

**FALLON VILLAGE
GEOLOGIC HAZARD ABATEMENT
DISTRICT (GHAD) MEETING
Tuesday, January 14, 2020, 7:00 P.M.
DUBLIN CIVIC CENTER, 100 Civic Plaza
A G E N D A**

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1. CALL TO ORDER

2. PUBLIC COMMENTS

At this time, the public is permitted to address the Board on non-agendized items. Please step to the podium and clearly state your name for the record. COMMENTS SHOULD NOT EXCEED THREE (3) MINUTES. In accordance with State Law, no action or discussion may take place on any item not appearing on the posted agenda. The Board may respond to statements made or questions asked, or may request Staff to report back at a future meeting concerning the matter. Any member of the public may contact the District Clerk's Office related to the proper procedure to place an item on a future GHAD Board agenda. The exceptions under which the Board MAY discuss and/or take action on items not appearing on the agenda are contained in Government Code Section 54954.2(b)(1)(2)(3).

3. CONSENT CALENDAR

3.1. Amendment to the Agreement with Olberding Environmental, Inc. for Biological Services for the Fallon Village GHAD

The GHAD Board of Directors will consider an amendment to the agreement with Olberding Environmental, Inc. to provide additional biological services during permanent mitigation pond berm repair for the Fallon Village GHAD.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Agreement with Olberding Environmental, Inc.

4. OTHER BUSINESS

5. ADJOURNMENT

This AGENDA is posted in accordance with Government Code Section 54954.2(a)

If requested, pursuant to Government Code Section 54953.2, this agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation, please contact the District Clerk's Office (925) 833-6650 at least 72 hours in advance of the meeting.



STAFF REPORT

GEOLOGIC HAZARD ABATEMENT DISTRICT

DATE: January 14, 2020

TO: Honorable President and Board of Directors

FROM: Linda Smith, District Manager

SUBJECT: Amendment to the Agreement with Olberding Environmental, Inc. for Biological Services for the Fallon Village GHAD
Prepared by: Laurie Sucgang, GHAD Engineer, and Eric Harrell, GHAD Services Consultant

EXECUTIVE SUMMARY:

The GHAD Board of Directors will consider an amendment to the agreement with Olberding Environmental, Inc. to provide additional biological services during permanent mitigation pond berm repair for the Fallon Village GHAD.

STAFF RECOMMENDATION:

Adopt the **Resolution** Approving an Amendment to the Agreement with Olberding Environmental, Inc.

FINANCIAL IMPACT:

The approved Fiscal Year 2019-20 Fallon Village Geologic Hazard Abatement District (GHAD) budget for Contracted Services is \$747,356. The cost of additional services under the proposed amendment to the agreement with Olberding Environmental, Inc. is \$13,000. There are sufficient funds in the approved GHAD Contracted Services budget to approve the amendment.

DESCRIPTION:

The Fallon Village Geologic Hazard Abatement District (GHAD) entered into a consulting services agreement with Olberding Environmental, Inc. on December 17, 2018 for \$44,000 to provide biological services to the Fallon Village GHAD for the Mitigation Pond Berm Repair on Central Parkway and Sunset View Drive in Dublin.

GHAD Staff requests the contract compensation to be increased to \$57,000 to pay for additional biological services completed during construction and to allow for payment of future charges for services. As provided in the approved GHAD Policy on Contracts and Purchasing Procedures, "*GHAD Board approval shall be required to authorize the contract for or purchase of any consultant or professional services, general services or supplies and equipment with a cost greater than or equal to forty-five thousand dollars*

(\$45,000)".

Olberding Environmental, Inc. provided biological monitoring during construction activities that started in fall 2018. Biological monitoring included services during cattail removal and during earthwork repair of the mitigation pond berm that concluded in October 2019. The permanent mitigation pond berm repair took more time than anticipated; therefore, additional charges for biological monitoring services were incurred. In addition, the proposed amendment allows for biological monitoring during the remainder of Fiscal Year 2019-20 as may be needed.

The total compensation with the proposed Amendment #1 increase of \$13,000 is as shown below:

Original Agreement	\$44,000
Proposed Amendment #1 - additional biological services	\$13,000
Total Compensation	\$57,000

With approval of the amendment, the total compensation to Olberding Environmental, Inc. will be \$57,000. There are sufficient funds in the approved GHAD Budget to cover these costs.

STRATEGIC PLAN INITIATIVE:

None.

NOTICING REQUIREMENTS/PUBLIC OUTREACH:

A copy of the staff report was provided to Olberding Environmental, Inc.

ATTACHMENTS:

1. Resolution Approving Amendment to Agreement with Olberding
2. Exhibit A to Resolution - Amendment #1 to Agreement
3. Original Agreement

RESOLUTION NO. XX - 20

**A RESOLUTION OF THE BOARD OF DIRECTORS
OF THE FALLON VILLAGE GEOLOGIC HAZARD ABATEMENT DISTRICT (GHAD)**

**APPROVING AN AMENDMENT TO THE AGREEMENT WITH
OLBERDING ENVIRONMENTAL, INC.**

WHEREAS, on December 17, 2018, the GHAD approved a consulting services agreement for biological services with Olberding Environmental, Inc. for the Mitigation Pond Berm Repair at Central Parkway and Sunset View Drive in Dublin ("Agreement") for \$44,000; and

WHEREAS, the GHAD wishes to amend the terms of the Agreement to pay for additional biological services completed during construction and anticipated charges for the remainder of Fiscal Year 2019-20.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the Fallon Village GHAD approves the amendment to the Agreement with Olberding Environmental, Inc. for biological services in the amount of \$57,000, attached hereto as Exhibit A.

BE IT FURTHER RESOLVED that the GHAD Manager is authorized and directed to execute the amendment and such other documents, and to take such other and further action, as necessary and appropriate to carry out the Intent of this Resolution.

