

1 MARK S. ADAMS, SBN 68300  
 2 California Receivership Group, PBC  
 2716 Ocean Park Blvd., Suite 3010  
 3 Santa Monica, CA 90405  
 Tel. (310) 471-8181  
 Fax (310) 471-8180  
 4 madams@calreceivers.com  
 Court-Appointed Receiver

6 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 7 IN AND FOR THE COUNTY OF MENDOCINO

9 CITY OF UKIAH, a municipal corporation,  
 10 Petitioner,

Case No. SCUK-CVPT-15-66036

11 v.

**SECOND REPORT OF RECEIVER PER  
 AUGUST 2, 2017 DIRECTIVE FROM  
 THE COURT**

12 QUESTEX, LTD., a revoked Nevada  
 Corporation; PETER SAL FAZIO and  
 13 SHARI ANNE FAZIO, husband and wife;  
 ELADIA LAINES GANULIN and MARTY  
 14 R. GANULIN, husband and wife; HENRY  
 GARDELLA, an individual; THOMAS J.  
 15 VUYOVICH, an individual; HEADLANDS  
 PRESS, LTD., a permanently revoked  
 16 Nevada Corporation; BURT OLHISER dba  
 VANTAGE POINT CONSULTING;  
 17 UNIQUE PROPERTIES, a Nevada  
 Corporation formerly known as Questex,  
 18 Ltd.; NORMAN HUDSON dba WINDSOR  
 STUCCO CO., a suspended California  
 19 Corporation; AIR & WATER SCIENCES;  
 and DOES 1 - 100, inclusive,

20 Respondents.  
 21

22  
 23 **I. INTRODUCTION**

24 The Court's email to me and to all parties dated August 2, 2017 directed me to prepare  
 25 and to serve a report by September 29, 2017<sup>1</sup> that addresses tasks undertaken, progress made and  
 26 proposed actions to be undertaken to fulfill the purposes of the appointment. The Court's

27 \_\_\_\_\_  
 28 <sup>1</sup> Recently extended to October 2, 2017 by the Court

1 directive contemplates that the parties and the receiver meet and confer on the topics described in  
2 this Second Report. I will seek an acceptable date from all parties sometime in the next two  
3 weeks for that meet and confer and will submit a supplemental report to the Court after its  
4 completion.

5  
6 **II. RECAP OF SIGNIFICANT ACTIONS TAKEN SINCE APPOINTMENT ON**  
7 **JANUARY 9, 2017**  
8

9 On March 13, 2017 the Court approved my First Report including but not limited to an  
10 increase in the funding to \$438,000 to commence and proceed with the work outlined in that  
11 First Report. As might be expected funding for such a large project, especially considering the  
12 present severely dilapidated condition of the building, was challenging to arrange. I was finally  
13 able to arrange a funding in May 2017 for the full amount.<sup>2</sup> The remaining balance of this loan is  
14 \$140,795 and so additional funds will be needed shortly, a subject to which I will return below.

15 I interviewed and elected to retain a number of the professionals initially brought in by  
16 Respondent including Axia Architects,<sup>3</sup> ZFA Structural Engineers,<sup>4</sup> and Garavaglia Architects  
17 (for the historic tax credit work, see below). I also retained Respondent's contractor, GCCI based  
18 in Santa Rosa. Axia prepared a project timeline, see Exhibit 3, and the project is right on target  
19 time and work-wise.

20 I have also engaged other professionals including, as mentioned previously, Todd  
21 Schapmire as our project manager and local point person. Todd is doing a truly outstanding job  
22 and is largely responsible for the day to day progress on this site.<sup>5</sup> As noted in his report, much  
23 work has been completed with regard to the initial steps referenced in my First Report: interior  
24

25 <sup>2</sup> The lender is a resident of Ukiah and a local hotelier. He is expecting to be the lender but in the event  
26 Respondent chooses not to or is unable to retake control of the project in the so-called Phase 3, he is also willing  
to step into a more active role and complete the project.

27 <sup>3</sup> Engagement contract attached as Exhibit 1

28 <sup>4</sup> Engagement contract attached as Exhibit 2

<sup>5</sup> A summary he recently prepared is attached as Exhibit 4.

1 shoring, fire systems, and seismic investigation. In addition to Todd, I retained Nelson Enviro,  
2 LLC to do a Phase I Environmental Assessment (reporting no issues).<sup>6</sup> I also retained a firm to  
3 verify and confirm that there are no underground storage tanks at the site<sup>7</sup> (there are not) and  
4 recently PJC and Associates for seismic work in connection with the project.<sup>8</sup> While much of this  
5 remains a work in progress the good news is that we have not (at least as of this writing) hit any  
6 terminal snags. Asbestos, underground tanks and the like all could have been impossible hurdles  
7 to overcome. I am also pleased to report that I was able to bind property insurance for the  
8 property, a requirement of any prudent lender.

9  
10 Thanks to enormous cooperation by all city officials, Todd, I and our team met with all  
11 relevant city staff on June 27, 2017. Respondent and her counsel also attended. City officials  
12 pledged full support for our basic concept and agreed to expedite all city reviews at various  
13 stages of construction.

14 Todd and I also met with a number of community members (many from the until recently  
15 moribund “Friends of the Palace”) on August 16, 2017. We solicited and received a number of  
16 very good suggestions especially regarding the final usage of the site. And we’ve had subsequent  
17 and ongoing contact with various people who attended that meeting.

18  
19 **III. UPCOMING PLANS AND FINANCIAL NEEDS TO BE DISCUSSED AT THE**  
20 **MEET AND CONFER**

21 Mike Garavaglia arranged a meeting for us on October 9, 2017 with the in-house  
22 architect for the historic tax credit issuer in Sacramento. The tax credit is a potentially crucial  
23 element of the remediation funding since it can be used for an estimated 20% of all eligible costs.  
24 That could equal \$500,000 or more on this project. This meeting is intended to brief the architect  
25 on what is being done and how it’s being done at a very early stage so we can adapt as necessary.

26  
27 <sup>6</sup> See selected pages from the report in Exhibit 5

<sup>7</sup> An issue raised by the lender.

<sup>8</sup> See Exhibit 6

1 We are also planning to make a top priority either replacement of the roof or at least intermediate  
2 term roof protection so that the building does not suffer further interior damage as it did during  
3 the extraordinary rainstorms earlier this year.

4 But the Number 1 issue right now is the plan and projected cost for the seismic retrofit. It  
5 is premature to even bid that work since much preliminary work remains to be done by the  
6 architects and the structural engineers. My best guess at this point is that the seismic work will be  
7 no less than \$2 million and could reach nearly \$3 million. Neither amount will make the project  
8 unfeasible but I will have to have our long term plan firmly in place before any lender would be  
9 willing to advance those funds. I am advised by the current lender that such a funding is doable if  
10 the plan is solid.

