

Attachment B

Biological Evaluation and Arborist Report



LIVE OAK ASSOCIATES, INC.

an Ecological Consulting Firm

March 24, 2022

Alan Flora
City Manager
City of Clearlake
14050 Olympic Drive
Clearlake, CA 95422

SUBJECT: Reconnaissance Survey for the Adjacent Airport Property in Clearlake, Lake County, California.

Dear Mr. Flora:

At your request, Live Oak Associates, Inc. (LOA) has prepared this scope and budget to conduct the necessary field surveys and to gather reconnaissance-level information for the adjacent airport property during the same site visit as the Hotel project site. The Airport site is just south of the Hotel site, which is located at the end of 18th Avenue in the City of Clearlake in Lake County, California. This property is identified as “Parcel S” in the 2021 Clearlake Conceptual Plan. The approximately 0.3-acre property is located at the end of 18th Avenue.

Following are the proposed tasks:

Task 1. RECONNAISSANCE SUREVEY FOR THE ADJACENT AIRPORT PROPERTY.

Task 1a. Project Management

A small amount of time has been allocated for project management.

Task 1b. Site Survey.

This survey is intended to occur in the same trip as for the Hotel Property and is meant to be a general site visit to assess for obvious potential issues only, such as whether an arborist survey, wetland delineation, rare plant surveys, or other special surveys may be necessary. This is meant to be a reconnaissance-level survey that could be used to write a biological evaluation report at a later date if it is requested by the City within a reasonable amount of time.

We are not proposing to conduct a formal wetland delineation or protocol-level, species-specific surveys. If such surveys are warranted, they will be covered under a separate scope of work.

Task 1c. Preparation of Memo.

After the site visit, the biologist will prepare a memo summarizing the field notes; this is not intended to be an assessment or evaluation, just strictly a summarization of what was observed on the site and any other notes the biologist takes in the field.

We propose to complete Task 1 for a not-to-exceed amount of \$2,358.

We thank you for using our firm to provide you these services and look forward to working with you. If you have any additional questions or concerns regarding this proposal, please contact me at (408) 281-5889, at your convenience.

Sincerely,



Katrina Krakow
Senior Project Manager
Staff Ecologist

Proposal Acceptance

Accepted By: _____

Date: _____

Printed Name: _____

Title: _____

STANDARD TERMS AND CONDITIONS

The following are LOA's standard contract terms and conditions, to be incorporated into the agreement by and between

LIVE OAK ASSOCIATES, INC. (hereinafter referred to as "LOA") and **City of Clearlake** (hereinafter referred to as "Client").

APPLICABLE LAWS. Contractor is obligated by professional codes of ethics and applicable laws to report observed violations of federal, state, and local codes for protection of natural resources and the environment.

ADDITIONAL SERVICES. Should Client, or any public body or inspector direct any modification or addition to the Services covered by this Contract, the payment for Services as set forth in Section 4 shall be adjusted accordingly. Client agrees to reimburse LOA for any additional hours for requested additional work not described in the Contract at an applicable hourly fee schedule rate.

INDEPENDENT CONTRACTOR STATUS. It is understood by the parties that in performing the above-described Services, LOA shall act as an independent contractor with respect to Client.

PAYMENT FOR SERVICES. In consideration for the Services to be performed by LOA under this Contract, Client agrees to pay to LOA for work performed upon receipt of monthly invoices. Monthly invoices will reflect work performed at the respective hourly rates of individuals providing Services on behalf of LOA. Payments are due upon receipt of monthly invoice.

Accounts more than 30 days past due shall accrue interest at the rate of ten percent (10%) per annum. Additionally, accounts more than 30 days past due shall be subject to a service charge of eight percent (8%) per annum. In the event that collection is required on past due accounts or litigation is required to resolve a dispute arising under this Contract, it is further agreed that the prevailing party in any such action shall be entitled to receive reasonable attorney's fees in addition to costs.

TERM. This Contract shall become effective on the date of its execution and shall continue in force and effect until the Services provided for herein have been fully and completely performed, unless otherwise terminated as set forth in Section 6 below.

RIGHT TO STOP WORK. LOA shall have the right to stop performance of the Services until all payments due are received if any payment shall not be made, when due, to LOA under this Contract. Failure to make payment, within thirty (30) days of the date due, is a material breach of this Contract and shall entitle LOA to cease any further Services under the Contract.

TERMINATION. If a party defaults by failing to substantially perform any provision, term or condition of this Contract, the other party may terminate this Contract by providing written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 30 days from the effective date of such

notice to cure the default(s). Unless waived by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this Contract.

USE OF INFORMATION. Upon completion of the Project, LOA shall have the right to use relevant information gathered during the Project investigation on future projects. LOA shall have the right to use illustrations, charts, graphs, maps and other visual materials developed by LOA in connection with the Project, but will omit references to Client's name. LOA shall have the right to reference the Project and client's name when preparing literature, proposals and conducting interviews for obtaining future consulting jobs. LOA's reports shall be used by Client only in connection with the Project.