PASSED, APPROVED AND ADOPTED this 14th day of January 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair

ATTEST:

GHAD Clerk

**AMENDMENT #1 TO CONSULTING SERVICES AGREEMENT BETWEEN
THE FALLON VILLAGE GEOLOGIC HAZARD ABATEMENT DISTRICT AND
OLBERDING ENVIRONMENTAL, INC.**

WHEREAS, on December 17, 2018, the Fallon Village Geologic Hazard Abatement District (hereinafter referred to as "GHAD") and Olberding Environmental, Inc. (hereinafter referred to as "Consultant") entered into a Consulting Services Agreement for biological services (hereinafter referred to as the "AGREEMENT"); and

WHEREAS, the existing AGREEMENT set compensation not to exceed \$44,000.00 for scope and services provided in Exhibit A of the existing AGREEMENT,

WHEREAS, additional scope and services were requested due to extended timeframe of the mitigation pond berm repair project,

WHEREAS, the existing project scope and budget are complete; however, the GHAD may require additional biological monitoring services during the remainder of the term of the AGREEMENT,

WHEREAS, the GHAD and Consultant now wish to amend the Agreement to increase the compensation amount to \$57,000.00, modify Section 2 of the Agreement,

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, the AGREEMENT is amended as follows:

- 1) Section 2, Paragraph 1 shall be rescinded in its entirety and replaced with the following:
Compensation. GHAD hereby agrees to pay Consultant a sum not to exceed \$57,000.00, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal regarding the amount of compensation, the Agreement shall prevail. GHAD shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified in the existing Agreement shall be the only payments from GHAD to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to GHAD in the manner specified herein. Except as specifically authorized by GHAD in writing, Consultant shall not bill GHAD for duplicate services performed by more than one person.
- 2) Except to the extent inconsistent with this First Amendment, the Parties ratify and confirm all of the terms and conditions of the AGREEMENT.
- 3) All requisite insurance policies to be maintained by the Consultant pursuant to the Agreement, as may have been amended from time to time, shall include coverage for the amended term, as described above.

- 4) The individuals executing this Amendment and the instruments referenced in it on behalf of Consultant each represent and warrant that they have the legal power, right and actual authority to bind Consultant to the terms and conditions of this Amendment.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to be executed as of the date and year first above written.

CITY OF DUBLIN

Dated: _____

By: _____

Linda Smith, GHAD Manager

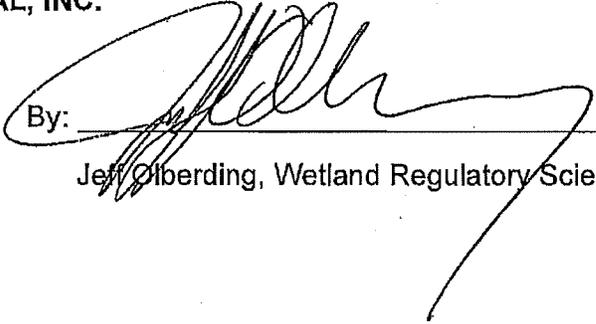
ATTEST:

By: _____

Caroline Soto, GHAD Clerk

OLBERDING ENVIRONMENTAL, INC.

Dated: 12-30-19

By:  _____

Jeff Olberding, Wetland Regulatory Scientist

**CONSULTING SERVICES AGREEMENT BETWEEN
THE FALLON VILLAGE GEOLOGIC HAZARD ABATEMENT DISTRICT AND
OLBERDING ENVIRONMENTAL, INC.**

THIS AGREEMENT for consulting services is made by and between the Fallon Village Geologic Hazard Abatement District ("GHAD") and Olberding Environmental, Inc. ("Consultant") (together sometimes referred to as the "Parties") as of December 17, 2018 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to GHAD the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on December 31, 2020, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the GHAD's right to terminate the Agreement, as referenced in Section 8. Notwithstanding the foregoing this Agreement may be extended on a month to month basis for up to 6 months upon the written consent of the Consultant and the GHAD Manager, provided that: a) sufficient funds have been appropriated for such purchase, b) the price charged by the Consultant for the provision of the serves described in Exhibit A does not increase. None of the foregoing shall affect the GHAD's right to terminate the Agreement as provided for in Section 8.
- 1.2 Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that GHAD, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from GHAD of such desire of GHAD, reassign such person or persons.
- 1.4 Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Consultant's obligations hereunder.

Section 2. COMPENSATION. GHAD hereby agrees to pay Consultant a sum not to exceed \$44,000.00, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal, attached as Exhibit A, regarding the amount of

compensation, the Agreement shall prevail. GHAD shall pay Consultant for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from GHAD to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to GHAD in the manner specified herein. Except as specifically authorized by GHAD in writing, Consultant shall not bill GHAD for duplicate services performed by more than one person.

Consultant and GHAD acknowledge and agree that compensation paid by GHAD to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. GHAD therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. No individual performing work under this Agreement shall bill more than 2,000 hours in a fiscal year unless approved, in writing, by the GHAD Manager or his/her designee. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- A copy of the applicable time entries or time sheets shall be submitted showing the following:
 - Daily logs of total hours worked by each individual performing work under this Agreement
 - Hours must be logged in increments of tenths of an hour or quarter hour
 - If this Agreement covers multiple projects, all hours must also be logged by project assignment
 - A brief description of the work, and each reimbursable expense
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;
- Consultant shall give separate notice to the GHAD when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of

Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and GHAD. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and GHAD, if applicable.