#### 11 IV. CONCLUSION

12 It is my intent to discuss these issues more comprehensively with the parties at the meet  
13 and confer to be held within the next two weeks. Conceivably, if all parties are in agreement with  
14 the plan and the proposed funding we can proceed via stipulation and proposed order. If there are  
15 material and unreconcilable issues, I will so notify the Court and ask that an appropriate hearing  
16 be set.  
17

18  
19 Respectfully submitted,

20  
21 Dated: October 2, 2017

22   
23

24 Mark Adams, Receiver, 272 State St., Ukiah  
25  
26  
27  
28

**Exhibit 1**



Architecture  
Planning  
Interiors

June 16, 2017

Mark Adams, President  
California Receivership Group, PBC  
2716 Ocean Park Blvd., Suite 3010  
Santa Monica, CA 90405

Re: Palace Hotel Renovation, APN #02-224-13  
Letter of Agreement for Architectural Services

Dear Mark,

AXIA Architects is pleased to offer our architectural services to assist California Receivership Group, PBC (Client) with the conceptual design study for Phase 1 of the Palace Hotel Renovation at 295 North State Street in Ukiah, CA. Based on your input, we understand the following steps need support:

1. Assist the Client in formalizing the programmatic elements to incorporate into Phase 1. These include size, type, and functional spaces associated with the restaurant, hotel, banquet room, and retail areas.
2. Develop conceptual floor plans from the programmatic elements.
3. Overlay strategies for incorporating seismic bracing into the conceptual floor plans based on input from the Client's structural engineer.
4. Develop basic code related egress and occupancy separation strategies based on conceptual floor plans.
5. Develop conceptual street frontage elevations.
6. Develop conceptual basic building sections identifying programmatic elements.
7. Prepare a Project Summary and rough estimated schedule.

More detailed information on the scope of each step is described in Attachment A. It is also understood that the current legal matters related to the property is outside of the scope of this Agreement. Any assistance you need in relation to testimony or document preparation associated with the legal matters, other than those identified as a deliverable in this Agreement, will be performed as Additional Services on an hourly basis plus expenses.

**Architectural Services for the above-mentioned scope are estimated at \$33,800.00 plus reimbursable expenses and will be performed and billed on an hourly basis plus expenses.**

707 542 4652  
707 542 3919 Fax

250 D Street  
Suite 210  
Santa Rosa  
CA 95404

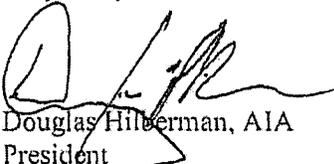
PO Box 1000  
Santa Rosa  
CA 95402

File 1

in accordance with the enclosed Schedule of Fees and Terms of Agreement. Given the unusual nature of the project, we recommend that the Client keep an additional \$3,400.00 contingency available for architectural service related items that may come up. With authorization to proceed, we request a \$5,000.00 retainer that will be applied to the final bill. The research and conceptual design services proposed are preliminary in nature, and shall not be construed to be a complete or exhaustive analysis of the project feasibility. The Client shall provide AXIA with as-built surveys and structural assessments of the existing buildings. The Architect shall be entitled to rely upon the accuracy of information provided by the Client or by third parties. Architectural services in this proposal do not include scope related to hazardous materials. The Client shall indemnify the Architect from responsibility for the general safety conditions or liability associated with the existing condition of the buildings. Should the services of any Consultants, such as structural engineers, be required they shall be provided as a consultant through the Client.

We are very excited to assist you in your efforts to revive such an important cornerstone to Ukiah's downtown history!

Very Truly Yours,

  
Douglas Hilberman, AIA  
President  
AXIA Architects

Authorization to Proceed:

  
Client Signature  
Date 4/20/17

Encl. Attachment A: Scope and Estimated Tasks  
Schedule of Fees  
Terms of Agreement Between Client and Architect

## EXHIBIT A: SCOPE CONCEPTUAL DESIGN STUDY – DEVELOPMENT PLAN: PHASE 1

### Summary:

The Client desires to develop as Phase 1 the portion of the building originally constructed in 1929. This 3-story section of the building is approximately 25,000 square feet, utilizes concrete construction, and runs the south side of the building. In addition, the Client would like to study concepts for retail space throughout the first floor of the building, including the 1891 and 1914 portions of the building. The remaining upper floors of the complex would remain unfinished as a "building under construction" and outside of the scope of the services for this Phase. The Client desires to study the feasibility of designing a hotel, restaurant, and retail uses in the Phase 1 portion of the building.

### Client Responsibilities:

1. The Client shall be responsible for consultants to review the economic and financial projections for the proposed utilization of the building.
2. The Client shall be responsible for a consultant specializing in the federal tax credits for historical structures. The consultant shall take the lead on preparing any submission for said tax credits.
3. Any Environmental Studies or similar CEQA related activities.
4. Hazardous Materials testing and abatement.
5. A General Contractor shall be selected by the Client to support pre-construction services. The Client's General Contractor shall take on the responsibilities of cost estimating.
6. The Architect shall be entitled to rely upon the accuracies of all materials received from the Client, the regulatory agencies, or the Client's agents. The architect shall be entitled to rely upon the accuracy of the As-built documents and files assembled by the original building owner.

### Architect Responsibilities:

1. The Architect shall be responsible to review the utilization of the building as it relates to the California Building Code.
2. The Architect shall assist the Client in preparing the programmatic information that shall become the basis for design. Based on the Program, the Architect will prepare conceptual studies for the Client's review exploring multiple options for layout of the prescribed functions.
3. Based on the Client's feedback, the Architect will evolve one or two of the conceptual designs in preparation for city and contractor early stage input.
4. After meeting with the city the Architect will develop the selected conceptual design into the following deliverables for Client use: conceptual demolition plans, floor plans, building elevations, and sections.
5. The Architect will assist the Client's Tax Credit Consultant by providing conceptual floor plans, elevations, and square footage data.
6. Any engineering consultants required during this step of the process will be furnished by the Client. The Architect may assist by soliciting proposals for review and approval by

the Client. It is anticipated that capacity analysis and strategic approach summaries to main building mechanical, electrical, plumbing, and fire suppression systems will be desired.

7. In addition to drawings, the Architect will prepare a rough project summary and rough schedule for use by the Client's Contractor in preparation of a rough cost estimate for construction.
8. The Architect's conceptual studies will require review by the Client's Historical Consultant.
9. The Architect will prepare a Conceptual Design Report. This Report may include studies from the Architect and Consultants hired by the Client. Deliverable drawings include conceptual floor plans, street front elevations, and basic building sections. Professional renderings, if desired, would be a reimbursable expense.

