

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into on January 9, 2018 by and between the City of St. Helena, located in the County of Napa, State of California (City), and ZFA Structural Engineers (Consultant).

RECITALS:

A. City desires to employ Consultant to furnish professional services in connection with the project described as Library and Scout Hall Structural Assessment.

B. Consultant has represented that Consultant has the necessary expertise, experience, and qualifications to perform the required duties.

NOW, THEREFORE, in consideration of the mutual premises, covenants, and conditions herein contained, the parties agree as follows:

SECTION 1 – BASIC SERVICES

Consultant agrees to perform the services set forth in **Exhibit A, “Scope of Work”** and made part of this Agreement.

SECTION 2 – ADDITIONAL SERVICES

Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement that are in addition to or outside of those set forth in this Agreement or **Exhibit A, “Scope of Work”**, unless such additional services and compensation are authorized in advance and in writing by the City Council or City Manager of the City.

SECTION 3 – TIME FOR COMPLETION

The time for completion of services shall be as identified in **Exhibit A, “Scope of Work”**.

SECTION 4 – COMPENSATION AND METHOD OF PAYMENT

A. Subject to any limitations set forth in this Agreement, City agrees to pay consultant the amount specified in **Exhibit B, “Costs”** attached hereto and made a part hereof. Total compensation shall not exceed \$5,000.00, unless additional compensation is approved in accordance with Section 2.

B. Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month. The invoice shall detail charges by the following categories if applicable: labor (by sub-category), travel, materials, equipment, supplies, subconsultant contracts, and miscellaneous expenses. City shall independently review each invoice submitted to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. If no charges or expenses are disputed, the invoice shall be approved, and City will use its best efforts to cause Consultant to be paid within

30 days of receipt of invoice. If the City disputes any charges or expenses, the City will return the original invoice to Consultant for correction and resubmission. If the City reasonably determines, in its sole judgment, that the invoiced charges and expenses exceed the value of the services performed to date and that it is probable that the Agreement will not be completed satisfactorily within the contract price, City may retain all or a portion of the invoiced charges and expenses. Within thirty (30) days of satisfactory completion of the project, City shall pay the retained amount, if any, to Consultant.

C. Payment to the Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

SECTION 5 – STANDARD OF PERFORMANCE

Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the services required under this Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to those required of Consultant under this Agreement.

SECTION 6 – INSPECTION AND FINAL ACCEPTANCE

City may inspect and accept or reject any of Consultant's work under this Agreement, either during performance or when completed. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City, unless the parties mutually agree to extend such deadline. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects and fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, the sections pertaining to indemnification and insurance.

SECTION 7 – INSURANCE REQUIRED

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, its agents, representatives, or employees, as indicated:

- A. Minimum Scope of Insurance. Coverage shall be at least as broad as:
 1. Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001).
 2. Insurance Services Office form number CA 0001 (Ed. 1/87) covering Automobile Liability, code 1 (any auto).
 3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- B. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

1. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage including operations, products and completed operations, as applicable. If Commercial General Liability Insurance or other form with a General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$2,000,000 per accident for bodily injury or disease.

C. Professional Liability Insurance. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, environmental engineer or other professional engineer, or land surveyor ("design professional"), Consultant shall maintain at least \$2,000,000 of professional liability insurance.

D. Excess Limits. If Consultant maintains higher limits than the minimums shown above, City requires and shall be entitled to coverage for the higher limits maintained by Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

E. Primary Coverage. For any claims related to this contract the Consultants insurance coverage shall be primary insurance as respects to City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of Consultants insurance and shall not contribute with it.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions of \$25,000 or greater must be declared to and approved by the City.

G. Other Insurance Provisions. The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its agent, officers, officials, employees, and volunteers are to be covered as additional insured as respects: liability arising out of work or operations performed by the Consultant or Consultant's subconsultants; or automobile owned, leased, hired or borrowed by the Consultant.
2. For any claims related to Consultant's conduct while performing the work of this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its agents, officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its agents, officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subsection (b) of Section 2782 of the Civil Code.

H. Waiver of Subrogation. Consultant's commercial general liability, automobile liability, workers' compensation, and employer's liability policies shall be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its agents, officers, officials, employees and volunteers for losses paid under the terms of this policy which arises from the work performed by the named insured for the City.