- 2.2 Monthly Payment.** GHAD shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. GHAD shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.
- 2.3 Final Payment.** GHAD shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to GHAD of a final invoice, if all services required have been satisfactorily performed.
- 2.4 Total Payment.** GHAD shall pay for the services to be rendered by Consultant pursuant to this Agreement. GHAD shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. GHAD shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.
- 2.5 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit A.
- 2.6 Reimbursable Expenses.** Reimbursable expenses are specified in Consultant's Proposal. Expenses not listed in are not chargeable to GHAD. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 Payment upon Termination.** In the event that the GHAD or Consultant terminates this Agreement pursuant to Section 8, the GHAD shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.

2.9 Authorization to Perform Services. The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Consultant, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Consultant and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Consultant shall provide proof satisfactory to GHAD of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Consultant shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Consultant's bid or proposal. Consultant shall not allow any subcontractor to commence work on any subcontract until Consultant has obtained all insurance required herein for the subcontractor(s) and provided evidence to GHAD that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Consultant shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Consultant shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Consultant. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Consultant may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Consultant, its employees, agents, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
and

- b. Waiver of Subrogation Endorsement as required by the section.

4.2 **Commercial General and Automobile Liability Insurance.**

4.2.1 **General Requirements.** Consultant, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$1,000,000 and automobile liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 **Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 **Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. GHAD, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired, or borrowed by the Consultant.
- c. Consultant hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Consultant agrees to obtain any endorsements that may be necessary to effect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Consultant's insurance coverage shall be primary insurance as respects the GHAD, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the GHAD, its officers, officials,

employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Consultant shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

4.3 Professional Liability Insurance.

4.3.1 General Requirements. Consultant, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than \$2,000,000 covering the licensed professionals' errors and omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

4.3.2 Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- a. The retroactive date of the policy must be shown and must be before the date of the Agreement.
- b. Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.
- c. If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Consultant shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.
- d. A copy of the claim reporting requirements must be submitted to the GHAD for review prior to the commencement of any work under this Agreement.

4.3.3 Additional Requirements. A certified endorsement to include contractual liability shall be included in the policy.

4.3.4 Submittal Requirements. To comply with Subsection 4.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

4.4 All Policies Requirements.

4.4.1 Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.4.2 Verification of Coverage. Prior to beginning any work under this Agreement, Consultant shall furnish GHAD with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the GHAD does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The GHAD reserves the right to require complete copies of all required insurance policies at any time.

4.4.3 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the written approval of GHAD for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the GHAD, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the GHAD, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the GHAD guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.4.4 Wasting Policies. No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.4.5 Endorsement Requirements. Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the GHAD.

4.4.6 Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.5 Remedies. In addition to any other remedies GHAD may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, GHAD may, at its sole option exercise any of the following remedies, which are alternatives to other remedies GHAD may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES. Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

Section 6. STATUS OF CONSULTANT.

- 6.1 Independent Contractor.** At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of GHAD. GHAD shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise GHAD shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other GHAD, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by GHAD, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of GHAD and entitlement to any contribution to be paid by GHAD for employer contributions and/or employee contributions for PERS benefits.
- 6.2 Consultant Not an Agent.** Except as GHAD may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of GHAD in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind GHAD to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.

- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which GHAD is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to GHAD that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to GHAD that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from GHAD.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** GHAD may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 30 days' written notice to GHAD and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; GHAD, however, may condition payment of such compensation upon Consultant delivering to GHAD any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the GHAD in connection with this Agreement.

- 8.2 Extension.** GHAD may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if GHAD grants such an extension, GHAD shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, GHAD shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** GHAD and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to GHAD for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between GHAD and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, GHAD's remedies shall include, but are not limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3** Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
 - 8.6.4** Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that GHAD would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Consultant prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the GHAD. Consultant hereby agrees to deliver those documents to the GHAD upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the GHAD and are not necessarily suitable for any future or other use. GHAD and Consultant agree that, until final approval by GHAD, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the GHAD under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the GHAD. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of GHAD or as part of any audit of the GHAD, for a period of 3 years after final payment under the Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so

adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of GHAD or whose business, regardless of location, would place Consultant in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any GHAD official in the work performed pursuant to this Agreement. No officer or employee of GHAD shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the GHAD. If Consultant was an employee, agent, appointee, or official of the GHAD in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the GHAD for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

At GHAD's sole discretion, Consultant may be required to file with the GHAD a Form 700 to identify and document Consultant's economic interests, as defined and regulated by the California Fair Political Practices Commission. If Consultant is required to file a Form 700, Consultant is hereby advised to contact the Dublin GHAD Clerk for the Form 700 and directions on how to prepare it.

- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.

10.9 Contract Administration. This Agreement shall be administered by District Engineer ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.

10.10 Notices. Any written notice to Consultant shall be sent to:
Olberding Environmental, Inc.
Attention: Jeff Olberding
193 Blue Ravine Road, Suite 165
Folsom, CA 95630

Any written notice to GHAD shall be sent to:

Fallon Village Geologic Hazard Abatement District
Attention: District Engineer
100 Civic Plaza
Dublin, CA 94568

10.11 Integration. This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, and B **represents** the entire and integrated agreement between GHAD and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

Exhibit A Scope of Services
Exhibit B Indemnification

10.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

FALLON VILLAGE
GEOLOGIC HAZARD ABATEMENT DISTRICT

OLBERDING ENVIRONMENTAL, INC.

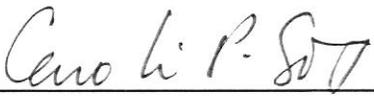
for 

Christopher L. Foss, GHAD Manager



Jeff Olberding, Wetland Regulatory Scientist

Attest:



Caroline Soto, GHAD Clerk

Consultant's DIR Registration Number
(if applicable)

Approved as to Form:

Adam Lindgren, GHAD Attorney

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

FALLON VILLAGE
GEOLOGIC HAZARD ABATEMENT DISTRICT

OLBERDING ENVIRONMENTAL, INC.