**ATTACHMENT A: SCOPE AND ESTIMATED TASKS (CONT.)**

Palace Hotel, 295 North State Street

06.16.17

The following is a preliminary estimate of tasks and anticipated service hours

| ESTIMATED TASKS  | Total Estimated Hours |             |
|--|-----------------------|-------------|
|  | Principal             | Project Mgr |
| General:   |                       |             |
| Administration   | 2                     |             |
| - Site walks (Allowance of 4) for coordination   | 12                    |             |
| <b>Phase 1: Conceptual Design Study</b>  |                       |             |
| Code review for Phase 1 areas. Develop fire separation, assist with seismic brace location strategies. | 6                     | 2           |
| Assist the Client with refining Phase 1 program  | 4                     |             |
| Develop conceptual design options for Phase 1 program  | 16                    | 26          |
| (1) Meeting with client to review  | 2                     | 2           |
| (1) Meeting with city to review  | 2                     |             |
| (1) Meeting with Historical consultant to review   |                       | 3           |
| Historical consultant coordination   | 2                     | 4           |
| Evolve Phase 1 concepts. Draft in Revit  | 14                    | 30          |
| (1) Meeting with client to review  | 1.5                   | 1.5         |
| Collaborate activities with struct. engineer & gen. contractor   |                       | 5           |
| Prepare Project Summary and Rough Schedule   | 3                     |             |
| Finalize Phase 1 Drawings  |                       | 24          |
| Preparation of "Feasibility Study" Report  | 6                     | 8           |
| Final meeting with Client  | 2                     |             |
| General Coordination   | 6                     | 10          |

|  |                     |              |
|--|---------------------|--------------|
| Total Estimated Hours                  | 78.5                | 115.5        |
| Multiplied by Hourly Rates             | \$ 16,485.00        | \$ 17,325.00 |
| <b>Estimated Architectural Fee</b>     | <b>\$ 33,810.00</b> |              |
| Recommended Additional 10% Contingency | \$ 3,381.00         |              |

The following are not included in our architectural fee for this phase:

1. Professionally Rendered Drawings.
2. Consultants of any kind. Any consultants will be provided by the Client
3. Design of any code related upgrades to the existing facilities beyond those listed.
4. Regulatory Fees of any kind.
5. Meetings or presentations beyond those listed.
5. Services related to Design Development, Construction Documents and Building Permits are not part of this scope. A new proposal shall be created at the end of the Conceptual Design Phase to address Construction Documents and Building Permits.

6. Any Additional Submission Materials, Tasks, or Steps in the Process Required by the City, Owner, or Others not listed in the Tasks above. If any of these items are requested, they will be performed as Additional Services on an hourly basis or as reimbursable expenses.

## SCHEDULE OF FEES

Effective January 1, 2017

### I. TIME CHARGES

|                             |               |
|-----------------------------|---------------|
| PRINCIPAL<br>Doug Hilberman | \$210         |
| ASSOCIATE                   | \$175 - \$190 |
| PROJECT ARCHITECT           | \$155 - \$175 |
| PROJECT MANAGER             | \$140 - \$165 |
| JOB CAPTAIN                 | \$120 - \$140 |
| ARCHITECTURAL INTERN        | \$110 - \$120 |
| ADMINISTRATIVE              | \$85          |

The above billing rates are subject to adjustment annually.

### II. REIMBURSABLE EXPENSES

|                         |  |
|-------------------------|--|
| Consultants:            | Cost plus 15%  |
| Travel:                 | Private Vehicle \$0.54 per mile.   |
|                         | Commercial travel and related expenses at cost plus 15%.   |
| Other Project Expenses: | Cost plus 15%  |
|                         | Such as: printing, graphics, photography & reproduction, rental or purchase of special equipment and materials, long distance telephone, special shipping or delivery, models and renderings, lodging and subsistence. |

Reimbursable Expenses are in addition to the fees for services and shall include actual expenditures made in the interest of the project such as transportation and living expenses when traveling in connection with the project.

### III. ADDITIONAL SERVICES

Per the Schedule of Fees above.

**TERMS OF AGREEMENT BETWEEN CLIENT AND ARCHITECT****I. INVOICING AND PAYMENT POLICIES**

In contracting with AXIA Architects for professional services Client warrants that funds are available to compensate AXIA Architects for the total amount of services and expenses contracted for and that these funds are neither encumbered nor contingent upon subsequent granting of approvals, permits or financial commitments by lending institutions or other third parties.

Statements for the work will be rendered monthly in proportion to the amount of work completed. All accounts are due and payable upon receipt. If any invoice is not paid within 30 days, AXIA Architects may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, suspend or terminate the performance of services. Accounts not paid within 30 days after the invoice date may have a service charge added at the rate of 1.5% per month on the unpaid balance. Any costs incurred in the collection of overdue accounts, including reasonable legal fees, will be added to the amount due.

**II. COST ESTIMATES**

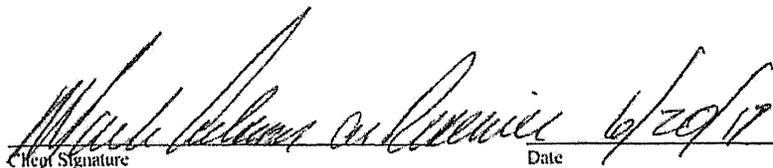
AXIA Architects intends to render its services in accordance with generally accepted professional practices and makes no warranty either expressed or implied. An opinion of probable cost by the Architect represents his best judgement as a design professional and is supplied for general guidance. It is recognized, however, that neither the Architect nor Client have any control over the Contractor's methods of determining bid prices or over variable market conditions. Thus, the Architect cannot guarantee the accuracy of such opinions as compared to actual costs.

**III. OWNERSHIP OF DOCUMENTS**

As instruments of service all documents, including drawings and specifications, are and shall remain the property of the Architect whether or not the project for which they are made is executed. Re-use of the project documents for extensions of the project, or for new projects, shall require written permission of the Architect and may entitle the Architect to appropriate compensation.

**IV. COPY RIGHTS**

The designs and drawings developed by AXIA Architects are copyrighted as created. They are protected under the 1990 Architectural Works Copyright Protection Act. The drawings and designs created under this agreement may not be reproduced or used without the expressed written permission of AXIA Architects.

  
Client Signature \_\_\_\_\_ Date 6/20/17

V. STANDARD OF CARE AND RISK ALLOCATION

AXIA Architects will perform the services under this Agreement with the care and skill ordinarily exercised by members of the profession practicing under similar conditions at the same or similar locality. In recognition of the relative risks and benefits of the project to both the Client and AXIA Architects, the risks have been allocated so that the client agrees that, to the fullest extent permitted by law, AXIA Architects' total liability to client for any and all injuries, claims, losses, expenses, damages, or claim expenses arising out of this agreement from any cause or causes including but not limited to design professional's negligence, errors, or omissions shall not exceed the total compensation to design professional under this agreement or \$50,000 which ever is less.