I. The Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

J. Verification of Coverage. Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on forms that conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

SECTION 8 – INDEMNIFICATION

A. Consultant shall indemnify and hold harmless City, its agents, officers, officials, employees, and volunteers from any and all claims, demands, suits, loss, damages, injury, and/or liability (including any and all costs and expenses in connection therewith), incurred by reason of any negligent or otherwise wrongful act or omission of Consultant, its officers, agents, employees and subcontractors, or any of them, under or in connection with this Agreement; and Consultant agrees at its own cost, expense and risk to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against City, its agents, officers, officials, employees and volunteers, or any of them, arising out of such negligent or otherwise wrongful act or omission, and to pay and satisfy any resulting judgments.

B. When Consultant under this Agreement is duly licensed under California Business and Professions Code as an architect, landscape architect, professional engineer, or land surveyor ("design professional"), the provisions of this section regarding Consultant's duty to defend and indemnify apply only to claims that arise out of or relate to the negligence, recklessness, or willful misconduct of the design professional.

C. If any action or proceeding is brought against Indemnitees by reason of any of the matters against which Consultant has agreed to indemnify Indemnitees as provided above, Consultant, upon notice from City, shall defend Indemnitees at Consultant's expense by counsel acceptable to City, such acceptance not to be unreasonably withheld. Indemnitees need not have first paid for any of the matters to which Indemnitees are entitled to Indemnification in order to be so indemnified. The insurance required to be maintained by Consultant shall ensure Consultant's obligations under this section, but the limits of such insurance shall not limit the liability of Consultant hereunder. The provisions of this section shall survive the expiration or earlier termination of this Agreement.

D. The provisions of this section do not apply to claims to the extent occurring as a result of the City's sole negligence or willful acts or misconduct.

SECTION 9 – INDEPENDENT CONTRACTOR STATUS

A. Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner or to incur an obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.

B. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees or agents are in any manner officials, officers, employees or agents of City.

C. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 10 – CONFLICTS OF INTEREST

A. Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent, or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts with the interests of City in the performance of this Agreement.

B. City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is aware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.

SECTION 11 – OWNERSHIP OF DOCUMENTS

A. All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing any services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. When requested by City, but no later than three years after project

completion, Consultant shall deliver to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.

B. All copyrights, patents, trade secrets, or other intellectual property rights associated with any ideas, concepts, techniques, inventions, processes, improvements, developments, works of authorship, or other products developed or created by Consultant during the course of providing services (collectively the "Work Product") shall belong exclusively to City. The Work Product shall be considered a "work made for hire" within the meaning of Title 17 of the United States Code. Without reservation, limitation, or condition, Consultant hereby assigns, at the time of creation of the Work Products, without any requirement of further consideration, exclusively and perpetually, any and all right, title, and interest Consultant may have in the Work Product throughout the world, including without limitation any copyrights, patents, trade secrets, or other intellectual property rights, all rights of reproduction, all rights to create derivative works, and the right to secure registrations, renewals, reissues, and extensions thereof.

SECTION 12 – CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION

A. All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.

B. Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided consultant gives City notice of such court order or subpoena.

C. If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.

D. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite such response.

SECTION 13 – SUSPENSION OF WORK

City may, at any time, by ten (10) days written notice suspend further performance by Consultant. All suspensions shall extend the time schedule for performance in a mutually satisfactory manner and Consultant shall be paid for services performed and reimbursable expenses incurred prior to the suspension date.

SECTION 14 – COMPLIANCE WITH LAW

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 15 – COMPLIANCE WITH CIVIL RIGHTS

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

A. Equal Employment Opportunity. In connection with the execution of this Agreement, Consultant shall not discriminate against any employee or applicant for employment because of race, religion, color, ancestry, age, sexual orientation, gender, gender identity and gender expression as protected categories specifically and expressively in that category, physical handicap, medical condition, marital status, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rate of pay or other forms of compensation; and selection for training including apprenticeship.

B. Nondiscrimination Civil Rights Act of 1964. Consultant will comply with all federal regulations relative to nondiscrimination to federally-assisted programs.