Christopher L. Foss, GHAD Manager

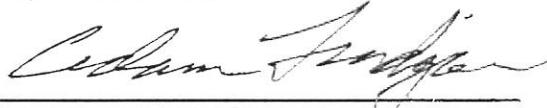
Jeff Olberding, Wetland Regulatory Scientist

Attest:

Consultant's DIR Registration Number
(if applicable)

Caroline Soto, GHAD Clerk

Approved as to Form:



Adam Lindgren, GHAD Attorney

EXHIBIT A

SCOPE OF SERVICES

Scope of Services as described in the Olberding Environmental Proposal dated March 1, 2018 (attached).

OLBERDING ENVIRONMENTAL, INC.

Wetland Regulation and Permitting

March 1, 2018

Mr. Eric Harrell
ENGEIO Incorporated
2010 Crow Canyon Place, Suite 250
San Ramon, CA 94583

Subject: Jordan Ranch Pond Repair - Biological Services and Permitting Proposal

Dear Mr. Harrell:

Thank you for contacting Olberding Environmental, Inc. (Olberding Environmental) regarding the need for professional environmental consulting services associated with biological surveys and preparation/coordination of environmental permits for the Jordan Ranch Pond Repair Project (Project), located in Dublin, California.

I have prepared the following scope of work to assist in the assessment of biological constraints, including sensitive habitats (wetlands and riparian), special-status species on or directly adjacent to the subject property and regulatory permitting. We will conduct surveys of the Project site, identifying both state and federally listed threatened or endangered wildlife and plant species. Results of our work will be provided in a report presented in hard copy and electronic format (PDF).

Upon completion of the surveys listed above, Olberding Environmental will assist in obtaining federal and state authorizations from:

- U.S. Army Corps of Engineers (Corps), Nationwide Permit;
- Regional Water Quality Control Board (RWQCB), Section 401 Water Quality Certification;
- California Department of Fish and Wildlife (CDFW), Streambed Alteration Agreement.

It is assumed that we will be able to utilize the original Biological Opinion and Incidental Take Permits.

I appreciate this opportunity to provide my services. If you have any questions, please feel free to contact me at (916) 985-1188.

Sincerely,



Jeff Olberding
Wetland Regulatory Scientist

EXHIBIT A

SCOPE OF WORK

**JORDAN RANCH POND REPAIR
BIOLOGICAL/PERMITTING SERVICES
DUBLIN, CALIFORNIA**

I. TASKS

Task 1: Corps Wetland Delineation

Olberding Environmental will conduct field surveys and observations of existing conditions and make a technical evaluation as to the extent of the Corps jurisdiction within the identified project site. Olberding Environmental, using the methods set forth in the Corps 1987 wetlands delineation manual, Arid West methodology and subsequent official regulatory guidance on the use of the manual and Corps regulations, will determine if wetlands or other types of waters of the United States are present within the proposed project boundary.

The acreage of all potential jurisdictional wetland/waters areas will be determined, and a single technical report and map will be prepared that includes all methods, assumptions and results in terms of acreage of potential jurisdictional wetlands/waters. All wetlands/waters of the United States found will be mapped at a scale of 1 in = 100 ft and described in the technical report of findings prepared in accordance with Sacramento District (Corps) requirements (base maps are to be provided by the client). The final product will identify areas potentially regulated by the Corps. Olberding Environmental will be responsible for the submittal of the report and map to the Corps upon approval by the client.

Olberding Environmental will coordinate with the project engineer in the preparation of a final map to be submitted with the draft report. The final product will identify areas potentially regulated by the Corps. Olberding Environmental will be responsible for the submittal of the report and map to the Corps upon approval by the Client. A draft copy of the report will be submitted for review and comment. Upon receipt of comments on the draft document, a final jurisdictional report and map will be prepared. This task includes one revision of the report and map, if required by the Corps. Olberding Environmental will visit the site with the Corps to facilitate their formal jurisdictional determination mandated by Section 404 of the Clean Water Act (CWA). Olberding Environmental will participate in the Corps field review for verification purposes and will conduct negotiations and prepare responses to relevant questions as necessary prior to the official written determination.

Task 1 Deliverables

Draft and Final Formal Delineation Report and Map

Task 2: Biological Constraints Assessment

Olberding Environmental will conduct a review of existing information regarding wildlife resources, special-status species and their habitats on or adjacent to the Property. A current assessment of the site will be conducted to determine if biologically sensitive habitats are present within the site boundaries that may be suitable for use by any rare, threatened or endangered species. In particular, the evaluation will focus on habitat utilized by species identified in a California National Diversity Data Base (CNDDDB) search and former reports as potentially occurring on site. Olberding Environmental will coordinate with the Client, CDFW, and US Fish and Wildlife Service (USFWS) to determine the potential presence of special-status species in the vicinity of the site if required. Olberding Environmental staff will conduct field reconnaissance surveys to evaluate biological habitats for special-status plant and animal species. A report incorporating all existing and recently obtained information will be prepared and submitted to the Client. A draft copy of the report will be submitted for review and comment. Upon receipt of comments on the draft document, a final biological resources analysis report will be prepared. Electronic copies of the report (pdf) will also be provided to the client.

The survey included in this task is a general habitat evaluation survey to determine if suitable habitat exists for any special-status species. If suitable habitat exists for a particular special-status species, a species specific survey would be required. Systematic or protocol site surveys for rare, threatened or endangered species of fauna would be required in a separate scope of work.

Task 2 Deliverables

Draft and Final Biological Constraints Assessment Report

Task 3: U.S. Army Corps of Engineers, Section 404 Permitting Support

The Corps regulates the discharge of dredged or fill material into waters of the United States, including wetlands, under Section 404 of the federal Clean Water Act (CWA Section 404). The Corps issues general permits, including Nationwide Permits, for categories of similar activities with minimal environmental impacts, both individually and cumulatively. For projects that do not fall under a general permit containing minimal impacts the Corps issues Individual Permits.