VI. VERIFICATION OF EXISTING CONDITIONS

The Client understands that the remodeling and/or rehabilitation of an existing building requires that certain assumptions be made regarding existing conditions, and that some of these assumptions may not be verifiable without expending additional sums of money, or destroying otherwise adequate or serviceable portions of the building. Because of this it is probable that some changes will occur during the construction process and that a contingency should be maintained to cover any related cost increases.

VII. DESIGN CREDIT

Any work which is published or exhibited shall carry appropriate design credit on all reproductions.

VIII. DISPUTE RESOLUTION

Any claims or disputes made during design, construction or post-construction between the Client and AXIA Architects shall be submitted, first, to non-binding mediation. Client and Firm agree to include a similar mediation agreement with all contractors, subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between all parties.

IX. TERMINATION OF AGREEMENT

The agreement shall be subject to termination upon a seven-day written notice at any time for good cause by either party. In the event of termination, full payment shall be made for services performed to termination date including reimbursable expenses then due and all terminal expenses including legal fees.

X. TERMS

This proposal is subject to re-negotiation if not accepted within 30 days. The fee schedule shall remain in effect until December 31 of each year and shall be subject to review at that time.

Client Signature Date

Exhibit 2

# ZFA STRUCTURAL ENGINEERS

1212 fourth street | suite z | santa rosa ca 95404 | 707.526.0992 | zfa.com

# AGREEMENT

FOR PROFESSIONAL SERVICES

Mark Adams

**CALIFORNIA RECEIVERSHIP GROUP PBC**

2716 Ocean Park Blvd., Suite 3010

Santa Monica, CA 90405

Project Number: 17043.00

Project Name: Palace Hotel – Seismic  
Retrofit

Location: Ukiah, CA.

Email: [madams@calreceivers.com](mailto:madams@calreceivers.com)

Phone: (310) 471-8181

Fax: (310) 471-8180

## PROJECT DESCRIPTION:

This project involves the seismic/structural retrofit of the Palace Hotel. The overall structure was constructed in 3-phases. The original building was constructed in 1891 and is a 3-story Un-Reinforced Masonry (URM) brick structure and has a footprint of 60'x100'. A 3-story unreinforced brick addition was added in 1914 and has a footprint of 35'x100'. In 1929, a new L-shaped 3-story reinforced concrete structure with a 36'x200' footprint was added. The total gross area of the building is approximately 50,000sf. The structures have been unoccupied since about 1990 and suffer from neglect and documented deterioration.

The intent is to improve the safety of the building to current acceptable standards as agreed upon with the City of Ukiah for a new and economically sustainable building use. The proposed use is as a hotel which matches the original / previous use. The structural repair and seismic retrofit work will incorporate the current concept architectural design and does not include further structural alterations to accommodate future architectural modifications or improvements.

The California Existing Building Code (CEBC) and referenced California Historic Building Code (CHBC) will be used for the structural design of the existing elements and systems with the current California Building Code (CBC) governing new elements. Unaltered gravity elements are assumed adequate for the original occupancy per the CHBC; however, increased weight due to floor coverings or fire ratings may require strengthening.

## SCOPE OF SERVICES:

- Coordination meetings
- Site visits and structural documentation
- Develop and direct testing and inspection program for existing elements
- Review and incorporate testing and inspection (by others) results
- Develop geotechnical criteria and review results within geotechnical report (by others)
- Structural calculations and analysis
- Structural drawing plans and details
- REVIT structural BIM model with primary structural elements to LOD 200-300 per and AIA E202-08 for structural design coordination only - not intended for direct construction use
  - o *Architectural 2017 REVIT model to be provided for model coordination*
  - o *Mechanical 2017 REVIT model preferred for model coordination*
  - o Original building was scanned and a BIM model created with some assumptions
- Structural specifications in short format directly on drawings or in project manual format.
- Support through public agency approval.
- Construction Administration, Review, and Support is additional per below.

## SPECIAL CONDITIONS:

- A Geotechnical Report is required with foundation and seismic design parameters. Alternate foundation systems such as mat or post-tensioned slabs or deep pier or pile foundations with non-grade supported slabs and grade beams as well as liquefaction or slope stability mitigation are not included at this time.
- Original structural construction documents to be provided to ZFA if available. If not available site visit documentation is required. Removal of finishes and exploratory foundation investigations

Please sign and return to authorize work.

*For R*

*[Handwritten Signature]*

(by others and not included) are be required. All conditions will not be able to be verified; therefore, some alterations to design will likely be required during the construction phase under the administration, review, and support portion of this agreement.

- Existing brick mortar values from previous and dated tests will also be used for the initial concept revision analysis. As noted above, new testing will be directed by ZFA to update values and provide current design criteria supporting the project through construction.
- Standards for the retrofit of URM buildings are typically minimum standards for structural seismic resistance established to reduce the risk of life loss or injury and will not necessarily prevent loss of life, injury or prevent earthquake damage to the building.
- Typical interior non-bearing wall structural connection details included. Specific wall and soffit sections will be reviewed and amended on architect's drawings as needed.
- Site walls and structures are not included unless specifically noted above.
- Post-permit revisions/modifications or additional design/details will be performed under the hourly administration, review, and support portion of this agreement

**CONSTRUCTION DOCUMENT FEE:**

|                                       |   |
|---------------------------------------|---|
| REVISED CONCEPT AND SCHEMATIC DESIGN: | \$16,500 (includes documentation/testing) |
| DESIGN DEVELOPMENT:                   | \$27,500                                  |
| <u>CONSTRUCTION DOCUMENTS:</u>        | <u>\$66,000</u>                           |
| TOTAL:                                | \$110,000                                 |

**CONSTRUCTION REVIEW AND SUPPORT FEE:            HOURLY AS REQUIRED/REQUESTED**

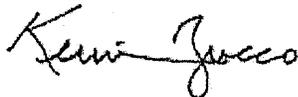
All fees are plus reimbursable expenses

**Construction Review and Support Services:** Construction Review Services will be performed at hourly rates per above for site visits, review of shop drawings (one resubmittal each), and RFI construction clarifications. Structural Engineering for design or owner revisions after permit, justification of Contractor revisions/corrections or differing existing conditions, and justification of substitutions are not included in this estimate.

**Revisions:** Revisions to the scope of the project as defined above and revisions to our work are not included in the fee. All requests for additional or extra work or services must be in writing and will be negotiated as extra work services.

**Risk Allocation:** In recognition of the relative risks and benefits of the project to both the Client and ZFA, the risks have been allocated so that the Client agrees that to the fullest extent permitted by law, ZFA's total liability to the Client, for any and all injuries, claims, losses, expenses, damages or claim expenses arising out of this agreement from any cause or causes, shall not exceed the total amount of \$1,000,000 (see Terms and Conditions). Such causes include, but are not limited to, ZFA's negligence, errors, omissions, strict liability, and breach of contract or warranty.