OBLIGATIONS OF CLIENT. Client agrees to comply with all reasonable requests of LOA necessary for the performance of LOA's obligations under this Contract. Client agrees to furnish space on Client's property for use by LOA while performing the Services.

WARRANTY. LOA shall provide its Services and meet its obligations under this Contract in a timely and workmanlike manner, and shall provide a standard of care equal to, or superior to, care used by service providers similar to LOA on similar projects.

INDEMNIFICATION. Client shall indemnify and hold LOA harmless from any liability, claims, demands, loss, damages or expense, including any reasonable attorney fees and costs, asserted against or suffered by LOA resulting from: (i) any breach by Client of this Agreement; (ii) any liability of the Client with respect to the Client's Property and/or Client's Project or otherwise; or (iii) the accuracy or breach of any of the representations, warranties or covenants made by Client.

LOA shall indemnify and hold Client or its directors, officers, and employees harmless from any liability, claims, demands, loss, damages or expense, including any reasonable attorney fees and costs, asserted against or suffered by Client resulting from the acts, errors or omissions of LOA or its directors, officers, employees, and sub-consultants in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Client.

SUBCONTRACTORS. LOA may subcontract to other qualified personnel such portions of the work required by Client as LOA deems necessary.

ASSIGNMENT. Neither party may assign or transfer its rights or obligations under this Contract without the prior written consent of the non-assigning party.

MEDIATION. LOA and Client agree to mediate any dispute or claim arising between them out of this Contract, or any resulting transaction, before resorting to court action. Mediation fees, if any, shall be divided equally among the parties involved. If, for any dispute or claim to which this paragraph applies, any party commences an action without first attempting to resolve the matter through mediation, or refuses to mediate after a request has been made, then that party shall not be entitled to recover attorney fees, even if they would otherwise be available to that party in any such action.

ATTORNEY'S FEES. If either party institutes a court action arising from this Contract or the performance of it, the prevailing party in such action or litigation shall, in addition to such other relief as the court may grant, be entitled to an award of reasonable costs and expenses of litigation, including expert witness fees and attorney fees.

ENTIRE AGREEMENT. This Contract contains the entire agreement of the parties, and there are no other promises or conditions in any other agreement whether oral or written concerning the subject matter of this Contract. This Contract supersedes any prior written or oral agreements between the parties.

SEVERABILITY. If any provision of this Contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provision of this Contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision will be deemed to be written, construed, and enforced as so limited.

AMENDMENT. This Contract may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

GOVERNING LAW. This Contract shall be construed in accordance with the laws of the State of California.

BINDING EFFECT. The terms and provisions of this Contract shall be binding and inure to the benefit of the successors and assigns of the parties hereto.

DESCRIPTIVE HEADINGS. The descriptive headings used and inserted into this Contract are for convenience only and shall not be deemed to affect the meaning or construction of any provision herein.

COUNTERPARTS. This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Contract shall become effective upon the execution of a counterpart hereof by each of the parties hereto.

NOTICES. All notices and communications hereunder shall be in writing and shall be deemed given and delivered personally when mailed by registered or certified mail, postage prepaid, addressed as follows if to LOA:

Live Oak Associates, Inc.
P.O. Box 2697
Oakhurst, CA 93644

and addressed as follows if to Client:
Alan Flora
City Manager
City of Clearlake
14050 Olympic Drive
Clearlake, CA 95422
707-994-8201

LIVE OAK ASSOCIATES, INC.
AIRPORT PROPERTY COMMERCIAL CENTER
RECONNAISSANCE SURVEY FOR THE ADJACENT AIRPORT PROPERTY
CLEARLAKE, LAKE COUNTY, CALIFORNIA
24-Mar-22

I. STAFF COSTS FOR RECONNAISSANCE SURVEY FOR THE ADJACENT AIRPORT PROPERTY

TASKS	STAFF				
	Principal	Sr. Proj. Manager Staff Ecologist	Botanist	Cartographer	Support
Task 1. Additional Work for Adjacent Property	-	-	-	-	-
Task 1a. Project Management	1	1	0	0	0
Task 1b. Site survey	0	6	0	0	0
Task 1c. Field Notes Memo	0.5	3	2	0	0.25
TOTAL	1.5	10	2	0	0.25
\$/HR	235	145	145	145	70
\$ TOTAL	353	1,450	290	-	18
STAFF SUBTOTAL					\$ 2,110

VI. DIRECT COSTS FOR TASK 1

Per Diem (\$96/day lodging; \$59/day meals) 2022 GSA Rate	214		214
Mileage (\$0.585/mi)	20 miles		11
Service Cost (10% direct expenses)			23
DIRECT EXPENSE SUBTOTAL			\$ 248

TOTAL PROJECT COSTS FOR TASK 1			\$ 2,358
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