Based on current preliminary estimates of permanent impacts to waters of the U.S., the proposed Project will require authorization under the Corps Nationwide Permit Program. To qualify, the Project must meet the specific terms of the Permit Program, and the Sacramento District regional conditions. These terms include amount of fill of jurisdictional wetlands/waters following the verification of the delineation.

Olberding Environmental will assist the Client with obtaining permit approvals from the Corps for placement of fill in wetlands/waters of the United States. A permit application will include the Project description, the wetland delineation, cultural & historic inventory resources report (prepared by others), and biological assessment as well as any other supplemental information necessary for a complete application. It should be noted that in order to obtain a permit from the Corps, a conceptual wetland/waters mitigation plan will be required.

Also included is correspondence with the USFWS to obtain a current listing of endangered, threatened and candidate species potentially occurring within the Project area; and correspondence with the State Historic Preservation Office (SHPO) for a listing of any historic or prehistoric resources which may be present in the Project area. Olberding Environmental will provide coordination with a cultural resource consultant (cultural consultant to be contracted with separately) to prepare a submittal to SHPO to obtain a Section 106 determination regarding cultural resources. The Client will ensure that all evaluations or other related information related to the Project be made available to Olberding Environmental for this submittal.

A formal permit application package will be presented to the Corps upon approval by the Client. A draft copy of the application will be submitted for review and comment. Upon receipt of comments on the draft document, a final Nationwide Permit application will be prepared. Olberding Environmental will coordinate all aspects of permit procurement with the Client and/or representative.

Task 3 Deliverables

Draft and Final Nationwide Permit Application

Responses to Information Queries from Corps

Responses to Proposed Terms and Conditions in draft Section 404 permit

Task 4: Regional Board Section 401 Water Quality Certification and Waste Discharge Requirements Support

CWA Section 401 requires that any discharge of dredged or fill material into waters of the United States, including wetlands, not violate state water quality standards. As such, water quality certification must be obtained from RWQCB before CORPS can issue a permit under CWA Section 404 for the Project. To obtain certification, an application must be submitted. The RWQCB requires a fee with the application and a certified CEQA document to complete its water quality certification review.

Olberding Environmental will compile the necessary information and submit a complete application package to RWQCB, along with the certification fee provided by the Client. Because an Erosion and Sediment Control Plan and Storm Water Pollution Prevention Plan will likely be needed to receive

certification, Olberding Environmental assumes that a copy will be provided by the Client for submission with the application.

In addition, as part of the permit process, the RWQCB will require detailed stormwater treatment designs in compliance with the Alameda County Stormwater NPDES permit and the "C.3" provision of the permit. Olberding Environmental presumes that the Project's engineers will develop all related designs and provide them to Olberding Environmental for inclusion in the application and that they will be responsible for changes in designs to satisfy the concerns of the RWQCB.

On behalf of the Client, Olberding Environmental will coordinate regularly with RWQCB to answer questions, address concerns and otherwise keep the review processes on track. Olberding Environmental will work with the RWQCB to finalize the permit including conditions.

It should be noted that in order to obtain a permit from the RWQCB, a conceptual wetland/waters mitigation plan will be required.

Task 4 Deliverables

Draft 401/WQC/WDR Application

Final 401/WQC/WDR Application

Responses to Information Queries from RWQCB

Responses to Proposed Terms and Conditions in draft RWQC/WDR

Task 5: CDFW Streambed Alteration Agreement Application Support

A 1602 streambed alteration agreement, in compliance with Sections 1600-1616 of the California Fish and Wildlife Code, is required from the CDFW when projects will substantially divert, obstruct, or change the natural flow of a river, stream or lake, substantially change the bed, channel, or bank of a river, stream, or lake, or use material from a streambed. To obtain an agreement, a notification package must be submitted. CDFW requires a fee with the notification and a certified CEQA document to complete its review.

Olberding Environmental will compile the necessary information and submit a complete notification package to CDFW, along with fee provided by the Client. A draft of the notification will be furnished to the Client for review before submission to CDFW.

On behalf of the Client, Olberding Environmental will coordinate with CDFW to answer questions, address concerns and otherwise keep the review processes on track. Olberding Environmental will work with the CDFW to finalize the 1602 streambed alteration agreement, including conditions.

It should be noted that in order to obtain a permit from the CDFW, a wetland/waters/riparian mitigation plan will be required. As the nature of that plan cannot be fully determined at this time

(e.g. on-site, off-site, etc.), this scope does not include design of the necessary mitigation itself. Olberding Environmental can provide.

Task 5 Deliverables

Draft SAA Application

Final SAA Application

Responses to Information Queries from CDFW

Responses to Proposed Terms and Conditions in draft SAA

Task 6: Prepare Conceptual Mitigation Plan

Utilizing all relevant information, Olberding Environmental will prepare a general level conceptual on-site mitigation/monitoring plan for wetland, riparian and endangered species habitat restoration and/or creation. This plan will incorporate impacts associated with the Project, taking into consideration mitigation requirements of the regulatory agencies. The conceptual plan will include discussion of issues concerning site location, assessment, design, preparation, planting, maintenance, and monitoring with the regulatory agencies to secure a suitable mitigation site. This plan is a general plan that will require further refinement during the preparation of a detailed mitigation/monitoring plan if required by the agencies. A draft copy of the mitigation/monitoring plan will be submitted for review and comment. Upon receipt of comments on the draft document, the conceptual plan will be prepared and submitted to the agencies.

