

**CONTRACT**  
**WASCO COUNTY SOIL AND WATER CONSERVATION DISTRICT**  
**PROFESSIONAL SERVICES CONTRACT**

THIS CONTRACT is between Wasco County Soil and Water Conservation District hereinafter called District, and GSI Water Solutions, Inc. hereinafter called Consultant. This contract is to support the decommissioning and replacement of a high priority subset of commingling wells in the Mosier Creek watershed.

This contract, entered into on July 23, 2022, is amended to delete the language enclosed in [brackets] add the **bold underlined** language as follows. This is for the period July 2022 through June [2023] **2024** and will expire June 30, [2023] **2024**, unless modified and extended. This contract is effective when signed by both parties.

Generally, the planned work consists of three tasks:

1. Well Replacement Design and Bidding Support Services
2. Well Replacement Support Services
3. Miscellaneous On-Call Services

The work plan is specifically defined in EXHIBIT A, Scope of Work.

District agrees to pay Consultant for accomplishment of the work, a sum not to exceed \$44,900, which shall include all allowable expenses. Consultant progress payments shall be made according to the schedule identified in EXHIBIT D, Consultant Compensation.

The following exhibits are made part of this Contract by reference and/or attachment.

EXHIBIT A: Scope of Work

EXHIBIT B: Insurance

EXHIBIT C: Critical Date Schedule

EXHIBIT D: Consultant Compensation Schedule

EXHIBIT E: [~~General Terms and Conditions~~] **ARPA Contract Clauses**

THIS CONTRACT, which includes attached paragraphs 1-12 and all attached exhibits and the District's solicitation, constitutes the entire agreement between the parties. The terms of this contract shall not be waived, altered, modified, supplemented, or amended, in any manner whatsoever, except by written instrument. Such waiver, alteration, modification, supplementation, or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if it is signed by all parties to this contract. There are no understandings, agreements, or representations, oral or written, regarding this contract except as specified or referenced herein. Consultant, by the signature below of its authorized representative, hereby acknowledges that it has read this contract, understands it, and agrees to be bound by its terms and conditions.

Approved by Consultant

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Date

Approved by District

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Date

# PROFESSIONAL SERVICES CONTRACT

## 1. Effective Date and Duration

The Consultant shall at all times carry on the work diligently, without delay and punctually fulfill all requirements herein. The Consultant and the District shall mutually agree upon a schedule for the performance of the Consultant's services, allowing time for the District's review and approval of submissions. The passage of the Contract expiration date shall not extinguish, prejudice, or limit either party's right to enforce this Contract with respect to any default or defect in performance that has not been cured. Once this contract is signed by both parties, the contract shall be effective. All work shall be completed and deliverables provided no later than June 30, [~~2023~~] 2024.

## 2. Access to Records

For not less than three (3) years after contract expiration, the District, the Secretary of State's Office of the State of Oregon, the federal government, and their duly authorized representatives shall have access to the books, documents, papers, and records of the Consultant which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts, and transcripts. If for any reason, any part of this contract is involved in litigation, Consultant shall retain all pertinent records for not less than three years or until all litigation is resolved, whichever is longer. Full access will be provided to the District in preparation for and during litigation.

## 3. Funds Available and Authorized

District reasonably believes at the time of entering into this contract sufficient funds are available and authorized for expenditure to finance costs of this contract within the District's current appropriation or expenditure limitation.

## 4. Indemnity and Insurance

### a. Indemnity - Claims for Other than Professional Liability

Consultant shall defend, save, and hold harmless the District, their officers, agents, and employees, from all claims, suits, or actions of whatsoever nature, including intentional acts, to the extent resulting from or arising out of the activities of Consultant or its sub-Consultants, agents, or employees under this contract.

### b. Indemnity - Claims for Professional Liability

Consultant shall defend, save, and hold harmless the District, their officers, agents, and employees, from all claims, suits, or actions to the extent arising out of the professional negligent acts, errors, or omissions of Consultant or its sub-Consultants, agents or employees in performance of professional services under this Contract.

c. Consultant shall provide certificates of insurance as required in EXHIBIT B.

## 5. Employment Status

a. Consultant is not an officer, employee, or agent of the State or District as those terms are used in ORS 30.265.

b. Consultant is not a contributing member of the Public Employee's Retirement System and will be responsible for any federal or state taxes applicable to any compensation or payments paid to Consultant under this contract. Consultant will not be eligible for any benefits from these contract payments of federal Social Security, unemployment insurance, or Workers' Compensation, except as a self-employed individual. If this payment is to be charged against federal funds, the Consultant certifies that it is not currently employed by the federal government.