C. Solicitations for Subcontractors including Procurement of Materials and Equipment. In all solicitations, either by competitive bidding or negotiations, made by Consultant for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor, supplier, or lessor shall be notified by Consultant of Consultant's obligations under this Agreement and the regulations relative to nondiscrimination.

SECTION 16 – RECORDS

A. Records of Consultant's direct labor costs, payroll costs, and reimbursable expenses pertaining to this project covered by this Agreement will be kept on a generally recognized accounting basis and made available to City if and when required for a period of up to 3 years from the date of Consultant's final invoice.

B. Consultant's records and design calculations will be available for examination and audit if and as required. The cost of any reproductions shall be paid by City.

SECTION 17 – COOPERATION BY CITY

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the work as outlined in the Exhibit A, “Scope of Services”, shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the work to be performed under this Agreement.

SECTION 18 – NOTICES

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by facsimile or first class mail, addressed as follows:

To City: City Manager
1480 Main Street
St. Helena, California 94574

To Consultant: ZFA Structural Engineers
1303 Jefferson Street, Suite 400A
Napa, CA 94559
Chris Jonas
707-492-3452

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile, or, if mailed, three (3) days after deposit in the custody of the U.S. Postal Service.

SECTION 19 – TERMINATION

A. City may terminate this Agreement, with or without cause, at any time by giving ten (10) days written notice of termination to Consultant. If such notice is given, Consultant shall cease immediately all work in progress.

B. If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.

C. Upon termination of this Agreement by either Consultant or City, all property belonging to City which is in Consultant’s possession shall be delivered to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in this Agreement.

SECTION 20 – ATTORNEY FEES

If litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing party in such litigation or other proceeding shall be entitled to an award of reasonable attorneys’ fees, costs and expenses, in addition to any other relief to which it

may be entitled. In addition, any legal fees, costs and expenses incurred to enforce the provisions of this Agreement shall be reimbursed to the prevailing party.

SECTION 21 – ENTIRE AGREEMENT

This Agreement, including the attached Exhibits, is the entire, complete, final and exclusive expression of the parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any party which are not embodied herein shall be valid and binding unless in writing duly executed by the parties or their authorized representatives.

SECTION 22 – SUCCESSORS AND ASSIGNS

This Agreement shall be binding on the heirs, executors, administrators, successors and assigns of the parties. However, this Agreement shall not be assigned by Consultant without written consent of the City.

SECTION 23 – CONTINUITY OF PERSONNEL

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant’s staff assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant’s staff assigned to perform the services required under this Agreement, prior to any such performance.

SECTION 24 – DEFAULT

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default and may terminate this Agreement immediately by written notice to Consultant.

SECTION 25 – WAIVER

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision, nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 26 – LAW TO GOVERN; VENUE

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Napa. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Northern District of California, in San Francisco.

SECTION 27 – SEVERABILITY

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).


SECTION 28 – SPECIAL PROVISIONS

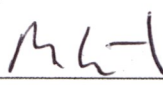
This Agreement is subject to the following special provisions: none.

IN WITNESS WHEREOF, the parties hereto have accepted, made, and executed this Agreement upon the terms, conditions, and provisions above stated, the day and year first above written.

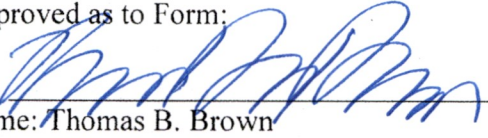
Consultant: ZFA STRUCTURAL ENG.

City:

By: 
Name: CHRIS JONAS
Title: PRINCIPAL

By: 
Name: Mark T. Prestwich
Title: City Manager

Approved as to Form:

By: 
Name: Thomas B. Brown
Title: City Attorney

ZFA STRUCTURAL ENGINEERS

1303 jefferson street | suite 400a | napa ca 94559 | 707.492.3452 | zfa.com

AGREEMENT

FOR PROFESSIONAL SERVICES

Erica Ahmann Smithies
Public Works Director/City Engineer
CITY OF ST. HELENA

Project Number: 17xxx.00
Project Name: St. Helena Library and Scout Hall Review
Location: St. Helena, CA

Email: ESmithies@cityofsthelena.org
Phone: (707) 968-2629 Mobile: (707) 312-1471

PROJECT DESCRIPTION:

Provide a site visit to the St. Helena Library located at 1492 Library Lane to review and assess the possible structural issues identified in the Facility Condition Assessment report by EMG dated December 21, 2017. The report suggests evidence of deflection and movement along the exterior walls at the west elevation of the main reading room and east elevation of the children's reading room. The report describes the walls in these locations as separating from the structural posts. ZFA will attempt to determine the cause of the movement identified in the report and make a determination as to whether there is an immediate life-safety concern. If possible and as-needed, recommendations to remediate the situation will be suggested.