Task 6 Deliverables

Draft Conceptual Mitigation and Monitoring Plan

Final Conceptual Mitigation and Monitoring Plan

Responses to Information Queries from agencies

Task 7: Project Management and Meetings

Olberding Environmental will participate in meets with the Client and agencies concerning biological surveys, report preparation, and permit applications. Olberding Environmental will also prepare for and coordinate site inspections with the Client and agencies. This task includes coordination with the Client in the preparation of all described documents. Jeff Olberding will attend all meetings and assist in presenting the proposed Project design to the attending agency representatives. Mr. Olberding will develop a dialog through questions and answers to obtain the perspective of each agency represented. Olberding Environmental will also make follow up contact, if necessary, to resolve unanswered questions or unresolved issues that may arise. We will also be available to make presentations if necessary. Olberding Environmental will conduct coordination

with relevant environmental groups and regulatory agencies with permit or regulatory jurisdiction with respect to the Project. This task also includes management of the Project as it relates to permitting.

Task 8: Construction Supervision and Biological Monitoring

General Biological Monitoring

Olberding Environmental will provide a Project Biologist (PB) who will monitor all relevant project construction activities to minimize impacts to wildlife, creek channel and riparian resources during construction. A final compliance report will be prepared and submitted to the Client and/or agencies. At the conclusion of the construction monitoring activities, Olberding Environmental will provide a single Construction Monitoring Report (CMR) which includes the logs of daily monitoring activities. The CMR will be completed and submitted by the lead project biologist. These reports will include a list of names, titles, and companies of persons preparing the report, as well as all participants in the monitoring activities. Activities covered in this report include results of the daily surveys for special-status species, exclusion fence surveys, and daily monitoring activities. A draft CMR will be sent to the Client at the conclusion of construction monitoring activities. Upon receipt of comments on the draft document, a final CMR will be prepared and submitted. Since the approximate amount of monitoring time is not available, this task will be performed on an hourly rate basis which follows the requirements of the original Biological Opinion and Incidental Take Permit. Applicable per diem, equipment and materials will be billed as reimbursable.

The proposed budget is based on a 1 week (5 day) construction schedule. This budget and monitoring schedule will be evaluated with the Client and contractor, however; it is assumed that biological monitoring will be initially performed at 8 hours a day, 5 days a week (Monday - Friday). This scope also covers the preparation of the required report.

Pre-Construction Boundary Establishment

Olberding Environmental will assist in the delineation of riparian, sensitive species habitats and other biologically sensitive areas within or adjacent to the proposed project work areas. Prior to construction, Olberding Environmental will conduct field identification of project boundaries (flagging/staking) identifying the extent of the work area relative to the existing creek, riparian boundary or other sensitive habitats. The work boundary may be determined in consultation with the Client and contractor. Olberding Environmental will identify all areas mentioned above by flagging or staking the boundary of the work area and adding a minimum setback buffer to those areas to be avoided by all equipment and personnel if necessary. These activities will be coordinated with the construction supervisor to ensure that all project work areas, access routes, equipment staging areas, haul routes, and fill locations are properly identified in the field prior to the commencement of any construction activity. This task assumes that approximately 4 hours will be required to perform this

task item in advance of the construction start date.

Fence Installation

Olberding Environmental will provide a PB during all barrier fence installation at the project site. Our PB will be responsible for monitor all vegetation clearing associated with fence installation. The riparian corridor and/or sensitive habitat areas will be separated from the development project area by a buried silt fence and orange construction fencing. Olberding Environmental will provide oversight and direct supervision of all biological barrier fence installation activities. All fence installation will be conducted by a fencing contractor to be independently contracted with by the Client. The fencing contractor will be responsible for all materials and installation. Olberding Environmental's PB will communicate directly with the fencing contractor regarding schedules, etc. As stated above, the PB will be responsible for supervising and monitoring the fencing contractor's installation of the fence to ensure that all fencing is installed correctly and in the right location.

Monitoring will be performed by the PB to ensure that the fence has not been tampered with by animals (e.g. raccoons, dogs, and possums), vandals, or individuals trespassing on site. Monitoring inspections will be recorded on log sheets and constitute a written record to indicate that the contractor is taking steps to protect the fence from damage or tampering. Any problems noted (such as downed fences, holes in fences and eroded areas around doors) are recorded. The PB will also conduct minor repairs when required. If repairs cannot be performed by the PB the original fencing contractor will be contacted so that repairs can be performed as soon as possible. An area within the open space buffer between development activities and the barrier fence shall be fenced at all times during construction with bright orange construction fencing to ensure that no intrusion occurs in these areas adjacent to the riparian corridor. This task assumes that approximately 4 hours will be required to perform this task item in advance of the construction start date.

Pre-Construction Education

Olberding Environmental's PB will present a pre-construction educational session for all members of the work crews regarding conditions in the MND associated with special-status animals and habitat requirements for amphibian species, the importance of stream shading and the adverse effects of toxic substances and sediment entering the stream channel. The PB will also educate the construction crews as to the importance of the habitat on-site, ensure unintended impacts do not occur, and that construction practices minimize temporary construction-related impacts to the riparian habitat and creek habitat. The PB will also educate the construction crews as to the importance of the habitat on-site, ensure unintended impacts do not occur, and ensure that construction practices minimize temporary construction-related impacts to the riparian and creek habitat. The PB will provide additional educational sessions at the request of the construction supervisor for all new workers.

All construction supervisors, foreman and construction crew leaders shall be given a copy of a Special-Status Species Avoidance Manual, which is to be prepared specifically for this project. A written statement or signature shall be obtained from each individual verifying that they have read and understand the contents of the document. A copy shall remain on site during all construction activities. This task assumes that approximately 4 hours will be required to prepare the Special-Status Species Avoidance Manual and presentation at the kickoff/tailgate.