## **6. Successors & Assignments**

- a. The provisions of this contract shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns.
- b. After the original contract is executed, the Consultant shall not enter into any new sub-Consultant agreements for any of the work scheduled under this contract or assign or transfer any of its interest in this contract, without the prior written consent of the District.

## **7. Compliance with Applicable Law**

- a. Consultant agrees to comply with all federal, state, and local laws, ordinances, and regulations applicable to this contract. This contract shall be governed by and construed in accordance with the laws of the State of Oregon. Any litigation between the District and the Consultant arising out of or related to this contract shall be brought and maintained solely and exclusively in the Circuit Court of Wasco County in The Dalles, Oregon. Provided, if any litigation arising under this contract must be brought in a federal forum, it shall be brought and maintained solely and exclusively in the United States District Court for the District of Oregon. Consultant hereby consents to the personal jurisdiction of all courts within the State of Oregon.
- b. Consultant shall comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

## **8. Tax Compliance**

By signature on this contract, Consultant hereby certifies that it is not, to the best of its knowledge, in violation of any Oregon law. For the purpose of this certification, "Oregon Tax Laws" are ORS chapter 118, 119, 314, 316, 317, 318, 320, 321, and 323 and sections 10 to 20, chapter 533, Oregon Laws 1981, as amended by chapter 16, Oregon Laws 1982 (first special session); the Home Owners and Renters Property Tax Relief Program under ORS 310.630 to 310.690; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

## **9. Severability**

The parties agree that if any term or provision of this contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular term or provision held to be invalid.

## **10. Force Majeure**

Neither party shall be held responsible for delay or default caused by fire, riot, acts of God, and war which is beyond such party's reasonable control. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the contract.

## **11. Waiver**

The failure of the District to enforce any provision of this contract shall not constitute a waiver by the District of that or any other provision.

## **12. Termination**

- a. This contract may be terminated by written, mutual consent of the parties. In addition, this contract may be terminated by the District by written notice to the Consultant specifying the termination date of the contract. This right to terminate shall be exercised in good faith, for any reasonable cause, including but not limited to: insufficient District funding; new or modified federal or state laws, regulations, or guidelines; denial, revocation, or other loss or invalidation of any license or certificate required to be held by Consultant; Consultant's death or other inability to perform or complete the scope of work set forth in EXHIBIT A.

b. Consultant's timely and accurate performance is of the essence of this contract. District, by delivering written notice of default, may immediately terminate this contract, in whole or in part, if the Consultant:

(1) fails to provide the services called for in EXHIBIT A within the times specified or allowed under this contract; or

(2) fails to perform any of the provisions of this contract, or so fails to pursue the work as to endanger performance of this contract in accordance with its terms, and after receipt of written notice from District, does not correct such failures within seven (7) calendar days, or such other period as District may authorize.

c. Upon receiving a notice of termination, and except as otherwise directed in writing by the District, Consultant shall immediately cease all activities related to the Work.

d. As directed by the District, Consultant shall upon termination, deliver to the District all project documents, information, and other property that, if the contract had been completed, would be required to be furnished to the District. By Consultant's signature on this contract, Consultant allows District to use said documents for their intended use, without restriction.

e. The rights and remedies of the District provided in the above clause related to defaults by the Consultant shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

EXHIBIT A

**SCOPE OF WORK**

Scope of Work and Fee Estimate, dated May 3, 2022 is hereby adopted and incorporated by reference. **See Attached.**

## EXHIBIT B

### INSURANCE PROVISIONS

During the term of this contract, Consultant shall maintain in force at its own expense, each insurance noted below:

1. Required of Consultants with one or more workers, as defined by ORS 656.027. Worker's Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers.
2. Professional Liability insurance with a combined single limit or the equivalent, of not less than \$2,000,000 for each claim, incident or occurrence. This is to cover damages caused by error, omission, or negligent acts related to the professional services to be provided under this contract. Any deductible shall not exceed \$50,000 each claim, incident, or occurrence;
3. General Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this contract, and shall provide that the State of Oregon, the District, and their divisions, officers, and employees are Additional Insureds but only with respect to the Consultant's services to be provided under this contract;
4. Automobile Liability insurance with a combined single limit, or the equivalent, of not less than \$2,000,000 each occurrence for Bodily Injury and Property Damage, including coverage for owned, hired, or non-owned vehicles, as applicable;
5. There shall be no cancellation, material change, reduction or limits, or intent not to renew the insurance coverage(s) without 30 days written notice from the Consultant's insurer(s) to the District;
6. As evidence of the insurance coverage required by this Contract, the Consultant shall furnish acceptable insurance certificates to the District prior to its issuance of a Notice to Proceed. The certificate will specify all of the parties who are Additional Insureds. Insuring companies or entities are subject to State acceptance. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the District. The Consultant shall be financially responsible for all pertinent deductibles, self-insurance retention, and/or self-insurance.