Offered by:  
**ZFA STRUCTURAL ENGINEERS**



Kevin G. Zucco, SE 4861  
Executive Principal  
Date: July 20, 2017

Accepted by:  
**CALIFORNIA RECEIVERSHIP GROUP PBC**

Signature:   
Print Name: MARK ADAMS  
Date: 7/21/17

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 initial 

# 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. 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.

## 5. 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.

## 6. 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.

## 7. ACCESS TO SITE

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

## 8. 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.

## 9. 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.

## 10. OTHER PROVISIONS

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.

Please initial 

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.

11. **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.

12. **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.

13. **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).

14. **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.

15. **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.

16. **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.

17. **GEOTECHNICAL REPORT DISCLAIMER**

ZFA recommends Geotechnical Reports for all construction projects. If no Geotechnical Report has been provided for this project and under direction of the client, ZFA is proceeding with foundation design based on the conventional provisions and the minimum allowable soil bearing pressure allowed per the California Building Code, Chapter 18. However, geotechnical and geological conditions such expansive and compressible soils, liquefaction, slope instability, etc may exist which warrant special design considerations. ZFA shall not be responsible for unsatisfactory performance resulting from these conditions.

18. **DIFFERENTIAL SETTLEMENT AT REMODEL/ADDITION DISCLAIMER**

Differential settlement between new and existing construction at remodel or addition foundation interfaces can be expected. ZFA shall not be responsible for unsatisfactory performance resulting from these conditions.

19. **ACKNOWLEDGMENT OF EXISTING CONDITIONS**

It is important to acknowledge that remodeling requires that certain assumptions be made regarding existing conditions and may not be verifiable without destroying otherwise adequate or serviceable portions of the structure. This analysis does not make any guarantee to the adequacy of the structural design of the existing building not specifically addressed in the structural calculations. ZFA shall not be responsible for unsatisfactory performance of the existing portions of the structure not specifically addressed in the construction documents.

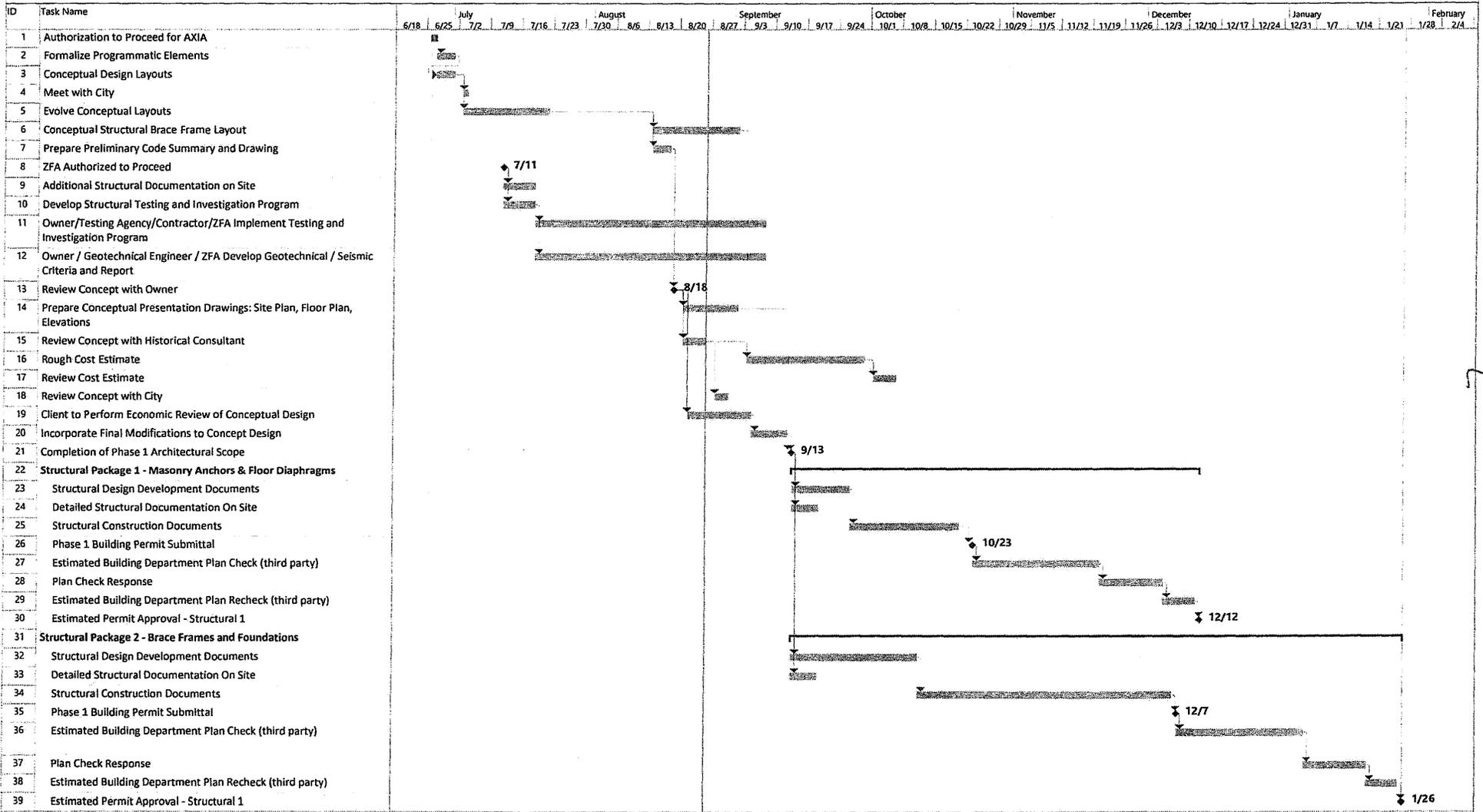
20. **BILLING RATES**

|                          |                   |                                |                   |
|--------------------------|-------------------|--------------------------------|-------------------|
| Executive Principal..... | \$190.00 per hour | Engineer / Project BIM Mgr     | \$110.00 per hour |
| Senior Principal.....    | \$175.00 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 

Exhibit 3

UKIAH PALACE HOTEL: PHASE 1 ESTIMATED SCHEDULE - DRAFT UPDATE



Per 3

|  |           |                 |                    |                       |                |                    |                 |
|--|-----------|-----------------|--------------------|-----------------------|----------------|--------------------|-----------------|
| Project: 9B3-Palace Hotel Estim<br>Last Updated: Sat 8/26/17 | Task      | Summary         | Inactive Milestone | Duration-only         | Start-only     | External Milestone | Manual Progress |
|  | Split     | Project Summary | Inactive Summary   | Manual Summary Rollup | Finish-only    | Deadline           |                 |
|  | Milestone | Inactive Task   | Manual Task        | Manual Summary        | External Tasks | Progress           |                 |

Exhibit 4

Update for 9/29/17

We continue moving forward with our team of professionals working together to generate Seismic Retrofit Plans in order for us to be provided with an accurate bid to seismically retrofit the building.