Task 8 Deliverables

Draft and Final Formal Monitoring Report

Construction Monitoring Pamphlet

II. SCOPE AND COST ASSUMPTIONS

The cost estimate for this scope of work is based on the following assumptions:

The Client will provide a copy of all previously prepared biological documents, including background, baseline or survey reports;

The Client will provide two copies of all CEQA documentation including Initial Study, Mitigated Negative Declaration and Notice of Determination;

The Client will provide CADD files (.dwg or .dxf) for the Project designs, including those used to generate site plans, in a coordinate system or shape files;

The Client will provide 30% design sets to Olberding Environmental in a timely manner to support permitting and will provide electronic mapping data as needed to support permit processing and respond to informational queries;

The Client will continue to provide access to the Project site;

The Client will provide all filing and permit fees;

This scope does not include preparation of an Erosion and Sediment Control Plan (ECSP) and/or a Stormwater Pollution Prevention Plan (SWPPP); This scope does not include any support associated with actually obtaining mitigation land, negotiating with mitigation banks, designing on-site or off-site mitigation, preparing draft conservation easements, preparing conservation easement management plans, establishing escrow accounts for management funds, or obtaining a third-party land management firm although advice on the above topics is included within the scope (although this can be provided pursuant to a separate scope);

This scope does not include the preparation of alternative site plans or economic analysis for a 404(b)(1) Alternative Analysis. If required this document would be prepared under a separate scope and budget;

Cultural/Historical documents are to be prepared by subconsultants. The scope and budget may be amended following the initial site visit and findings determination;

This scope assumes processing agency applications for all properties collectively (single project covering the development of all parcels collectively). If the project is to be split into separate projects a revised scope can be prepared;

This scope does not include support for any other permits not specifically mentioned in this scope; All meetings are assumed to be two hours in length.

III. PERMITTING SCHEDULE

Olberding Environmental will work to support the Client's schedule in terms of preparing and submitting permit documents, the permit process is not entirely under the control of Olberding Environmental and schedule is heavily influenced by the actions of the regulatory agencies, their determinations, and the availability of limited staff to process permit applications. The table below provides a sequence and timeline of each permit application process, and how they relates with each other.

Agency	Permit/ Authorization	Time Frame (months)	Requirements For Approval
US Army Corps of Engineers	Nationwide Permit	4-6	401 Certification Cultural/Historic Properties Mitigation Proposal Endangered Species Act Compliance
California Dept. of Fish and Wildlife	Streambed Alteration Agreement	4-5	CEQA Mitigation Proposal
Regional Water Quality Control Board	401 Cert/Waiver of Waste Discharge Requirements	3-6	CEQA Mitigation Proposal Stormwater Plan

IV. ESTIMATED COMPLETION DATES AND COSTS

Olberding Environmental will compile the necessary documentation and coordinate with appropriate parties to provide the following services as close as possible to the estimated schedule and to bill on a time and material basis not to exceed the estimated costs indicated below.

Code	Task	Estimated Completion Date (Days from receipt of authorization to proceed)	Estimated Cost
Task 1	WETLAND DELINEATION Obtain and review baseline material; Conduct field studies; Prepare maps & figures; Prepare report and other materials; Respond to comments on report; Coordinate with client and/or representatives; Coordinate with agencies; Obtain Corps verification.	30 days	\$5,500
Task 2	BIOLOGICAL CONSTRAINTS ASSESSMENT Attend meetings; Obtain and review baseline material; Review existing documents; Conduct site reconnaissance surveys; Conduct botanical survey; Prepare survey report and map; Coordinate with client and/or representative.	30 days	\$4,500
Task 3	U.S. ARMY CORPS OF ENGINEERS, SECTION 404 PERMIT SUPPORT Obtain and review baseline material; Prepare and submit Nationwide Permit application material; Respond to comments; Coordinate with Client and/or representative; and Coordinate with agencies.	45 days	\$4,800
Task 4	REGIONAL WATER QUALITY CONTROL BOARD SECTION 401 WATER QUALITY CERTIFICATION AND WASTE DISCHARGE REQUIREMENTS SUPPORT Obtain and review baseline material; Prepare and submit Section 401 application material; Respond to comments; Coordinate with Client and/or representative; and Coordinate with agencies.	45 days	\$5,500

Code	Task	Estimated Completion Date (Days from receipt of authorization to proceed)	Estimated Cost
Task 5	CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE STREAMBED ALTERATION AGREEMENT SUPPORT Obtain and review baseline material; Prepare and submit Section SAA application material; Respond to comments; Coordinate with Client and/or representative; and Coordinate with agencies.	45 days	\$3,500
Task 6	PREPARE CONCEPTUAL MITIGATION PLAN Obtain and review baseline material; Conduct field studies; Prepare plans for review; Prepare report and other materials for review; Coordinate with client and/or representatives; and Coordinate with agencies.	45 days	\$3,500
Task 7	PROJECT MANAGEMENT AND MEETINGS Obtain and review baseline material; Prepare for and attend meetings and site visits; Respond to comments; Prepare for and make presentation to agencies; Coordinate with Client and/or representative; and Coordinate with agencies.	Open	\$2,500
Task 8	CONSTRUCTION SUPERVISION & BIOLOGICAL MONITORING Conduct ecological monitoring (assumes 1 week) Identify and flag work boundaries; Supervise fence installation and construction activities; Conduct workers education sessions; Prepare required monitoring report; Coordinate with Client and/or representative; and Coordinate with agencies.	Open	\$6,500
TOTAL			\$36,300

V. SCHEDULE OF FEES – 2018

PERSONNEL CATEGORY	HOURLY RATE
01: Principal	\$190.00
02: Wetlands Regulatory Scientist/Regulatory Compliance Specialist	\$175.00
03: Senior Environmental Planner/Project Manager/Senior Biologist/CEQA/NEPA Coordinator	\$150.00
04: Restoration Ecologist/Senior Botanist/Mitigation Engineer	\$140.00
05: Certified Wildlife Biologist/Herpetologist/Ecologist	\$125.00
06: Scientist/Wetlands Specialist/Biologist/Fisheries Biologist/Botanist/Soil Scientist	\$100.00
07: AutoCAD/ GIS Specialist	\$90.00
08: Biological Monitor/Fisheries Research Assistant	\$100.00-\$75.00
09: Technical Editor/ Technical Assistant/Administrative Assistant	\$70.00