EXHIBIT C

**CRITICAL DATE SCHEDULE**

These dates are established to ensure completion of work by June 30, [~~2023~~] **2024**.

Kick off meeting with Mosier Watershed Council	July 2022
Update to Mosier Watershed Council	Fall 2022
Progress Review (50%)	December 2022
Update to Mosier Watershed Council	Winter/Spring 2023
Update to Mosier Watershed Council	As requested
Progress Review (60%)	February 15, 2023
Progress Review (90%)	May 26, [ <del>2023</del> ] <b><u>2024</u></b>
Final Report	June 30, [ <del>2023</del> ] <b><u>2024</u></b>

Additional check-ins with SWCD staff will be conducted as needed.

EXHIBIT D

**CONSULTANT COMPENSATION SCHEDULE**

<u>Billing Date</u>	<u>Progress</u>	<u>Billing Amount</u>
Monthly About the 10 <sup>th</sup> of the month	Short summary of progress for month.	Varies



## EXHIBIT E

### ARPA CONTRACT CLAUSES

- Contractor must be registered in SAM.gov.** - The Contractor shall register in the System for Award Management (SAM), which is the primary registrant database for the U.S. Federal Government and shall update the information at least annually after the initial registration and maintain its status in the SAM through the Term of this Agreement. Information regarding the process to register in the SAM can be obtained at Sam.gov
- Whistleblower** - Contractor receiving ARPA funds shall under or through this contract post notice of the rights and remedies provided to whistleblowers under No Fear Act Pub. L. 107-174. 29 CFR § 1614.703 (d).
- Inspections; Information** - Contractor shall permit, and cause its subcontractors to allow the State of Oregon, the federal government and any party designated by them to:
- Examine, visit and inspect, at any and all reasonable times, the property, if any, constituting the Project.
  - Inspect and make copies of any accounts, books and records, including, without limitation, its records regarding receipts, disbursement, contracts, and any other matters relating to the Project, and to its financial standing, and shall supply such reports and information as reasonably requested.
  - Interview any officer or employee of the Contractor, or its subcontractors, regarding the Project.
- Equal Opportunity** - Contractor shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).
- Copeland "Anti-Kickback" Act** - Contractor shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- Debarment and Suspension (Executive Orders 12549 and 12689)** - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2

CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**Prohibition on purchasing telecommunications or surveillance equipment, services, or systems.** As required by 2 CFR 200.216, federal grant or loan recipients and subrecipients are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment, video surveillance services or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). Prohibitions extend to the use of Federal funds by recipients and subrecipients to enter into a contract with an entity that "uses any equipment, system, or service that uses covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system. Certain equipment, systems, or services, including equipment, systems, or services produced or provided by entities subject to the prohibition are recorded in the System for Award Management exclusion list.

**Preference to United States made goods.** - As appropriate and to the extent consistent with law, the contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

**Procurement of recovered materials over \$10,000.** - The Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent

with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**Termination for cause and for convenience** - Contractor shall address termination for cause and for convenience, including the manner by which it will be affected and the basis for settlement.

The Contract Owner shall have the option, in its sole discretion, to terminate this Agreement, at any time during the term hereof, for convenience and without cause. The Contract Owner shall exercise this option by giving Contractor written notice of termination. The notice shall specify the date on which termination shall become effective.



## Scope of Work and Fee Estimate

**To:** Shilah Olson – Wasco County Soil and Water Conservation District

**From:** Walt Burt RG, – GSI Water Solutions, Inc.

**Date:** May 3, 2022

**RE:** Mosier Commingling Well Replacement Services  
Fiscal Year 22/23

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### Introduction

GSI Water Solutions, Inc. (GSI) is pleased to present this scope and fee estimate to Wasco County Soil and Water Conservation District (District) for professional hydrogeological services during fiscal year 2022/2023 (FY 22/23) in the Mosier area. The primary focus of our services in FY 22/23 will be to work with the District and stakeholders to implement the second phase of the Mosier area commingling well replacements using funding from the Oregon Legislature, administered by BizOregon.