All debris has been removed from the interior of the building and all windows are covered. The Fire Marshal worked with us to mark specific windows that are safe to enter with a ladder truck. Additionally, multiple new areas of structural concern were identified by ZFA and shored up by GCCI.

The soils analysis was completed and ZFA is now working diligently on the Seismic Retrofit Plans. ZFA has completed the scope of work for the brick sheer testing programs which we have out to bid to multiple engineers. Upon the completion of that testing, ZFA can finish the plans which we estimate to be 3-4 weeks from now.

When reviewing this project with all of the professionals it became apparent that to complete the retrofit work, there needed to be a conceptual layout of the end use to plan where to insert structural components for two reasons. First, without an idea of a the end use, there could be structural components placed in locations that would render space economically obsolete. Second, there are significant cost savings associated completing all work with the end use in mind. We started by breaking the project into three phases which were as follows: 1. Clean, secure, and remedy immediate safety concerns. 2. Seismic retrofit. 3. Finish improvements of the space. Being that it is unlikely that receivership will be involved in the third phase, we initially focused on the first two. However, in our discussions with GCCI, it was very obvious that some of the retrofit work would be useful in the third phase. For example, part of the retrofit work will be installing demising walls. If no end use is in mind, then GCCI could install a wall that could be removed by the end user which would not be cost effective. Conversely, if GCCI installs that wall in a location which in can be used by the end user that cost savings will increase the probability of a successful project.

Final conceptual plans are now complete and are being used for a basis for ZFA to draft seismic retrofit plans. The same final conceptual plans are also being reviewed by an Historical Architect to determine the availability and amount of historical tax credits.

We are anticipating an actual, reliable number for the seismic retrofit within 4-6 weeks. At which point, we will ask for permission to obtain additional financing to complete that work.

12x6



Mark Adams &lt;madams@calreceivers.com&gt;

---

## State St, Ukiah - Weekly Status Update

3 messages

---

**Todd Schapmire** <toddschapmire@gmail.com>

Fri, Sep 8, 2017 at 3:54 PM

To: Eddie Gao <egao@calreceivers.com>

Cc: Mark Adams <madams@calreceivers.com>, Marcy Wehde

<mwehde@calreceivers.com>, Erica Connelly <econnelly@calreceivers.com>, Leah

Jaques <ljaques@calreceivers.com>

### Newly Completed Work:

Additional Interior Lighting, 9/7/17

Final Conceptual Plans Submission to Historical Architect in process, 9/8/17

### Pending Work:

Soils Analysis Report, anticipated completion 9/8. Did not get completed. Revised anticipated completion 9/13.

Structural Engineering Plans, anticipated completion 30 days after Soils Analysis.

Historical Review of Conceptual Plans, anticipated completion 9/15

### Recently Completed Work:

Emergency Bracing

Window Coverings

Debris Removal

Phase 1 Environmental Survey

### Estimated Completion Date:

January 2018

**Exhibit 5**



**PHASE I ENVIRONMENTAL ASSESSMENT**

**272 N. State St.**

**Ukiah, CA**

**APN: 002-224-13**

**Prepared for**

**California Receivership Group, PBC**

**Prepared by**

**Nelson Enviro, LLC**

**Atwater, California**

**July 27, 2017**

Page 4

## 1.0 Summary

Nelson Enviro, LLC was retained by California Receivership Group, PBC to conduct an Environmental Site Assessment in conformance with the scope and limitations of ASTM International Standard Practice E1527-13 and the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (40 CFR Part 312 *et seq.*; "AAI"). The property is located at 272 N. State St., Ukiah, Mendocino County, CA (APN 002-224-13).

The following summarizes the independent conclusions representing the best professional judgment of Nelson Enviro, LLC based on information and data available during this assignment. Although Nelson Enviro, LLC cannot guarantee the accuracy of all the information regarding operations, conditions, and other data provided by the client or their representatives, the conclusions presented are based on the data reviewed and physical site conditions that existed on the date of the assessment. ASTM International Standard Practice E1527-13 defines Recognized Environmental Conditions (RECs) as the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment. De minimis conditions are not recognized environmental conditions.

No records concerning the Subject Site were found during the regulatory agency database search performed by EDR however, other evidence was found indicating that underground storage tanks may have existed on the Subject Site. A ground penetrating radar survey was conducted to ascertain the presence or absence of underground tanks. The results of the radar survey stated that no tanks were detected at the Subject Site and no anomalies consistent with the presence of underground storage tanks could be found.

**Based on the results of the Phase I Environmental Assessment, it is my opinion that this assessment has revealed no evidence of Recognized Environmental Conditions in connection with the property. No additional environmental assessment work is recommended.**

## 2.0 Introduction

### 2.1 Purpose

The purpose of this Phase I Environmental Site Assessment is to evaluate and classify any recognized environmental concerns associated with the subject property in conjunction with the requirements of ASTM International Standard E-1527-13 Standard Practice for Environmental Site Assessments and to qualify the User of this report for appropriate legal defense by conducting All Appropriate Inquiries.

### 2.2 Detailed Scope-of-Services

Prepare an ESA report per the ASTM International Standard E-1527-13 and the Environmental Protection Agency Standards and Practices for All Appropriate Inquiries (40 CFR Part 312), including by performing the following:

Nelson Enviro, LLC  
103 Laurel Ave., Atwater, CA 95301  
Office 209-769-7460 Fax (775) 254-3748  
[www.nelsonenviro.com](http://www.nelsonenviro.com)

**Exhibit 6**



September 25, 2017

Proposal No. GJB092517.01

Mark Adams, Receiver  
c/o W Real Estate  
Attention: Todd Schapmire  
Email: toddschapmire@gmail.com

**Subject:** Proposal for Materials Testing and Verification Program  
Palace Hotel Building-Seismic Retrofit  
272 N. State Street  
Ukiah, California

Dear Mark and Todd:

In accordance your request, PJC & Associates, Inc. (PJC) is pleased to submit this proposal to perform Material Testing and Verification Testing for the proposed seismic improvements and building remodel project at the Palace Hotel building located at 272 N. State Street in Ukiah, California. The project will consist of a seismic retrofit to the distressed building. Plans dated September 19, 2017 prepared by ZFA Structural Engineers and are the guidelines for the proposed work.

**1. PROJECT DESCRIPTION**

The building is four blocks west of the Napa River within the downtown area of historical Napa. The building is three-story structure with basement below and is constructed with a combination of mortared brick and poured in place concrete walls. The building has been abandoned for several years and will be remodeled.