Also included in the scope of work is a review of a cracked foundation/slab at the Scout Hall building located at 1530 Railroad Ave.

SCOPE OF SERVICES:

- Site visit(s) to review field conditions
- Structural calculations as needed
- Letter or memo describing the issue(s), severity of life-safety threat, if any, and possible causes and recommendations for short-term and long-term remediation

SPECIAL CONDITIONS:

- A Facility Condition Assessment report of the Library by EMG was provided to ZFA for review
- City to provide any architectural or structural drawings of the Library and Scout Hall available to ZFA for review

FEE: HOURLY AS REQUESTED plus reimbursable expenses

Offered by:

Accepted by:

ZFA STRUCTURAL ENGINEERS

CITY OF ST. HELENA



Chris Jonas, SE 5246
Principal
Date: January 9, 2018

Signature: MTI
Print Name: MARIC HASTWICK
Date: 1/9/18

The following detailed Terms and Conditions on the accompanying pages are hereby incorporated by reference in the entirety as an integral part of this Agreement. Client's acceptance of this Agreement includes full acceptance of all Terms and Conditions without condition or reservation.

Please sign and return to authorize work.

ZFA STRUCTURAL ENGINEERS TERMS AND CONDITIONS

1. BILLINGS/PAYMENTS

Invoices will be submitted monthly for labor charges and reimbursable expenses and are due when rendered. Invoices shall be considered PAST DUE if not paid within 30 days after the invoice date and ZFA Structural Engineers may without waiving any claim or right against Client, and without liability whatsoever to the Client, terminate the performance of the service. In addition, a service charge of 1.5 percent per month on the past due principal balance may be charged. In the event any portion or all of an account remains unpaid 90 days after billing, the Client will be liable for any costs of collection if necessary, including reasonable attorney's fees plus court and related costs. All late payments will be applied first to interest, then to attorneys' fees and costs, and lastly to principal.

2. REIMBURSABLE EXPENSES

Expenses other than labor charges that are directly attributed to our professional services are invoiced at our cost plus 20 percent. Reimbursable expenses typically include: 1) extra prints and reproductions, 2) special delivery (e.g. overnight) costs, 3) sub-consultants hired for the project by ZFA Structural Engineers with Client's authorization and 4) any and all work, fees, expenses and costs that are not specifically listed and identified in the Agreement, Description, and Scope of Services.

3. SUSPENSION OF ENGINEERING SERVICES

If the Client fails to make payments when due or otherwise is in breach of *this Agreement or any other Agreements* Client has made with ZFA Structural Engineers, ZFA may suspend performance of *all* services entailed by these agreements upon five (5) calendar days' notice to the Client. In such instances, ZFA Structural Engineers shall have no liability whatsoever to the Client for any costs or damages as a result of such suspension caused by any breach of the Agreement(s) by the Client. In such instances, ZFA Structural Engineers shall also have the right, at its sole discretion, to apply any payment(s) under any one Agreement, to the balance owed under any of the Agreements between parties. Notwithstanding any of the foregoing the obligations of the Client under any Agreement(s) with ZFA Structural Engineers, remain separate and independent obligations of the Client, and nothing herein shall be construed to invalidate any portion of any of the respective Agreement(s).

4. INDEMNIFICATION

To the fullest extent permitted by law, the undersigned Client shall indemnify and hold ZFA harmless from any and all actions, causes of action, damages, claims, costs, demands and expenses including attorneys' fees, that result from injuries to and/or deaths to any and all persons, including but not limited to, ZFA and its employees, arising out of or connected in any manner with the performance or purported performance of the construction work specified or referenced in this Agreement; and for any and all destruction, including loss of use of any property, arising out of or in connection with the work specified or referenced in this Agreement, except when such actions, causes of actions, damages, claims, costs, demand, and expenses including attorneys' fees are due to the sole active negligence of ZFA.

