hereby irrevocably and unconditionally agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Assignor, its officers, directors, trustees, employees and agents, from and against any and all claims, liabilities, losses and expenses (including reasonable attorneys' fees) arising from or in connection with any act or omission of the Assignee or the Assignee's agents, in implementing and operating the contract, except to the extent that such claims, liabilities, losses or expenses arise from or in connection with the recklessness or willful misconduct of

the Assignor, its officers, directors, trustees, non-Assignee employees or agents.

4. Assignor and Assignee hereby agree to execute such documents and other papers and perform such further acts as may be reasonably required to carry out the provisions hereof and as contemplated under the Agreement.

5. This Agreement may be executed in counterparts, both of which shall be considered one and the same agreement, and shall become effective when both such counterparts have been signed by each of the parties and delivered to the other party. Copies of executed counterparts transmitted by telecopy, telefax or other electronic transmission service shall be considered original executed counterparts.

6. This Agreement, including the validity hereof and the rights and obligations of the parties hereunder, will be governed by and construed in accordance with the internal laws of the State of California applicable to agreements made and to be performed entirely within such State, without regard to the conflicts of law principles that would require the application of any other law.

7. Except as specifically set forth or referred to herein, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person any rights or remedies under or by reason of this Agreement nor be relied upon other than the parties hereto and their permitted successors or assigns.

8. This Agreement shall bind and inure to the benefit of the successors, heirs and permitted assigns of each party hereto, whether or not so expressed. Neither party hereto may assign or transfer either this Agreement or any of its rights or obligations hereunder without the consent in writing of the other party.

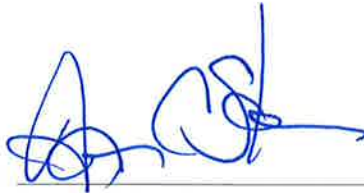
9. This Agreement cannot be amended, waived or terminated except by a writing signed by Assignee and Assignor.

10. If any provision of this Agreement or the application of any such provision to any person or circumstance shall be held invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision hereof (so long as the economic or legal substance of this Agreement is not affected in any manner materially adverse to any party), it being intended that each parties' rights and privileges shall be enforceable to the fullest extent permitted by applicable law, and any such invalidity, illegality and unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction (so long as the economic or legal substance of this Agreement is not affected in any manner materially adverse to any party).

*[Signature Page Follows]*

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed and delivered by an authorized officer of each of Assignor and Assignee as of the date first written above.

**Acterra: Action for a Healthy Planet**

By: 

Name: Adam Stern

Title: Executive Director

[Signature Page to Assignment and Assumption Agreement]

IN WITNESS WHEREOF, this Assignment and Assumption Agreement has been duly executed and delivered by an authorized officer of each of Assignor and Assignee as of the date first written above.

**Grassroots Ecology**

By:



Name: Alexandra Von Feldt

Title: Executive Director

## EXHIBIT A

### Assigned Contracts

| Code  | Contract Title and Description  |
|---|---|
| USFWS: EPA                                    | Notice of Federal Cooperative Agreement Award F16AC00709 dated July 20, 2017 between USFWS and Acterra  |
| Loma Prieta RCD:<br>Sycamore<br>Propagation   | Agreement between Loma Prieta Resource Conservation District and Grassroots Ecology, a fiscally sponsored project entered into on September 15, 2016  |
| City of Mountain<br>View: Permanente<br>Creek | AGREEMENT BETWEEN THE CITY OF MOUNTAIN VIEW AND ACTERRA GRASSROOTS ECOLOGY FOR PLANT PROPAGATION AND TECHNICAL GUIDANCE SERVICES dated [    ]   |
| MROSD: EPA                                    | Cooley Landing Native Planting and Interpretive Project between Midpeninsula Regional Open Space District and Grassroots Ecology, a fiscally sponsored project of Acterra dated Sept 29, 2016                                   |
| MROSD: Hendrys                                | Hendrys Creek Restoration Project between Midpenninsula Regional Open Space District and Acterra dated June 22, 2016  |
| SCVWD: Arastradero                            | The FY 2016 Safe, Clean Water Project B3 Grant Agreement #A3976R between Santa Clara Valley Water District and Acterra Stewardship, a fiscal project of Acterra dated as of June 14, 2016 between SCVWD and Acterra Stewardship |
| SCVWD: Byrne<br>Preserve                      | The FY 2016 Safe, Clean Water Project B3 Grant Agreement #A3991R between Santa Clara Valley Water District and Acterra Stewardship, a fiscal project of Acterra dated as of June 14, 2016 between SCVWD and Acterra Stewardship |
| SCVWD: GUW                                    | The FY 2016 Safe, Clean Water Project B3 Grant Agreement #A3990R between Santa Clara Valley Water District and Acterra Stewardship, a fiscal project of Acterra dated as of June 14, 2016 between SCVWD and Acterra Stewardship |