DIRECT EXPENSES

- Direct Expenses - Billed at cost plus 10%
- Transportation Rates - Current IRS Federal standard mileage rate.
- Four-wheel drive 10¢/mile additional.
- Travel Per Diem - Current IRS Federal standard rate.
- Field Equipment - Billed at cost plus 10%

SUBCONSULTANTS

All subconsultant work will be billed at cost plus 10%

ACKNOWLEDGED:

[Authorized Signature] [Date]

EXHIBIT B

INDEMNIFICATION

Consultant shall indemnify, defend with counsel acceptable to GHAD, and hold harmless GHAD and its officers, elected officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Consultant's performance of the services called for or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of GHAD.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

The Consultant's obligation to defend and indemnify shall not be excused because of the Consultant's inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days to the tender of any claim for defense and indemnity by the GHAD. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the GHAD, may be retained by the GHAD until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/11/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER DEPLACE INSURANCE 1916 W San Carlos #A San Jose, CA 95128	CONTACT NAME: Andrew Batchelder	FAX (A/C. No.): (408)287-1974
	PHONE (A/C. No. Ext): (408)938-0950	E-MAIL ADDRESS: sage88@aol.com
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Admiral Insurance		24856
INSURER B: American Casualty Co. of Reading PA		10030
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED Olberding Environmental, Inc. 193 Blue Ravine Road Suite 165 Folsom, CA 95630	CERTIFICATE NUMBER:	REVISION NUMBER:
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THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	Y	Y	FEI-ECC-11476-06	9/1/2018	9/1/2019	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000						
A	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	FEI-ECC-11476-06	9/1/2018	9/1/2019	MED EXP (Any one person) \$ 5,000
	PERSONAL & ADV INJURY \$ 1,000,000						
A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	FEI-ECC-11476-06	9/1/2018	9/1/2019	GENERAL AGGREGATE \$ 2,000,000
	PRODUCTS - COM/PO/AGG \$ 2,000,000						
A	UMBRELLA LIAB EXCESS LIAB	Y	Y	FEI-ECC-11476-06	9/1/2018	9/1/2019	Deductible \$ 5,000
	DED RETENTION \$						COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	WC417640510	9/1/2018	9/1/2019	BODILY INJURY (Per person) \$
							BODILY INJURY (Per accident) \$
A	Prof. Liability Pollution Liability	Y	Y	FEI-ECC-11476-06	9/1/2018	9/1/2019	PROPERTY DAMAGE (Per accident) \$
							AGGREGATE \$
A		Y	Y	FEI-ECC-11476-06	9/1/2018	9/1/2019	EACH OCCURRENCE \$
							AGGREGATE \$
A		Y	Y	FEI-ECC-11476-06	9/1/2018	9/1/2019	\$ 1,000,000
							\$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Certificate Holder is named as Additional Insured per General Liability form ECC-319-0712.

CERTIFICATE HOLDER Fallon Village Geologic Hazard Abatement District Attention: District Engineer 100 Civic Plaza Dublin, CA 94568	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE

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Olberding Environmental, Inc.
Endorsement Number: 6

Automatic Waiver of Subrogation Endorsement

This endorsement, effective 9/1/2018 attaches to and forms a part of Policy Number FEI-ECC-11476-06. This endorsement changes the Policy. Please read it carefully.

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART**

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) to whom the *Named Insured* agrees, in a written contract, to provide a waiver of subrogation. However, this status exists only for the project specified in that contract.

The Company waives any right of recovery it may have against the person or organization shown in the above Schedule because of payments the Company makes for injury or damage arising out of the *insured's* work done under a contract with that person or organization. The waiver applies only to the person or organization in the above Schedule.

Under no circumstances shall this endorsement act to extend the policy period, change the scope of coverage or increase the Aggregate Limits of Insurance shown in the Declarations.



Olberding Environmental, Inc.
Endorsement Number: 5

Automatic Additional Insured – Owners, Lessees or Contractors

This endorsement, effective 9/1/2018 attaches to and forms a part of Policy Number FEI-ECC-11476-06. This endorsement changes the Policy. Please read it carefully.

In consideration of an additional premium of \$Applied, this endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART CONTRACTORS POLLUTION LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to name as an additional insured. However, this status exists only for the project specified in that contract.

The person or organization shown in this Schedule is included as an insured, but only with respect to that person's or organization's vicarious liability arising out of your ongoing operations performed for that insured.



Automatic Primary and Non-Contributory Insurance Endorsement Designated Work Or Project(s)

This endorsement, effective 9/1/2018 attaches to and forms a part of Policy Number FEI-ECC-11476-06. This endorsement changes the Policy. Please read it carefully.

This endorsement modifies insurance provided under the Coverage Part(s) indicated below:

COMMERCIAL GENERAL LIABILITY COVERAGE
CONTRACTORS POLLUTION LIABILITY COVERAGE
PROFESSIONAL LIABILITY COVERAGE

SCHEDULE

Name of Person or Organization:

Any person(s) or organization(s) whom the *Named Insured* agrees, in a written contract, to provide Primary and/or Non-contributory status of this insurance. However, this status exists only for the project specified in that contract.

In consideration of an additional premium of \$Applied and notwithstanding anything contained in this policy to the contrary, it is hereby agreed that this policy shall be considered primary to any similar insurance held by third parties in respect to work performed by you under any written contractual agreement with such third party. It is further agreed that any other insurance which the person(s) or organization(s) named in the schedule may have is excess and non-contributory to this insurance.