5. STATUTE OF LIMITATIONS

As to acts or failures to act occurring prior to the relevant date of Substantial Completion, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events not later than such date of Substantial Completion.

6. TERMINATION

This agreement may be terminated by either party within five (5) days of written notice to the other in the event of a substantial failure of performance by the other party through no fault of the terminating party. If this agreement is terminated, ZFA Structural Engineers shall be paid for services performed through the termination notice date, including reimbursable expenses due.

7. EXPIRATION

This Proposal and Agreement will expire automatically within 90 days from the date this document is issued and signed by ZFA, unless accepted and signed by Client within 90 days thereof, without modification.

8. ACCESS TO SITE

Unless otherwise stated, ZFA Structural Engineers will have access to the site for activities necessary for the performance of the services.

9. HIDDEN CONDITIONS

If ZFA Structural Engineers has reason to believe that such a condition may exist, the Client shall authorize and pay for all costs associated with the investigation of such a condition and, if necessary, all costs necessary to correct said condition. If 1) the Client fails to authorize such investigation or correction after due notification, or 2) ZFA Structural Engineers has no reason to believe that such a condition exists, the Client is responsible for all risks associated with this condition, and ZFA Structural Engineers shall not be responsible for the existing condition or any resulting damage to persons or property.

10. CONSTRUCTION MEANS & METHODS

ZFA Structural Engineers shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

11. OTHER PROVISIONS

Please Initial MTP

ZFA Structural Engineers will prepare drawings and specifications in a timely manner, but ZFA Structural Engineers is not responsible for delays occasioned by factors beyond its control, nor by factors which could not reasonably have been foreseen at the time this agreement was executed. Unless a specific deadline or schedule is agreed to under the Description and Scope of Services, then all work under this Agreement shall be performed in a reasonable time as determined by ZFA Structural Engineers. If Client suspend(s) and restart(s) the work or project, ZFA will be entitled to bill Client for any remobilization and extra costs as agreed upon with client.

One or more waivers by either or both parties of any provision, part of any provision, term condition, or covenant of this agreement shall not be construed as a waiver by either party of any other provision, part of any other provision, term, condition or covenant of this agreement.

Any opinion of construction cost offered by ZFA Structural Engineers represents the judgment of a design professional and is supplied for your general guidance, but ZFA Structural Engineers does not guarantee the accuracy of its opinion as compared to actual contractor bids or actual cost to the owner.

12. **OWNERSHIP OF DOCUMENTS, MODELS, AND ELECTRONIC FILES**

All computer analysis and building information models (BIM), drawings, plans, calculations, and specifications are instruments of service and shall remain the property of ZFA Structural Engineers, whether the project for which they are made is executed or not. They are not to be used on other projects or extensions to this project except by agreement in writing and with appropriate compensation to ZFA Structural Engineers.

BIM model, CADD files, PDF documents, Digital Images, Scans, data, etc in any form of electronic media shall herein be referred to as "Electronic Files." Electronic files shall not be considered to be Contract or Construction Documents. Electronic Files do not in any way supersede or supplement the information included in the plans and specifications. Use of Electronic Files is not mandatory. Unless specifically noted in this agreement, an approved recipient, having the capability, may use the file as an added resource for conceptual understanding only. Transfer of Electronic Files is subject to all provisions of ZFA's Indemnification Agreement for Computer-Based Information.

13. **VENUE**

This agreement shall be interpreted and enforced in accordance with the laws of the State of California. The venue of any action brought to interpret or enforce any of the terms of this agreement or otherwise adjudicate the rights or liabilities of the parties hereto shall be laid in County of work.

14. **DISPUTE RESOLUTION**

At the discretion of ZFA Structural Engineers, all claims, counterclaims, disputes or other matters in question between the parties hereto arising out of or in relation to this Agreement or the breach thereof will be presented to non-binding mediation, subject to the parties agreeing to a mediator(s).

15. **ENTIRE AGREEMENT**

This Agreement is solely for the benefit of the signatories hereto and represents the entire and integrated agreement between the parties, and unless specifically referenced herein, supersedes all prior negotiations, representations or proposals, either written or oral. If any term of this Agreement is held by a court of competent jurisdiction to be void or unenforceable, the remainder of the Agreement's terms shall remain in full force and effect and shall not be affected thereby. This Agreement or any part thereof shall not be assigned or transferred by Client, without the prior consent of ZFA Structural Engineers.