### Scope of Work

The purpose of this scope of work is to support the decommissioning and replacement of a high priority subset of commingling wells in the Mosier Creek watershed. The wells have been prioritized on the basis of information from desktop and field assessments, previous well replacements, and hydrogeologic data collected by OWRD and GSI since 2014. Our proposed scope of work includes three tasks:

1. Well Replacement Design and Bidding Support Services
2. Well Replacement Support Services
3. Miscellaneous On-Call Services

The proposed scope of work and assumptions for each of these tasks is summarized below.

#### Task 1 – Well Replacement Design and Bidding Support Services

The purpose of this task is to assist the District with selecting a qualified contractor(s) to replace higher priority commingling wells. The objectives are to (1) identify and select qualified contractors to bid on well replacements, (2) complete replacement specifications considering site-specific conditions, (3) select qualified contractors to replace each priority well based on competitive bids.

1. Work with District to complete site visits at a maximum of 15 different properties with higher priority commingling wells. The site visits will focus on evaluating logistical matters with replacing the wells, including accessibility, electrical, plumbing, need for temporary water supply, and

demolition/construction of well house. GSI will subcontract Dwayne Person to assist in evaluating well replacement logistics and approaches for developing specifications;

2. Complete replacement designs and develop site-specific specifications for up to 15 higher priority wells;
3. Assist the District, as needed, with conducting site visits with qualified bidders to assist in preparing bids.
4. Develop a request for bids and assist the District with evaluating bids and selecting a contractor(s).

#### Assumptions:

- The District will lead communications with well owners and coordinate up to 3 separate site visits to review logistical issues at for maximum of 15 different commingling wells
- The pre-qualifications and preliminary design work for the higher priority wells will be completed during FY 21/22
- Field assessments of individual wells will not be necessary prior to initiating replacement work –a well video may be completed as part of the replacement scope prior to drilling the replacement well, or prior to decommissioning the old well
- The District will contract an electrician and/or other contractors needed to evaluate electrical and plumbing requirements.

### Task 2 – Well Replacement Support

The purpose of this task is to provide technical hydrogeological support to the District, contractor and OWRD during replacement of up to 8 commingling wells. The objectives of this task include: (1) assist the District with tracking the progress of drilling relative to the target depth interval and well yield, and (2) support the District with making drilling and well completion decisions. We will subcontract Dwayne Person for up to 10 hours to participate in consultations regarding individual wells on an as-needed basis.

1. Communicate with contractor, District and OWRD regarding drilling progress, yield, water level and well completions
2. Review cuttings and coordinate with District and OWRD regarding progress, stratigraphy and observations
3. Document observations and communications for replacement records.

#### Assumptions

- A maximum of 8 wells will be replaced during FY 22/23 for an average budgeted effort of 14 hours per well
- GSI will visit select well sites periodically on an as-needed basis for pick up cuttings and meet with the Contractor, District and contractor, and will not be onsite full-time or complete detailed logs of each borehole
- 10 hours of subcontracted support from Dwayne Person

### Task 3 – Miscellaneous Services

The purpose of this task is to provide miscellaneous services related to the commingling well replacements on an on-call basis. The primary anticipated services include:

1. Status reports to the Mosier Watershed Council and the District
2. Other miscellaneous communications and technical input

#### Assumptions

- 25 hours budgeted effort

## Fee Estimate

Our team's proposed fee to complete the tasks on a time-and-materials basis is \$44,900. A task breakdown of labor, outside services and expenses is provided below. This fee estimate includes a 10 percent markup on subconsultant work.

Description	Labor Hours	Labor Cost	Outside Services	Direct Expenses	Total
<b>FY 22/23 Commingling Well Replacement Services</b>	254	\$38,650	\$4,400	\$1,850	<b>\$44,900</b>
Task 1 - Well Replacement Design and Bidding Support	119	\$18,295	\$2,750	\$469	<b>\$21,514</b>
Task 2 - Well Replacement Support	110	\$16,500	\$1,650	\$1,170	<b>\$19,320</b>
Task 3 - Miscellaneous Services	25	\$3,855	\$0	\$211	<b>\$4,066</b>
<b>Project Totals</b>	<b>254</b>	<b>\$38,650</b>	<b>\$4,400</b>	<b>\$1,850</b>	<b>\$44,900</b>

We thank you for your consideration of this scope, and look forward to working with you on this project.

Sincerely,  
GSI Water Solutions, Inc.



Walter Burt, RG  
Principal Hydrogeologist