**2. SCOPE OF SERVICES**

Our scope of services is presented on Sheets T2.1 and T2.2 of the plans in a "Material Testing Schedule". We propose to provide the required services that would include the following

- Pachometer testing 27 locations
- Concrete coring of the existing concrete walls, slabs, girders/joists, and columns cores 24 each
- Brick mortar shear test 44 locations
- Reinforcing tension test 2 each

*Page 5*

Site Observation – Initially, our project engineer would perform a site observation to determine specific locations within the building to be verified tested. We would consult with the project structural engineer during our site observations.

Materials Testing and Verification Testing - We would return to the site to perform the pachometer tests, concrete coring, brick mortar shear tests, concrete chipping to expose concrete, and obtain reinforcing to perform tension tests.

The core samples would be about 3 inches in diameter and the thickness of the wall, slab, or girder. We would exclude filling the holes in the walls with non-shrink grout from our scope of work.

### 3. FEES

We would perform our work outlined on a time and expenses basis in accordance with our standard fee schedule. We propose to perform the testing over about 2 to 3 days. The following presents an estimate of our fees and a cost breakdown.

|  |                    |           |
|--|--------------------|-----------|
| <u>Initial Site Observation</u>              |                    |           |
| Project Engineer                             | 6hrs x \$132/hr    | = \$ 792  |
| <u>Pachometer Testing</u>                    |                    |           |
| Project Engineer                             | 6 hrs x \$132/hr   | = \$ 792  |
| Field Technician                             | 14 hrs x \$97/hr   | = \$1,358 |
| <u>Concrete Wall Coring</u>                  |                    |           |
| Project Engineer                             | 6 hrs x \$132/hr   | = \$ 792  |
| 1 Laborer                                    | 16 hrs x \$97/hr   | = \$1,552 |
| Equipment                                    | estimate           | = \$ 400  |
| <u>Concrete Compressive Strength Testing</u> |                    |           |
| 24 Cores                                     | 24 ea x \$20/break | = \$ 480  |
| <u>Brick Mortar Shear Testing</u>            |                    |           |
| Project Engineer                             | 8 hrs x \$132/hr   | = \$1,056 |
| 2 Laborers                                   | 20 hrs x \$97/hr   | = \$1,940 |
| Equipment                                    | estimate           | = \$ 400  |
| <u>Concrete Chipping</u>                     |                    |           |
| Project Engineer                             | 2 hrs x \$132/hr   | = \$ 264  |
| 1 Laborer                                    | 20 hrs x \$97/hr   | = \$1,940 |
| Equipment                                    | estimate           | = \$ 400  |

Reinforcing Tension test

|                       |                   |          |
|-----------------------|-------------------|----------|
| Project Engineer      | 2 hrs x \$132/hr  | = \$ 264 |
| 2 reinforcing samples | 2 ea x \$250/test | = \$ 500 |
| 1 Laborer             | 8 hrs x \$97/hr   | = \$ 776 |

Report Production

|                    |                  |          |
|--------------------|------------------|----------|
| Principal Engineer | 2 hrs x \$175/hr | = \$ 350 |
| Project Engineer   | 4 hrs x \$132/hr | = \$ 528 |
| Clerical           | 2 hrs x \$67/hr  | = \$ 134 |

**Materials and Verification Testing Estimate \$14,718**

The above cost is an estimate and includes travel time. Efforts will be made to complete the scope of services within the cost indicated above. If, however, unforeseen conditions are encountered, such as difficult exploration or the necessity of additional testing, we would need your approval before substantially exceeding the cost, at which time an addendum would be added to this proposal, for your approval.

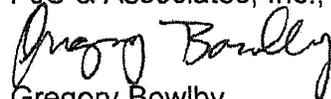
Our work can be started soon after we receive your written authorization. This proposal will remain valid for 60 days of the date of this proposal provided that the scope of the project has not been significantly altered.

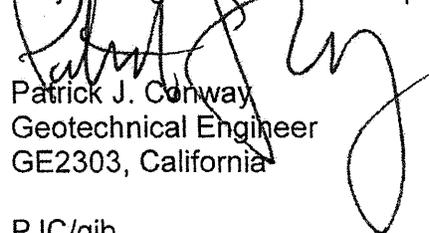
If this proposal is acceptable, please sign this document, indicating your authorization to proceed with the work, initial the Standard Terms of Agreement and return one copy of each for our files by mailing to our office at 600 Martin Ave, Ste 210, Rohnert Park, CA 94928, or faxing to 707-584-4811, or emailing to claudia@pjcgeotech.com. Retain a copy for your files. Please include your phone and fax numbers plus your mailing address.

If you have any questions, please do not hesitate to call.

Sincerely,

PJC & Associates, Inc.,

  
Gregory Bowlby  
Project Engineer and ICC Inspector

  
Patrick J. Conway  
Geotechnical Engineer  
GE2303, California

PJC/gjb

Sign below for the proper acceptance

\_\_\_\_\_  
Client or Client's Representative

\_\_\_\_\_  
Date

Proposal for: Materials Testing and Verification Program  
Palace Hotel Building-Seismic Retrofit  
272 N. State Street  
Ukiah, CA

If you wish to pay the report deposit by VISA or  
MASTERCARD,  
Please call PJC & Associates, Inc. 707-584-4804 x106

**BILLING ADDRESS, if different**

Phone \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
Fax \_\_\_\_\_

E-Mail \_\_\_\_\_

# PJC & ASSOCIATES, INC. STANDARD TERMS

Owner and Engineer (PJC) further agree as follows: Client Initials \_\_\_\_\_ Date \_\_\_\_\_ Initials *PJC* Date 9/29/17

## 1. Payment

A. *Payment of Invoices.* Invoices are due and payable within 15 days of receipt. If Owner fails to make payment due Engineer for services and expenses within 15 days after receipt of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1% per month (or the maximum rate of interest permitted by law, if less) from the 15<sup>th</sup> day. Engineer may, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal. Owner agrees, specifically, that all disputes with payments due will be stated in writing within 30 days of the billing, with personal delivery or by certified mail, return receipt requested. All undisputed sums will be paid. The payment terms for final report preparation shall be COD, payable by check or credit card when the report is completed and ready for submittal to the building jurisdiction that has requested it. Past due amounts owed by Owner are subject to Collections Services if the amount due is not paid within 60 days after receipt of Invoice.

B. *Additional Services.* If authorized by Owner, or if required because of changes in the Project or permitting agency instruction, Engineer shall furnish services in addition to those set forth above. Owner shall pay Engineer for such additional services as follows: For additional services of Engineer's employees engaged directly on the Project an amount equal to the cumulative hours charges to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any. If Engineer is involved in any claim or litigation, whether instituted by Client or a third party, Client will pay for Engineer's time at the standard rates.