16. **CONTINGENT GUARANTEE**

The representative of Client, who executes this Agreement, hereby represents and guarantees that Client is financially solvent and an ongoing business concern, and has the necessary resources to fulfill all obligations, including all financial obligations, of this Agreement. In the event that Client is unable to fulfill any of the obligations under this Agreement, within the timeframe called for in the Agreement or on demand, then said representative shall, on demand, be deemed personally liable to ZFA Structural Engineers, for any and all such obligations. In addition to the foregoing, during the existence of this Agreement, this contingent guarantee shall be binding on the following: as to a corporate Client, on all officers and shareholders; as to a limited liability company Client, on all members; as to any partnership Client, on all partners.

If Client or its representatives object to any of the foregoing, then Client must present to ZFA Structural Engineers at the time of execution of this Agreement, in writing, evidence of financial credit worthiness. Such evidence shall include, but not be limited to: current Dun & Bradstreet Report, current annual and quarterly Financial Statements, a current Credit Line Statement, current list of ongoing construction projects, and the last three banking statements for Client.

17. **PROJECT INFORMATION**

Upon execution of this Agreement by Client, Client will provide ZFA Structural Engineers, the physical address and legal description of the project property, and will identify by name, address and telephone number, the owner, architect, construction lender and/or surety for the project, including the reference number(s) for any loan and/or surety bond.

18. **BILLING RATES**

Executive Principal	\$195.00 per hour	Engineer / Project BIM Mgr	\$110.00 per hour
Senior Principal	\$180.00 per hour	Designer	\$100.00 per hour
Principal	\$160.00 per hour	BIM Project Manager	\$110.00 per hour
Senior Associate	\$145.00 per hour	Senior BIM / Draftsperson	\$100.00 per hour
Associate	\$135.00 per hour	BIM Technician / Drafter	\$95.00 per hour
Senior Engineer	\$120.00 per hour	Engineer/Const Support	\$60.00 per hour

Please Initial MTP.

Engineer – Executive Principal	\$195
Engineer – Senior Principal	\$180
Engineer – Principal	\$160
Engineer – Senior Associate	\$145
Engineer – Associate.....	\$135
Engineer – Senior.....	\$120
Engineer.....	\$110
Engineer – Designer	\$100
Project BIM Manager.....	\$110
Senior BIM Technician/Draftsperson	\$100
BIM Technician.....	\$95
Draftsperson.....	\$95
Engineering Support.....	\$60

CERTIFICATE OF LIABILITY INSURANCE

STH CONTRACT: 2018-008

DATE (MM/DD/YYYY)

2/02/2017

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 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 Dealey, Renton & Associates P. O. Box 12675 Oakland, CA 94604-2675 510 465-3090	CONTACT NAME: Nancy Ferrick PHONE (A/C, No, Ext): 510 465-3090 E-MAIL ADDRESS: nferrick@dealeyrenton.com	FAX (A/C, No): 510 452-2193
	INSURER(S) AFFORDING COVERAGE	
INSURED ZFA Structural Engineers 1212 4th Street, Suite Z Santa Rosa, CA 95404	INSURER A : Travelers Indemnity Co. of Conn	NAIC # 25682
	INSURER B : Travelers Property Casualty Co	25674
	INSURER C : Lexington Ins. Co.	19437
	INSURER D :	
	INSURER E :	
	INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

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 INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	6806H86099A	02/01/2017	02/01/2018	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS	X	X	BA313M1350	02/01/2017	02/01/2018	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
B	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		X	UB5283Y562	02/01/2017	02/01/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
C	<input checked="" type="checkbox"/> Professional Liability			035713712	02/01/2017	02/01/2018	\$3,000,000 per Claim \$5,000,000 Annl Aggr.

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

General Liability policy excludes claims arising out of the performance of professional services.
 30 Days Notice of Cancellation (10 Days for Non-Payment of Premium).
FOR USE ON PROPOSALS.

CERTIFICATE HOLDER ==SAMPLE CERTIFICATE==	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 <i>Angela Borg</i>