## EXHIBIT B

### Consent Contracts

| Code  | Contract Title and Description  |
|---|---|
| ABAG/San Francisco Estuary Program (SFEI grant)                 | This Subrecipient Agreement is made and entered into as of the Effective Date by and between the Association of Bay Area Governments (ABAG), a joint powers agency acting on behalf of the San Francisco Estuary Partnership, a program of ABAG and Grassroots Ecology, a fiscally-sponsored project of Acterra, a nonprofit corporation. |
| Los Altos Hills: Byrne Preserve (CIP)                           | This agreement for consulting services is made by and between the Town of Los Altos Hills and Acterra as of July 1, 2016  |
| City of Palo Alto: Arastradero                                  | Amended and Restated Stewardship Agreement, dated as of July 1, 2017, is made by and between the City of Palo Alto and Acterra  |
| City of Palo Alto: Arastradero Tree Mitigation                  | THIS AGREEMENT made and entered into on the 1st day of October, 2016, by and between the CITY OF PALO ALTO, and GRASSROOTS ECOLOGY  |
| City of Palo Alto: Chaucer Mitigation site (SF)                 | THIS AGREEMENT made and entered into on the 5th day of April, 2016, by and between the CITY OF PALO ALTO and ACTERRA  |
| City of Palo Alto: Water Quality Monitoring and School Outreach | This Professional Service Agreement is entered into on this 13th day of January, 2016 by and between the CITY OF PALO ALTO and ACTERRA  |
| Coastal Conservancy: Redwood Creek                              | Conservancy manager/grant agreement #17-031, dated as of Nov. 28, 2017, between Coastal Conservancy and Acterra.  |
| JPA: SF Tree Mitigation   | THIS CONTRACT is made and entered on the date signed below by and between the San Francisquito Creek Joint Powers Authority and Grassroots Ecology, a fiscally sponsored project of Acterra dated [    ]  |
| SCVWD: Summer Intern Program                                    | Agreement A4131R between the Santa Clara Valley Water District and Grassroots Ecology   |

April 27, 2018

Santa Clara Valley Water District  
5750 Almaden Expressway  
San Jose, CA 95118

**Re: Notice and Request for Consent to Assignment and Assumption of the agreements #A3976R, #A3991R, #A3990R between Santa Clara Valley Water District and Acterra: Action for a Healthy Planet dated June 14, 2016.**

Dear Sir or Madam:

We are writing in regards to the agreements referenced in the subject line above ("the Agreements"). Since 2016, Grassroots Ecology has been operating under the fiscal sponsorship of Acterra: Action for a Healthy Planet ("Acterra"), a California public benefit corporation. We are pleased to announce that this coming summer, Grassroots Ecology ("Grassroots") will become its own independent nonprofit organization. In conjunction with this change, the Agreements entered into between you and Acterra will be transferred to Grassroots.

We are hereby providing you with notice of and are requesting your consent to assignment of the Agreements to Grassroots.

By countersigning this letter, you (1) consent to any assignment of the Agreements to Grassroots as described above, (2) waive any breach of, or default or right of termination, acceleration, recapture or notice that may be deemed to arise under the Agreements as a result of the assignment or transfer of the Agreements, (3) acknowledge and agree that the Agreements will continue in full force and effect following the assignment to Grassroots. Please signify your consent and proper authority by signing below and providing a signed copy of this letter to us by email in pdf format at [alex@grassrootsecology.org](mailto:alex@grassrootsecology.org) with a copy to Adam Stern at [adam.stern@acterra.org](mailto:adam.stern@acterra.org).

Thank you in advance for your time and attention to this matter. If you have any questions, please do not hesitate to contact me at (650) 419-9880 x334 or [alex@grassrootsecology.org](mailto:alex@grassrootsecology.org).

Sincerely,



Alexandra Von Feldt  
Executive Director  
Grassroots Ecology

**ACKNOWLEDGED AND AGREED:**

Santa Clara Valley Water District hereby consents to the assignment of the Agreements as described above:

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

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

On behalf of  
ACTERRA

Signature:  \_\_\_\_\_

Printed Name: Adam Stern

Title: Executive Director