## 2. Termination - The obligation to provide further services under this agreement may be terminated:

A. For cause, by either party upon 30 days written notice in the event of substantial failure by the other party to perform in accordance with the Agreement's terms through no fault of the terminating party. Engineer shall have no liability to Owner on account of such termination.

B. By Engineer: upon seven days written notice if Engineer believes that Engineer is being requested by Owner to furnish or perform services contrary to Engineer's responsibilities as a licensed professional; or upon seven days written notice if the Engineer's services for the Project are delayed or suspended for more than 90 days for reasons beyond Engineer's control.

C. Engineer may set the effective date of termination at a time up to 30 days later than otherwise provided to allow Engineer to demobilize personnel and equipment from the Project site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

## 3. Venue; Costs; Claims

Venue shall be in Sonoma County. All costs of litigation, including Engineer's time and Attorney's and Expert's fees shall be recoverable as costs. All claims involving professional services shall be brought within one (1) year of the service rendered.

## 4. Owners, Engineers and Contractors Responsibilities; Waiver

A. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

B. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

C. Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any contractor's agents or employees or any other persons (except Engineer's own employees) at the Project site of otherwise furnishing or performing any of construction work; or for any decision made on interpretations or clarifications of the construction contract given by Owner without consultation and advice of Engineer. Owner shall and shall require its contractors and agents to defend and hold Engineer harmless for performance of work, to the maximum extent as allowed by law.

D. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

E. To the fullest extent permitted by law, Owner and Engineer: waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and agree that Engineer's total liability to Owner under this agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer, whichever is greater.

F. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition. If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, remediate or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws.

G. Owner shall identify all subsurface conditions, utilities and property lines and shall defend and hold Engineer harmless from all claims by any entity for this identification, and for actions of Owner's agents and contractors.

H. This written Agreement constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**  
F.R.C.P. 5 / C.C.P. 1013a (3)/ Rules of Court, Rule 2060

I am a resident of, or employed in the County of Los Angeles, State of California. I am over the age of 18 years old and not a party to the within action. My business address is 2716 Ocean Park Blvd., Suite 3010, Santa Monica, California 90405.

On **October 2, 2017** I served the following listed document(s), by method indicated below, on the parties in this action: **Second Report of Receiver Per August 2, 2017 Directive from the Court**

\*\*\*SEE ATTACHED SERVICE LIST\*\*\*

**BY U.S. MAIL**

By placing  the original / X a true copy thereof enclosed in a sealed envelope(s), with postage prepaid, addressed as per the attached service list, for collection and mailings at Santa Monica, California following ordinary business practices. I am readily familiar with the firm's practice for collection and processing of the document for mailing. Under that practice, the document is deposited with the United States Postal Service on the same day in the ordinary course of business. I am aware that upon motion of any party served, service is presumed invalid if the postal cancellation date or postage meter date on the envelope is more than one day after date of deposit for mailing contained in this affidavit.

**BY ELECTONIC SERVICE  
(via electronic filing service provider)**

By electronically transmitting the document(s) listed above to LexisNexis File and Serve, an electronic filing service provider, at [www.fileandserve.lexisnexis.com](http://www.fileandserve.lexisnexis.com) pursuant to the Court's \_\_\_\_\_ Order mandating electronic service. See Cal.R.Ct.R. 2053, 2055, 2060. The transmission was reported as complete and without error.

**BY OVERNIGHT DELIVERY**

By delivering the document(s) listed above in a sealed envelope(s) or package(s) designated by the express service carrier, with delivery fees paid or provided for, addressed as per the attached service list, to a facility regularly maintained by the express service carrier or to an authorized courier or driver authorized by the express service carrier to received documents.

**BY ELECTRONIC SERVICE  
(to individual person)**

By electronically transmitting the document(s) listed above to the email address(es) of the person(s) set forth on the attached service list. The transmission was reported as complete and without error. See Rules of Court, rule 2060.

**BY PERSONAL SERVICE**

By personally delivering the document(s) listed above to the offices at the addressee(s) as shown on the attached service list.

By placing the document(s) listed above in a sealed envelope(s) and instructing a registered process server to personally deliver the envelope(s) to the offices at the address(es) set forth on the attached service list. The signed proof of service by the registered process server is attached.

**BY FACSIMILE**

By transmitting the document(s) listed above from Mark Adams, Esq., facsimile (310) 471-8181 to the facsimile machine telephone number(s) set forth on the attached service list. Service by facsimile transmission was made pursuant to agreement of the parties, confirmed in writing.

**STATE**

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

**FEDERAL**

I declare under penalty of perjury under the laws of the United States that I am employed in the office of a member of the bar of this court at whose direction the service is made.

Christmas Myers  
Type or Print Name

  
Signature

PROOF OF SERVICE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**SERVICE LIST**

*City of Ukiah v. Questex, LTD., et al.; Case No. SCUk-CVPT-15-66036*

**Attorneys for Petitioner, City of Ukiah**

Scott E. Huber  
Sean D. De Burgh  
COTA COLE & HUBER, LLP  
2261 Lava Ridge Court  
Roseville, CA 95661  
Tel: (916) 780-9009  
Fax: (916) 780-9050  
shuber@cotalawfirm.com  
sdeburgh@cotalawfirm.com

**Attorneys for Respondent, Unique  
Properties formerly known as Questex, Ltd.  
and Eladia Lains Ganulin**

Robert F. Epstein  
Julia C. Butler  
EPSTEIN LAW FIRM  
369-B 3<sup>rd</sup> Street, #182  
San Rafael, CA 94901  
Tel: (415) 755-2625  
Fax: (415) 482-7542  
rob@epsteinlawyer.com  
jbutler@epsteinlawyer.com

**Attorneys for Petitioner, City of Ukiah**

David J. Rapport  
RAPPORT & MARSTON  
405 W. Perkins Street  
Ukiah, CA 95482  
Tel: (707) 462-6846  
Fax: (707) 462-4235  
drapport@pacbell.net

**Attorney for Pamela Rollo, as Successor In  
Interest to Henry Gardella**

William P. Lynch, Jr.  
Attorney at Law  
950 Northgate Drive, Suite 200  
San Rafael, CA 94903  
Tel: (415) 491-9500

**Attorney for Respondent, Marty R. Ganulin**

Robert Green  
GREEN & NOBLIN, P.C.  
2200 Larkspur Landing Circle, Suite 101  
Larkspur, CA 94939  
Tel: (415) 477-6700  
Fax: (415) 477-6710  
rsg@classcounsel.com

**Courtesy Copy**

Todd Schapmire  
c/o 101 Property Management  
390 W. Standley Street  
Ukiah, California 95482  
toddschapmire@gmail.com